

PARLIAMENT OF KENYA**THE NATIONAL ASSEMBLY****THE HANSARD****Thursday, 19th May 2022**

The House met at 2.30 p.m.

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

PRAYERS

QUORUM

Hon. Speaker: Sergeant-at-Arms, ring the Quorum Bell.*(The Quorum Bell was rung)*

Very well. Hon Members, we now quorate.

COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM THE UNITED REPUBLIC OF TANZANIA

Hon. Speaker: Order, Members! Member for Suba North, today you appear to have broken a record on time of arrival.*(Laughter)*

Hon. Members, I wish to introduce to you a delegation of visitors from a faith-based organisation known as the General Overseer of Omega Ministries Church of the United Republic of Tanzania. The delegation, which is seated in the Speaker's Gallery, comprises of:

1. Mr. Samuel Samson Rolinga - Leader of Delegation
2. Ms. Deborah Muthanga - Evangelist
3. Mr. Caleb Mwambungu - Evangelist
4. Mr. Clement Mwinuka - Secretary
5. Mrs. Blandina Nyoni - Administrator

Hon. Members, the delegation is in the National Assembly as guests of the Member for Busia County, the Hon. (Dr.) Florence Mutua-Waingah. On my own behalf and on behalf of the House, I wish to welcome the delegation to the National Assembly and wish them a pleasant stay in the country.

I thank you.

Maybe, the Member for Busia wishes to say something. Hon. Florence Mutua.

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Hon. (Ms.) Florence Mutua (Busia CWR, ODM): Thank you, Hon. Speaker for welcoming the guests from Tanzania. I also want to take this opportunity to welcome Prophet Rolinga and his entourage. Hon. Members who may want to go for prayers, he will be in Charter Hall from tomorrow until Sunday.

Thank you, Hon. Speaker.

Hon. Speaker: Very well. Thank you, very much.

Next Order!

PAPERS LAID

Hon. Speaker: Leader of the Majority Party.

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

The 2022 Pre-Election Economic and Fiscal Report from the National Treasury;
Report to Parliament on all new loans contracted by the Government from 1st January 2022 to 30th April 2022 from the National Treasury; and,

The Annual Report and Financial Statements of the Teachers Service Commission for the Financial Year 2020/2021.

Thank you.

Hon. Speaker: Chairperson of the Departmental Committee on Health or the Vice-Chair, Hon. Kutuny.

Hon. Joshua Kutuny (Cherang'any, JP): Hon. Speaker, I beg to lay the following Paper on the Table of the House:

Report of the Departmental Committee on Health on its Consideration of Community Health Services Bill (Senate Bill No.34 of 2022).

Thank you.

Hon. Speaker: Very well. Next Order!

QUESTIONS AND STATEMENTS

ORDINARY QUESTIONS

Hon. Speaker: The first segment is Questions. The first Question is by the Member of Ruiru, Hon. King'ara.

Question No. 122/2022

LACK OF SPEED BUMPS AND PEDESTRIAN CROSSINGS ON RUIRU-UPLANDS AND RUIRU-KAMITI ROADS

Hon. Simon King'ara (Ruiru, JP): Thank you, Hon. Speaker for according me this opportunity to ask Question No. 122/2022 on behalf of the great people of Ruiru. The Question is directed to the Cabinet Secretary for Transport, Infrastructure, Housing, Urban Development and Public Works:

- (i) What measures has the Ministry put in place to address the numerous road accidents occurring along the newly constructed Ruiru-Uplands Road (formerly C65 and now

B116) and the rehabilitated Ruiru-Kamiti Road (formerly C63 and now B115) that have led to many fatalities?

- (ii) When will the Ministry erect adequate bumps as well as install sufficient pedestrian crossings on the two roads to avert further loss of lives along the said roads?

Thank you, Hon. Speaker.

Hon. Speaker: That Question will be replied to before the Departmental Committee on Transport and Public works.

I noticed that Hon. King'ara is asking when bumps are going to be erected along the roads. It is a very interesting thing. The issue of bumps appears to be unique to Kenya. If you travel around the world, you will not see any road with bumps on highways. Maybe, we need to be riding on hand carts as opposed to vehicles. I think there is problem here. Our engineers need to address this issue. The point you have raised is, however, a good one.

The next Question is by the Member for Marsabit County, Hon. Safia.

Question No.123/2022

ESTABLISHMENT OF WATER SUPPLY PROJECTS IN MARSABIT

Hon. (Ms.) Safia Sheikh (Marsabit CWR), JP: Hon. Speaker, I rise to ask the Cabinet Secretary for Water, Sanitation and Irrigation the following Question:

Could the Cabinet Secretary state the plans in place by the Ministry, if any, to ensure the establishment of more water supply projects; particularly, sinking of boreholes and construction of water pans and dams in Marsabit County, specifically in Saku Constituency, to address acute water shortage that is experienced in the area, and resource-based conflicts amongst communities in the county?

Thank you, Hon. Speaker.

Hon Speaker: Very well. That Question will be replied to before the Departmental Committee on Environment and Natural Resources.

Hon. Speaker: The second Segment is on Statements. We have one, and it is by the by the Leader of Majority Party.

STATEMENTS

BUSINESS FOR THE WEEK COMMENCING 24TH TO 26 MAY 2022

Hon Amos Kimunya (Kipipiri, JP): Hon. Speaker, pursuant to the provisions of Standing Order 44(2) (a), I rise to give the following Statement on behalf of the House Business Committee, which met on Tuesday, 17th May 2022, to prioritise the business for consideration.

As Members are aware, we are in the final part of the Sixth Session of the 12th Parliament. This is the home stretch; that last moment which really matters before the final whistle is blown. With this respect, I urge Members to support the House, and the Committees, in finalising all the crucial business that is still pending for consideration and approval by the House.

In this regard, I wish to inform the House that the following business has been scheduled for consideration in the coming week:

- 1) First Reading of the County Allocation of Revenue Bill (Senate Bill No.1 of 2022), if received from the Senate;

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- 2) Second Reading of the following Bills:
 - (i) The Mung Beans Bill (Senate Bill No. 9 of 2020);
 - (ii) The Prompt Payment Bill (Senate Bill No. 16 of 2021); and,
 - (iii) The County Boundaries Bill (Senate Bill No. 20 of 2021).
- 3) Committee of the whole House on the following:
 - (i) The Military Veterans Bill, 2022; and,
 - (ii) The Persons with Disabilities Bill, 2021.
- 4) Debate on the Report of the Committee on Members' Services and Facilities regarding its study visit to the Legislative Assembly of Alberta, Canada.

There are currently no Questions scheduled for response in the coming week. The House Business Committee shall reconvene on Tuesday, 24th May 2022 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. Kimunya laid the Statement on the Table of the House)

(Hon. Aden Duale rose on his feet)

Hon. Speaker: Very well. I can see the Member for Garissa Township has an intervention.

