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THIRTEENTH PARLIAMENT

NATIONAL ASSEMBLY

THE HANSARD

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THE HANSARD

Tuesday, 22nd July 2025

The House met at 2.30 p.m.

[The Speaker (Hon. Moses Wetang'ula) in the Chair]

PRAYERS

QUORUM

Hon. Speaker: Hon. Members, there is no quorum in the House. Serjeant-at-Arms, ring the Quorum Bell for 10 minutes.

(The Quorum Bell was rung)

Order Hon. Members. We have quorum to transact business. Clerk-at-the-Table, proceed.

COMMUNICATION FROM THE CHAIR

APPOINTMENT OF MEMBERS TO MEDIATION

COMMITTEE ON THE COFFEE BILL

(Senate Bill No.10 of 2023)

Hon. Speaker: Hon. Members, I wish to welcome you back to the House from the just-concluded short recess. I believe that you are geared up to embark on the legislative business of the House as we enter into the second half of the Fourth Session.

You will recall that on 27th November 2024, this House considered and passed the Coffee Bill (Senate Bill No.10 of 2023) with amendments. Thereafter, I referred the Bill to the Senate for reconsideration in accordance with the provisions of Article 112(1)(b) of the Constitution.

Further, you may recall that on Wednesday, 4th June 2025, I reported to this House a Message from the Senate conveying that on Tuesday, 20th May 2025, the Senate considered and rejected the National Assembly's amendments to the Coffee Bill (Senate Bill No.10 of 2023). The decision of the Senate remitted the Bill to a mediation committee pursuant to Article 112(2)(b) of the Constitution.

Article 113 of the Constitution requires that whenever a Bill is referred to a Mediation Committee, the Speakers of the Houses of Parliament shall each appoint an equal number of Members from both Houses to attempt to develop a version of the Bill for consideration.

In this regard, having consulted with the Leader of the Majority Party and the Leader of the Minority Party, I have appointed the following Members to represent the National Assembly in the Mediation Committee to consider the said Bill—

1. Hon. (Dr) John Mutunga, CBS;
2. Hon. John Okwisia Makali;
3. Hon. Robert Gichimu Githinji;
4. Hon. Duncan Mathenge Maina;
5. Hon. Julius Kipbiwott Melly;

6. Hon. Yussuf Farah Mohamed;
7. Hon. Geoffrey Makokha Odanga;
8. Hon. Dorice Donya Aburi; and,
9. Hon. Jared Odoyo Okello.

You may further recall that on 4th June 2025, I reported to this House that the Senate had appointed nine Senators to the committee on the Bill. In this regard, the Mediation Committee is now fully constituted. I, therefore, urge the Members of this House to reach out to their Senate counterparts for purposes of commencing the mediation process.

The Mediation Committee should, as soon as is practicable, meet and commence the process of developing a version of the Bill for consideration by the Houses of Parliament in accordance with the provisions of Article 113 of the Constitution.

Thank you.

(Loud consultations)

Order Hon. Members. I have always reminded you, and your Standing Orders say so, that when the Speaker is on his/her feet you maintain studious silence.

(Several Members walked into the Chamber)

Members on your feet, please take the nearest seats. I have two short messages to pass across.

MESSAGES

PASSAGE OF MEDIATED VERSION OF THE DIVISION OF REVENUE BILL (National Assembly Bill No.10 of 2025)

Hon. Speaker: Hon. Members, pursuant to the provisions of Standing Order 41(4), I wish to report to the House that during the recess period, I received a Message from the Senate regarding the approval of the Mediated Version of the Division of Revenue Bill (National Assembly Bill No.10 of 2025).

The Message conveys that on Monday, 30th June 2025, in accordance with the provisions of Article 113(2) of the Constitution, the Senate considered and approved the mediated version of the Division of Revenue Bill (National Assembly Bill No.10 of 2025) in the form developed and agreed by the Mediation Committee.

You will recall that the Bill was committed to a mediation committee pursuant to Article 112(2)(b) of the Constitution, following the National Assembly's rejection of Senate amendments to the Bill on Tuesday, 3rd June 2025. Consequent to this, the House considered the Report of the Mediation Committee and approved the mediated version of the Bill on Thursday, 19th June 2025, in the form developed by the Mediation Committee.

The approval of the mediated version of the Division of Revenue Bill, 2025 by both Houses of Parliament concluded its bicameral consideration. In this regard, and in accordance with the provisions of Article 113(3) of the Constitution, I did present the Bill to His Excellency the President for assent. The Bill was subsequently assented to and is now an Act of Parliament.

The House is accordingly informed. Thank you.

*(Hon. Kangogo Bowen and several other
Members walked into the Chamber)*

Members at the back, please take the nearest seats. Hon. Bowen, is the English language alien to you?

