

PARLIAMENT OF KENYA**THE NATIONAL ASSEMBLY****THE HANSARD****Thursday, 11th November 2021**

The House met at 2.30 p.m.

*[The Deputy Speaker (Hon. Moses Cheboi) in the Chair]***PRAYERS****QUORUM**

Hon. Deputy Speaker: Order, Members! We are short of the required quorum. I, therefore, order that the Quorum Bell be rung for 10 minutes.

*(The Quorum Bell was rung)**(Several Hon. Members walked out of the Chamber)*

Order, Members! I have said before that when the Quorum Bell is ringing, no Member is allowed to leave as per our Standing Orders. Any Member that is already in the chamber, remains in until we confirm the numbers.

(The Quorum Bell was rung)

I can see we already have the numbers, in fact, in excess. I order that the Bell stops and then business begins.

On that particular one, although it is not a formal Communication, I would like to inform Members that immediately after Order No.6, we will reorganise the order of business. We shall skip Order No.7 and go to Order Nos.8, 9, 10, 11, and 12. This is particularly because of Motion No.12 which has timelines and the deadline is today. We would like to dispose of that before we come back to Questions and Statements. Therefore, immediately after laying of Papers, we will go to Order Nos. 8, 9, 10, 11, and 12.

Please, proceed.

PAPERS LAID

Hon. Deputy Speaker: Let us have the Majority Whip.

Hon. Emmanuel Wangwe (Navakholo, JP): Hon. Deputy Speaker, I beg to lay the following Papers on the Table of the House:

A list of nominees to the National Government Constituency Development Fund Committee for Kiambaa Constituency.

Reports of the Auditor-General and financial statements in respect of the following institutions for the year ended 30th June, 2020 and the certificates therein:

- (a) Centre for Mathematics, Science and Technology Education in Africa.
- (b) Kenya Institute of Curriculum Development.
- (c) Higher Education Loans Board.

Reports of the Auditor-General and financial statements in respect of the following institutions for the year ended 30th June, 2019 and the certificates therein:

- (a) Communication Authority of Kenya.
- (b) Kenya Forests Research Institute.
- (c) Maasai Mara University.
- (d) Kenya Marine and Fisheries Research Institute.
- (e) East Africa Portland Cement Plc.
- (f) Kenya School of Law.
- (g) Pc Kinyanjui Technical Training Institute.
- (h) National Communications Secretariat.
- (i) Nachu Technical Vocational College.
- (j) Ekerubo Gietai Technical Training Institute.
- (k) Agro-chemical and Food Company Limited.

Reports of the Auditor-General and financial statements in respect of the following constituencies for the year ended 30th June, 2019 and the certificates therein:

- (a) Makadara.
- (b) Likuyani.
- (c) Garsen.
- (d) Wajir East.
- (e) Roysambu.
- (f) Saboti.
- (g) Tharaka.
- (h) South Mugirango.
- (i) Kitutu Chache North.
- (j) Rangwe.
- (k) Kabete.
- (l) Saku.
- (m) Igembe South.
- (n) Isiolo North.

Hon. Deputy Speaker: Next Order, considering the orders I just made.

QUESTIONS AND STATEMENTS

Hon. Deputy Speaker: We agreed we will bypass that one. So, let us go to the next one.

BILL

THE SUGAR BILL, 2019

CONSIDERATION OF REPORT AND THIRD READING

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Hon. Deputy Speaker: Hon. Members, I confirm that we have the required number of Members for purposes of putting the Question.

(Question put and agreed to)

I call upon the Mover, Hon. Wafula Wamunyinyi, to move the Motion for Third Reading.

Hon. Wafula Wamunyinyi (Kanduyi, FORD-K): Hon. Deputy Speaker, I beg to move that the Sugar Bill (National Assembly Bill No.68 of 2019) be now read a Third Time.

I request Hon. Emmanuel Wangwe to second.

Hon. Emmanuel Wangwe (Navakholo, JP): Hon. Deputy Speaker, I beg to second.

(Question proposed)

Hon. Members: Put the Question.

(Question put and agreed to)

(The Bill was accordingly read the Third Time and passed)

SPECIAL MOTIONS

CONSIDERATION OF NOMINEES FOR APPOINTMENT TO ETHICS AND ANTI-CORRUPTION COMMISSION

(Hon. (Ms.) Jennifer Shamalla on 10.11.2021 – Afternoon Sitting)

(Debate concluded on 10.11.2021 – Afternoon Sitting)

THAT, taking into consideration the findings of the Departmental Committee on Justice and Legal Affairs in its Report on its consideration of Nominees for Appointment as members of the Ethics and Anti-Corruption Commission (EACC), laid on the Table of the House on Tuesday, 9th November 2021 and pursuant to the provisions of Section 10(3) of the Ethics and Anti-Corruption Commission Act, 2011 and Sections 3 and 8 of the Public Appointments (Parliamentary Approval) Act, 2011, this House approves the appointment of Col. (Rtd) Alfred Mutweta Mshimba and Dr. Monica Wanjiru Muiro as Members of the Ethics and Anti-Corruption Commission

Hon. Deputy Speaker: Hon. Members, again, I confirm that we have the requisite number of Members for purposes of putting the Question on this Motion.

(Question put and agreed to)

CONSIDERATION OF NOMINEES FOR APPOINTMENT TO PRIVATISATION COMMISSION

(Hon. Isaac Ndirangu on 10.11.2021 – Afternoon Sitting)

(Debate concluded on 10.11.2021 – Afternoon Sitting)

THAT, taking into consideration the findings of the Departmental Committee on Finance and National Planning in its Report on its consideration of nominees for appointment as members of the Privatisation Commission, laid on the Table of the House on Tuesday, 9th November 2021; and pursuant to the provisions of Section 5(1)(d) of the Privatisation Act, 2005 and Sections 3 and 8 of the Public Appointments (Parliamentary Approval) Act, 2011, this House approves the appointment of the following persons to the Privatisation Commission –

- | | | |
|----------------------------------|---|--------------|
| (i) Dr. Edward N. Kobuthi, PhD | – | Member; |
| (ii) Ms. Irene Njeri Wanyoike | – | Member; |
| (iii) Ms. Celine Anyango Orata | – | Member; |
| (iv) Mr. Salah Adan Abdi | – | Member; |
| (v) Mr. CPA David J.O. Nyakang'o | – | Member; and, |
| (vi) Amb. Wellington Pakia Godo | – | Member. |

Hon. Deputy Speaker: Hon. Members, again, we have more than enough numbers in the House.

(Question put and agreed to)

CONSIDERATION OF NOMINEES FOR APPOINTMENT
TO COMPETITION AUTHORITY

(Hon. Isaac Ndirangu on 10.11.2021 – Afternoon Sitting)

(Debate concluded on 10.11.2021 – Afternoon Sitting)

THAT, taking into consideration the findings of the Departmental Committee on Finance and National Planning in its Report on its consideration of nominees for appointment as members of the Competition Authority, laid on the Table of the House on Tuesday, 9th November 2021, and pursuant to the provisions of Section 10(2) of the Competition Act, 2010 and Sections 3 and 8 of the Public Appointments (Parliamentary Approval) Act, 2011, this House approves the appointment of the following persons to the Competition Authority –

- | | | |
|----------------------------------|---|--------------|
| (i) Ms. Lena Munuve | – | Member; |
| (ii) Ms. Alome K. Achayo | – | Member; |
| (iii) Dr. David Wanyonyi Wanyama | – | Member; and, |
| (iv) Mr. Abdi A. Mohamed | – | Member. |

Hon. Deputy Speaker: Hon. Members, I confirm that sufficient Members are present for us to make this particular decision.

(Question put and agreed to)

MOTION

ADOPTION OF THE BREAST MILK SUBSTITUTES (REGULATION
AND CONTROL) GENERAL REGULATIONS, 2021

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(Hon. Abdi Tepo on 10.11.2021 – Afternoon Sitting)

(Debate concluded on 10.11.2021 – Afternoon Sitting)

THAT, this House adopts the Report of the Committee on Delegated Legislation on its consideration of the Breast Milk Substitutes (Regulation and Control) General Regulations, 2021, laid on the Table of the House on Wednesday, 10th November 2021 and pursuant to the provisions of Section 28(5) of the Breast Milk Substitutes (Regulation and Control) Act, 2012, approves the Breast Milk Substitutes (Regulation and Control) General Regulations, 2021 published as Legal Notice No.184 of 2021 with amendments to Regulations 1, 2 and 27(1).

Hon. Deputy Speaker: Hon. Members, the numbers we have allow us to put the Question.

(Question put and agreed)

QUESTIONS AND STATEMENTS

Hon. Deputy Speaker: Hon. Member, we resume Questions and Statements. We will start with Questions. To start us off this afternoon is the Member for Endebess, Hon. (Dr.) Robert Pukose.

ORDINARY QUESTIONS

Question No.416/2021

IMPACT OF STOPPAGE OF TAUNGYA SYSTEM

Hon. (Dr.) Robert Pukose (Endebess, JP): Hon. Deputy Speaker, I rise to ask the Cabinet Secretary for Environment and Forestry the following Question:

- (i) Could the Cabinet Secretary explain the circumstances that led to the stoppage of the community forest associations that undertook the shamba system commonly referred to as Taungya System in various forest establishments in the country?
- (ii) What impact has this directive had on the forest cover in the country and when will the directive be lifted?
- (iii) Could the Cabinet Secretary explain whether the Kenya Forest Service (KFS) maintains roads that serve forests and particularly in the Endebess-Salema Road and Herman-Kiptogot Road in Endebess Constituency?
- (iv) What plans does the Ministry have to resettle the more than 1,500 families evicted from Sosio Forest on 25th, 28th and 29th October 2021, whose houses were also burnt, and how is the Ministry dealing with the humanitarian crisis as a result of the evictions carried out?

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: The Question will be replied to before the Departmental Committee on Environment and Natural Resources.

Next is the Member for Kajiado. Yes, Hon. (Dr.) Pukose.

Hon. (Dr.) Robert Pukose (Endebess, JP): Hon. Deputy Speaker, because of the humanitarian crisis in Sosio, these people are now displaced and are living in very difficult conditions. I want to ask that the Ministry responds within the next one week, please.

Hon. Deputy Speaker: Well, I would want to know whether the Committee is comfortable with that request. Ordinarily, 14 days is reasonable, but having made that request, I would like to know from the Membership of the Committee, led by the Chair, who seems not to be around.

(Hon. (Dr.) Robert Pukose spoke off-record)

It will be difficult for anyone else to undertake. Of course, this matter is critical, just like many others issues. Let us try and see how fast we can do this, but at the very worst, within two weeks even though it can be faster. I would have been happier if there was commitment from the Committee because they will say we really pushed them and they could not give you a good response. So, I think this is fair. Let us go to the Member for Kajiado North, Hon. Manje Joseph. We will go to the next one by the Member for Suna West, Hon. Masara Peter.

Question No.450/2021

STATUS OF DISBURSEMENT OF UWEZO
FUND TO SUNA WEST CONSTITUENCY

Hon. Peter Masara (Suna West, Independent): Thank you, Hon. Deputy Speaker. Pursuant to the provision of Standing Order No.42A(5), I rise to ask the Cabinet Secretary for Public Service, Gender, Senior Citizens Affairs and Special Programmes the following Question:

- (i) Could the Cabinet Secretary state the total amount of money allocated under the *Uwezo* Fund to Suna West Constituency?
- (ii) How much money has been disbursed to youth groups in the constituency since inception of the Fund up to October 2021?
- (iii) Could the Cabinet Secretary state the amount of funds recovered from local youth groups from the disbursements made and also state how much money is currently available for distribution to youth groups?

Thank you.

Hon. Deputy Speaker: Very well. That Question will be replied to before the Departmental Committee on Labour and Social Welfare.

Next is the Member for Embakasi East, Hon. Babu Ongili Owino.

Question No.471/2021

RATIONALE FOR DECISION TO SEND ENTIRE
KEMSA WORKFORCE HOME

Hon. Babu Owino (Embakasi East, ODM): Thank you, Hon. Deputy Speaker. I rise to ask the Cabinet Secretary for Health the following Question:

- (i) Could the Cabinet Secretary explain the rationale behind the decision to send home the entire Kenya Medical Supplies Authority (KEMSA) workforce under the pretext of

working from home to undertake investigations concerning the alleged KEMSA scandal relating to COVID-19 supplies, with over 80 per cent of the affected personnel residing in Embakasi East Constituency?

- (ii) What measures does the Ministry have in place to maintain the standards of living of all affected members of staff such as their ability to meet their daily basic needs as well as servicing their respective loans which were guaranteed by their sources of income received from KEMSA?
- (iii) Could the Cabinet Secretary consider issuing a directive to shelve the decision to send the entire workforce home and allow them to resume their duties immediately as this is very important and urgent?

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Very well. That one will be replied to before the Departmental Committee on Health. The next one is by the Member for Lamu County, Hon. (Capt.) Ruweida Obo. Let me go to the last one by the Member for Meru County, Hon. (Bishop) Kawira Mwangaza. So, all those three Questions will be deferred.

Question No.449/2021

STATUS OF MISSING INFANT FROM NAIROBI WOMEN HOSPITAL

(Question deferred)

Question No.474/2021

IMPROVEMENT OF MOBILE TELEPHONE NETWORK
SIGNAL AND COVERAGE IN LAMU COUNTY

(Question deferred)

Question No.475/2021

ACCESS TO EMPLOYMENT OPPORTUNITIES
BY YOUTH IN MERU COUNTY

(Question deferred)

Hon. Members, we have come to the close of Question time. So, we go to the other segment, which is responses to Statement requests.

RESPONSE TO STATEMENTS

Hon. Deputy Speaker: Starting us off is Hon. Kipsengeret Koros, Member for Sigowet/Soin. Let us, first, confirm whether the Chair of the Departmental Committee on Administration and National Security is prepared for this one.

Hon. Peter Mwangi (Limuru, JP): Yes, I am, Hon. Deputy Speaker.

Hon. Deputy Speaker: Where is the Member for Sigowet/Soin? Is he in the House? We should, probably, go to the next Statement Request by Hon. John Mutunga, Member for Tigania West. He also seems to be having an issue. So, we will proceed. What we do in a case like this one is to simply table both replies since the Members are not there. So, you table them.

Hon. Peter Mwathi (Limuru, JP): Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: I actually wanted you to just table them.

Hon. Peter Mwathi (Limuru, JP): Yes, I will table both Statements. One was asked by Hon. Kipsengeret Koros regarding the conflict along the Nyanza and Rift Valley boundary. The second one was asked by the Member for Tigania West Constituency, Hon. John Mutunga, regarding misrepresentation of facts during issuance of identity cards (ID) to Tigania West residents.

Thank you.

(Hon. Peter Mwathi laid the Documents on the Table)

Hon. Deputy Speaker: Thank you, very much. You have gone on record as having done your part. We probably need to congratulate you because we know yesterday you were up running responding to some Statements. Today, again, personally as the Chair of that Committee, you have been on time. This is something we really need to applaud because we do not always have chairpersons present, but because of many other issues, you have sacrificed for this part. So, let us go to the last one by Hon. (Prof.) Jacqueline Oduol to the Departmental Committee on Labour and Social Welfare. Is the Professor in? Yes, I see she is in. Let us have the Chairperson or the Vice-Chairperson of the Departmental Committee on Labour and Social Welfare. The Chairperson himself is actually present. So, proceed and respond.