Hon. Aden Duale (Garissa Township, JP): Thank you, Hon. Speaker. About two weeks ago, I asked for a number of Statements. I sought a detailed Statement from the Chairman of the Departmental Committee on Transport and Infrastructure on the many huge contracts that have been given to the Chinese since 2013 and, up to now, I have not seen it.

The most important one is on the request for a Statement on the appointment of the Chairperson of the Assumption of the Office of the President. It is particularly more important during this period of transitional elections on 9th August 2022.

With me, I have a copy which, if read together with Article 154 of the Kenyan Constitution, states that the Secretary to the Cabinet shall automatically become the Chairman of the Assumption of the Office Committee.

I raised this as a matter of priority and up to now... The House might go on that *sine die* early next month. That person must be appointed and approved by this House before then but, up to today, the said Statement has not been availed. I am not seeing any Chairman of concerned Committee. The day I raised my Question, you referred it to the Leader of Majority Party. I will be very happy if he gives us the answer. We can then deal with the matter thereafter.

Hon. Speaker: The Leader of Majority Party, do you have the answer?

Hon. Amos Kimunya (Kipipiri, JP): Hon. Speaker, indeed, I undertook to follow up the matter. I contacted the Attorney General and the Vice-Chair of the Departmental Committee on Justice and Legal Affairs Committee. He is seized of the matter, and I believe he is going to bring a Statement on Tuesday. He is just getting the matters put together. We agreed that he should have a response for the House by latest Tuesday.

Hon. Speaker: I am not the agent of necessity but unusually, I have been sent a copy of the answer. The person who answered that Question seems to have assumed it was ordinary correspondence between his office and that of the Clerk. There is a letter written to the Clerk in response to that Question, and a copy given to me. I have read the letter and even know the answer but since I am not the one who is to respond, I cannot give the answer to Hon. Duale. There is,

however, a written answer that is available. It is only that the person responding, or the staff concerned assumed that it is a confidential correspondence. This was a Question which was asked on the Floor of the House. Normally, I do not get copies of answers to the Questions asked here because I cannot keep all of them. It is quite strange that this reply found its way to my Office by way of a copy. If Hon. Duale wants a reply, I can give him the copy to read.

Hon. Aden Duale (Garissa Township, JP): Yes, Hon. Speaker. This is not okay. You were on the Chair when I asked the Question and you directed it to the relevant Committee. What the Leader of Majority Party has said is in total contradiction to what you have said. He is saying that he has spoken to the Attorney-General and Vice-Chairman of the Departmental Committee on Justice and Legal Affairs and that they cooking up, and arranging documents while you, Hon. Speaker, are saying that you already have the answer on your table.

You are on the *Hansard* Hon. Speaker and you are the Leader of the Legislature. Article 35 of the Kenyan Constitution says that access to information is a constitutional right, and not only for me. Kenyans have already heard that you have an answer. I wonder why the people who sent you the written reply did so, and not to the Leader of Majority Party. During my tenure, they used to copy me and I wonder why they have not copied him.

I urge you, Hon. Speaker, to table that letter even though I have never seen you table a document. I, however, want you to do the extraordinary.

(Loud consultations)

This is a matter of great national importance. It goes to the heart of the culture of impunity. People will, in fact, identify the person who was talking of the Cabinet since that time or if the Secretary to the Cabinet was absent. I do not want to go into that now. My only interest was the Chair of the Assumption of Office – a very critical Office and Committee particularly, for a transitional election where the President who is in power is exiting for good and going into retirement.

You will be fair, Hon. Speaker, if you can make that answer available.

Hon. Speaker: Hon. Duale, let me help you. Can I direct the Clerks-at-the-Table to go to the Office of the Clerk and pick the letter in response to that Question because it in the Clerk's Office? If they do not find the Clerks' copy, they can go to my Office. It is in the in-tray. I have already noted because I could only note. I was not meant to receive the answer. Incidentally, in the answer which is very long, some of the issues that Hon. Duale has just raised have been addressed. It may be good if we send somebody to bring the response. The Leader of the Majority is here. As you say, the Clerk should have forwarded the letter to the Office of the Leader of the Majority Party or the Chair of Justice and Legal Affairs Committee (JLAC).

Get the letter because the Question on assumption of office is there. In the meantime, we can be transacting other businesses. Perhaps, Hon. Duale, let me raise your supplementary after that.

Hon. Aden Duale (Garissa Township, JP): As I told you, I am sure the Clerks-at-the-Table could trace it. I had more than four other Statements. The first one was to the Departmental Committee on Finance and Planning, particularly on Questions and Statements to the National Treasury on the debt level. The other Statement was on fuel prices, where the Vice-Chair of the Departmental Committee on Energy brought an answer which was not signed and it was inadmissible. She was to bring a signed one the next day. There was another one on infrastructure to the Departmental Committee on Transport, Public Works and Housing. If you can ask them to

make the Statements available latest by next Wednesday, when I will be in the House, I will be very happy. It has taken more than three months now.

Hon. Speaker: Wednesday?

Hon. Aden Duale (Garissa Township, JP): Yes. Wednesday next week! There are about four Statements.

Hon. Speaker: Which will be on 25th?

Hon. Aden Duale (Garissa Township, JP): Yes, Hon. Speaker.

Hon. Speaker: Wednesday 25th in the afternoon.

Hon. Aden Duale (Garissa Township, JP): In the afternoon, Hon. Speaker.

Hon. Speaker: The Chairperson, Departmental Committee on Finance and Planning is not present. I know they are very busy with the Finance Bill. I am informed they may have retreated to go and do their report. The direction that they bring the Statement on Wednesday should be communicated through the Office of the Leader of the Majority Party. The same applies to the Departmental Committee on Transport, Public Works and Housing and Departmental Committee on Energy.

Let them bring the Statements. I know this is a very trying period. I can see that for most Members, one of their feet is in the House and the other is elsewhere. It is a very difficult time.

Move to the next Order.

MOTION

REPORT OF THE COMMITTEE OF THE WHOLE HOUSE ON THE CHILDREN BILL

THAT, this House doth agree with the Report of the Committee of the whole House on its consideration of the Children Bill (National Assembly Bill No. 38 of 2021), subject to recommittal of Clauses 30, 64 and 250.

Hon. Speaker: Hon. Members, my record shows that debate was concluded in the Committee of the Whole House subject to recommittal. So, I will put the Question.

(Question put and agreed to)

POINT OF ORDER

PUTTING OF THE QUESTION WITHOUT QUORUM

Hon. Aden Duale (Garissa Township, JP): Let us not be putting the Questions to serious Bills when we do not have the Quorum.

This happened in the 10th Parliament. Hon. Millie and Hon. Mbadi were my colleagues then. The current Leader of the Majority Party was the Deputy Leader of Government Business. We can continue with debate but putting of the Question is fundamental both in the Constitution and in the Standing Orders. We need to count our numbers even with what the Hon. Speaker has done now.