(Hon. Kangogo Bowen spoke off the record)

Nearest to the Speaker?

REFUSAL TO ASSENT TO THE PENSIONS (AMENDMENT) BILL
(National Assembly Bill No.44 of 2022)

Hon. Speaker: Hon. Members, you may recall that on 7th August 2024, the National Assembly passed the Pensions (Amendment) Bill (National Assembly Bill No.44 of 2022), which was sponsored by the Member for Kimilili, Hon. Didmus Barasa. The Bill sought to amend the Pensions Act, Cap.189 to provide for timelines within which pension was payable to an officer. Following its passage, I presented the Bill for assent to H.E. the President in accordance with the provisions of Article 115 of the Constitution.

Hon. Members, I wish to convey to the House that I have since received a Message from His Excellency the President referring the Bill back to the House for reconsideration, in accordance with the provisions of Article 115 of the Constitution. In the Memorandum, His Excellency the President has expressed reservations on Clauses 2 and 3 of the Bill and notes, *inter alia*—

1. That, in Clause 2 of the Bill, the proposed amendment which seeks to give the Cabinet Secretary responsible for matters relating to finance powers to make regulations will create an inconsistency with Section 3(2) of the Pensions Act which provides that the pensions regulations may be amended by regulations made by the President. As such, granting powers to the Cabinet Secretary will create conflict in the implementation of such regulations.
2. That, Clause 3 of the Bill is ambiguous as it does not provide, with specificity, the date for which pension shall become due. The President notes that the Bill lacks clarity on whether the due date is the retirement date or the date which a retired person makes an application for payment of pension. Further, he notes that the objects sought to be achieved by the Bill can be realised through administrative action by streamlining the pension processes to ensure timely payment of pension to retired persons.

The President observes that the Bill fails to take cognisance of the recent automation of the pensions processes which has reduced timelines for processing pensions. Consequently, he recommends deletion of Clauses 2 and 3 of the Bill which, as a matter of fact, are the primary contents of the Bill.

Hon. Members, Standing Order 154(2) requires the House to consider the President's reservations within 21 days upon receipt of a Memorandum. In this regard, the Memorandum from the President now stands committed to the Departmental Committee on Finance and National Planning for consideration. The Committee is required to table its report soonest to allow the House to consider the President's reservations within the said timelines.

May I at this point remind the House of the Speaker's Communication of 28th July 2015 concerning the consideration of the President's reservations to a Bill and amendments thereto? I particularly draw your attention to the guidance that the voting threshold for the passage of amendments proposed by a committee or an individual Member that have the effect of fully accommodating the President's reservations is a simple majority as contemplated under Article 122(1) of the Constitution as read together with Article 115(2)(a).

On the other hand, an amendment that does not fully accommodate the President's reservations or indeed one that has the effect of a total override of his reservations, including negating his proposed text, requires a two-thirds voting threshold to be passed, in keeping with the provisions of Article 115(4) of the Constitution.

In conclusion, Hon. Members, I hereby direct the Clerk to circulate the Memorandum from His Excellency the President to all Members so that they familiarise themselves with its contents. The House is accordingly informed. I thank you.

PAPERS

Hon. Speaker: Leader of the Majority Party.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Thank you, Hon. Speaker. Allow me to welcome Members back from the short working recess that they had. I hope that they are now better energised to carry on with the next four weeks that the House will be sitting. We have a lot of important business to transact within those four weeks.

Hon. Speaker, I beg to lay the following Papers on the Table:

1. Legal Notice No.79 of 2025 relating to the National Museum and Heritage (Admission Fees) Regulations, 2025, and the Explanatory Memorandum from the Ministry of Gender, Culture and Children Services.
2. Legal Notice No.94 of 2025 relating to the Kenya National Qualifications Framework (General) Regulations, 2025, and the Explanatory Memorandum from the Ministry of Education.
3. The following Legal Notices from the Ministry of Energy and Petroleum:
 - (a) Legal Notice No.95 of 2025 relating to the Petroleum (Business Licensing and Petroleum Logistics Facility Construction Permit) Regulations, 2025.
 - (b) Legal Notice No.96 of 2025 relating to the Petroleum (Licensing of Petroleum Road Transportation Business) Regulations, 2025.
 - (c) Legal Notice No.97 of 2025 relating to the Petroleum (Operation of Common User Petroleum Facilities) Regulations, 2025.
 - (d) Legal Notice No.98 of 2025 relating to the Petroleum (Information and Statistics) Regulations, 2025.
 - (e) Legal Notice No.99 of 2025 relating to the Petroleum (Lubricants Facility Construction and Business Licensing) Regulations, 2025.
 - (f) Legal Notice No.100 of 2025 relating to the Petroleum (Retail Dispensing Site Construction and Licensing) Regulations, 2025.
 - (g) Legal Notice No.101 of 2025 relating to the Petroleum (Liquefied Petroleum Gas) Regulations, 2025.
 - (h) Legal Notice No.102 of 2025 relating to the Energy (Petroleum Information and Statistics) (Revocation) Regulations, 2025.
 - (i) Legal Notice No.103 of 2025 relating to the Energy (Retail Facility Construction and Licensing) Regulations, 2025.
 - (j) Legal Notice No.104 of 2025 relating to Petroleum (Products Quality Management) Regulations, 2025.
4. Legal Notice No.106 of 2025 relating to the Public Finance Management (Sports, Arts and Social Development Fund) (Amendment) Regulations 2025 from the National Treasury and Economic Planning.
5. Legal Notice No.113 of 2025 relating to the Sugar (Sugar Development