RECOGNITION/PROTECTION OF THE FAMILY BY THE STATE

Hon. Josphat Kabinga (Mwea, JP): Thank you, Hon. Deputy Speaker. I would like to respond to a Statement request by Hon. (Prof.) Jacqueline Oduol regarding recognition and protection of the family by the State. The Member has already been given a copy of the response from the Ministry.

Hon. Deputy Speaker, we held a meeting with her and I appreciate her knowledge of this particular subject matter. Therefore, I will summarise what she already has.

This Statement was sought on 30th September 2021. The Committee invited the Ministry for Public Service, Gender, Senior Citizens Affairs and Special Programmes to a meeting on 9th November 2021 to respond to the Statement Request. The Cabinet Secretary was represented by Mr. Nelson Marwa, the Principal Secretary for the State Department for Social Protection.

The Principal Secretary highlighted measures that the Ministry has taken to ensure the protection of families from challenges currently faced like insecurity, severe mental health issues, parenting issues and indiscipline, among others. He informed the Committee that the Ministry has put in place the following measures to mitigate the situation:

- (i) Development of a National Family Promotion and Protection Policy.
- (ii) Implementation of family promotion and strengthening programmes focused on empowering families.

(iii) Initiation of process of developing a national parenting programme in collaboration with the United Nation International Children's Emergency Fund (UNICEF) aimed at preparing caregivers and parents for parenting roles and responsibilities.

(iv) Development of the Kenya National Care Reform Strategy which seeks to provide policy direction to guide the protection and prevention of children from separation from their families.

(v) Provision of care and support for vulnerable older members of the society through setting up of rescue care centres.

(vi) Implementation of Inua Jamii Cash Transfer Programme to cushion the vulnerable families against adverse economic shocks.

(vii) Development of National Prevention and Response Plan on Violence against Children 2019-2023 aimed at accelerating evidence based multi-sectoral actions to protect children from violence.

(viii) Review of the Children Act by developing the Children Act (Amendment) Bill, 2021. It is currently before the Departmental Committee on Labour and Social Welfare for consideration.

I acknowledge that we have that Bill and we are working on it. It will soon be brought to Parliament for deliberation.

(ix) There is also the rolling out of the national campaign on violence against children dubbed "Stop It!" and it is aimed at raising awareness.

On the measures put in place to ensure an effective coordination between key stakeholders in the community, the Committee was informed that the Ministry collaborates with key stakeholders in implementation of key strategic areas like child protection, gender-based violence, nutrition, violence against children and family promotion, and strengthening, among others. The Ministry has also deployed social development officers and children officers throughout the country, in the 47 counties and 290 constituencies.

On the matter of measures put in place to equip parents, children and spouses with effective child-friendly intergenerational and gender responsive communication skills, the Ministry has developed and disseminated child protection guidelines to help children participate in matters that affect them. The Ministry also established the Kenya Children Assemblies in the 47 counties to provide a platform for Kenyan children to participate and make decisions that affect them.

The Ministry also undertakes awareness creation and community outreach programmes to sensitise families and community members on family strengthening and promotion, responsive care giving, family prevention and protection against domestic and gender-based violence, disability mainstreaming and ending violence against children. The Committee put the Ministry to task on the following issues:

(i) Overemphasis on policy and practical application of existing policies and laws.

(ii) Inadequate tapping of indigenous knowledge from various councils of elders.

(iii) Overreliance on donors to support various programmes.

(iv) The role of the social media in parenting and family relations.

(v) The rights of children versus responsibilities.

(vi) Neglect of older persons - a case in point being the burning of elders in Kisii and Kilifi in the name of fighting witchcraft.

In conclusion, we thank Hon. Oduol for the Statement Request. As a Committee, we shall continue to oversee this sector so as to protect and strengthen the family unit. I once again thank Hon. (Prof.) Oduol for her knowledge in this subject matter. She committed to be available to us

and the Ministry whenever we need her on this area. The Ministry also found her to be very rich in as far as this subject is concerned. We later came to realise that that is where she was working as a Permanent Secretary. We encourage Members with expertise in some of these areas to come out and help when we want to resolve some of these issues.

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Very well and thank you, Chair of the Departmental Committee on Labour and Social Welfare. Let us give the first shot to Hon. (Prof.) Jacqueline Oduol.

Hon. (Prof.) Jacqueline Oduol (Nominated, ODM): Thank you, Hon. Deputy Speaker. I thank the Departmental Committee on Labour and Social Welfare, particularly the Chair. The time that I got to sit in was really an indication of a very thorough commitment and address to detail of the issues that were raised.

Because this is part of what I indicated yesterday, I want to start by reminding us that there is a way of remembering that Article 45 of our Constitution sees the family as the natural fundamental unit of society and the basis of social order. When we look all over the country right now, apart from what it is that we see as programmes and interventions, whether in our schools where children are burning schools or elders are being burned or whether we have efforts to cushion those who are vulnerable, it does not really give universal coverage. I appreciate the effort the Ministry has put in place. In particular, I also want to appreciate the Departmental Committee on Labour and Social Welfare. As I do this, if you allow, I want to indicate why it is urgent.

Hon. Deputy Speaker: Professor, I request that you do not go that way. It is like we are debating. I believe for whatever you have, you had an opportunity to canvass every issue within the Committee. You seem to be happy with the response. Now, unless there is something you need clarification on, what you will be doing by going that way is to open up a different front of debate. I think you should seek some clarification, if at all you need it, so that we can move on.

Hon. (Prof.) Jacqueline Oduol (Nominated, ODM): Hon. Deputy Speaker, I am not quite sure I would be guided that way. I thought when the response is given by the Ministry, the gaps that the Committee raised were those that were pointed out. Indeed, that needs to be contextualised. I do not understand how you would want it or what you could guide me on.

Hon. Deputy Speaker: What I have said, Professor, is that you requested for a Statement from that Committee. It has been canvassed at the Committee level. I believe you had been invited when this was going on. So, whatever happens during Statement Hour is that you seek clarification on some issues that did not probably come out nicely or, of course, you give accolades when they have done very well, so that we do not open it to debate. I do not know if we agree. Am I still not very clear?

Hon. (Prof.) Jacqueline Oduol (Nominated, ODM): I think you are, but I hope you will allow me to just indicate that there is a sense in which, even with that response, the problem of the gap between policy and practice is there. When we look at the programmes that are projected, the reason we were talking about indigenisation is that the programmes are coming into a context where even if they were to be presented, they really would not handle the issue. So, I think I will leave it at that point and say that even as it is presented, it is lacking in what is the hallmark which would be that the State would be on the driver's seat. Currently, it is partners that are talking about rights. There are no responsibilities. When you try to get children taught on how it is that they engage, it is called child labour. That is the case when you talk about issues that are happening in the family. The overall thing I would say is that I believe it is still not very adequately addressed. We will have programmes and interjections, but unless the State gets into the driver's seat and contextualises matters, it will not be satisfactory.

Thank you very much, Hon. Deputy Speaker.

Hon. Deputy Speaker: I see Hon. Nguchine.

POINT OF ORDER

DELAYED ANSWERS TO QUESTIONS

Hon. Moses Kirima (Central Imenti, JP): Hon. Deputy Speaker, I have heard my colleagues getting answers for Questions they asked before this House. Those Questions were asked a few weeks back. I have a Question which I asked on 21st September 2021 and I have not got an answer up to now.

Hon. Deputy Speaker: Hon. Nguchine, allow us to seek clarifications first. I see you have a concern which is separate from the matter before the House. So, I will give you an opportunity to settle it.

Hon. Moses Kirima (Central Imenti, JP): Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Let us have Hon. Pukose. Hon. Murugara, do you want to speak to this one or is it on the other one?

Hon. (Dr.) Robert Pukose (Endebess, JP): Thank you, Hon. Deputy Speaker. I just wanted to seek clarification from the Chair of the Departmental Committee on Labour and Social Welfare. You know, he has given a very good response, but what programmes of the State to recognise and protect the family unit do we have at the constituency level? What programmes do we have in our constituencies? I am talking about programmes we can relate with when we are in the constituencies.

Hon. Deputy Speaker: Okay, Chair. You will probably respond to those two interests.

Hon. Josphat Kabinga (Mwea, JP): Thank you, Hon. Deputy Speaker. On the comment by Hon. (Prof.) Oduol, in my response I alluded to the fact that we have put the Ministry to task on some six areas that we will be following up. One of them is what she raised - overemphasis on policies and not the practical application of existing policies and laws. We will be following up on these six areas. We are sure that once the Ministry implements some of these areas or adheres to some of these areas, Hon. (Prof.) Oduol will be satisfied.

On the point raised by my brother, the Member for Endebess, I would wish that you get a copy of our response. You will realise that the Ministry has gone deep into responding to the various questions that were raised, including what you have just asked. The Ministry has put in place activities such as volunteering where they train volunteers in every constituency to support families that fall into challenges. That is one of them. They have also come up with volunteers who attend to children and people living with disabilities. I urge the Member to get a copy because I can see that is an area he has an interest in. If he will not be satisfied with the response given - though I believe he will - he can always come back to us and we will get through.

We have also talked about things like creation of rescue centres for the elderly, which are now there. The Ministry has since implemented them in two constituencies and is moving to do the same in others. So, there are a lot of activities the Ministry is undertaking to ensure that family values and stability are upheld in the country.

Hon. Deputy Speaker: Thank you very much, Chair of the Departmental Committee on Labour and Social Welfare. You have done a good job. Let us have Hon. Kirima. What was your issue, Hon. Kirima?

Hon. Moses Kirima (Central Imenti, JP): Hon. Deputy Speaker, my issue is that I asked a Question on 21st September this year relating to land and it was directed to the Cabinet Secretary for Lands and Physical Planning. I have never been called by the said Cabinet Secretary or the Committee at any time or received any response. I was told that I would get a response within three weeks. I am concerned that nobody bothered to look at my Question. A third of my colleagues who asked Questions three weeks ago are getting responses. My concern is why my Question is not being answered. The problem is still there. In fact, is now even grave than before.

Hon. Deputy Speaker: Hon. Kirima, luckily the Chair of the Departmental Committee on Lands is here. As you know by now, Questions are responded to in committees. The bit that I am interested to know is why you were not informed that the Question would be responded to at the Committee. We can only know that through the Chair of the Departmental Committee on Lands. Please, you can have the Floor, Chairperson. I know you may not have fully kept abreast of it because you have just walked in. However, I am sure you know whether that Question has been responded to or not.

Hon. (Ms.) Rachael Nyamai (Kitui South, JP): Thank you, Hon. Deputy Speaker. As I walked in, I listened to the concern of the Member. As per the schedule given by the Leader of the Majority Party, the Cabinet Secretary was supposed to appear before the Committee this morning to respond to some Questions. As a few of us may be aware, she is bereaved and was unable to come. So, we have pushed forward the responses to our Questions to 24th. I would like to inform the Member that I will ensure that his Question is on that schedule, if it is not. I do not have the schedule of the Questions that were to be responded to this morning, but I know they were five. I assure you, Hon. Deputy Speaker, that I will liaise with the office concerned to ensure that his response is among the ones that will be available on 24th.

Hon. Deputy Speaker: So that Hon. Kirima is satisfied, just confirm that his Question will be among those to be responded to. Hon. Kirima, is there anything else? That was a fair response.

Hon. Moses Kirima (Central Imenti, JP): I want to be present on the material day when the Cabinet Secretary will come because I was not aware that she was coming today.

Hon. Deputy Speaker: On this particular one, Hon. Kirima, it is confirmed that it will be on the schedule of the 24th. That sounds like an invitation for you to be present.

Hon. Moses Kirima (Central Imenti, JP): The problem is that the Chair has not confirmed if my Question will be responded to on that day or not. That is why I request that I be summoned.

Hon. Deputy Speaker: That does not matter now. Even if it will not be responded to on that day due to unavoidable circumstances, you should be informed. The Chair is here. You will be invited to the Committee meeting. Chair of the Departmental Committee on Lands, please, make sure that the Member and other Members are informed in good time.

Hon. Moses Kirima (Central Imenti, JP): I am most obliged, Hon. Deputy Speaker.

Hon. (Ms.) Rachael Nyamai (Kitui South, JP): Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Hon. King'ola, what is it?

POINT OF ORDER

INVESTIGATION INTO ADMINISTRATION OF FUNDS DISBURSED TO FKF

Hon. Patrick Makau (Mavoko WDM-K): Thank you, Hon. Deputy Speaker. I rise under Standing Order No.83 concerning the investigation into administration and expenditure of funds

disbursed to the Football Kenya Federation (FKF) from the Sports, Arts and Social Development Fund.

Section 17(1) of the Fourth Schedule of the Constitution assigns the function of promotion of sports and sports education to the national Government. Subsequently, all matters relating to promotion of sports and sports education fall under the mandate of the Departmental Committee on Sports, Tourism and Culture, and rightfully so. Article 95(2) of the Constitution provides that the National Assembly shall deliberate on and resolve issues of concern to the people. Article 95(5)(b) provides that the National Assembly shall exercise oversight of State organs.

The Departmental Committee on Sports, Tourism and Culture is aware that the general public has expressed concerns over the management, administration and expenditure of funds disbursed to FKF. Standing Order No.216(5) sets out the functions of a departmental committee and in paragraph (a), it provides that the functions of a departmental committee shall be to investigate and inquire into and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments.

Therefore, in view of the foregoing, I seek your guidance as to whether any other entity has the mandate to consider the matter and if the Departmental Committee on Sports, Tourism and Culture can proceed to take up the matter and inquire into it in view of the constitutional provisions and Standing Orders that I have just highlighted.

Hon. Deputy Speaker, allow me to highlight a few of those issues. In the past one or two weeks, there have been gruelling sideshows about the goings-on in football. Football is important to our youth. It is one of the sports that attract many talents. We have seen many Kenyans like Wanyama, Mariga and Oliech play football abroad. It has come to light that there are some wrangles between the Ministry of Sports and FKF. As the Chairman of the Departmental Committee on Sports, Culture and Tourism, I stand under Standing Order No. 83 to ask for your guidance on this because we have seen other entities trying to address this issue of national importance.

Without much ado, I ask for direction that we should take as a committee and as a House.

Hon. Deputy Speaker: Okay. Let me try and look at it but in the meantime let me give some few members an opportunity to speak. Hon. Iringo.

Hon. Kubai Iringo (Igembe Central, JP): Thank you, Hon. Deputy Speaker, for giving me this opportunity to add my voice on what my Chair has already alluded to. As a Committee, we have been following what is happening in the FKF and the extent they have gone in killing this sport. When we were already getting to the bottom of the whole thing, another entity came in and started interrogating them. I do not know the findings they were looking for. Whatever report we happened to get, it appeared as if it was trying to help them come out of the murky waters and more so put a wedge between them and the Ministry of Sports.