(Loud consultations)

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I am not talking to you people! I am talking to Hon. Speaker. Even if we are at the tail-end of 12th Parliament and people are busy, these Bills and legislations can wait for the 13th Parliament. It is in the Standing Orders and it is very critical. I am just questioning whether we have the required numbers. I am not out of order. I am here! Tell me if we are fifty.

(Loud consultations)

Hon. Speaker: What is happening? Give Hon. John Mbadi the microphone.

Hon. John Mbadi (Suba South, ODM): Thank you, Hon. Speaker. As much as I appreciate the point of order raised by Hon. Duale, he cannot raise it retrospectively on a matter that has already been dealt with. Unless Hon. Duale is raising a point of order on Quorum from now, then that makes sense. If he is asking for Quorum on what we have voted on, then it is a *fait accompli*. How I wish Hon. Duale allowed us to proceed. We know the circumstances and we will continue to debate. If anything, debaters are here.

Hon. Speaker: Continue with the debate.

Hon. John Mbadi (Suba South, ODM): Debaters are here. He has taken advantage to canvass on so many issues without that Quorum. Now that he is done, he does not want the rest of us to contribute. That is unfair.

Hon. Speaker: Is it the case that he is rising on Order No. 8? That is spent. The issue of Quorum can only apply to Order Number 9. Hon. Duale, your point of order is Quorum on Order No. 9. The business appearing as Order Number 9 was concluded and the part that is remaining is for the Question to be put. If you look at the Order Paper, Order No. 10, the business is going to Committee of the whole House on recommittal. However, before we go to Order No.10, we have to deal with Order No.9.

(Technical hitch)

I think there is something wrong with this equipment. What is the problem?

(The Speaker consulted the Clerks-at-the-Table)

Is it that we do not have quorum? The business appearing as Order No.9 is for the Question to be put. Hon. Members, before we proceed, the Leader of the Majority Party has received the copy of the reply. Before he reads it, allow me to recognise the presence, in the Speaker's Gallery, of students from Acacia Crest Senior School from Kitengela in Kajiado County. They are welcome to observe the proceedings of the National Assembly.

Does the Leader of the Majority Party want to read that answer or does he want to defer to the Chairperson of the Departmental Committee on Justice and Legal Affairs?

Hon. Amos Kimunya (Kipipiri, JP): Hon. Speaker, I would prefer that we go through the usual route. The answer will be referred to the Departmental Committee on Justice and Legal Affairs so that they can interrogate it. If necessary, they will summon the author to shed light on it and then they will bring us a comprehensive answer. If I read it, I will only be a messenger relaying the matter. The Departmental Committee on Justice and Legal Affairs will have opportunity to interrogate the content and give us the answer in accordance to what will satisfy the House.

Hon. Speaker: By the way, was it a Question or a Statement?

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Hon. Amos Kimunya (Kipipiri, JP): It was a Statement.

Hon. Speaker: You cannot comment on something you have no status on.

Hon. Aden Duale (Garissa Township, JP): Thank you, Hon. Speaker. I have interrogated the document and I realised that the Chairperson and the Vice-Chair of the Departmental Committee on Justice and Legal Affairs were not in the House. The Leader of the Majority Party, ideally, in a presidential system, represents the Executive. Yes, he represents the party in the Government. Here, the Government means the Executive. I can rephrase it. The Leader of the Majority Party represents the party in the Government and power, namely, the Executive. He undertook to deliver it to the Chair of the Departmental Committee on Justice and Legal Affairs. Unfortunately, when he got the answer, he read it and saw the content of the letter. Hon. Speaker, I want you to direct him to go by what he said. I have a copy of the Constitution which urges the House to do legislation on the procedure of transfer of power from the president to a president elect.

I am happy to report that when we passed the Assumption of Office Act, 2012, Hon Amos Kimunya, who is now the Leader of the Majority Party, was the Deputy Leader of Government Business. I was in this House and I participated in the making of this law. So, there is no lacuna in law. The Constitution is very specific in Article 154. The sub-title reads, "Secretary to the Cabinet". The Assumption of Office Act is very specific in Section 6 and states that the Chair of the Assumption of Office is none other than the Secretary to the Cabinet.

Hon. Speaker, since 2013, there has been no substantive holder of the Secretary to the Cabinet and it raises a number of other issues, which I am not very much concerned about. The people of Kenya, to whom the Constitution belongs, will raise those issues. Who was taking the minutes of the Cabinet? Who was performing the function of the Secretary to the Cabinet? That is a story for other people. We have a President who is leaving office in 79 days. The Leader of the Majority Party read the letter and I agree with him. If I was in his shoes, I would also run away from it. That is why he is saying that he wants the holder or the author of this letter, who is none other than the Head of Public Service, Mr. Joseph Kinyua. We know that Mr. Kinyua purports to be acting under the provisions of Article 154 of the Constitution. So, in this letter, the Head of Public Service has taken the role of Secretary to the Cabinet. I have no problem, but I want you to make expressive direction.

Hon. Speaker: Hon. Rachael Nyamai.

Hon. (Ms.) Rachael Nyamai (Kitui South, JP): Thank you, very much, Hon. Speaker. I was just concerned that Hon. Duale has seen the response to the Statement, perused it and is now going deep into discussing it. The Chair of the Departmental Committee on Justice and Legal Affairs, who would have brought it to the House, is not here! I kindly request you to follow the route requested by Hon. Kimunya, that the response to the Statement should go to the Departmental Committee on Justice and Legal Affairs because it is of a legal nature. They ought to analyse the response and if they find any gaps, take us through it in a better way. Hon. Duale is poking more holes into a document yet we have not heard a response from the Chair of the Departmental Committee on Justice and Legal Affairs. So, I request that we follow the route requested by the Leader of the Majority Party.

Hon. Speaker: You want to contribute to that also? You know, ideally, there is no contribution to a point of order. That is just for further education; extra mural classes. The Statement has not formally been read out. It will not be fair for Hon. Duale to go into the contents of the document. We need to have it read out by either the Chair of the Departmental Committee

on Justice and Legal Affairs or the Leader of the Majority Party. So, Hon. Duale, you can raise your point of order, but do not go to any details in the document.

Hon. Aden Duale (Garissa Township, JP): Hon. Speaker, in fact, it is good that I have a copy. Just to respond to Hon. Nyamai, there is no route that the Leader of the Majority Party will give. The routes are provided in the Constitution and the Standing Orders. If they are not there, the only person who can use Standing Order No.1 is the Speaker. So, if you want to follow routes, follow the route of the Leader of the Majority Party when he goes out of the chamber. Do not do it inside here. The routes are very clearly defined. The one which is not defined or has no precedence, is for the Speaker to use Standing Order No.1. I have a copy of the answer and I think it is good that you direct that next week, if the Departmental Committee on Justice and Legal Affairs wants to call the author of this letter, then I be notified to appear and deal with the matter, maybe, on Wednesday next week.

Hon. Speaker: The Statement will be here.