- Levy) Order, 2025, Regulatory Impact Assessment Report, Explanatory Memorandum, stakeholders' comments and submissions and certificate of compliance from the Ministry of Agriculture and Livestock Development.
6. Legal Notice No.114 of 2025 relating to the Affordable Housing Regulations, 2025 from the Ministry of Lands, Public Works, Housing and Urban Development and the following accompanying documents:
 - (a) The published regulations
 - (b) Notice for public participation
 - (c) Notice for the Regulatory Impact Assessment
 - (d) Regulatory Impact Assessment
 - (e) Photos
 - (f) Public participation attendance list
 - (g) Matrix on the comments received from the public participation process
 - (h) Explanatory Memorandum
 - (i) Certificate of compliance.
 7. Draft Salaries and Remuneration Commission (Remuneration and Benefits of State and other Public Officers) Regulations, 2025 from the Salaries and Remuneration Commission.
 8. The submission of nominees for the National Government Constituencies Development Fund Committees for the following five constituencies:
 - (a) Isiolo South
 - (b) Lungalunga
 - (c) Kuria West
 - (d) Homa Bay Town
 - (e) Kitui South.
 9. Reports of the Auditor-General and financial statements for the year ended 30th June 2024 and the certificates therein in respect of:
 - (a) Kenya Post Office Savings Bank
 - (b) Kenya National Assurance Company (2001) Limited
 - (c) Kenya Institute of Supplies Management.

Thank you, Hon. Speaker.

Hon. Speaker: Chairperson, Departmental Committee on Regional Development. Yes, Hon. Milemba.

Hon. Omboko Milemba (Emuhaya, ANC): Hon. Speaker, I seek your indulgence on the President's Memorandum. Members may not be aware of the Bill that you took to the President for assent which was sponsored by Hon. Barasa. It was supposed to give a timeline for payment of pensions to the pensioners. The proposal was that a person who has retired should get their pension within 90 days. Currently, teachers, civil servants and other workers take too long to get pensions. Some of them die.

Hon. Speaker: Hon. Milemba, we have passed that Order. I advise that you have a very important point. Prosecute it before the Committee or marshal two-thirds of the House to vote when it comes.

Hon. Omboko Milemba (Emuhaya, ANC): We need to moderate it because we can get a 50-50 out of the entire Bill, so that nobody loses.

Thank you, Hon. Speaker. I will appear before the Committee.

Hon. Speaker: Go ahead and prosecute your point before the Committee. Chairperson, Departmental Committee on Regional Development, Hon. Lochakapong.

Hon. Peter Lochakapong (Sigor, UDA): Hon. Speaker, I beg to lay the following Paper on the Table:

Report of the Departmental Committee on Regional Development on its consideration of the Senate amendments to the National Disaster Risk Management Bill (National Assembly Bill No.24 of 2023).

I thank you.

Hon. Speaker: Chairperson, Departmental Committee on Lands.

Hon. Joash Nyamoko (North Mugirango, UDA): Hon. Speaker, I beg to lay the following Paper on the Table:

Report of the Departmental Committee on Lands on its consideration of the President's Memorandum to the National Land Commission (Amendment) Bill (National Assembly Bill No.43 of 2023)

I thank you, Hon. Speaker.

Hon. Speaker: Thank you. Hon. Members, before the next Order, allow me to acknowledge, in the Speaker's Gallery, Kianjata High School from Ol Jorok, Nyandarua County and Kituro Junior Secondary School (JSS) from Baringo Central Constituency, Baringo County. We have A Journey to Africa Group from the United States of America (USA) in the Public Gallery. You should have a good habit of welcoming visitors.

(Applause)

We also have Borabu Retired Headteachers Association from Borabu Constituency, Nyamira County, and Kipchoi Shokino JSS from Mosop Constituency, Nandi County. On my behalf and that of the whole House, we welcome the visitors to the House of Parliament for the proceedings of this afternoon. Hon. Osero from Borabu Constituency has asked me to give him a minute to welcome his retired teachers.