Some of the things happening in the country are getting lost on the way because of so many people coming to put their hands into the problems they do not know and they are not mandated by the Standing Orders and the Act to look at. Therefore, you find that committee which is supposed to look into the matter and come up with a solution that has legal binding is put at bay and those who have no legal binding to come up with a solution to the same, play with it until things go out of control.

I thank you.

Hon. Deputy Speaker: Hon. Omulele.

Hon. Emmanuel Wangwe (Navakholo, JP): On a point of order, Hon. Deputy Speaker.

Hon. Deputy Speaker: Hold on, Omulele. What is your point of order, Majority Whip?

Hon. Emmanuel Wangwe: Thank you, Hon. Deputy Speaker. I keenly listened to the Chair. I have also listened to Hon. Kubai irirngo. They have used one common word called “entity”. We are not Members of that committee. It is my request through you that they open up. What is this elephant you are referring to as “entity” so that we are able to contribute to this?

Hon. Deputy Speaker: Let us see if Hon. Omulele can demystify this entity they are talking about. I was about to ask the same question.

Hon. Christopher Omulele (Luanda, ODM): That entity, Hon. Deputy Speaker, is the Senate that is pretending to have a mandate that does not belong to it. Matters sports are defined at Article 17 of the Fourth Schedule to the Constitution, and those matters reside in this House. The Senate has been pretending to be inquiring into matters sports and they have been holding many meetings there.

The Senate has got no iota of authority to deal with matters sports in this country. The Constitution is clear. The Constitution allows this House to do budgeting. This House allows the Cabinet Secretary for Sports to have a budget. Under that Ministry, there are federations that benefit from that budget. If one shilling of that budget goes to a federation, then this House has the legal mandate to audit that federation. If FKF has received one shilling from the Ministry of Sports, then FKF must answer to this House. It must be ready to be faced with an inquiry through the Ministry of Sports, and the CS, answering to this House and no other House. That is why I am just advising the Chair of the Departmental Committee on Sports that the mandate to deal with these issues belongs to the committee of sports of this House and they should move with speed to summon FKF and all other people concerned so that we can get to the bottom of this. If taxpayers’ money has been misused by FKF or any other federation, then they must be held accountable. Nobody is going to ‘eat’ people’s money in this country under our watch. They must be held responsible. Whatever circles they want to go into, they will not be allowed.

The Chairman, Committee on Sports, it is your duty to do that.

Hon. Deputy Speaker: Hon. Duale, do you want to speak to this ?

Hon. Aden Duale (Garissa Township, JP): Yes, Hon. Deputy Speaker, I am a bit perplexed because since the 11th parliament...

Hon. Deputy Speaker: Just a bit, Member for Garissa Township, I can see that many Members of the Committee want to speak to it, but when we get some members who are not of that Committee, it is also good for us to hear them.

Hon. Aden Duale (Garissa Township, JP): Hon. Deputy Speaker, the bicameral Parliament that was anticipated in the Constitution has all its functions and boundaries documented. I stood on this Floor in the 11th Parliament and raised it. The Attorney-General needs to walk the talk.

There are certain Bills, if you read from Article 109 to 114, even the Bills that can come to this House and the ones that go to the other House are well stipulated in the Constitution. They can only deal with legislation touching on county governments. Budgeting is done by the National Assembly through the Budget and Appropriations Committee. The oversight of operations of different departments is done by our committees. The Public Accounts Committee deals with audit. I want to confirm to this House that in the Financial 2017/2018, there is a serious audit before PAC touching on the Ministry of Sports and FKF. They have appeared before the Committee.

The Fourth Schedule tells you the border between county and national government functions. But we have become a cry baby. The salaries and mileage paid in the Senate is appropriated by this House. We can even deny them salary if we decide. We can deny them mileage and house allowance. We appropriate their money through the Parliamentary Service Commission. Their accounts are audited by a committee of this House.

The Chair of Departmental Committee on Sports, you should not be a worried man. Do not waste our time. Continue with your investigations and bring a report to this House. Do not be scared. I have seen them threatening CSs. They cannot even impeach a PS or a CS. They do not have powers. They cannot even impeach a president or a deputy president. The initiation must start from this House. If we do not initiate, they will wait for that impeachment until cows come home. That is why some of us decided to come here. This is where the power of legislation, budgeting and oversight is exercised. They should be very busy with defending devolution, going to counties and holding governors to account. Governors are stealing our money and when they appear before the Senate's County Public Accounts and Investments Committee, there is no single report of that Committee since the Senate started to indict governors. Why is that the case? They have gone to bed with governors. That should stop.

I do not want to call it an entity. That is Parliament. Even this House must respect it but I want to tell the Chair, let us not debate. Just do your work and they must earn their respect. That is why the people doing this nonsense called BBI; you wanted to give them more powers. No, the people of Kenya in their wisdom said they should not be given powers in the 2010 Referendum. Hon. Charles Kilonzo was with me in the 10th Parliament. We denied them power. You cannot make them like the United States of America (USA). If this country wants the Senate to be very powerful, then we should adopt the USA model where Senate is the overriding House. This Constitution is very clear. The only problem is including the bicameral and we should not even ask why the Executive is disobeying court orders. The Senate is disobeying this Constitution.

Hon. Deputy Speaker: What is it Hon. Wangwe? Hon. Duale was winding up.

Hon. Aden Duale (Garissa Township, JP): What is wrong with the Whip?

Hon. Emmanuel Wangwe (Navakholo, ANC): On a point of order. Hon. Duale is very eloquent and sometimes when you are very eloquent, you are likely to slide back or forward. He has referred to a document which is before the Supreme Court, which has gone through the High Court, Court of Appeal and now the Supreme Court as nonsense. Is the Member in order to refer to a very valid document which is undergoing the legal processes as being nonsense? Does it mean the judicial system also get nonsense documents before it?

Hon. Deputy Speaker: I think that is fair. I know you are a seasoned politician and Member of this House. We can as well leave those documents that are before other arms of government like the Judiciary. It would be good for us to leave it there. Let us leave this one because we have...

Hon. Aden Duale (Garissa Township, JP): Hon. Deputy Speaker, if you agree with me, the Supreme Court has not made a decision on that document. As of today, based on the Court of Appeal and the High Court, it is null and void and unconstitutional and anything that is null and void is nonsense. I stand by it and I am not withdrawing; BBI is nonsense. You can even throw me out.

Hon. Deputy Speaker: As a lawyer, I will definitely not agree with you as long as there is an existing appeal that is not concluded. I will be letting myself down as a lawyer. Let us continue with this interesting area and leave the matters that are in court to be done in court. The ones that are before the House, we can handle them.

(Loud consultations)

Hon. Millie, again, what is your point of order? And again, you are not even keeping social distance from your colleague and yet I am sure you did not come from the same House, anyway.

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Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): On a point of order.

Hon. Deputy Speaker: Hon. Millie Odhiambo, I hear and never mind the fact that you deal with matters overseas, but even if you were a brother and sister, which I agree you maybe, you did not come from the same House. So, please, let us keep safe distance so that we can be safe. However, let us hear what you have to say.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): I am not too worried about Hon. Duale calling that document nonsense because he is not a lawyer. Ignorance is allowed.

(Laughter)

When you are a non-lawyer and you do not understand legal documents, once he becomes a lawyer, he will be more educated. My concern for which I am standing on a point of order is, and with due respect to my good brother Hon. Duale who is a seasoned Member of Parliament, is that I think we are taking this House in a wrong path if we disregard the Speaker. You make a ruling and he says he does not care. Really, not at his level. There are things which we do which I would expect him to leave for the young people who have come the first time to do. These are things we excelled in, in the last Parliament. Let him leave it for other people. The Member for Chepalungu is very ready to take on that mantle but you do not expect a person who has been a Majority Leader in this House to disregard and disrespect your Chair. I know because for one or two reasons, you may have wanted to mull over it, but I heard him and I saw him clearly. I think the direction we are going in this House is not correct. We even asked about wearing party uniforms and no decision was made about that. I think we are going the wrong way about certain things. Let us leave the dignity of this House intact regardless of whichever divide we come from.

Hon. Deputy Speaker: I agree with you totally Hon. Millie Odhiambo especially on the path of keeping decorum and respect in the House. The only thing of course is he made an admission which was fairly dangerous because you said in the last Parliament you could do some of these things. In the last Parliament you were also not a first term because you were already doing your second term. What we simply need to do is that...

Let us leave matters in the courts. They are matters *sub judice*. The document will be a decision. Hon. Duale, I see you agree with that. You may not be a lawyer but having served three terms, you are definitely a law maker of long standing. You were coming out very well with your debate. So, let us deal with that and please finalise because I want to give at least four other Members.

Hon. Aden Duale (Garissa Township, JP): Hon. Deputy Speaker, please talk to the Chair of the Departmental Committee on Labour and Social Welfare. I do not come from Kirinyaga where women are very powerful. No, my friend.

(Laughter)

I will go and consult our new Governor Waiguru to deal with you. That is on a light touch.

I want to thank Hon. Mille for the good advice but it looks like Hon. Millie is saved. She will appear in my memoir which is coming out next year on her behaviour in the 11th Parliament.

Finally, the issue between the Senate and this House is something that has been recurring. I am kindly asking the Chair to continue disregarding them and bring a report.

Hon. Deputy Speaker: Hon. Kabinga was mentioned. I am not so sure whether it was adverse but let us hear from him.

Hon. Josphat Kabinga (Mwea, JP): On a point of order. Unfortunately, Hon. Deputy Speaker, I am not here to respond to Hon. Duale.

When I joined Parliament, he was one of the guys whom I admired. I do not know what is coming to him towards the end of this Parliament because if we take some of the things he is doing lately, some of us will be retrogressive in what we had gained.

(Laughter)

He is referring to a new governor. I do not know whether we have a new governor. I am not aware of any election that was done in Kirinyaga. So, I will leave it at that.

Let me now go to the main subject of the other part of Parliament.

Hon. Deputy Speaker: Hon. Kabinga, you rose on a point of order and the way I am seeing it, you are trying to sneak yourself into contribution. I allowed that because your name had been mentioned. If you really want to speak...

(Hon. Josphat Kabinga spoke off-record)

Do not worry. We will get a few Members to speak and we might include you at that point. Let us hear the point of order, but you have done so. I will see you, of course.

Hon. Member for Suba North, what is it again? I never forget North because it is North and South.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Deputy Speaker, I am concerned that the Constitution talks about the issue of equality. It is equality even when it is intragender. The reason I am saying that is Hon. Duale has made reference to one woman. In Kirinyaga, there are three powerful women: Hon. Ngirici and Hon. Martha Karua. So, why would you want to pick one woman against two other women? If we want to promote women, let us promote them without picking sides, especially since his party...

Hon. Deputy Speaker: Your first one Hon. Millie was perfectly valid. The second one about the number of names Hon. Duale is supposed to mention here, I think in this particular one, allow him to choose whether he wants to say one or the other. There should be no problem but at least you have helped us give us more names to add to the Kirinyaga issues. I think that is irrelevant for now. Let us deal with other things.

I will give you Hon. Members. I can see you are very interested in this one but let us have Hon. Sitati Wanyama. Please be brief so that I can give at least four other Members

Hon. Daniel Wanyama (Webuye West, JP): Thank you, Hon. Deputy Speaker. It was important that I also speak on this, having been the Volley Ball Captain of this country for a while. We are worried with the direction the sports is moving.

At the outset, looking at the Constitution and already my colleagues have referred to it, I want to advise the Senate that the only time they have to touch on matters sports is when it is an entertainment in county governments. However, as far as the management and development of sports is concerned, it is this House and our Departmental Committee on Sports, Culture and Tourism that must deal with it. So, I advise the CS not to even honour the summons by the Senate because they have no mandate to do that as it were. So, even that debate in the Senate is null and void. If the Football Kenya Federation wants to have their issues sorted out, they must come to this House which is mandated to handle their issues. I thank you.

Hon. Deputy Speaker: Hon. Kilonzo please be as brief as Hon. Wanyama so that we have a few other Members speaking.

Hon. Charles Kilonzo (Yatta, Independent): Thank you. Hon. Deputy Speaker, being idle is very dangerous. They normally say that an idle mind is the devil's workshop. The problem we have with the Senate is boredom and so they do not know what to do. That House has so many learned people.

Hon. Deputy Speaker: Of course I would want us to discuss this matter with some respect and decorum because it involves our sister House. We have come a long way. There have been fights here and there but we are improving. So, we could discuss the issues without necessarily having to throw very serious words and names against our colleague House.

Hon. Kilonzo, proceed as you summarise. Let us stick to the issue of mandate.

Hon. Charles Kilonzo (Yatta, Independent): Yes, that is my next point. I want to share the experience which the Departmental Committee on Defence and Foreign Relations had. In the beginning of this Parliament, the Senate would summon the Cabinet Secretary for Defence and summon the CS for Foreign Affairs. However, we would advise the Ministry that every time they get an invitation or a summon from the Senate that they refer to the Constitution. They have no business appearing before them and we solved that problem.

So, I encourage the Chair here to do the same. Advise the Ministry or whatever State organ in that Ministry not to honour any invitation or summons. Let them refer to the Constitution. It is as simple as that. Otherwise, it is a waste of resources and time for ministries to leave their work, come and appear before the Senate which has no mandate on matters of national concern. They are equally very busy. I thank you Hon. Deputy Speaker.

Hon. Deputy Speaker: Hon. Mbarire

Hon. (Ms.) Cecily Mbarire (Nominated, JP): I thank you Hon. Deputy Speaker. We have let down the youth of this country. We are doing very poorly with our sports. Year in, year out we are always complaining about mismanagement of key sports institutions that ought to identify and nurture the talent of our youth right from the grassroots.

It is a very sad affair that an institution such as FKF would misuse money meant to do exactly what I am saying. Therefore, I support the Committee on Sports, Culture and Tourism to go ahead and do their investigations because our Standing Orders mandate them to do just that. We expect them to do a thorough and conclusive job on this matter. Today, the CS for Sports has disbanded the FKF and put in a caretaker committee, very typical of our Kenyan style. However, the person she puts ahead much as he is a respectable man turns out to be Aaron Ringera.

(Hon. Jimmy Angwenyi stood in his place)

We need to show the youth that we understand them and feel them. I am not saying this with any disrespect. Mr. Aaron Ringera is a very important member of the Kenya community. However, we need to do better. I hope that this Committee will have the youth leading the youth. You can have somebody who is youthful. So, we need to do more.

Finally, we have had very many investigations and inquiries with regard to key scandals across this country and they never get anywhere. We just get findings that go nowhere. We hope to see real action on FKF going forward.

Hon. Deputy Speaker: Jimmy would not be very happy. Hon. Jimmy just take your seat. Let me allow you to first of all cool because I can see it. Let me give Hon. Kabinga first. Please

Hon. Jimmy relax. I know Jimmy, I know at the spur of the moment... Sometimes you allow yourself to cool down before you make your contribution.

Let us have Hon. Kabinga then Hon. (Dr.) Pukose

Hon. Josphat Kabinga (Mwea, JP): Thank you, Hon. Deputy Speaker, I support the Committee on Sports, Culture and Tourism through the Chair and sympathise with them for the frustrations they may have gone through because of the other part of Parliament intervening on matters that are supposed to be handled by this House.