Hon. Aden Duale (Garissa Township, JP): Hon Speaker, a number of times, you have said that whether it is a Question or a Statement, a person is supposed to be summoned by the Committee. I am a Member of Parliament and I do not need permission. I will attend because I am the originator. You can direct that I be there to ask my questions. All the same, because on Tuesday I will not be around, I request that the answer be brought on Wednesday. It is a matter of national importance.

Hon. Speaker: It is not a Question. You sought a Statement. The Leader of the Majority Party would want it to be read out by the Chair of the Departmental Committee on Justice and Legal Affairs, Vice-Chair, or any other Member of the Committee, who may feel strong enough to read it out to the House.

Let us take it that the Leader of the Majority Party will forward this response. If not, then the Clerk will forward it to the Chair of the Departmental Committee on Justice and Legal Affairs so that it is presented here on Wednesday at 2.30 p.m. I think that is a better route to take. I hope these other interventions are not about this matter. Hon. Pukose.

Hon. (Dr.) Robert Pukose (Endebess, JP): Thank you, Hon. Speaker. I am not challenging your ruling. Since the Chairman, Hon. Muturi Kigano, was denied a ticket, he has not been seen in the House. Yes, he was denied a Jubilee ticket and since then, he has not been seen in the House. I request that since the Leader of the Majority Party is here, he takes responsibility that the Statement will be here on Wednesday.

Hon. Speaker: Hon. Muturi Kigano remains the Member of Parliament for Kangema until a new one is elected on 9th of August. He is at liberty to continue executing the functions of his office as the Chair of the Departmental Committee on Justice and Legal Affairs. As you have noticed, he is always ably represented by the Vice-Chair, Hon T.J. Kajwang', who, unfortunately, also appears to be absent today.

Member for Mwea, please, use your electronic card.

(Hon. Joshat Kabinga spoke off-record)

Do you not have it?

Hon. Joshat Kabinga (Mwea, JP): Thank you, Hon. Speaker. I just wanted to say that it is really unfortunate when a Member stands to say that somebody has been denied a ticket or nomination. Hon. Muturi Kigano is an active Member of this Parliament and is always here.

Hon. Speaker: I have already made a ruling that Hon. Muturi Kigano is a Member.

Hon. Josphat Kabinga (Mwea, JP): It is really, unfortunate. This is the second time the Member has alluded to the same thing. I have been watching and hearing. I do not know what he has about Hon. Muturi. It should be the last time for him to bring it up.

Hon. Speaker: Hon. Kabinga, the unfortunate bit is that Hon. Muturi Kigano is a Member of this House. He is at liberty to say that he has been denied anything.

Hon. Josphat Kabinga (Mwea, JP): Yes, but not a Member representing the same!

Hon. Speaker: No! No! There is nothing wrong with a Member saying something like that. He is right to say that you are wearing a red tie or something like that.

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

The Member for Suba North is correcting me. She says it is maroon. The Member for Endeless is also at liberty to say that Hon. Kabinga Wachira is wearing spectacles.

(Loud Consultations)

Hon. Josphat Kabinga (Mwea, JP): I am not sure the things you talk!

(Loud Consultations)

Hon. Speaker: Hon. Members, let us now move on. Can we go to the next Order?

MOTION

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, August 11, 2021.

(Hon. Christopher Wangaya on 18.5.2022)

(Debate concluded on 18.5.2022)

Hon. Speaker: Hon. Duale, is this the point at which you are asking for the Question to be put?

Hon. Aden Duale (Garissa Township, JP): Thank you, Hon. Speaker. I want to ask the Leader of Majority Party to defer all the Orders where we are supposed to put the Question because we are barely 50 in number.

Hon. Speaker: Very well. For reasons that are obvious, we defer the putting of the Question to Order No.9.

(Putting of the Question deferred)

Next Order.

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee Read)

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

IN THE COMMITTEE

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

THE CHILDREN BILL

(Consideration of Re-committal of Clauses 30,64 and 250)

(Several Hon. Members left the Chamber)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Order, Members! Can we have some order?

Hon. Members, we are in the Committee of the whole House to consider re-committal of Clauses 30, 64 and 250 of the Children Bill (National Assembly Bill No.38 of 2021).

Clause 30

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Chairperson.

Hon. Josphat Kabinga (Mwea, JP): Thank you, Hon. Temporary Deputy Chairlady. I beg to move:

THAT, the Bill be amended by deleting Clause 30 and substituting therefor the following new sub-clause - Equal parental responsibility.

30. (1) Subject to the provisions of this Act, the parents of a child shall have parental responsibility over the child on an equal basis, and neither the father nor the mother of the child shall have a superior right or claim against the other in exercise of such parental responsibility whether or not the child is born within or outside wedlock.

(2) A person who has parental responsibility over a child shall at all times have the duties, powers and responsibilities as are prescribed in this Act or any other written law.

(3) A person with parental responsibility over a child shall not act in any way that contravenes any order of a court of competent jurisdiction made with respect to the child under this Act or any other written law.

(4) A person who has parental responsibility over a child may not relinquish or assign such responsibilities to another person.

(5) Nothing in subsection (4) prevents a person from making temporary arrangements, during his or her absence, to allow a fit person to exercise his or her parental responsibilities over a child for and on his or her behalf.

(6) The making of the temporary arrangements referred to in subsection (4) by a person shall not affect or limit that person's liability arising from his or her failure to exercise his or her responsibility under this section.

Hon. Temporary Deputy Chairlady, this amendment seeks to substitute the clause that was amended at Committee stage. We are harmonising the proposal that came from Hon. Millie Odhiambo with that of the Committee. What we are doing, generally, is an attempt to substitute the clause in a manner that recognises equal responsibility of parents whether married or not. We found Hon. Millie Odhiambo's proposal to be good. Ours was also necessary and so, we harmonised the two. We agreed with Hon. Millie that that is the way to go.

The Temporary Deputy Chairlady (Hon. (Ms). Jessica Mbalu): Very well.

The Temporary Deputy Chairlady (Hon. (Ms). Jessica Mbalu): Let me have the Member for Suba North, Hon. Millie Odhiambo.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Thank you very much, Hon. Temporary Deputy Chairlady.

I wish to thank the Chair of the Committee for bringing that amendment. I support because it is something that has even been litigated in court and it now conforms with Article 53 of the Constitution that makes sure that all parents have equal rights to their children.

If Hon. Kaluma was here, I think I saw him come in and leave, but this is what he was also trying to do. People always presume that it is the mother who has a right to children, but as it turns out, fathers, equally, have a right to their children.

I support.

The Temporary Deputy Chairlady (Hon. (Ms). Jessica Mbalu): Let me have Hon. Charles Nguna. You do not seem to have your card?

Hon. Charles Nguna (Mwingi West, WDM-K): Hon. Temporary Deputy Chairlady, I am excited by this amendment. I rise to support it because majority of parents who have been raising kids tend to think that mothers are more superior to fathers.

I support.