Hon. Patrick Osero (Borabu, ODM): Thank you, Hon. Speaker. Somebody is saying they are my agetates, which is true.

(Laughter)

I welcome retired teachers from Borabu Constituency. They come together in retirement to enjoy life and see the products of their students. When I was in Singapore or one of East Asia countries, a teacher there is called 'Leader of the Nation.' Hon. Omboko Milemba can support this title. That is what a teacher is. We are proud to have them here. Feel welcome. As you travel home, travel with journey mercies.

Thank you very much, Hon. Speaker.

Hon. Speaker: Next Order.

QUESTIONS AND STATEMENTS

Hon. Speaker: Hon. Members, I have seven listed Statements, two requests and five responses. The first Statement is by Hon. Machua Waithaka, Member for Kiambu.

REQUEST FOR STATEMENT

INSURANCE COMPENSATION TO MR PATRICK GICHURU'S FAMILY

Hon. John Waithaka (Kiambu, UDA): Hon. Speaker, pursuant to the provisions of Standing Order 44(2)(c), I rise to request for a Statement from the Chairperson of the Departmental Committee on Labour regarding insurance compensation to the family of the late PC Patrick Gichuru Riungu. The late Mr Patrick Gichuru Riungu, a prisons officer of Staff

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No.PF2006072940/33782, lost his life through a tragic road accident along Kiambu-Nairobi highway on 21st August 2021. His spouse, Ms Charity Mulongo Zuma, and their three children survived him.

Following his demise, the family lodged a compensation claim in accordance with the Work Injury Benefits Act (Cap. 236) under reference ML/WIBA/DCI/020/2021. The Ministry of Labour and Social Protection approved the said compensation claim on 2nd August 2022 but the family is yet to receive the money to date. The inordinate delay has negatively affected the livelihood of the family of the late police constable (PC) Gichuru given that the family depended on the deceased for upkeep.

It is against this background that I request a Statement from the Chairperson of the Departmental Committee on Labour on the following:

1. The status of compensation to the family of the late PC Patrick Gichuru Riungu, a prison officer Staff No.PF2006072940/33782, which was lodged through claim reference ML/WIBA/DCI/020/2021.
2. The timeline within which the Government intends to conclude the process of disbursement of the said compensation to the family of the late PC Patrick Gichuru.
3. A detailed report on similar insurance claims, pending payments, and measures the Government is taking to offset claims as soon as they are lodged.

Thank you, Hon. Speaker.

Hon. Speaker: Thank you, Hon. Waithaka.

That is to the Chair of the Departmental Committee on Labour, Hon. Alice Ng'ang'a. Leader of the Majority Party, inform the Chair of Departmental Committee on Labour to bring a response in two weeks.

Hon. Wandeto Geoffrey from Tetu, go ahead.

PAYMENT OF SALARIES AND TERMINAL DUES TO FORMER EMPLOYEES OF NYAYO TEA ZONES

Hon. Geoffrey Wandeto (Tetu, UDA): Thank you, Hon. Speaker.

Pursuant to the provisions of Standing Order 44(2)(c), I request a Statement from the Chairperson of the Departmental Committee on Labour regarding payment of salaries, terminal dues, and other benefits to former employees of Nyayo Tea Zones.

Nyayo Tea Zones, established under the Office of the President with the aim of promoting rural development through tea farming, transitioned to Nyayo Tea Zones Development Corporation in 1992. Consequently, approximately 702 labourers who worked for the defunct Nyayo Tea Zones between 1986 and 1996 in the then Tetu District were not compensated for their labour despite numerous follow-ups. The then Member of Parliament for Tetu Constituency, Hon. F.T. Nyammo, raised the matter on 15th June 2011 during the 10th Parliament through Ordinary Question No.919.

Following an unsatisfactory response, the Departmental Committee on Labour and Social Welfare undertook an inquiry on the matter in 2016. The Committee found out that the Ministry of Internal Security that managed the Nyayo Tea Zones did not transfer employment records to the successor entity that was Nyayo Tea Zones Development Corporation, leading to protracted disputes as to whether the dues were to be paid by the Office of the President or the Nyayo Tea Zones Development Corporation.

Notably, the Committee recommended that the Office of the President pay the salaries, terminal dues, and other benefits of all the 702 former employees of the Nyayo Tea Zones Development Corporation who worked in the then Tetu District. Regrettably, the affected employees are yet to be paid.

It is against this background that I request a Statement from the Chairperson of the Departmental Committee on Labour on the following:

1. A report on the progress made on settlement of salaries, terminal dues, and other benefits owed to the 702 former employees of the Nyayo Tea Zones who worked in the then Tetu District.
2. The steps being taken by the Office of the President to ensure that the former employees receive their dues, and the timeline of implementation of the steps.

I thank you, Hon. Speaker.