Hon. Deputy Speaker, the Committee on Labour and Social Services has a similar case. In April this year, the Senate went to Saudi Arabia to investigate some matters on labour that are supposed to be investigated by this House. They stayed there for 10 days and for the last eight months they have not come up with any report. When they heard this House had gone to Saudi Arabia on a serious investigation, they quickly released the report. In that report they urged the CS to implement the recommendations.

We are now at a crossfire because we are also coming up with our report. They have a report and it has landed on the CS's desk and he is wondering whether to deal with the Senate's or this House's report. This is something that needs to be taken by the House so that CS' can be clear on who has the mandate to handle some of these things.

Hon. Deputy Speaker: Okay, let us have Hon. (Dr.) Pukose in a minute and then I come back to the senior. Hon. Jimmy will get a slot for sure. You will speak, Hon. Jimmy. I might actually make you the last one so that you will give the words of wisdom.

Proceed.

Hon. (Dr.) Robert Pukose (Endebess, JP): Thank you, Hon. Deputy Speaker. You know FKF for a long time has become a cash cow for certain individuals. This issue of moving to the Senate and coming to the National Assembly is one way of trying to evade issues of oversight. The Committee on Sports, Culture and Tourism is one that appropriates funds to the Ministry of Sports. That is the rightful Committee to deal with matters FKF and matters Ministry of Sports. So, even if the Senate does the report, where are they going to take it?

So, I want to ask the Chair of the Sport, Culture and Tourism Committee to do his investigation and submit that report to this House. We shall debate and take action.

I thank you, Hon. Deputy Speaker

Hon. Deputy Speaker: Let us have Hon. Jimmy in a minute.

Hon. Jimmy Angwenyi (Kitutu Chache North, JP): Thank you, Hon. Deputy Speaker.

First, I will support the Committee. They are the ones mandated to deal with all sports activities in this country. They are the ones who proposed the budget for the sports activities. So they must be strong. Please do not lie down like those ones. Stay firm.

Secondly, I want to advise my sister there. I do not know whether she is my sister or my daughter. She is my daughter. Do not ever neglect *wazees* because if you neglect us we will curse you and if we curse you, you cannot make it. Do not bring whatever is prevailing in Kilifi and Kisii where *wazees* are slaughtered because they are *wazees*. The person who has been appointed to chair that interim committee is a person who has sacrificed for this country very much. He is somebody who has contributed to this country a lot. We must draw from his experience. You have seen Ferguson in England at 78 years supervising and coaching a team and they have done very well. Do not attack *wazees* when I am around here because I am a *mzee* myself.

Hon. Deputy Speaker: Hon. Osotsi, be brief.

Hon. Godfrey Osotsi (Nominated, ANC): Thank you, Hon. Deputy Speaker. I agree with the Departmental Committee on Sports, Culture and Tourism that Senate has no jurisdiction on

the matter before them. It is a good thing that the CS for Sports, Hon. Amina Mohamed, has instituted an audit into the financial status of FKF. I think that is a good thing because that federation is rotten and it is a surprise that the Senate is trying to sanitise corruption in FKF. I think the Departmental Committee on Sports, Culture and Tourism of the National Assembly should take up this matter. Again, we have in the past advised the Cabinet Secretaries not to honour summons by the Senate but I do not know why they continue honouring those summons even when the Senate has no jurisdiction. So, part of the problem is with the CS who decides to honour summons by the Senate even when they know the Senate has no constitutional mandate on some matters. It is strictly the mandate of the National Assembly.

Hon. Deputy Speaker: The last one is Hon. Nyamai. Hon. Members, we cannot all speak this afternoon. I know Hon. Murugara and the Chair of the Departmental Committee on Administration and National Security want to speak. Just take a minute so that we can try and save time. I do not know why there is a lot of interest in this one.

Proceed, Hon. Nyamai.

Hon. (Ms.) Rachael Nyamai (Kitui South, JP): Thank you, Hon. Deputy Speaker, for this chance. First of all, I would like to say that Aaron Ringera is not a let down to the youth. I believe that is a sad statement. Secondly, I would like to give some guidance to Hon. Makau because I have been a Chair before him; he needs to take this matter seriously. The Constitution and the Standing Orders are on your side. I would also like to say that it is important for the CSs to make a decision on what they want to do. They are so busy and they cannot be walking from the National Assembly to the Senate discussing the same matter and spending money from our coffers.

Thirdly, there are so many matters that are lying in this Senate. We have Bills that are very important. We have a Bill concerning blood in this country that is lying at the Senate. We have a Bill on registration of public land that is lying in the Senate. The substantive Speaker of this House has called us to order and to ensure that we are doing the right thing. The Speaker of the Senate needs to call his House to order and ensure that they stick to their mandate so that we do not have CSs walking to the Senate and to the National Assembly. Also, they need to be courageous enough to make a decision to go to the House that takes care of the mandate of the matters that are being responded to.

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Hon. Mwathi.

Hon. Peter Mwathi (Limuru, JP): Thank you, Hon. Deputy Speaker. At the outset, I want to advise my brother, the Chair of the Departmental Committee on Sports, Culture and Tourism, that you must put your foot down because this is squarely your mandate and whatever the Senate is doing is useless. As a matter of fact, the other day there were skirmishes in Laikipia and we wanted to go and investigate. A week before, this Committee went there against security advice. The Committee on Security from the Senate was there saying it was the one which was mandated. I wonder because we are in this House and we appropriate money for these committees and the Senate itself. Why should we give money for people to go and do that which is not their mandate according to the Constitution? The Constitution is clear. In fact I want to persuade you, Hon. Deputy Speaker. Since you are the leader of this institution, find a way of ensuring that the Standing Orders of any institution which is purporting to do the work we are doing here are not in conflict with the Constitution and if they are, they get quashed at the High Court. You find the mandates of those committees actually similar to what the parent committees in this upper House are doing. I have no doubt in mind that the Departmental Committee on Administration and National Security of this National Assembly is the one that is mandated on issues of security. So

why should I be running after somebody who is running to do my work when they can as well be doing devolution work and overseeing governors who are wasting our resources and they are not going to oversee them?

Hon. Deputy Speaker, I have left you to determine as the head of the institution what we need to do with those who are interfering with our mandate so that you can also advise and guide us accordingly.

Hon. Deputy Speaker: Okay. You have been heard. Further consultations will be made but in the meantime, of course the Constitution stands and so there should be no problem at all. We will not make any decision or communication on that yet but should there arise any need, we will do that. There is a Statement by the Whip of the Majority Party. Proceed.

BUSINESS FOR THE WEEK COMMENCING 16TH TO 18TH NOVEMBER 2021

Hon. Emmanuel Wangwe (Navakholo, JP): Hon. Deputy Speaker, this is a Statement by the Leader of the Majority Party. Pursuant to the provisions of Standing Order No. 44(2)(a), I rise to give the following Statement on behalf of the House Business Committee (HBC) which met on Tuesday, 9th November 2021, to prioritise the business for consideration:

Let me take this opportunity to officially welcome Members back from the short recess period. It is my hope that we have all had a chance to rest and rejuvenate while also interacting with our families and constituents and that we are reenergised for the coming weeks. I also do hope that the Committees have utilised this time to consider and finalise most of the business at their disposal to give room for consideration and substantive debate by the House. As we are all aware, time is of the essence at this juncture and there is need to ensure that we fast track consideration of all urgent business in these final weeks of the Fifth Session.

Hon. Deputy Speaker, on Tuesday, 16th November 2021, the House is scheduled to continue with the Committee of the whole House on the Waqf Bill 2019 which began yesterday. We shall also continue consideration of the following Bills at Second Reading:

1. The Kenya National Commission on Human Rights (Amendment) Bill, 2020;
2. The National Electronic Single Window System Bill, 2021;
3. The County Governments Grants Bill (Senate Bill No. 35 of 2021);
4. The Asian Windows' and Orphans' Pensions (Repeal) Bill, 2021;
5. The Provident Fund (Repeal) Bill, 2021;
6. The Coffee Bill (Senate Bill No. 22 of 2021);
7. The Community Groups Registration Bill, 2020; and
8. The Mediation Bill, 2020.

Hon. Deputy Speaker, I am reliably informed that there are no Questions scheduled to be responded to by CSs in the coming week. It is my hope that this will accord the Committees more opportunity to expedite preparation of reports on pending business before the House.

Hon. Deputy Speaker, the House Business Committee will reconvene on Tuesday, 16th November 2021, to schedule the business for the rest of the week. I now wish to lay this Statement on the Table of the House.

Thank you, Hon. Deputy Speaker.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): On a point of order, Hon. Deputy Speaker.

Hon. Deputy Speaker: Member for Suba North, what is it again?

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Thank you, Hon. Deputy Speaker. I thank the Minority Whip for the Statement...

Hon. Deputy Speaker: What did you say? Minority Whip or Majority Whip?

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Majority Whip. You see nowadays there is no clear line between Majority and Minority. There is a very thin line.

Hon. Deputy Speaker, I thank him. Having said so...

Hon. Deputy Speaker: I definitely will not allow that to go on record. We have a Majority Whip and we have a Minority Whip. These are offices that exist by law and by our Standing Orders. So, let us leave it at that.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): I will leave it at that except there is the *de jure* and *de facto*. I shall go by the *de jure*.

Hon. Deputy Speaker: Absolutely.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Thank you, Hon. Deputy Speaker. My concern is...

Hon. Deputy Speaker: I do not actually agree with you even on that one. There is no *de jure* and *de facto* here. We only know about *de jure* who is also the *de facto* one.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Deputy Speaker, that is debatable but I will leave it for now.

Hon. Deputy Speaker: Okay, let us proceed.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Deputy Speaker, my issue is in relation to the Assisted Reproduction Technologies Bill that the House Business Committee has always assured that they will bring to Committee of the whole House but they keep bringing new Bills instead. For purposes of planning of this House, we need to plan smart. In planning smart, we need to understand that the substantive time we have in this House, even just looking at the House now, is very little. We must do what is deliverable. Let us have tangible outputs but we cannot do so with Bills that are brought for First Reading and Second Reading. They should bring Bills that are coming to the Committee of the whole House like the Assisted Reproduction Technologies Bill and then it can go to the Senate and because Senate seems to be wanting things to do, at least they will have something and then we will not be here discussing the Senate. They will at least have the Bill and others to discuss so that we do not fight. Assisted reproduction technology is definitely a mandate of the Senate. The House Business Committee should work smart so that we focus on deliverables.

Hon. Deputy Speaker: Okay. I am sure the Majority Whip has heard and since he is a member of the House Business Committee, he will definitely take your concerns. Let us move to the next Order.

MOTION

REPORT ON IMPLEMENTATION STATUS ON INQUIRY INTO COMPLAINTS OF ENVIRONMENTAL POLLUTION BY LONDON DISTILLERS KENYA LIMITED

Hon. Deputy Speaker: That must be led by Hon. Richard Moitalele ole Kenta, Chairman.

Hon. Richard ole Kenta (Narok North, ODM): Hon. Deputy Speaker, I beg to move the following Motion:

THAT, this House adopts the Report of the Committee on Implementation on its consideration of the implementation status of the Report of the Departmental Committee on Environment and Natural Resources on an inquiry into the

complaints of environmental pollution by London Distillers Kenya Limited (LDK), laid on the table of the House on Thursday, 30th September 2021.

Hon. Deputy Speaker, the Select Committee on Implementation is established pursuant to the provisions of Standing Order No. 209. Its main role is to ensure that whatever Parliament passes be it law, resolutions or Petitions are implemented. That is to ensure that this Parliament does not act in vain. This Parliament is there to ensure that the aspirations of the Kenyan people are met. This particular Report is on the right to a clean and healthy environment. It touches on the Athi River Basin all the way from Athi River to the Indian Ocean. The Report, therefore, covers the findings of the Select Committee on Implementation on the status of the Report of the Departmental Committee on Environment and Natural Resources on an inquiry into the complaints as already enumerated.

Hon. Deputy Speaker, the Departmental Committee on Environment and Natural Resources on an inquiry into complaints of environmental pollution by LDK was tabled before the House on Wednesday, 29th August 2018, and was adopted on 11th October 2018. The complainant on this matter is a company called Erdemann Properties Limited and it brought that Petition on behalf of the Greatwall Gardens Estate residents and more people were affected by this at Athi River Basin. It is a matter of national importance. In fact, the plaintiff alluded to the pollution that was causing a lot of damage downstream which is causing not only livestock losses but also there is claim that it is causing deaths and cancer.

The Departmental Committee on Environment and Natural Resources set out some parameters to be met and most of them were directed at the National Environment Management Authority (NEMA), the Ministry of Environment and Natural Resources, LDK and the County Government of Machakos. NEMA was supposed to ensure that the pollution is stopped and the complaint by Erdemann was fully addressed. Unfortunately, this matter took too long due to the arguments that were raised and the fact that the parties were adamant as far as their interests and positions are concerned.

Hon. Deputy Speaker, we had experts. NEMA brought a company called Ecoserv Consultants Laboratory and the person who appeared before the Committee was called Prof. Anthony Karanja. Erdemann Properties also brought an expert called Mr. Patrick Ajuang'. Erdemann, the Ministry and several other stakeholders physically appeared before the Committee as set out in the Report.

Hon. Deputy Speaker, Ecoserv Consultants Laboratory which was NEMA's consultant reported that on effluent analysis, the parameters assessed included PH, temperature, total dissolved solids, biochemical oxygen demand, oil and grease, chemical oxygen demand, colour ammonia and sulphides. The professor opined that only two parameters colour recorded in the range of 175320MGPT/1 and sulphide 2-4 milligrams-1 were found to exceed effluent standards for discharge in the public sewers. They argued that the said pollution would be reduced in due course. The consultant was trying to give a clean bill of health to the said LDK.

Hon. Deputy Speaker, the submissions by Erdemann Limited intimated that LDK continued to discharge effluent into the environment and there was no state-of-the-art equipment which was actually one of the rules that were set by the Committee on Environment and Natural Resources. They said that this was not done and that the purported state-of-the-art equipment installed to reduce pollution was a new distillation plant installed to increase the production of ethanol spirit, which at the same time increased the pollution to produce 150 millimetres cubic waste effluent daily. They also reported that there are no new equipment or machines installed to

treat the waste effluent and aerobic processes and it was still an old technology as they were installed 10 years ago as opposed to what LDK submitted to the Committee.

[The Deputy Speaker (Hon. Moses Cheboi) left the Chair]

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

Hon. Temporary Deputy Speaker, the Committee visited the LDK premises on two occasions and the latest one being in October 2021. Whereas LDK purported to have done what they are supposed to do, Erdemann maintained that they did not fulfil the requirements of the Report of the Committee on Environment and Natural Resources. In fact, the progress report by NEMA was disputed by Erdemann and they said that the effluent discharge was still going on.