(Question of the amendment proposed)

*(Question, that the words to be left out be left out,
put and agreed to)*

*(Question, that the words to be inserted in place thereof
be inserted, put and agreed to)*

(Clause 30 as amended agreed to)

Clause 64

The Temporary Deputy Chairlady (Hon. (Ms). Jessica Mbalu): We have a proposed amendment by the Leader of the Majority Party.

Hon. Amos Kimunya (Kipipiri, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Clause 64 be further amended by inserting the following new sub clauses immediately after sub clause (2)—

(2A) Without prejudice to the generality of subsection (1), the Cabinet Secretary may, in consultation with the Council, by notice in the Gazette designate such children's institutions to operate as children rescue centres as the Cabinet Secretary may consider appropriate.

(2B) The children's institutions referred to in subsection (3) shall not include police stations, remand homes or rehabilitation schools.

(2C) The Cabinet Secretary shall make regulations to provide for the procedure and minimum standards to be adhered to before the approval of an application for designation as a children rescue centre under this section.

Hon. Temporary Deputy Chairlady, when we were processing the Bill, the Committee had recommended deletion of the powers of the cabinet secretary to designate certain children's institutions as rescue centres on the basis that it is only the cabinet secretary who will establish that. Knowing where we are and the budgetary constraints that we have, we thought it would be important to reserve that power so that in the event that the Government cannot establish on its own... We know there are some that are approved subject to the regulation they are provided for. The cabinet secretary may not only establish, but can designate some that are already existing pending the full capacity to establish from a Government perspective.

Basically, this is to ensure that the rescue operations of students will not be jeopardised by the capacity, or lack of capacity of the cabinet secretary to establish rescue centres in the meantime. I have agreed that there is need for it to come back.

I beg to move.

(Question of amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms). Jessica Mbalu): Hon. Member for Kitui South, Hon. Nyamai.

Hon. (Ms.) Rachael Nyamai (Kitui South, JP): Thank you, Hon. Temporary Deputy Chairlady. I would like to support this amendment bearing in mind that rescue centres will be needed because of the existing demand. We, therefore, need to give authority to other people to establish these centres beyond the cabinet secretary.

Thank you, Hon. Temporary Deputy Chairlady.

The Temporary Deputy Chairlady (Hon. (Ms). Jessica Mbalu): Member for Suba North, would you like to comment on this?

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Yes. Thank you, Hon. Temporary Deputy Chairlady. I think this is a good proposal because it will enable us to anchor certain institutions in law. This is an issue that has been creating a lot of problems for us when the Government gives funding to certain institutions, creating a lot of problems with the Budget and Appropriations Committee. Now, it gives the cabinet secretary the opportunity to designate certain institutions so that they can access Government funding. I would like to encourage and have it on record that we have agreed that there should be a transitional period of two years within which those regulations should be in place, so that we do not have another challenge where people are coming to question certain institutions. The other thing that I like is that we do not seem to be giving preferential treatment to some institutions in the Bill. There was an outcry.

I support.

*(Question, that the words to be inserted be inserted,
put and agreed to)*

(Clause 64 as amended agreed to)

Clause 250

The Temporary Deputy Chairlady (Hon. (Ms). Jessica Mbalu): Leader of Majority Party, please, move your proposed amendment.

Hon. Amos Kimunya (Kipipiri, JP): Thank you, Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Bill be amended in Clause 250 by—

(a) renumbering the existing provision as sub-clause (1);

(b) inserting the following new sub-clauses after the renumbered sub clause (1)—

“(2) A children’s institutions that receives public funds under this Act shall keep proper books and records of account of the income, expenditure, assets and liabilities of the institution with respect to public funds in accordance with the Public Finance Management Act.

(3) The accounts of the children institutions that receive public funds shall be prepared, audited and reported upon in accordance with the provisions of the Public Audit Act.”

The essence of this amendment is to obligate all the children’s institutions that receive public funds to first of all, keep proper books of account and to be subjected to public audit.

Within Schedule 8 of the Bill, we allowed a two-year period for institutions to continue receiving public funds. Also, within Clause 64, we have now allowed the cabinet secretary to designate certain institutions and hence any institution that receives public funds in accordance to the Constitution is under obligation to then keep proper books and is subjected to audit.

We are putting it here for abundance of caution and for avoidance of doubt that anyone receiving money under the Children Act will be under obligation to keep proper books of account and be audited in accordance with the provisions of the Public Audit Act. That is the essence of this amendment. It is a very important thing for accountability, so that we can ensure that public money is accounted for.

I beg to move.

(Question of amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms). Jessica Mbalu): Hon. Member for Suba North, I see you have an intervention.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Thank you, Hon. Temporary Deputy Chairlady, let me again rise to support. I think one of the issues that I was uncomfortable with is that we fund agencies that are not subjected to audit, yet it is public funds. We are giving funds to certain agencies that we know are complimenting the work of the Government, but they must be subject to audit. So, I fully support that from a governance perspective.

The Temporary Deputy Chairlady (Hon. (Ms). Jessica Mbalu): Let me have the Nominated Member, Professor. Is your chip working?

Hon. (Prof.) Jacqueline Oduol (Nominated, ODM): Thank you, Hon. Temporary Deputy Chairlady. I would like to support this amendment in particular because it is providing room for public audit which is an eye on the institutions that handle children. We have had a lot of outcry because there was no avenue for audit. I want to support this and say it is the way that we need to go to ensure that there is accountability.

Thank you, Hon. Temporary Deputy Chairlady.

The Temporary Deputy Chairlady (Hon. (Ms). Jessica Mbalu): The last one, the Member for Taveta, Hon. Shaban Namsi.

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Hon. (Dr.) Naomi Shaban (Taveta, JP): Asante sana, Naibu Mwenyekiti wa Muda. Nataka kuunga mkono mapendekezo haya kwa sababu kuna umuhimu wa ukaguzi wa vitabu haswa kwenye yale mashirika yanayopatiwa pesa za umma. Wasije wakazitumia kiholela holela bila kufikiria kuwa zinaweza kukaguliwa. Kwa hivyo, naunga mkono

The Temporary Deputy Chairlady (Hon. (Ms). Jessica Mbalu): Asante Mheshimiwa wa kutoka Taveta. Hon. Charles Nguna, do you have an intervention?

Hon. Charles Nguna (Mwingi West- WDM-K): Hon. Temporary Deputy Chairlady, I am just reinforcing what my colleagues have said. I support this amendment because we need accountability and transparency in as far as the public funds are concerned.

I support.

*(Question, that the words to be inserted be inserted,
put and agreed to)*

(Clause 240 as amended agreed to)

Hon. Members, we are through with the Committee of the whole House on the Children Bill (National Assembly Bill No.38 of 2021). So, I call upon the Mover to report.