Hon. Speaker: Thank you, Hon. Wandeto.

Chair of the Departmental Committee on Labour, order. Once again, Leader of the Majority Party, inform the Chair of the Departmental Committee on Labour to bring a response to Hon. Wandeto and the House in two weeks.

We will go to responses to Statements starting with the Chair of the Departmental Committee on Administration and Internal Security. Yes, Hon. Ng'elechei. Are you a member of the Departmental Committee on Administration and Internal Security? Which Chair are you addressing?

Hon. Caroline Ng'elechei (Elgeyo Marakwet County, Independent): I am doing it on behalf of the Chair of the Departmental Committee on Administration and Internal Security.

Hon. Speaker: Okay. Is Hon. Michael Muchira of Ol Jorok in the House? Yes, go ahead.

STATEMENTS

DISAPPEARANCE OF IDENTITY CARDS IN NYANDARUA WEST CONSTITUENCY

Hon. Caroline Ng'elechei (Elgeyo Marakwet County, Independent): Thank you, Hon. Speaker.

The Member for Ol Jorok Constituency, Hon. Michael Muchira, has requested to be apprised of the reported disappearance of the national identity cards and related documents from the National Registration Bureau (NRB) office in Nyandarua West of Ol Jorok Constituency. The Hon. Member particularly sought to be informed on:

1. The circumstances leading to the loss of the offered 2,000 national identity cards and the collection register from the NRB office.
2. The status of investigations and findings under the OB No.08/29/5/2025
3. Measures to mitigate the risk of illegal use of the missing identity cards.
4. Steps being taken to replace the identity cards free of charge and without delay.

On the circumstances leading to the loss of over 2,000 national identity cards and the collection register from the NRB office, officers reporting to work at the NRB office in Ol Jorok discovered that the office had been broken into on the morning of 29th May 2025. Although there were no signs of forced entry, preliminary investigations confirmed the loss of several crucial documents and items:

1. A total of 984 identity cards comprising 237 second-generation identity cards and 747 Maisha cards.
2. Issuing workbook 134A register that records the issuance of forms to applicants for signatures by chiefs and assistant chiefs.
3. Collection register where details of collected identity cards are locked.
4. Duplicate register where all applications for replacement identity cards are recorded.
5. One unused registration form 136C of Serial No.256616430 that carries the applicants' biographical and biometric data.

6. A digital camera of Serial No.630192004857.
7. An office stamp and stamp pad.
8. An electrical extension cable and header.

The incident severely disrupted operations and raised significant concerns about the potential misuse of the missing items. On the status of investigations and findings under OB No.08/29/5/2025, Hon. Chair, the matter was officially reported at 9.10 a.m...

Hon. Speaker: Order, Hon. Ng'elechei. Address the Speaker, not the Chair. I do not know which Chair you are addressing.

Hon. Caroline Ng'elechei (Elgeyo Marakwet County, Independent): Noted, Hon. Speaker.

The matter was formally reported at 9.10 a.m. on 29th May 2025 at Ol Jorok Police Station vide OB No.08/29/05/2025. The Directorate of Criminal Investigations (DCI) in Nyandarua West Sub-County has taken up the case. Investigative actions taken include recording statements from all officers stationed at the Ol Jorok National Registration Bureau Office and the seizure and examination of office keys.

Hon. Speaker: Hon. Zamzam, what is your point of order?

Hon. Zamzam Mohammed (Mombasa County, ODM): Mhe. Spika, Mhe. Ng'elechei anazungumza mambo mazuri sana lakini anazibwa hapa. Kuna mazungumzo yanaendelea pia. Naomba apewe nafasi aweze kusema mambo yake. Ahsante sana.

Hon. Speaker: Thank you. The culprit has fled. Go on, Hon. Ng'elechei.

Hon. Caroline Ng'elechei (Elgeyo Marakwet County, Independent): *Asante, Mhe. Zamzam.* I was really straining. I was responding to the status of investigations under OB No.8/29/5/2025. Statements from all officers stationed at Ol Jorok NRB has been taken. Seizure and examination of office keys and office mobile phones has been done. These items have since been returned. A search was also conducted at the residence of the officers who last secured the office on the evening prior to the break-in. Normal operation has resumed at the registration office pending the conclusion of investigations.

Measures to mitigate the risk of illegal use of missing ID cards: To safeguard public interest and national security, the Nyandarua West NRB Office has instituted a register to record all reports made by the affected applicants. For each case, the serial number of the missing ID card, the applicant's name and the type of application are captured. This information is forwarded to NRB headquarters for prompt action, including blacklisting of the affected ID serial numbers. Further, there is an ongoing public outreach exercise led by the Deputy County Commissioner in collaboration with the Registrar, urging all the affected individuals to report to the office. These sensitisation efforts are being conducted through public barazas and other local platforms.