There was also the issue of the state-of-the-art equipment which was supposed to arrest the pollution. London Distillers Kenya (LDK) Limited appeared before the Committee and brought some receipts. This confirmed they had spent Kshs141, 552, 291.83 whereas they had claimed that they had used over Ksh216, 951,740. So, there were discrepancies in the report. The Ministry also appeared and said NEMA had done its best and is continuing to do so. The pollution was not limited to LDK, but there were other factories in the larger Athi River area which were also contributing to pollution. The Ministry of Environment and Forestry had been given six months to ensure that this was done. Unfortunately, it was not done within that time.

It was a resolution of this House that if LDK did not conform to the resolution, then they should be closed. I want to thank the Member of Parliament for Mavoko because he appeared before us. The Committee met the LDK staff who were crying and saying that the closure would affect their families and their lives would change forever. We insisted that whereas they had their rights, of importance was the right of the Kenyan people to a clean and healthy environment which is paramount, including those working there. The most important thing is how Parliament can ensure there is a balance and none of those people suffer. It was actually agreed by both Committees that the parties to the Petition, LDK and Erdemann Property Limited should co-exist harmoniously as recommended by the Departmental Committee on Environment and Natural Resources. They were to improve on the environment and ensure it is not affected.

Hon. Temporary Deputy Speaker, pursuant to this, the Committee went further to say this is a continuous process. It cannot be a one-time thing but continuous because those activities go on every year, day-in and day-out. On the administrative compliance, the Committee recommended that NEMA should ensure LDK continues embracing and adapting to emerging technologies to mitigate environmental pollution. In case LDK relapses on implementing the recommendations by the Departmental Committee on Environment and Natural Resources, then NEMA shall institute the necessary control improvement orders and consequently closure orders. This would cause the closure of LDK, Athi River factory, within six months. So, if they do not comply, this should be enforced.

The other resolution on the administrative compliance was that NEMA shall submit a satisfactory compliance report to the National Assembly after 60 days upon the adoption of this Report and, thereafter, submit bi-annual progress reports to the Committee on Implementation. Failure to submit those reports, the Committee shall enforce the appropriate sanctions pursuant to Standing Order 209 (3) of the National Assembly. The Committee is saying, even if this

Parliament is not there, then the next Parliament shall continue ensuring that this issue is addressed and that LDK should not relapse in doing its job.

In addressing the above recommendation, NEMA shall, with consultation with all relevant stakeholders, identify additional affluent sampling points outside LDK premises. Also, NEMA should continuously monitor and carry out periodic audits and compliance assistance programmes to address the issue of environmental pollution in all industrial and mixed-zones in Kenya. This is to ensure that industries comply with the Environmental Management and Coordination Act 1999 and other regulations and submit annual reports to the National Assembly. This is a very important issue because, if NEMA does not continuously access information on how factories are working, then we are facing a catastrophe which must be avoided at all cost.

Hon. Temporary Deputy Speaker, further to the administrative issue, we went further to look at the policy and legislative recommendations which were brought forward. As I already hinted, the National Assembly Departmental Committee on Lands, in consultation with the relevant stakeholders, should put in place a policy and legislative framework to mitigate the obscured mixed land-use conflicts and promote sustainable development for the future. This is a very important issue. The area we are talking about was supposed to be an industrial zone. However, it seems that the Machakos Municipal Council had indicated that the land can be used for both industries and residency. This is what is causing problems because of approval to contract those houses next to the factory. Unfortunately, the pollution is affecting the residents and it is important to mitigate this.

Let the Departmental Committee on Lands liaise with the Ministry of Lands and Physical Planning and the County Government of Machakos to ensure that there is adequate consultation on the zoning. We have also said that the Government, through the National Treasury, should reinstate the Environmental Impact Assessment (EIA) fees to help NEMA sustain operations, regular and random inspections, monitoring, equipping laboratories and building capacity. I was made to understand that the fee was re-introduced because originally, NEMA was paid fees commensurate to the cost of the projects.

However, someone misadvised the Government that there was no need for that fee. This killed NEMA as it could not monitor or follow up on those pollution issues or any other thing. This was a terrible thing because the National Treasury is not giving NEMA money. If this has been done, well and good and, if it has not been done, it should be done. It is unreasonable for someone to construct a Kshs10 billion building and not pay anything to NEMA. Earlier on, the intention was to assist in bringing in investors, but this is to the detriment of NEMA and to the Kenyan people. We are actually giving free services to people who do not deserve. Those people bring in a lot of money and should pay for the damage caused to the environment.

We have also recommended consultations between NEMA, the Ministry of Petroleum and Mining and the Ministry of Environment and Forestry to develop and forward to Parliament a draft policy to regulate the sulphur content in imported petroleum products, including heavy duty oil. This is what is utilised in these factories and is the main pollutant. It is important that the concerned ministries bring a policy regulation framework to assist. This is informed by the fact that, if you just let your citizens take in these destructive chemicals, then you are failing as a Government.

Hon. Speaker, the Report is very comprehensive and it is upon this Parliament to ensure the safety of the Kenyan people. Even if you want factories and the economic empowerment of the Kenyan people or other investors, the health of Kenyans is paramount. If we allow pollution just because we want to please the investors, then we are not doing what we are supposed to. Therefore, I urge this august House to be on the side of the Kenyan people and support them on

this one. Let the environment be clean and whoever who wants to pollute it must ensure they clean up and this way we can proceed. I will also give my colleagues the opportunity to contribute because they are here. I beg to move and urge the House to adopt this Report. I now request Hon. Osotsi to second.

Thank you, Hon. Temporary Deputy Speaker.

Hon. Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Osotsi.

Hon. Godfrey Osotsi (Nominated, ANC): Thank you, Hon. Temporary Deputy Speaker and the Chair for giving me this opportunity. I rise to second the Motion that this House adopts the Report of the Select Committee on Implementation on its consideration of the Implementation Status of the Report of the Departmental Committee on Environment and Natural Resources on an inquiry into the complaints of environmental pollution by London Distillers Kenya Limited, laid on the Table of the House on Thursday, 30th September 2021.

The issue of environmental protection is key. Just last week, we had a global conference of world leaders in Glasgow, Scotland to discuss climate change. Climate change is largely caused by pollution. Issues of pollution are key. The role of the Committee on Implementation is very simple. We look at the recommendations adopted by this House from various departmental committees and report back to the House on the status or extent of implementation of the same. In this case, we were looking at the implementation status of this Report which was tabled in the House on 29th August 2018. We have taken quite a long time to table the Report before the House largely because of back and forth movement between the parties involved. My Chair alluded to the involvement of the National Environmental Management Authority (NEMA) in this matter and the two parties - the complainant and London Distillers. We have had difficult times handling the matter, but we have now eventually tabled the Report. I am happy the Report is before the House for debate.

I led a team of Members of a sub-committee appointed by the Committee on Friday, 9th July 2021, to conduct an inspection visit to the London Distillers Kenya (LDK) plant. During the visit, we met the management of the LDK, representatives of NEMA, Edermann Properties and the representative of the Member of Parliament of the area. Our objective was basically to see for ourselves the level or the extent of implementation of the recommendations of the Departmental Committee on Environment and Natural Resources. We also had a number of meetings and we wrote a sub-committee report which was adopted by the main Committee on various issues that we went to interrogate.

We looked at the issue of ambience in air quality assessment, affluent discharge analysis and we noticed that London Distillers had done some remarkable progress in terms of addressing the recommendations of the Committee. But there is still a big room for improvement. As the Chair has said, we also noticed that the Report that was given to us on the financial investment had some discrepancies between the Report given by NEMA and the Report given by London Distillers. NEMA gave us a figure of Kshs260 million whereas LDK gave us a figure of Kshs141 million. We noted that and also realised that there was a new plant that had been set up in the area with had a potential of enhancing the pollution. What the Committee recommends is

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Osotsi, because you are seconding, I will give you a maximum of one minute so that you can pronounce yourself on secondment.

Hon. Godfrey Osotsi (Nominated, ANC): The Committee has made a balance, as the Chair has put it that, since London Distillers has not fully implemented the recommendation of the House, we have given them an extension of another 60 days to implement what they are supposed

to do satisfactorily, taking into account that from 2019, they had all the time to do what they were expected to. We have said that after 60 days, this Committee has the powers, if they do not implement, to come back to this House and sanction all the officers involved because of not implementing the Report.

With those few remarks, I beg to second. I ask the House to adopt the Report because it is good for our people and it is also good for the people who work in the industry there.

Thank you, Hon. Temporary Deputy Speaker.

(Two Hon. Members attempted to leave the Chamber)

The Temporary Deputy Speaker (Hon. Patrick Mariru): Order Members. You must freeze. It is not optional.

(Question proposed)

The two Members who wanted to take leave can do that now. Who is the host Member of Parliament on this? Hon. Makau, I will give you the first slot. Hon. Makau.

Hon. Patrick Makau (Mavoko, WDM-K): Thank you, Hon. Temporary Deputy Speaker. I have listened to the Report of the Committee on Implementation. I thank the Chair and Members of that Committee. Maybe, this House may not know the chronology of events and reasons why this Report had to be done.

London Distillers came after KMC and East Africa Portland. This is one of the oldest companies in Athi River. Sometimes, it becomes very difficult. As much as we want investments in this country, we must do some planning. The genesis of this problem came because a residential housing project was built next to the factory. The proprietors of the apartments brought this complaint to NEMA, to Parliament and everywhere. The reason was that there was a discharge from the factory. The Mavoko residents are asking: Who came first? Is it the factory or the residential apartments? When we look at the number of persons from all over Kenya that are employed by London Distillers since 1963, they are many. There are people who have been working there and have brought up their families. The corporate social responsibility the company has been doing around Mavoko, as much as I want investments to be brought to Mavoko, I find those complaints not proper. That is why I agree with the Committee. They have indicated in their observation that London Distillers had been improving time and time again. I accompanied the Departmental Committee on Environment and Natural Resources and we went round and saw what London Distillers was doing. It was very satisfactory. Until the Report went to the Committee on Implementation....

Hon. Ali Rasso (Saku, JP): On a point of order, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Order. What is out of order, Hon. Rasso?

Hon. Ali Rasso (Saku, JP): Hon. Temporary Deputy Speaker, listening to the MP for Mavoko and also the Report by the Hon. Chair, is the Hon. Member for Mavoko in order for justifying the pollution by London Distillers and yet, he represents those people who are affected by that menace?

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Member for Mavoko has a right to navigate his debate in the manner he wishes. We shall know how he concludes finally. He is taking a longer route.

Hon. Patrick Makau (Mavoko, WDM-K): Hon. Temporary Deputy Speaker, the Member for Saku is always here complaining about bandits, about how his people are being killed and about how the administration does not take care of his people. Mavoko is about industries and factories. The reason I am standing here as a major stakeholder to this is that London Distillers is a major employer in Mavoko and if it were to be closed, very many people will suffer. That is why I have passion about this because I know the history and the genesis of this problem.

As I was highlighting, the complaint came from a residential setup that came up just three or four years ago. We cannot punish a company that has been in existence for more than 50 years because of one apartment. I am a strong champion of the environment and I do not advocate for pollution. However, when we went to that factory with the Select Committee on Implementation, we saw the efforts that the company was making. It is on that basis that I support the Report of the Select Committee on Implementation to allow the London Distillers to keep on improving on their mechanisms to control pollution and effluent emissions to certain levels that are acceptable by the National Environmental Management Authority (NEMA) and environment agencies world over.

I was coming from the background that we should not punish factories. In fact, we should punish the county governments that we have just been talking about, because planning is their sole responsibility. There is no way a county government can approve the construction of a residential building next to a factory that has been in existence because of something called zoning. The County Government of Machakos should have said that the location is in an industrial area and so they cannot approve the construction of a residential building. One hand should know what the other is doing. The national Government and county governments should be in sync. I defend the London Distillers. If the County Government of Machakos had adhered to planning, zoning, residential and industrial separation, this matter would not have arisen.

In that Report, I saw the role that the Export Processing Zones Authority (EPZA) played. The EPZA officials connected the London Distillers to their water supply and sewer system. I again saw them being compromised to come and pretend to complain that contaminated effluent was being emitted into their system. We should avoid double-speak.

We should adopt this Report as it is. The six months that the Select Committee on Implementation has given to London Distillers is adequate. Because I trust and have faith in the management, I am sure that the London Distillers will be up again. They will employ Kenyans and help people recover from the COVID-19 pandemic effects.

I support the Report and ask other Members to support it. Mavoko is cosmopolitan. Everybody lives in Mavoko. So, it is not about my people; it is about Kenyans. Please, Members, support the Report so that London Distillers can remain alive and kicking.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Let us have Hon. Emmanuel Wangwe. Let me just remind Members that this Report has a time limit per Member as per the Resolution of the House. Each one of you will have five minutes. It will be important for you to organise your thoughts within five minutes.

Proceed, Hon. Wangwe.

Hon. Emmanuel Wangwe (Navakholo, JP): Thank you, Hon. Temporary Deputy Speaker. Allow me to support this Report by the very good Select Committee on Implementation. I thank Hon. Ole Kenta. He took a long flight from the United States of America (USA) just to come and present this Report. That is energy that I must acknowledge and appreciate.

Just as the Member for Mavoko has said, I want to weigh the two sides - employing Kenyans and, at the same time, keeping them healthy. The Select Committee on Implementation has been soft enough to allow London Distillers some time to breathe. Whether it is 60 days or six months, that is good enough. However, the Committee should live up to this leniency to again follow up so that we do not go down into issues of climate change which will affect our country.

I live in Mavoko and Hon. Makau is my Member of Parliament. I feel happy when he can defend both life and industry.

I feel that the issues that the Select Committee on Implementation has raised are important. The conference on environment has just ended in Glasgow. One of the issues that has come out is that of global warming. It is not just heavy industries. Even light industries like London Distillers can easily spark serious global warming. Therefore, it is important that the Committee really lives up to what it has recommended to make sure that we see a better environment in Kenya.

I also want to mention our corporations which are entrusted with making sure that Kenyans are safe - that is NEMA and all other concerned agencies. Let NEMA live up to its word to conserve the environment and help Kenyans know that any establishment that comes up must be within the provisions of the laws on environment.

On whether the factory or human settlement came first, it is very difficult to draw a line when it comes to the environment as to where the factory ends and where the human settlement begins. This is because issues of environment are airborne or in terms of land. Therefore, it is important that when you establish a factory, you should live up to the environmental conditions that come with it. Therefore, it is important that we push the London Distillers and the apartments in that direction.

On the kind of lifestyle, even if you are putting up an industry, your manager needs to live a private life. A private life means living in an apartment or in proper housing. Therefore, it is important that those people co-exist. But where one wants to subdue the other, the hand of the Government is important. It should come in so that we support the co-existence of both human life and industrial investments.

Otherwise, I am happy with the Report. I ask my colleagues to support the Select Committee on Implementation not only on this Report, but also on many other reports that it is coming up with to make sure that the decisions on the Floor of the House are implemented to the letter.

I support the Motion.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Let us have Hon. Onyango Oyoo.