Hon. Amos Kimunya (Kipipiri, JP): Hon. Temporary Deputy Chairlady, I beg to move that the Committee do report to the House its consideration of the Children's Bill (National Assembly Bill No.38 of 2021) and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

(The House resumed)

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

The Temporary Deputy Speaker (Hon. (Ms). Jessica Mbalu): Can we have the Chairperson to report for the Committee.

REPORT

THE CHILDREN BILL

Hon. Josphat Kabinga (Mwea, JP): Hon. Temporary Deputy Speaker, I beg to report that the Committee of the whole House has considered the Children Bill (National Assembly Bill No.38 of 2021) and approved the same with amendments.

The Temporary Deputy Speaker (Hon. (Ms). Jessica Mbalu): Let us have the Mover of the Bill to move agreement with the Report.

Hon. Amos Kimunya (Kipipiri, JP): Hon. Temporary Deputy Speaker, I beg to move that the House do agree with the said Report.

As I call Hon. Millie Odhiambo to second the Motion for agreement with the Report of the Committee of the whole House, I would also like to request you to defer the putting of the Question in accordance with Standing Order No.53.

I beg to move and request Hon. Millie Odhiambo to second.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Very Well. Hon. Millie Odhiambo.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Thank you, Hon. Temporary Deputy Speaker. I want to indicate that I am very happy. After very many years, we are getting close to completing the new Children Bill. I second.

Thank you.

(Question proposed)

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): As requested by the Leader of the Majority Party, I defer putting of the Question on the Report of the Committee of the whole House on its consideration of the Children Bill (National Assembly Bill No. 38 of 2021).

(Putting of the Question deferred)

Next Order.

MOTION

ADOPTION OF REPORT ON IRREGULAR RENEWAL OF LAND LEASES BY DEL MONTE KENYA

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): The Chairperson, Committee on Implementation.

Hon. Richard ole Kenta (Narok North, ODM): Thank you, Hon. Temporary Deputy Speaker. I beg to move:

THAT, this House adopts the Report of the Select Committee on Implementation on its consideration of the implementation status of the following matters:

- (i) the Report of the Departmental Committee on Lands on a Petition on irregular renewal of leases of land by Del Monte Kenya Limited, laid on the Table of the House on Wednesday, December 22, 2021; and,
- (ii) the Report of the Departmental Committee on Lands on its consideration of the Petition by former workers of the late Mayer Jacob Samuels, regarding the invasion and eviction of the workers from their land in Roysambu Constituency by the Kenya Defence Forces, laid on the Table of the House on Wednesday, December 22, 2021.

The Committee on Implementation is there to ensure that Parliament does not act in vain. That is provided for under Standing Order No. 209 of the National Assembly Standing Orders and buttressed by Standing Order No. 201 and Article 153(4)(b) of the Constitution of Kenya. Pursuant to the said mandate, the Committee resolved to be apprised on the implementation status on the recommendations contained in the aforementioned Report.

Just to give a background, the Petition was made by Phillip Njuguna on behalf of the Kandara Residents Association regarding regular renewal of leases by Del Monte Kenya Limited that was presented to the House on 11th June, 2019.

The Petitioners claim to be the original owners of the land presently occupied by Del Monte Kenya Limited but were illegally displaced and the land leased to the company. They were aggrieved that Murang'a County Government had renewed the leases of the company without first involving the public, as required by Section 13 of the Land Act, 2012. They also claimed that the county government disregarded the determination of the National Land Commission (NLC) rendered on 7th February, 2019, in their historical injustice claim filed with the Commission. So, this is about historical land injustices.

In a Gazette Notice No.1995 of 2019, the NLC directed that the land held by Del Monte Kenya Limited should be resurveyed to establish if the company owned land that it is not registered to have. The surplus land, if any, was to be surrendered to the Kandara Residents Association and the county government for a public purpose in the ratio of 70:30 respectively. Where no surplus land was found, the County Government of Murang'a should retain adequate land for the settlement of the claimants and for public purpose upon expiry of the leases. The Commission also directed that Del Monte Kenya Limited should surrender all public utilities within the land in question to the relevant national and county government agencies, whether the leases have expired or not.

The Departmental Committee on Lands in its Report tabled on 21st November, 2019, recommended the Director of Survey, Ministry of Lands and Physical Planning to resurvey the land held by Del Monte Kenya Limited in Murang'a and Kiambu Counties.

The Committee also recommended that the NLC investigates the circumstances under which L.R Nos.10862, 10741, 11312, 2953, 4873 and 11146 that were said to have been surrendered to the Government by Sassa Coffee and Rappit B were irregularly acquired by Del Monte Kenya Limited. The Select Committee on Implementation commenced to apprise itself on the implementation status of the matter and invited the Cabinet Secretary for the Ministry of Lands and Physical Planning and the Chairperson, NLC to a meeting on 27th October, 2020, 14th April, 2021 and 29th July, 2021, respectively. The Committee also received written submission by the Cabinet Secretary for the Ministry of Lands and Physical Planning on 2nd August, 2021. Kandara Residents Association also made a written submission on 7th October, 2021.

To give the implementation status of the recommendations, on the recommendation that the Director of Survey, Ministry of Lands and Physical Planning resurveys the Land held by Del Monte Kenya Limited in Murang'a and Kiambu Counties; the Committee notes that this has been implemented. However, the Committee was not satisfied with the Ministry of Land and Physical Planning's submission that Del Monte Kenya Limited does not hold excess Land.

On the recommendation that the NLC investigates the circumstances under which L.R. Nos.10862, 10741, 11312, 2953, 4873 and 11146 that were said to have been surrendered to the Government by two companies, namely Sassa Coffee and Rappit B Limited were later irregularly acquired by Del Monte Kenya Limited, the Committee notes that this has not been done as the Ministry of Lands and the NLC submitted that due to passage of time, it had not been able to unearth how the Company acquired the land. The Committee notes that there were no sufficient records on how the transfer of the land to Del Monte Kenya Limited in 1973 was carried out. The Committee, therefore, notes that this land ought to be public land.

The Committee, following the observations made after deliberations on the implementation status, makes the following recommendations, that:-

- (i) The lease for L.R No. 12158, which resulted from the amalgamation of the L.R No. already alluded to, which measure up to 7407 acres, which is 2963.1 ha, should be reverted to the Government of Kenya and declared as public land and allocated to Kandara Residents Association for their settlement within sixty (60) days of the adoption of the Report, which should have been carried out by now but should be done immediately after adoption of this Report, failure to which the Committee shall enforce appropriate sanctions pursuant to Standing Order 209(3) of the National Assembly Standing Orders.
- (ii) In consultation with the NLC, the Ministry of Lands and Physical Planning should allocate the land excised from Del Monte Kenya Limited to Kandara Residents Association and County Governments of Murang'a and Kiambu in the ratio of 70:30 respectively, as per the NLC's Gazette Notice 1995 of 2019, within 60 days of the adoption of this Report, failure to which the Committee shall enforce appropriate sanctions pursuant to Standing Order 209(3) of the National Assembly Standing Orders.