Steps being taken to replace the ID cards free of charge and without delay: The NRB headquarters has put in place measures to fast-track replacement of the lost identity cards at no cost to the affected individuals. Applicants are being assisted to reapply through the Nyandarua West NRB Office, which submits their applications accompanied by cover letters directly to the NRB headquarters to expedite the process.

Hon. Speaker, I submit. This is a statement by the Cabinet Secretary for Interior and National Security.

(Loud consultations)

(Several Members stood in their places)

Hon. Speaker: Thank you. Order, Members. The consultations are too loud. Every Member on their feet to take their seat. You are causing a lot of disorder in the House.

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Hon. Muchira.

Hon. Michael Muchira (Ol Jorok, UDA): Thank you, Hon. Speaker. I am contented with the Statement. Indeed, I can confirm that replacement of lost IDs is happening at no cost to the beneficiaries.

Thank you, Hon. Speaker.

Hon. Speaker: Thank you. Next is the Chairman Departmental Committee on Defence, Intelligence and Foreign Relations. Where is he? Is any Member from that Committee available to make a response to Hon. Machua Waithaka? Hon. Kandie, are you a member of the Committee?

Hon. Joshua Kandie (Baringo Central, UDA): Yes, Hon. Speaker.

Hon. Speaker: Do you have a response?

Hon. Joshua Kandie (Baringo Central, UDA): No, I do not have any response. I will convey the message to the Chairman.

Hon. Speaker: There is nothing to convey. Today was a response day. So, you are not going to convey anything.

Hon. Joshua Kandie (Baringo Central, UDA): Okay, let me look for the Chairman immediately.

Hon. Speaker: You better do that. Hon. Waithaka, hold on in case he comes in.

Hon. John Waithaka (Kiambu, UDA): Thank you, Hon. Speaker. You had said that we would get a response when we came back from recess, which is today. I would like to report that the family is in great distress. The person disappeared in the United States of America. Since the US has a good system of monitoring people, we were hoping that by now we would have got a response. I would urge that we get a response in the shortest time possible so that the family can know the fate of their father.

Hon. Speaker: Thank you, Hon. Waithaka. Hon. Kandie, inform your Chairperson that this response will be re-listed for tomorrow morning. Make sure he is here to give a response.

Response to Hon. Ekwom Nabuin. Is he in the House? He is not. The Chairman of the Committee and the questioner are not here. We will leave it in limbo. They will seek the Table Office to re-list it at an appropriate time.

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

Hon. Speaker: Yes, Hon. Millie.

Hon. Millie Odhiambo-Mabona (Suba North, ODM): Thank you, Hon. Speaker, for this chance. As you can see, I am seated next to the tallest man in this Parliament, Hon. Adipo Okuome of Karachuonyo. I know you had indicated earlier in the House Business Committee that you will allow a moment to eulogise two former Members of Parliament who passed on. Hon. Adipo Okuome has told me that you have agreed that the passing of Hon. Phoebe Asiyio might be discussed tomorrow. Nonetheless, as a Member of Parliament, our first call and first stop is Parliament. Would I be in order to request that even as we wait to eulogise them, because this is home for most of us, we stand and observe a minute of silence for the two former Members? And they are women.

Hon. Speaker: Order, Hon. Millie. Why do you want to take the winds out of the sails? I had agreed with the Member for Karachuonyo and the Member for West Mugirango, who saw me. We have lost two former Members. They are Hon. Members first, then women second; the late Hon. Phoebe Asiyio and the late Hon. Catherine Nyamato, with whom I served in the 7th Parliament. I will give an opportunity tomorrow. Hon. Mogaka was ready but Hon. Okuome was not ready with his statement. I accommodated him so that he could present the statement tomorrow. I will give you and many others who want to eulogise the two great women leaders an opportunity tomorrow. We will observe a befitting moment of silence tomorrow.

Next is a statement by the Departmental Committee on Lands, and Hon. Nyamoko is in the House. Is Hon. Samuel Arama in the House? Hon. Nyamoko, I know the response belongs to the House, but to be fair to the Member who sought the statement, in case he has supplementary questions, I direct that the matter be put in the Order Paper on Thursday.

Next, let us have the Chairperson, Departmental Committee on Transport and Infrastructure. Is Hon. GK present? Okay, go ahead and respond.

TARMACKING OF WAJIR-GRIFTU-ELDAS-BUNABUTE-MOYALE-ETHIOPIA-A14

Hon. George Kariuki (Ndia, UDA): Thank you, Hon. Speaker.

On Wednesday 16th April 2025, the Member for Eldas Constituency, Hon. Adan Keynan requested for a Statement from the Chairperson of the Departmental Committee on Transport and Infrastructure regarding the progress made on tarmacking of the Wajir-Griftu-Eldas-BunaBute-Moyale-Ethiopia-A14 International Trunk Road. In his request for a Statement, he indicated that the said route has the potential to unlock transformative potential, which includes reducing logistics costs for business, strengthening supply chain resilience and fostering regional development.