Hon. Onyango Oyoo (Muhoroni, ODM): Thank you, Hon. Temporary Deputy Speaker, for the consideration. I have listened to both sides. I was touched by the Report given that the scenario is similar to what I have in my constituency. I have a sugar company that came into place some ten years ago and found schools for persons with disabilities and prisons operating. They have polluted the land so much and each time we complain, they say that they are offering employment. We are between a rock and a hard place. There is the offer of employment and then there is human life affected by the careless discharge of substances.

A proper study should be undertaken to determine which one should leave the stage. From the look of things and the way I heard it, one of them has to exit the stage so that we can have an amicable solution and the people living there can also enjoy their lives.

I am not a member of the Committee and did not find time to look at the Report very well. What caught my interest is the conflict between the employment offer and the disruption of normal life.

Otherwise, I support the Report.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Let us have the Member for Saku, Hon. Rasso.

Hon. Ali Rasso (Saku, JP): Thank you, Hon. Temporary Deputy Speaker. I want to remind my friend from Mavoko that whenever I stand on the Floor of the House, if there is insecurity in my place, I will talk about it. If there is negligence on the part of the Government in power, I will talk about it. You are lucky that, at least, you have some industries because this Government is looking after you.

We must take issues of the environment very seriously. I was listening carefully to what Hon. Osotsi said on the issue of climate change and its effect on, not just this generation, but also many generations after this. Before a factory is set up at a place, there must be environmental impact assessment. It must be done. In any case, if this factory has preceded housing, then this factory must co-exist within that environment by making sure that the effluents that it discharges are done in a way that does not pollute the environment. I thank the Committee because they have given the company 60 days for them to have a certificate so that, within the shortest time possible, they are able to look after the environment.

The idea of health and safety, a clean environment and the happiness index of the people who live in that area is so important. We are a generation that lives better than our fathers. We expect our children to live better than us. The quality of their life must be better. The idea of trying to balance lives and employment is neither here nor there. The companies must live within the means. They must leave clean environments to the extent that those factories should be closed down for a while until they meet certain standards and criteria that are set by the National Environment Management Authority (NEMA). Most of these things that we hear are because of corruption. Corruption is what is eating this country. We are saying, yes, these people are polluting the environment, but they are not polluting so much. What is so much when the lives of over 100,000 or 200,000 people who live in that area are at risk?

Finally, with devolution, the county governments collect taxes and cess from those factories or industries. So, they have a bigger calling. The people who live in Mavoko or in any place like Muhoroni belong to those counties. They belong to those areas. So, the onus is on the county governments to make sure that their people live in clean environments.

With those few remarks, I beg to support this Report.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. John Bunyasi.

Hon. Sakwa Bunyasi (Nambale, ANC): Thank you, Hon. Temporary Deputy Speaker. Let me also weigh in on this Report. I thank the Committee on Implementation and the Chairmanship of *Mheshimiwa* ole Kenta.

I was persuaded in his presentation. That there was a balance between the benefits of employment and the risks associated with pollution. I thought that is a very good way of approaching it - and not a switch-on and switch-off type of thing. In many countries, the cost of transiting from where they are to an improved situation sometimes justifies a claim on public funding. The reason being that the common good that you achieve by helping a factory transition faster saves lives, lowers public costs on health and those related consequences. At the same time, because of the risk of loss of jobs, it determines which kind of timetables each country is willing to have. That is why in these difficult discussions such as those that went on in Glasgow, some

countries are on board and some of the leading countries like the US are reluctant to get on board. It is because they calculated the cost of doing it and they realised that the consequences are severe, but it must be done. That balance is the most important thing.

However, the arguments that my very good friend and the MP of Mavoko has raised; when you think about it, yes, the London Distillers had been there for a long time. But pollution standards were quite low. We in western Kenya have the experience with the Webuye Pan African Paper Mills that was very important for employment in the region, but whose discharges were a real problem. It has already made every effort to try and reduce the amount that was being sent into the rivers, but the air pollutions were going very many kilometres away. You could still sniff it at night 20 kilometres away.

We have to be cautious in our record in the House so that we do not let them off the hook simply because they came earlier or simply because they employ. Standards were not there then, but standards have come. It takes time and costs money. So, it is a process. It is not a one-time event. With that approach, there may be areas in which the public sector, the county governments and the national Government might spend money in ways that facilitate that transition. If we treasure the jobs as we say we do, then it can justify use of public funds, at least, from a socio-economic point of view, to help them transition faster. But I do not think that the location of other allowable industries or facilities like residential areas need to be blamed in any way because it simply means that nobody had raised a complaint at that time. The workers are too frightened to raise it because they depend on that for their jobs.

I urge the Committee to be firm on the transition they are seeking. We also run a risk that industries that are associated with colonial powers, not only for Kenya but also seen in other parts of Africa are more stubborn in dealing with those kinds of things. I think the Committee's balanced approach needs to be emphasised and ensure that it is implemented.

With those few remarks, I support the Committee on the balance.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Waweru Kiarie.

Hon. John Kiarie (Dagoretti South, JP): Thank you very much, Hon. Temporary Deputy Speaker, for giving me this opportunity to contribute. I want to first say a big thank you to this Committee and also commend the Chair for taking time, after a very long trip, to very ably move a very important Report this afternoon. This is a good Report. I want to support it.

There is someone by the name of Barry Commoner who I want to associate myself with. He says that environmental pollution is an incurable disease, we can only prevent it. When some of these things we call degradation of the environment happen, they are irreversible. So, even when we want to get into a conversation between the profits being made and the employment that is being done and the degradation that is being occasioned, we have to associate ourselves with Mr. Mahatma Gandhi who says that enterprise without ethics is one of the seven deadliest sins.

I stand here knowing that the London Distillers we are talking about are actually perennial offenders, not only of environmental degradation, but also of bullying communities that they live and reside in. It cannot be a question of who came first because even if the London Distillers came before the residents who settled there, they still have to practice ethical business and more importantly protect our environment.

By 2019, we were being told that we are having more 5,000 abnormal deaths. They are what you call premature deaths, caused by environmental degradation. This is air pollution alone. This is evaluation of 2019, one year alone. So, you can imagine if we started letting these offenders get away with a pat on their backs. We shall end up killing an entire generation. So, I want to say

that the recommendations that have been made by the Committee are actually very lenient and should be followed to the letter, failure to which more drastic action should be taken.

I saw a report by one Mr. Shadrack Kithia who was writing a report for his thesis for his postgraduate programme. It was about the pollution downstream the Athi River. We understand that most of our water sources are more in the North and West of Nairobi City. We are being told that the moment you get to Athi River City, the quality of water degrades to such a level that the water that flows in that river is poisonous. The water pollution by the metals in that water, sewerage and effluent from factories is at a level that can kill you by just taking a glass of water from the river. So, it is not child play here. We are dealing with an issue that is a matter of life and death.

We have to understand that natural resources depletion, environmental pollution, high poverty rates and rising unemployment are all issues that come into play as we are seeing from this Report. Even if we are waiting, the most important thing is the human life. It comes right at the bottom of the Maslow's hierarchy of needs. When we talk about the needs that a human has, he has to be alive first before he gets those needs. So, it is matter of life and death that we are dealing with here.

Finally, I would like to mention that business can be done but businesses can do well when they do good business. The London Distillers Kenya Limited (LDK) will have to step up to the plate. As they do good business, they have to be good neighbours and protect our environment. I commend and support the Report. It is timely and urgent. In fact, it was urgent many years ago.

Thank you.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Odoyo, Member for Nyando.

Hon. Jared Okelo (Nyando, ODM): Thank you, Hon. Temporary Deputy Speaker, for giving me the opportunity. On equal breadth, I thank the Committee on Implementation for coming up with this incisive Report. This Report could not have come at a better time. The world has converged in Glasgow under the aegis of a Conference of the Parties 26th meeting (COP26) majorly to look at environmental issues with a view to addressing global warming and many other challenges that the impurities of the environment bring.

The mandate of this Committee is to look at the implementation status of various reports from various Committees, laws that have been passed in this House, Motions that have been passed together with many other things. This is a House that never legislates or makes resolutions in vain. They have to be implemented to the letter failure to which our work in this House will be useless. This Report that was done by the Departmental Committee on Environment and Natural Resources emanated from a Petition that was brought to this House by Erdermann Limited. It has several houses under the name of Great Wall Apartments. They border LDK. And because of the discomfort emanating from LDK, they brought a Petition to this House that sent the Departmental Committee on Environment and Natural Resources to look in-depth at the issues that pertain to environmental matters.

Our Committee seized this matter and carried out a comprehensive appraisal on the implementation status of the Report. I was privileged to be part of the team that visited LDK and, in equal measure, spoke with a few residents of the Great Wall Apartment. Whereas we are quick to say that they have provided jobs and using the analogy of between the hen and the egg which one came first, environmental issues are matters that can never be joked around with. We have seen cases where abortions have been perpetuated by impure environments. People have fallen ill and encountered several medical challenges courtesy of impurities in our environment. Therefore, when people have created a habitation in an area, we do not ask who came before who. It is only

incumbent upon those bodies, particularly LDK, to look at the matters that came from the Departmental Committee on Environment and Natural Resources and implement them to the letter. One of them was to come up with state-of-the-art remedies of cleaning their waste.

When we visited LDK, in their own wisdom, they accepted that the implementation levels have not been done to the letter as it was directed by the Departmental Committee on Environment and Natural Resources. In our own charitable means, we gave them more time to look at those issues so that we do not fall back to a similar situation in a few years to come. The efforts by the National Environment Management Authority (NEMA) to sanitise LDK fell on deaf ears because this is a Committee that wanted everything to be done according to the Report of the Departmental Committee on Environment and Natural Resources. In the interest of time, LDK must in the interim adhere to the recommendations and the Report of the Departmental Committee on Environment and Natural Resources.

The Temporary Deputy Speaker (Hon. Patrick Mariru): You have supported. Member for Nyando, your time is up. Let us have Hon. Kihara.

Hon. Peter Kimaru (Mathioya, JP): Thank you, Hon. Temporary Deputy Speaker, for giving me this chance to support the Report. At the outset, I would like to tell the House that I was privileged to be part of the team under the Departmental Committee on Environment and Natural Resources that looked into the matters of LDK, Edermann Limited and the area that the two find themselves in. I am also privileged to be a Member of the Committee on Implementation. I was also part of the team that visited LDK to see the levels of compliance to the Report that had been prepared by the Departmental Committee on Environment and Natural Resources, which I was part of. What we found at LDK when we went there for the first time was deplorable. Indeed, we wondered whether NEMA was able to look into the issues that are required to be complied with by the factories and industries that are around that area. When we visited, we came up with certain issues that needed to be looked into. Key among them was that LDK must invest in state-of-the-art equipment that will improve their production and ensure that they can reduce their environmental degradation in the area.

The reports we received from experts who were versed with the information that was required and what we saw, they were already past the threshold that was required. They were not 100 per cent. What they said that any industry can be 100 per cent non-pollutant is not right. It is not possible. Even if you go to the first world countries, you cannot get industries that are 100 per cent non-pollutant. Because we need them and we have to live with them, what we require is to ensure that this process is continuous. I am happy to say that my Chairman alluded to it and in our recommendation, we have stated that this is a lifetime commitment. We need to ensure that we inculcate a culture of improving our environment.

The other issue we also realised is that Mavoko is fast becoming an industrial zone. We have a lot of companies there. We have almost seven factories in that area. We have tanning factories and many other industries that are coming up in that area.

We also mandated NEMA to check on the levels of pollution in other industries in the area so that we do not look like we are zoning on only one company. Going forward, LDK should continuously improve. Have they done something? Yes. When we went there the first time, we found open sewers running across the area. When we went the second time, a lot had been done, not to perfection but they there is definitely room for improvement. There is no room for us to say that they are not doing what is required. For me, this is a lifetime commitment.

As the area Member of Parliament said, this is a company that is employing many people and also generating a lot of wealth for this country. Beyond that, environment is a must particularly

at this time when we have come from Glasgow. We must see to it that environmental pollution in this country is reduced to a minimum and we must adopt new technologies that are coming. We must work with other countries all over the world to see to it that we continuously improve. We hope that even NEMA can continue to be supported to be able to do their oversight roles.

Thank you.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Hulufu Oda.

Hon. Hassan Hulufu (Isiolo North, KPP): Thank you, Hon. Temporary Deputy Speaker. I stand to support the adoption of this Report by the House. I am also privileged to be a member of the Departmental Committee on Environment and Natural Resources. We were mandated by the Speaker following a petition by Edermann Kenya Limited on pollution caused by LDK.

I want to agree with Hon. Kihara that when we visited the factory in 2018, we were shocked. We could not imagine that such a factory could be allowed to operate in our country. We were told a year earlier, prior to our visit, that it was shut down. Therefore, when we visited to verify facts on the ground, we realised that we needed to come up with very clear and strong recommendation. Clean environment is a must. It is also a constitutional right for Kenyans to enjoy clean environment.

I am also privileged to be a member of the committee that is mandated to make follow ups and ensure that recommendations by the departmental committees are implemented to the letter. I also happen to be a member of the subcommittee led by Hon. Osotsi which visited that factory recently. The fact of the matter is that there is tremendous improvement. During our first visit, there was open sewer and waste from the factory was just flowing into the river. The factory was also dependent 100 per cent on fuel which had high sulphur content. Actually, there was a foul smell. We could hardly breathe during our first visit. But on our recent visit, a lot of things which were not there before had taken place. Notable among them, is a plant for generating biogas as a source of energy from the waste generated by the factory. We also realised that the foul smell which was there then, was not there anymore. It is tolerable. Now, we had a lot of challenges as a committee because every time we mandated NEMA to carry out assessments internally or using prequalified laboratories, their reports used to be disputed by the petitioner. It reached a point where we forced the three parties – NEMA, LDK and Edermann – to work together.

I just came back from Glasgow last night. I was also privileged to be among a few Members who were nominated to represent National Assembly in the Kenyan delegation. The world is moving towards the net zero carbon meaning that you try to come up with technologies to ensure that whatever emission is made, you have a way of capturing it so that the net release of effluent to environment is zero. Unfortunately, these technologies are very expensive. Having said that, we need to encourage LDK to keep on improving.

We are also in receipt of other petitions from other factories and NEMA is constrained in terms of being and able to carry out its regulatory mandate – it is not funded well. We need to see a way in which NEMA is funded properly so that it can continuously monitor all factories including sugar factories so that Kenyans can enjoy access to clean air and clean environment.

I support the adoption of this Report. Thank you.

The Temporary Deputy Speaker (Hon. Patrick Mariru): We shall have Hon. Ibrahim Sahal.

Hon. (Ms.) Nasri Ibrahim (Nominated, FORD – K): Asante, Mhe. Naibu Spika wa Muda kwa hii nafasi. Mimi nikiwa katika kamati ya maji na mazingira nilibahatika kuenda kwa kiwanda. Tuliambia asubuhi na mapema na wenzangu walio hapa. Kufika huko, ile hali tuliona ilikuwa ya kutatanisha sana. Kuamka asubuhi saa kumi, hewa ya jirani ya LDK ilikuwa mbaya sana. Hicho

kiwanda kinatoa hewa mbaya. Inaharibu mazingira yote. Tulikutana na wazazi ambao watoto wao wanakohoa kwa ajili ya hiyo hewa mbaya.