This thing is a historical land injustice matter. It is something that should be pursued relentlessly so that the land ownership can revert to the original real owners.

Hon. Speaker, on the matter of the implementation status of the Report of the Departmental Committee on Lands on its consideration of the Petition by former workers of the late Jacob Mayer Samuels regarding invasion and eviction of workers from their land in Roysambu Constituency by the Kenya Defence Forces (KDF), I will also give a brief background.

The Petition by former workers of the Late Mayer Jacob Samuels regarding invasion and eviction from their Land by the KDF was presented to the House on 27th June, 2019. The petitioners claimed that they were former workers of the late Mayer Jacob Samuels employed in his sisal processing farm and workshop industry on L.R. No. 5875/2 before his death in 1974. They claimed that the deceased's family allowed them to continue staying on the Land after they could not pay their salaries.

According to the Ministry of Lands and Physical Planning, the land in dispute of LR No.5875/2 was compulsorily acquired by the Commissioner of Lands vide Gazette Notices Nos.5151 and 5152 of 1985, pursuant to a request by the then Permanent Secretary in charge of the Department of Defence in the Office of the President. The NLC's position is to the effect that the Department of Defence acquired land which was on a 99-year lease in 1986, and that the lease was to expire in 2005. Solio Construction Company Limited, which sold land to Kasarani Mall Limited was allocated LR No.5875/2 on 1st July 1999, and the allocation was done when another lease was subsisting, which brought about the issue of double allocation.

Further, during deliberation on the matter by the Departmental Committee on Lands, the Committee heard that investigations by the NLC showed that Solio Construction Company had two sets of titles for the same property. The first was registered on 18th May, 1992, with different LR numbers, while the second set of title was registered on 20th January, 2001. Additionally, it also emerged that the transfer form that was used to transfer parcel of Land LR No.5875/2 was fraudulent as the officer who was purported to have signed the document disowned it while appearing before the Departmental Committee on Lands, and claimed that the State land was not validly-owned and that it was actually a forgery.

The Departmental Committee on Lands tabled its report on 5th December, 2019, and made the following recommendations:

- (i) That the Ministry of Lands and Physical Planning, in consultation with the NLC and the Nairobi County Government complete the titling process for LR No.5875/2 within

180 days of the tabling of the report. This was actually for the benefit of the people who were left on the farm by someone else;

- (ii) The Directorate of Criminal Investigations investigates the officers in the Ministry of Lands and Physical Planning who may have caused loss of public funds by effecting fraudulent transactions relating to LR No.5875/2, and the Director of Public Prosecutions prosecutes any person found culpable within 90 days of tabling of the report; and,
- (iii) That the Ministry of Lands and Physical Planning secures the title relating to LR No.23393 with a view to ensuring that innocent Kenyans do not lose money through fraudulent transactions, as evidenced by the attempt to amalgamate it with LR No.5875/2.

In following up on the implementation status of the above recommendations, the Committee held numerous meetings with the Cabinet Secretary and other officials of the Ministry of Lands and Physical Planning and those of the NLC.

The Committee notes that the House had directed that the Ministry of Lands and Physical Planning, in consultation with the National Land NLC and the Nairobi County Government, to complete the titling process for LR No.5875/2 within 180 days of the tabling of the report. This is yet to be implemented over two years later. It is an unnecessary delay which is causing a lot of hardship to people who are supposed to benefit from this report of Parliament.

On the implementation status, as regards the recommendation that the Ministry of Lands and Physical Planning, in consultation with the NLC and the Nairobi County Government to complete the titling process for LR No.5875/2 within 180 days of tabling of the report, the Committee notes that this has not been implemented. The Cabinet Secretary submitted that this resolution could not be implemented due to the advisory by the Attorney-General vide letter Ref. AG/CIV/47/20 dated 11th August 2020 to the National Assembly indicating that the land parcel LR No.5875/2 belonged to the Kenya Defence Forces.

As regards the recommendation that the Directorate of Criminal Investigations (DCI) investigates the officers in the Ministry of Lands and Physical Planning who may have caused loss of public funds by effecting fraudulent transactions relating to LR No.5875/2 and the Director of Public Prosecutions prosecutes any person found culpable within 90 days of tabling of the report, the Committee is yet to receive a report from the DCI. So, nothing has been done, which is causing further hardship to the beneficiaries of that land.

As regards the recommendation that the Ministry of Lands and Physical Planning secures the title relating to LR No.23393 with a view of ensuring that innocent Kenyans do not lose money through fraudulent transactions, as evidenced by the attempt to amalgamate it with LR No. 5875/2, the Committee notes that LR No.23393 is registered in favour of Kasarani Mall Limited. The parcel is adjacent to LR No.5875/2, and is not in contention given that the application by Kasarani Mall Limited for amalgamation of the two properties was never finalised. This recommendation has, therefore, been implemented.

Following observations made after deliberations on the implementation status, the Committee makes the following recommendations:

- (i) The House should initiate the process of removal of the Cabinet Secretary for the Ministry of Lands and Physical Planning for failure to implement the House's resolution that the Ministry of Lands and Physical Planning, in consultation with the NLC and the Nairobi County Government to complete the titling process for LR No.5875/2 within 180 days of

tabling of the report pursuant to Article 152(6) of the Constitution of Kenya and Standing Order No.66 of the National Assembly Standing Orders;

- (ii) The Inspector-General of Police should ensure that the DCI investigates officers in the Ministry of Lands and Physical Planning who may have caused loss of public funds by effecting fraudulent transactions relating to LR No.5875/2, and submits a report to the National Assembly within 60 days of the adoption of this Report.

This is a very important Report. It actually shows how ordinary Kenyans are pressed and their rights trampled on. Historical injustices are still continuing. This House should ensure that this stops and the people concerned benefit from what Parliament has given them.

I beg to move and urge the House to adopt this Report. I request Hon. Peter Kihara to second.

The Hon. Temporary Deputy Speaker (Hon. (Ms) Jessica Mbalu): Let us have Hon. Peter Kihara, Member for Mathioya, for seconding.

Hon. Peter Kimaru (Mathioya, JP): Thank you, Hon. Temporary Deputy Speaker. I rise to second. These are fairly straightforward matters. The Chairperson of the Committee on Implementation has put forth a very weighty case. These are weighty matters regarding lands on which ordinary Kenyans have been defrauded.

These matters had already been investigated by the Departmental Committee on Lands and their recommendations brought and adopted by this House. The findings of the Committee on Implementation at this stage are that despite the recommendations being brought to this House almost a year ago, to date, those recommendations by the Departmental Committee on Lands have largely not been implemented. Almost 99 per cent of them have not been implemented at all. This obviously shows that there are officers in Government who do not take seriously issues that have been passed by this House. For instance, if you look at the issue of the Del Monte land, even the NLC issued Gazette Notice No.1995 of 2019 to the effect that the land should be excised and allocated to the Kandara Residents Association and the county governments of Murang'a and Kiambu. They went ahead and gave the ratio in which the land so adjudicated should be shared, which is 70:30. However to date, that has not been done and has been fully ignored.