Such strategic investments not only bridge isolated communities to national and continental markets, but also positions Northern Kenya as a gateway for Pan-African trade, aligning with the vision of the African Continental Free Trade Area, a vision of seamless continental connectivity. Therefore, Hon. Keynan sought among other things to establish:

1. The current status of funding, planning and implementation of the tarmacking of the said road managed by Kenya National Highways Authority (KeNHA) including specific timelines for its commencement.
2. Plans put in place to fund this project, particularly under the Horn of Africa Gateway Project, or other development initiatives and details of these funding commitments.
3. Measures put in place to fast-track the tarmacking of this critical corridor to ensure its timely completion and maximise its economic and regional integration benefits.

Hon. Speaker, the Committee received a written response from the Ministry of Roads and Transport on 14th May 2025, which I now wish to make.

Regarding the current status of funding, planning and implementation of this road, including specific timelines for its commencement, the Ministry submitted that the tarmacking has not commenced and that KeNHA is currently undertaking detailed design for its upgrading to bitumen standards and the design is expected to be completed in December this year. The Ministry submitted that construction shall commence once design is complete and funds for the works are made available.

The contractor for the routine maintenance and support improvement works has already been selected and has been on the ground for the past one month undertaking preparatory and initial maintenance activities along the designed sections. These works cover the following critical road segments: Wajir to Griftu, Griftu to Eldas, Eldas to Buna, Buna to Dabel and Dabel to Moyale.

Regarding the plans put in place to fund this project, particularly under the Horn of Africa Gateway Project or other development initiatives and details of these funding commitments, the Ministry submitted that the agency shall seek funds for the construction of the road once design is complete and a cost estimate is established. There are currently no funding commitments in place for the road.

Regarding the measures in place to fast-track the tarmacking of this critical corridor, the Ministry submitted that KeNHA is undertaking the ongoing design to define the scope of the necessary improvements and establish a cost estimate which will be used to seek funds.

Thank you, Hon. Speaker. I submit.

Hon. Speaker: Hon. Keynan.

Hon. Adan Keynan (Eldas, JP): Hon. Speaker, I know from where you sit you must be very dissatisfied with this answer. This answer is half a paragraph.

Hon. Speaker: The Hon. Speaker is not a participant.

Hon. Adan Keynan (Eldas, JP): I am sure the Hon. Speaker is also a human being and as a person who has used that road in your earlier life as a lawyer, you must be familiar with it.

There was an engagement between the Kenyan and the Ethiopian governments in the early 1970s about that road when Mzee Kibaki was the Minister for Finance under the leadership of the late President Jomo Kenyatta. The late Haille Selassie was the Ethiopian president then.

Hon. Speaker, this answer, on the face of it, my good friend...

(Several Hon. Members consulted loudly)

Hon. Speaker, please ask the Hon. Members to consult in low tones.

Hon. Speaker: Hon. Members, reduce loud consultations.

Hon. Adan Keynan (Eldas, JP): Hon. Speaker, this response has not attempted to answer my request. I am sure the Chairman, Hon. GK is familiar with this road because he comes from a region which has a lot of tarmac roads and one that is privileged.

(Several Hon. Members stood along the gangway)

Hon. Speaker: Hon. Bartoo, can you tell those Members gravitating around you to go and take their seats? Go on.

Hon. Adan Keynan (Eldas, JP): Hon. Speaker, I was just saying that maybe Hon. GK, coming from a region that is well taken care of in terms of road infrastructure cannot imagine a road linking Kenya to Addis Ababa, all the way from Addis Ababa, Moyale to Wajir, has been at the planning stage since 1974. I do not know whether Hon. GK had been born then. From 1974 to date is over 50 years. We are still planning and yet our number one foreign policy is economic diplomacy. Ethiopia has a population of over 150 million people. If we cannot plan for that road, it means that we have concentrated all our road infrastructure in a region just here. This means that we have become an inward-looking nation.

It is high time we declare the response as not an answer at all and Hon. GK goes back to the Ministry and gets an answer that really attempts to address this historical problem. I do not know who wrote the response. I am sure Hon. Chirchir did not go through it. Indeed, if he did, and I know he is very sympathetic to our region, he would have drafted a different answer. I wanted to find out whether there is any planning. Even the statement on planning is contradictory. One says it is being planned, the other one says the planning will be ready by the end of 2025. When there is a plan, there must be the next stage.

Hon. Speaker, will I be right to ask the Chairman to go back and get a satisfactory answer that will not only address the needs of the people of Wajir and Marsabit, but will also link us to that critical neighbouring country of Ethiopia, which is a highly potential trade area for our country?