Tunahitaji mazingira nzuri na hewa safi nchi hii. Hatutaki kiwanda kinachoharibu mazingira. Tukiwa kamati tuliandika ripoti ya kwamba hicho kiwanda lazima watengeneze mashine ambayo iko na teknolojia ya kusafisha hewa mbaya. Lakini wengine kama meneja wa kiwanda hicho alikuwa anateta sana na nilihuzunika sana. Ni muhimu sana sisi wakenya tuangalie maslahi ya wananchi kwa kulinda mazingira ili tukae na afya.

Lazima hiki kiwanda kiweke teknolojia ya kisasa ili hewa iwe safi. Idhara ya NEMA inasema ilipeana leseni ambayo kampuni ya LDK lazima itie maanani.

Kwa hayo machache, ninaunga mkono. Asante.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Kositany Caleb.

Hon. Caleb Kositany (Soy, JP): Thank you, Hon. Temporary Deputy Speaker, for allowing me to contribute to this important debate. I have a few reservations about this Report. First is the fact that the complaint was made on the 29th of August 2018, and the first visit to the site was made on the 16th of May 2019. It has taken almost four years for this Report to make it to the House. This is justice delayed. The recommendations of this Report are not conclusive. When the Committee says the distillers should keep on improving, it means that the pollution is going on even as we debate this Report. In other words, the Report is saying, let the pollution go on but find a way of improving.

I am also informed that not only is the factory causing pollution but they have also made attempts to block access roads. Those are very serious allegations which I do not see captured here.

Hon. Jared Okelo (Nyando, ODM): (Off-record) Point of information!

Hon. Caleb Kositany (Soy, JP): I do not need to be informed.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Order, Hon. Kositany. There is some information. Hon. Member for Nyando, whom do you want to inform?

Hon. Jared Okelo (Nyando, ODM): Hon. Temporary Deputy Speaker, I am a Member of the Implementation Committee.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Whom do you want to inform? It is a point of information?

Hon. Jared Okelo (Nyando, ODM): I want to inform the guy on the Floor.

The Temporary Deputy Speaker (Hon. Patrick Mariru): The guy? There is no guy here. Please, give the Member for Nyando the microphone.

Hon. Jared Okelo (Nyando, ODM): I want to inform Hon. Kositany who is also my friend.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Member for Nyando, wait. Hon. Kositany, you seem to be friends. Do you want to be informed?

Hon. Caleb Kositany (Soy, JP): Well, we are good friends and I like his English accent. So, let me listen to him.

(Laughter)

The Temporary Deputy Speaker (Hon. Patrick Mariru): Member for Nyando, you can proceed.

Hon. Jared Okelo (Nyando, ODM): I do not want to entertain him with my linguistics. Anyway, this is a matter that has been handled by two Committees. It was brought before the Departmental Committee on Environment and Natural Resources and there is usually a procedure upon which reports and visitations are made. That takes quite a substantial amount of time. By the time the matter was brought to us, two years had lapsed. We quickly moved on the stage to address

the anomaly emanating from lack of implementation of resolutions of the Departmental Committee on Environment and Natural Resources. So, it is not four years as my good friend would allude. It is a matter of few months upon which we went on the ground, collected necessary data and today, we are here presenting this Report.

There are many Reports that come under our purview and we have to address them as such.

The Temporary Deputy Speaker (Hon. (Hon. Patrick Mariru): Member for Nyando, be careful so that you do not have a second bite on debating the Report. Hon. Kositany, I am sure that information is helpful to you, never mind that the linguistics of the Member is on another level.

Hon. Caleb Kositany (Soy, JP): Yes, his linguistics are very commendable. I do not know whether he pushes it or it is real. However, we will find out with time.

Clearly, the distillers have committed a very serious environmental offence. This Report should be recommending that...The Committee should have gone further to find out what casualties were there, the damages caused, computed them, and then push for compensation. We cannot allow a factory of this magnitude... Even though they maybe employing Kenyans, at what expense are they doing so? At what expense do we have to tolerate such?

One time, not that I was following this keenly, there were serious allegations made against the Committee by the owners of the distillers. Members of that Committee are aware. Now, the Committee is trying to massage this thing by saying that they continue. That they have improved.

I stand to oppose and we need more serious action on this matter.

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

Benjamin Washiali (Mumias East, JP): Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity to also contribute on this Motion.

I thank the Committee on Implementation though as my other colleagues have said, I equally have reservations on this Report.

The cardinal responsibility of this House is to protect Kenyans and we have no any other explanation to that. Irrespective of who petitioned, whether there was one or none, it is the responsibility of this House to protect Kenyans and the environment.

I happened to be a Member of the Departmental Committee on Environment and Natural Resources when this Petition came before us. I really expected that the Members of the Departmental Committee on Environment and Natural Resources to be in this House when we are debating this Report by the Committee on Implementation Report. The ones who are here, I heard them comment, like Hon. Hulufu and Hon. Kihara were Members of that Committee. They also happen to be Members of the Committee on Implementation. There could be an element of conflict of interest.

We are seeing three bodies of Government fail: NEMA, The Departmental Committee on Environment and Natural Resources and the Implementation Committee in that order. We are about to end the life of this House in the next six months. I do not know the fate of this Report and the people who are directly affected by this pollution.

The Temporary Deputy Speaker (Hon. (Hon. Patrick Mariru): Order, Hon. Washiali. What is your point of order, Hon. ole Kenta?

Hon. Richard ole Kenya (Narok North, ODM): I would like to tell the Members that before they throw aspersions, they should read the Report. This Report came to us. The Departmental Committee on Environment and Natural Resources had given recommendations and

given these people time to improve on the pollution aspect, which they did. The last meeting where there was a subcommittee involved...

The Temporary Deputy Speaker (Hon. (Hon. Patrick Mariru): I am trying to be clear on what is out of order. Or is it a point of information you are raising?

Hon. Richard ole Kenya (Narok North, ODM): He is trying to mislead Kenyans. If you read the Report, you will find that the last visit involved Ederman who was the complainant, NEMA, LDK and everybody else. The input was from everybody. We cannot then say the Committee has failed anybody because things are the way they are now. You better read the Report before you cast aspersions on the Committee or Parliament.

The Temporary Deputy Speaker (Hon. (Hon. Patrick Mariru): Do not talk to Hon. Washiali directly. Do that through the Speaker. Hon. Washiali, probably, you are guided.

Benjamin Washiali (Mumias East, JP): I have not seen the guidance the Chairman has given me though he is my friend. I have taken note of what he has said. However, I want to be honest with myself. Part of this Report says that they are going to improve. That means they have not satisfied the environmental issues 100 per cent. Therefore, my worry is, now that we only have six active months left: who will help these Kenyans to make sure we have a 100 percent compliance of environmental issues? We had an issue of air pollution. You heard what Members said about children getting sick and so on. We also had the issue of water that is discharged from the factory. Remember, we had put a condition as the Departmental Committee on Environment and Natural Resources that the two ponds must be introduced in series. We also directed that fish and other marine life must be introduced in those ponds so that we can confirm the safety of the discharged water. When there is fish living in those ponds, it automatically confirms that there is no pollution in the discharge by the London Distillers, Kenya Ltd.

Hon. Temporary Deputy Speaker, as I conclude, I am a worried man because we have not done enough for Kenyans. The Committee of Implementation, which was meant to implement the recommendations set out by the Departmental Committee on Environment and Natural Resources, has not done enough.

I wish to oppose this Report.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Member for Nyando. You must allow Hon. Janet to speak.

Order Hon. Janet. What is it Hon. Kositany?

Hon. Caleb Kositany (Soy, JP): Hon. Temporary Deputy Speaker. I am looking at the Report. The last page has signatures for adoption by the Committee. I see four Members only signed to have the Report adopted. Is that in order? Is it properly before the House?

The Temporary Deputy Speaker (Hon. Patrick Mariru): Yes, Hon. Kositany. In fact, the Chair can sign on behalf of the Committee. Of course, it is good practice if as many Members as possible sign because it shows that the Members have endorsed. However, there is not even a minority report or any Member saying that they oppose the report of the Committee.

Hon. Caleb Kositany (Soy, JP): Thank you. I am guided.

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

Hon. (Ms.) Janet Ong'era (Kisii CWR, ODM): Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity. I support this Report.

However, there are a few glaring issues that I would like to highlight. We know that one of the core environmental functions is to supply resources so that we have good air and water in terms of renewable energy. The other one is to deal with the issues of waste management. We know that if you are assimilating waste in terms of any economic activity that you undertake,

particularly if they are factories, the waste that is generated should either be absorbed in the environment in a natural way or in an unnatural way.

As a Member of the Departmental Committee on Environment and Natural Resources, I am aware we had made recommendations. One of them was that London Distillers Limited must come up with a plan to manage its waste. There is no reason to make us compromise on issues that deal with clean air particularly now when we are advocating for renewable energy. We need clean air for our people to breath.

Nairobi is a city. We know that we are getting more waste from polluted air. In Mlolongo there are so many factories. While I commend the Chair of the Committee on Implementation in asking that this factory comes up with a way to stop the wastage, I expected them to insist that the factory deals with the wastage that is already there. There is clearly a very serious problem between the factory and the residents. However, I have not seen that plan. The problem in this country is that we come up with very good Environmental Impact Assessment (EIA) plans but we never implement them. So, we keep on inhaling polluted air and drinking dirty water. We keep on having bad sanitation. We come to Parliament with great eloquence, speak so well yet fail to protect our citizens

I feel that as a Member of the Committee on Environment, we have not achieved any end in resolving this matter of wastage management. I would have expected that we have a plan to close the factory until they come up with a proper way of managing their wastage. You heard Hon. Holufu say he has just come from COP26. There is now technology on how to manage waste in a non-natural way. There is technology that other factories have used. Why is it that we cannot use them here in Kenya?

So, while I support this report, I want us Members of Parliament (MPs) to come up with clear resolutions on this issue of environmental assessment reports that are never put to use. There is the issue of how waste is managed by factories so that we can deal with key environmental functions. There is also the issue of supply of resources and how to generate and manage waste either in a natural or non- natural way.

With that I support. Thank you

The Temporary Deputy Speaker (Hon. Patrick Mariru Christopher Omulele): We shall have Hon. Bashane.

Hon. Ahmed Gaal (Tarbaj, PDR): Thank you, Hon. Temporary Deputy Speaker for giving this opportunity.

At the outset, I support the Report of the Committee with a few reservations.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Order, Hon. Bashane!

What is it Hon. Osotsi?

Hon. Godfrey Osotsi (Nominated, ANC): Hon. Temporary Deputy Speaker, listening to Members' contributions on the aspect of the recommendations of the Committee...

The Temporary Deputy Speaker (Hon. Patrick Mariru): What is it?

Hon. Godfrey Osotsi (Nominated, ANC): Mine is a point of information.

The Temporary Deputy Speaker (Hon. Patrick Mariru): To who?

Hon. Godfrey Osotsi (Nominated, ANC): To a few Members who have contributed.

The Temporary Deputy Speaker (Hon. Patrick Mariru): No. There is no general point of information, Hon. Osotsi. It is always specific to one person.

Hon. Godfrey Osotsi (Nominated, ANC): It is specific.

The Temporary Deputy Speaker (Hon. Patrick Mariru): To who?

Hon. Godfrey Osotsi (Nominated, ANC): I want to inform Hon. Onger...

The Temporary Deputy Speaker (Hon. Patrick Mariru): No. Hon. Janet's chance is gone and so you cannot inform her. Hon. Osotsi there is something in law called *Functus Officio*. It means Hon. Janet's space is gone.

However, because I can tell the struggle that you would like the Members to appreciate certain things, the Chair will have a chance at the end of this very shortly. The Chair will have his time again. I know you are a Member of that Committee. It will be important for the Chair to take note of some of those issues so that when he is replying, he has an opportunity to help Members crystallise them. So, there is another opportunity for the Chair.

Proceed Hon. Bashane.

Hon. Ahmed Gaal (Tarbaj, PDR): Hon. Temporary Deputy Speaker, from my observations, environmental issues are very important. The suggestion by one of the speakers, the Member for Mavoko, about who came first, is not an issue. You might have been there since independence but if you are contributing to the damage on the environment then that's a serious matter. We do not take that issue lightly.

The fact that we are damaging the environment means it will affect us globally. This is a global village and we might be marked for not taking care of the environment very well. The policies we have might be viewed by other countries as a serious matter and that might affect us in a bigger way. It is not just employment as he is putting it.

The employment that London Distillers is providing is fine. However, the people being employed will not work if they get sick. The Committee is setting a very bad precedent by talking about issues in such a manner.

Finally, looking at the observations made by the Committee, they observed that the new plant was aimed at increasing the production capacity and not addressing environmental pollution concerns. That is an observation which the Committee has made.

I rest my case there. Thank you.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. (Dr.) Nyikal

Hon. (Dr.) James Nyikal (Seme, ODM): Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity to contribute.

I appreciate the Committee on Implementation. This is my second term and I remember in the first term there was always an issue that a lot of resolutions are done by Parliament but not implemented. This time round, we have seen the Committee on Implementation come up with reports. That is something we should appreciate and encourage the Committee to do. It is so that the resolutions of this House have a meaning in the context of the well-being of the country.

In this case I know that it is 2019 but we are actually dealing with two committees here. We are dealing with the Departmental Committee on Environment and Natural Resources which actually visited and came up with the Report and then we are dealing with the Committee on Implementation which picked that Report and then revisited and tried to find out more. So it is very hard to blame one committee for that gap. I must say that the Committee on Implementation has done a good job.

The provision of the law is that within 60 days, the Executive should actually act on resolutions of the House. What I would like the Committee to do is actually take the Executive to task even before they go to the other place. Why has the appropriate ministry not taken appropriate action whenever there is a resolution of the House? Environmental pollution is an extremely important matter. Of course Glasgow conference is going on but pollution is actually a slow and silent killer. Sometimes people don't even know. Sometimes people do not even complain because in some cases, the illnesses are so slow and gradual that people do not even know they are sick

and if they get sick, why they are getting sick. They get sick from their places of employment or where they live. They could have since moved but they already have the diseases. It is a matter we should take into consideration. In this particular case, obviously, there was air pollution. It is because of the smell, I presume, related to the sulphur compounds and moisture in the air.

The other issue is that it does not matter who settled first. If you are starting a factory, NEMA should make sure you comply with the standards whether there are people settled there or not. Again, if you are putting up an estate, NEMA should ensure that where you are putting the estate, there are no environmental issues that will arise. So whoever settles first is not an issue. NEMA takes the responsibility in either case. Standards need not be moderated by whoever is in the environment sector because some of these pollution effects are not out of direct contacts. It could be air pollution which affects the lungs after many years later. Some elements of pollution can be transmitted by animals in the environment. Some can be transmitted by plants because plants also get affected particularly edible plants. They transmit the impact to the environment. So I think it is something that we really must take into account seriously whenever we are looking at these issues.