There is also the other issue where Mayer Jacob bequeathed land to his own employees following his demise. To date, others have gone ahead to try and defraud innocent Kenyans of that piece of land, leaving them helpless.

I support the Chairperson of the Committee on Implementation and request this House to adopt this Report. We should move these matters to the next level. If they are not taken seriously and in a weighty manner, the recommendations of our committees will continue to be ignored by those in authority or in various ministries.

It is my prayer that this will be moved to the next level and that this House will adopt this Report. We should go ahead and see whether the recommendations have been adopted. We need to ensure that the Government can work harmoniously and that innocent Kenyans do not lose.

I beg to second.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Very well.

(Question proposed)

I see a request to speak to the Motion by the Member for Kitui South, Hon. Nyamai Rachael.

Hon. (Ms.) Rachael Nyamai (Kitui South, JP): Thank you, very much, Hon. Temporary Deputy Speaker, for giving me a chance to contribute to this Motion on the implementation status of the two Reports by the Departmental Committee on Lands. They are:

- (i) The Report of the Departmental Committee on Lands on a Petition on irregular renewal of leases of land by Del Monte Kenya Limited.
- (ii) The Report of the Departmental Committee on Lands on its consideration of the Petition by former workers of the late Mayer Jacob Samuels regarding the invasion and eviction of the workers from their land in Roysambu Constituency by the KDF.

Hon. Temporary Deputy Speaker, I want to start by thanking the Committee on Implementation for following-up these two Reports and ensuring they are implemented. Since, they were tabled in this House on 21st November, 2019, and 5th December, 2019, respectively, I had a chance of going through them and commend the Committee on Implementation for a good job of ensuring we do not pass resolutions in vain.

Before I continue, I would like to say as a House and the Departmental Committee on Lands, we value the importance of Del Monte in this country and their contribution to employment and revenue collection. So, as we considered these two Reports, we knew the kind of institution we were dealing with. I believe the Committee on Implementation had the same consideration.

Kindly, allow me to refer to the recommendations by the Committee on Implementation regarding two issues. In our Report on irregular renewal of leases of land by Del Monte Kenya Limited, we made two recommendations. First, that the Director of Survey Ministry of Lands and Physical Planning should resurvey the land held by Delmonte Limited in Murang'a and Kiambu Counties. On this recommendation, the Committee on Implementation notes that this has been done. So, they were satisfied and happy. We are also satisfied, as a Committee, that our recommendation was fully implemented.

Second, that the NLC investigates the circumstances under with L.R.Nos.10862, 10741, 11312, 2953, 4873 and 11146, said to have been surrendered to the Government by two companies, namely Sassa Coffee and Rappit B Limited, were irregularly acquired by Del Monte. The Committee on Implementation notes that this has not been done, and it further recommends that L.R.No.12158, which resulted from amalgamation of L.R.Nos.10741, 10862, 11312 and 2952, should be reverted to Government of Kenya as public land and should be allocated to residents of Kandara Residents Association.

Further, the Committee on Implementation recommends that the land excised from Del Monte should be allocated to Kandara Residents Association and the County Governments of Murang'a and Kiambu. Our Committee mentioned this and I can see that the Committee on Implementation agreed with us. On the matter of the ratio, I believe it does not belong to this House, so as the Member for Kitui South and Chair, I agree with this thought.

I would like to go straight to a very important matter, because I can see that my time is up. This is on the Petition by former workers of the late Mayer Jacob Samuels regarding the invasion and eviction of the workers from their land. Here, the Committee on Implementation raised a very sensitive recommendation on removal of a Cabinet Secretary (CS). In as much as I agree with the Report, I request them to expunge this part. This is because it is unnecessary and brings out a different issue on the implementation of the Report. The circumstances under which a CS can be removed are clearly stated. The reasons as to why the CS Ministry of Lands and Physical Planning did not implement is because of---

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Yes, give us the reason.

Hon. (Ms.) Rachael Nyamai (Kitui South, JP): Thank you, very much, Hon. Temporary Deputy Speaker, for indulging me. The circumstances for which a CS can be removed are clearly stated. One is gross violation of the Constitution or any other law. Two, where there are serious reasons for believing the CS has committed crime under national or international law. Three, gross misconduct. Article 152 of the Constitution does not provide for the removal of a CS on grounds of not following the advice of the Attorney-General. Consequently, I request that this be expunged from the Report.

With those few remarks, I agree with the Report however, I disagree with their recommendation in paragraph 71. I support and request the Chair to move an amendment to expunge paragraph 71, which states removal of a CS.

Thank you, Hon. Temporary Deputy Speaker, for indulging me.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Very well. Leader of the Majority Party, do you want to say something on this?

Hon. Amos Kimunya (Kipipiri, JP): Not quite.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): On the request made by the Member for Kitui South, you know the process; it should come from the Chairperson as a matter of procedure. Of course, changing a Report has to be procedurally done. Hon. Kimani had already spoken to Motion No.11.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Is there a Member who wants to make a contribution to this?

(Technical hitch)

These Machines! Yes, Hon. Ole Kenta?

Hon. Richard ole Kenta (Narok North, ODM): Hon. Temporary Deputy Speaker, I think I heard my colleagues talk about them: they had actually, discussed it. We are not talking about the removal; something must be understood. This is provided for under Standing Order No.209 (3) which provides that:

“The Committee may propose to the House sanctions against any Cabinet Secretary who fails to report to the relevant Select Committee on Implementation status without justifiable reasons.”

Parliament gave results; actually, the beneficiaries of Samuels land had gone to the extent of paying for their titles. The Cabinet Secretary had, on several occasions, continuously, and successfully refused or neglected to carry out the resolutions of Parliament.

It is for us, therefore, to recommend to the House; or for the House to either accept our proposal or reject it. It is not final on our part, but we are just recommending. A recommendation is not really binding as such; so, the House can agree with us or not.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): So, you are leaving it for the House to approve.

(An Hon. Member spoke off-record)

Hon. Member, you are just but replying to the Member.

Hon. Member for Kitui South, we usually, request for an amendment; and as a matter of procedure, it is then debated and thereafter, is carried or not.

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

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): There is an intervention by Hon. Millie Odhiambo, Member for Suba North.

QUORUM

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Thank you, Hon. Temporary Deputy Speaker. We are raising significant issues, and we do not have quorum.

Thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Yes. Hon. (Ms.) Millie Odhiambo has raised the issue of quorum. I confirm that we are not quorate. I, therefore, order that the Quorum Bell be rung for ten minutes.

(The Quorum Bell was rung)

Order Members. We have not been able to get sufficient quorum for us to continue with the business of the day.

ADJOURNMENT

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): The time being 4.43 p.m., this House stands adjourned until Tuesday, 24th May, 2022, at 2.30 p.m. I thank you all.

The House rose at 4.43 p.m.