I have heard comments that this factory is employing a lot of people and supporting the economy. We have to be careful. Sometimes the economic gains that we make are totally lost by the ill health that is created by the industry. You may find that people get sicker and spend more money than they would have spent if they were not in a polluted environment. Therefore, I support this Report. The Committee recommendations are actually appropriate including the actions and sanctions they have put. NEMA must actually act as the Committee has reported. They have actually said that the factory should be closed or relocated if they do not act within six months. I think that is the most important recommendation that they have put in place. I also think...

The Temporary Deputy Speaker (Hon. Patrick Mariru): Next is Hon. Tuitoek Kamuren and then we shall have Hon. ole Kenta, the Chair.

Hon. Daniel Tuitoek (Mogotio, JP): Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to comment on this particular Report. I would like to say I was once a member of this Committee and I remember we started this together with my chairman, Hon. ole Kenta. This particular case came up when I was still a member of that Committee. I commend the Committee for finally bringing a report to the House. This particular issue has been really emotive. It has been in the media. At one time there were a lot of accusations here and there, but I think the Committee has done its best to bring a report before the House.

First, Erdemann Property Limited and London Distillers are two companies which are doing various things. One is on housing and the other one is distilling alcohol and other issues. I think the biggest responsibility lies with NEMA, which is vested with the responsibility to protect the environment wholesome. It has to protect water and air against pollution. In this particular case, I am actually concerned that NEMA can actually recommend that at 80 per cent, something is compliant. If the water is polluted by even 1 per cent or 0.5 per cent, it cannot be used! So, there are certain issues in the NEMA Report which I think the Committee should have actually not agreed with. However, I can see they are saying there is some progress going on. Remember this was a resolution of the House. The Departmental Committee on Environment and Natural Resources brought it here and the Speaker directed that the Committee on Implementation pursue the recommendations of the Departmental Committee on Environment and Natural Resources. It looks like up to now we are still talking about giving these people more time to comply. I think we need to be very clear that when the matter has gone to the Committee on Implementation, we

are talking about implementing the recommendations of the Departmental Committee on Environment and Natural Resources and not any more discussions or moving the goal posts.

In spite of that, NEMA has let down the Committee because we rely on NEMA to give us the finer details and the exact figures. If they tell the Committee on Implementation that a compliance level of 80 per cent is good, is that water or air of good quality? I think this is where NEMA needs to be sanctioned. They need to be specific so that the Committee on Implementation can make a decision whether London Distillers met the required standards. It is not enough to say we are putting up a state of the art technology. What matters is after they have done that, what was the quality of the water and air? In this case, I can see they are still talking about giving these people six months to comply. They are saying the Ministry of Environment has been directed by the Departmental Committee on Environment and Natural Resources. I think at this point it is the Committee on Implementation which should actually be directing now. I do not know what the Chair talks about because here they are referring yet again to the Departmental Committee on Environment and Natural Resources and yet they had already done their proposal here in the House. The Speaker directed that the Committee on Implementation now carries out implementation of those proposals. So we cannot go back to them.

This is an area which the Committee should have improved on so that we do not have a case where we are not very clear about what we should implement. Also, in future, we should not allow the establishment of any property, whether factories or anything, which does not comply with the regulations set by NEMA. We should not be guessing things. There is this guessing now that this one should have done that or this one is affecting me. From the beginning we should not have allowed any factory to operate without meeting the set standards. With that, I reluctantly support the Report.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Let us have the Chair, Hon. ole Kenta.

Hon. Richard ole Kenta (Narok North, ODM): Thank you, Hon. Temporary Deputy Speaker. Before I reply, I want to thank the Members who have contributed. Hon. Members, I have heard you. I have listened to you and I can tell you that we did the best we could. We did the best we could because we had a lot of challenges. We even had blackmail and all that.

However, I think I will address the Hon. Member who has just spoken. At no place have we referred this thing back to the Departmental Committee on Environment and Natural Resources. We are just talking about the deliberations that were following and the institution that we are giving this job is NEMA and not the Departmental Committee on Environment and Natural Resources. That is not the truth. I would like to tell Members that before they throw stones, they should read the Report. They should do so before saying that place ought to have been closed. All the parties appeared before a sub-committee together with experts as explained. There is no way we could have closed that factory if there were improvements. All we are saying is they might not have been the best and there is need for further improvements on the control of the pollution at London Distillers Kenya Limited (LDK).

This is a very important matter as the Members have said because it does not just affect the people around the area, but even those working in that factory since it does not choose. If there is pollution it will affect the workers and their families before it affects the people outside. It will also affect people in Athi River all the way to the Indian Ocean. This is something that will affect so many people and that is why we are saying it must be continually followed. You cannot just say this is it and stop there because tomorrow LDK will continue to contaminate and that is why we have closed it completely.

Somebody has said we have left this matter open-ended. If you read Recommendation No. 2, we are very clear that NEMA shall submit a Satisfactory Compliance Report to the National Assembly after 60 days upon adoption of this Report by the House. So, if you adopt it today within 60 days there must be a Report. There is no open-ended issue here and the most important thing is, has anything been done. Yes, and it still needs to be done. As somebody said, the damage caused to people and the environment is irreversible and once it is done that is it. At the moment, we are saying these people have put in place the so-called state-of-the-art equipment as indicated and they spent some money on this. The Members went there and saw this. This was a Sub-Committee of five Members and four signed the Report, that is why Members should read it before castigating the Committee.

Hon. Temporary Deputy Speaker, we have done the best we could. It is now for this Parliament to adopt this Report and follow up. The most important thing here is Government policy. Even if we pass everything here and there is no policy and law to follow up on these things, we are doing nothing. It will just be grandstanding and playing to the gallery to no effect. I beg to reply and thank all the Members for their input. I request we adopt this Report which is very important. If we throw it out, we are saying the people of Athi River and those downstream to die and their livestock to perish. That is what we will be doing if we try to throw this Report out. It will be damaging and catastrophic and this House will have failed in its duty to the Kenyan people.

Thank you, Hon. Temporary Deputy Speaker, I beg to reply and move that the putting of the Question be deferred under Standing Order No. 53 (3).

The Temporary Deputy Speaker (Hon. Patrick Mariru): Very well. The Chair, Hon. ole Kenta, we shall pend putting the Question on this particular matter until a subsequent time as scheduled by the House Business Committee (HBC).

Next Order!

(Putting of the Question deferred)

MOTION

REPORT ON A PUBLIC PETITION BY RESIDENTS OF WAJIR AND GARISSA
COUNTIES REGARDING LACK OF ACCESS TO CITIZEN REGISTRATION SERVICES

(Hon. (Ms.) Fatuma Gedi on 14.10.2021)

(Resumption of Debate interrupted on 14.10.2021)

THAT, this House adopts the Report of the Departmental Committee on Administration and National Security on its consideration of a Public Petition by residents of Wajir and Garissa Counties regarding lack of access to Citizen Registration Services, laid on the Table of the House on Wednesday, 11th August 2021.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Members, this is resumption of debate as the Motion had been moved. The seconder Hon. Makali Mulu had not finalised seconding, he had a balance of three minutes and is not in. Hon. Chair, the person seconding was on the Floor and that is not you but Hon. Makali Mulu. I am unable to assume the two of you are the same person. Hon. Makali Mulu is not in and this is not fatal to this item but we cannot proceed until seconding is done. It cannot be done by the Chair because Makali Mulu

had started and was halfway. I am unable to substitute him with you halfway, in the absence of anything in writing. So, we will pend that until it is rescheduled by the HBC.

Next Order!

(Motion deferred)

BILL

Second Reading

THE RADIOGRAPHERS BILL

The Temporary Deputy Speaker (Hon. Patrick Mariru): Chairperson, Departmental Committee on Health. Majority Whip you seem to be knowing where the Chair is. The Chair being absent the Bill is deferred until a subsequent time.

Next Order!

(Bill deferred)

MOTIONS

ESTABLISHMENT OF PARLIAMENTARY HEALTH SERVICES UNIT

THAT, this House adopts the Report of the Select Committee on Members' Services and Facilities on Establishment of a Parliamentary Health Services Unit, laid on the Table of the House on Wednesday, 11th August 2021.

The Temporary Deputy Speaker (Hon. Patrick Mariru): The Chairperson, Committee on Members Services and Facilities. Hon. Mwathi you almost want to act for every Chair. The Chairperson is absent. Where are Chairs? Are they in meetings? Even if they are in meetings, at least, the few who had business should be here. In the circumstances this is deferred as well.

Next Order!

(Motion deferred)

Hon. Ndindi Nyoro (Kiharu, JP): On a point of order, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Patrick Mariru): What is out of order, Hon. Ndindi Nyoro before we go to the next business?

Hon. Ndindi Nyoro (Kiharu, JP): On a point of order, Hon. Temporary Deputy Speaker. I am not a Chair of any of the Committees you have called, but I rise on a matter of national importance. Yesterday, we were treated to a debacle and saw violence being meted on the Deputy President in Kisumu. Therefore, as a representative of the people, I rise to condemn those acts of violence especially at this electioneering period when we see many desperate politicians...

The Temporary Deputy Speaker (Hon. Patrick Mariru): Order! Order, Hon. Ndindi Nyoro! You are raising a very important issue but I am unable to allow you to proceed because I shall be presiding on breaking of House Rules. There is a procedure in which you can bring that issue. This is not to stop you from bringing it but please use the right route. I am sure you will have the opportunity to speak to it. You are well advised.

Next Order!

REPORT ON IMPLEMENTATION STATUS OF A REPORT
ON LAND ISSUES IN TAITA TAVETA COUNTY

THAT, this House adopts the Report of the Select Committee on Implementation on its consideration of the Implementation Status of the Report of the Departmental Committee on Lands regarding Land Issues in Taita Taveta County, laid on the Table of the House on Wednesday, 29th September 2021.

The Temporary Deputy Speaker (Hon. Patrick Mariru): That is by the Chairperson of the Select Committee on Implementation, Hon. ole Kenta. At least you are here.

Hon. Members: He was having a field day.

The Temporary Deputy Speaker (Hon. Patrick Mariru): No. The way I know him, he is quite a hardworking Chair. Even you, Hon. Mwathi. That is why you are here. Hon. ole Kenta.

Hon. Richard ole Kenta (Narok North, ODM): Thank you, Hon. Temporary Deputy Speaker. I sincerely apologise because I am unable to proceed with this matter since I am not prepared. As you have heard, I have just come from a long trip and was not aware about this. I am sorry for that. I kindly request this matter be deferred to the next sitting, even if it is tomorrow. Sorry, on Tuesday I will be ready to proceed. I request the indulgence of the House. Thank you.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Very well, Hon. ole Kenta. This is deferred until another time as the HBC shall reschedule.

Next Order!

(Motion deferred)

BILL

Second Reading

THE NATIONAL COHESION AND PEACE BUILDING BILL

The Temporary Deputy Speaker (Hon. Patrick Mariru): Let us have the Chairperson of the National Cohesion and Equal Opportunity Committee. The Chair is not here as well. That Bill is deferred until a subsequent time.

(Bill deferred)

Next Order.

MOTIONS

THIRD REPORT ON IMPLEMENTATION STATUS OF INQUIRIES, PETITIONS AND RESOLUTIONS OF THE HOUSE

THAT, this House adopts the Third Report of the Committee on Implementation on its consideration of the submissions from stakeholders regarding Implementation Status of Inquiries, Petitions and Resolutions passed by the House, laid on the Table of the House on Tuesday, 28th September 2021.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Let us have the Chairperson of the Committee on Implementation, Hon. ole Kenta.

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Hon. Richard ole Kenta (Narok North, ODM): I still request for the House's indulgence on this one because I am equally not prepared today. I request that it be deferred to Tuesday.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Members, that is also deferred in the circumstances.

(Motion deferred)

Next Order.

ROLL-OUT OF COVID-19 ECONOMIC STIMULUS PROGRAMME

THAT, aware that the COVID-19 pandemic continues to devastate the Kenyan economy as exemplified by its staggering effects on economic growth that have led to massive losses of jobs and unprecedented layoffs, an underperforming financial market, distortion of monetary and fiscal policies, instability of the Kenyan shilling, fluctuating global trade, and general strain on medical facilities countrywide; concerned that reports from the Kenya National Bureau of Statistics reveal a substantial decline in the number of employed Kenyans as well as reduced employment opportunities; deeply concerned that the frequent lockdowns instituted by the Executive with the objective of countering the spread of the pandemic are a key cause of the underperforming economy despite the noble intention behind their implementation; further aware that the current unprecedented challenges call for extraordinary but necessary solutions, this House urges the National Government to roll out a COVID-19 Economic Stimulus Programme that incorporates an enhanced Kazi Mtaani concept in urban areas and a new Kazi Mashambani concept in rural areas, enhances Cash Transfer packages to the elderly, orphans, the vulnerable and the destitute, eliminates all forms of lockdowns, curfews and travel restrictions and replaces them with less stringent yet equally effective and economy-friendly containment measures including provision of Personal Protective Equipment and sanitisation protocols, and rolls out a mass vaccination campaign that includes restriction of access to work premises by non-vaccinated employees, among other similarly effective interventions to stimulate economic recovery and national growth.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Nassir is not present, so that is also deferred until a subsequent time.

(Motion deferred)

Order, Hon. Mwathi! Hon. Members, before we come to the closure of proceedings, I have a brief Communication to make.

COMMUNICATION FROM THE CHAIR

SECOND PARLIAMENTARY FORUM FOR COMMITTEES OF THE NATIONAL ASSEMBLY

Hon. Members, as you may be aware, the National Assembly is scheduled to hold the Second Parliamentary Forum for Committees of the National Assembly on Monday, 15th November 2021 from 9.00 a.m. to 12.30 p.m. at the Parliament Gardens. Further, on Tuesday, 16th

November 2021, there will be a broadcasting of the documentary titled: *A House Defying COVID-19*.

(Hon. Ndindi Nyoro stood in his place)

Who is this Member? Hon. Ndindi Nyoro, you have to wait for the Speaker to finish the Communication before you can move.

Hon. Members, Rt. Hon. Martin Ngoga, MP, Speaker of the East African Legislative Assembly (EALA) will grace the occasion as the Chief Guest.

Committees remain a critical source of the core business of the House besides being a key link with stakeholders and the general public through the many public participation processes. It is for this reason that the Liaison Committee has organised the Second Parliamentary Forum for Committees of the National Assembly to enable committees to showcase their work, foster outreach and encourage citizen engagement in a wide range of activities of committees.

During the said forum, chairpersons of committees will make presentations concerning the mandates of their respective committees, highlighting key milestones and sharing reflections on the challenges faced during the period under review. The Committees' Performance Reports for the period October 2019 – 2021 will also be launched. Those Reports will be drawn from the Annual Progress Reports to be shared with members of the public.

To that end, I take this opportunity to invite all Members and notify committee leaderships that due to the importance of this event in the Calendar of the National Assembly, all committee proceedings scheduled for Monday, 15th November 2021 will be suspended to allow Members to participate in the activity.

The House is accordingly guided.

It is important for Members to note the dates. I had confused the dates. Note that it is on Monday, 15th November 2021.

ADJOURNMENT

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Members, the time being 5.55 p.m., this House stands adjourned until Tuesday, 16th November 2021 at 2.30 p.m.

The House rose at 5.55 p.m.