One of the reasons why we have KeNHA, Kenya Rural Roads Authority (KeRRA) and Kenya Urban Roads Authority (KURA) is to address specialised needs of the people of Kenya.

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It is high time the leadership of KeNHA reflects and puts into perspective the needs of that particular region.

I request the Chairman to go back to the Ministry and ensure that this road gets adequate funding immediately.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Chairman, is it true that you have brought no answer?

Hon. George Kariuki (Ndia, UDA): Hon. Speaker, I empathise with my colleague, Hon. Keynan. I really want to assure him that it is in the interest of my Committee that this road is tarmacked.

I request my colleague and my senior, Hon. Keynan, to consider that the Ministry has made a written commitment that it will complete the design work by the end of this year. The Ministry has indicated that some work is ongoing on this road, and we want to believe that what it has indicated is indeed happening and that it will keep the timeline as indicated.

Thank you, Hon. Speaker.

Hon. Speaker: Professor.

Hon. (Prof.) Guyo Jaldesa (Moyale, UPIA): Thank you, Hon. Speaker. Listening to the comments and the response given by the Chairman, I feel that he has not given any answer. At least 65 kilometres of that road lies in my constituency. I also wish to inform the House that when it rains, the Member for Eldas and the Member for Wajir North cannot access their constituencies because of the poor state of that road.

We should stop saying that we are planning. We need to take affirmative action to help the people of Wajir connect to the rest of the world through the only tarmacked road in the north, so that they can enjoy the same services as others. Upgrading this road to bitumen standard will open up business in the area. Wajir was once a capital centre of Northern Kenya during the colonial days and was well connected to Moyale. We cannot continue waiting for plans. As for the work mentioned by the Chairman, I want to report that no work has been done. Hon. Chairman, if you are listening, please note that no work has been done. We need to be factual.

Hon. Speaker: You have made your point. Hon. Farah, proceed.

Hon. Farah Maalim (Dadaab, WDM): Thank you, Hon. Speaker. The Chairman says a design is being undertaken, but this is 62 years after Independence. For a priority road, that is unacceptable. Hon. Chairman, when will the design be completed? Can you give us a timeframe on its completion so that we can have a tentative understanding on when the funding can be sourced? Without the design, funding cannot be sought. When will the design for the Garissa–Dadaab–Liboi–Harhar Road be ready?

Thank you.

Hon. Speaker: Hon. Saney.

Hon. Ibrahim Saney (Wajir North, UDA): Thank you, Hon. Speaker. I am equally not satisfied with the Committee's response. I am a Member of that Committee. It all speaks to the level of marginalisation of the region. Sixty to 70 per cent of this road traverses my constituency. Sixty two years after Independence, we still do not have substantive answers. As we speak, the road is impassable, as are many others in my constituency. They are not motorable at all. I have requested the Committee several times to visit this road so that it find the truth on the ground. My request is that this House issues an affirmative command to the Committee, of which I am a Member, to visit this road and give a substantive response.

Thank you.

Hon. Speaker: The Chairman of the Departmental Committee on Roads and Transport.

Hon. George Kariuki (Ndia, UDA): Thank you, Hon. Speaker. Listening to my colleagues and noting their interest in the tarmacking of this road, we will invite the Acting

Director-General of KeNHA and the Cabinet Secretary to appear before the Committee and explain the measures being taken to ensure this road is tarmacked.

Thank you.

Hon. Speaker: Hon. Keynan, you will be the last to comment on this.

Hon. Adan Keynan (Eldas, JP): Hon. Speaker, can the Chairman assure the House that this road will be tarmacked before the end of the current term? Hon. Chairman, you should take into account that you lead a very important Committee. Can you also assure the House that planning will be fast-tracked so it does not have to wait until the end of the year? Construction should begin immediately.

Hon. Farah Maalim (Dadaab, WDM): Thank you, Hon. Speaker. Hon. Chairman, since you are going to have the Director-General and the Cabinet Secretary available to respond to this, could you address the entire northern Kenya? The Madogo–Garissa–Dadaab–Liboi–Harhar Road already has a design contract awarded to a company and the work has been ongoing for more than seven months. We expected it to be complete by now. When will that design be ready so that funding can be sourced, in addition to the road mentioned by Hon. Keynan, which is equally important?

Thank you.

Hon. George Kariuki (Ndia, UDA): Hon. Farah, I do not wish to talk about that other road at this point. You will need to raise a question, as Hon. Keynan has done, and I will respond. I love the unity of Members of Parliament from this region in pushing for this project. As a Committee, we will not disappoint you.

Hon. Keynan, I do not have the powers to assure the House, but I can only confirm that, together with my colleagues in the Departmental Committee on Roads and Transport, we will do our best to support the tarmacking of this road.

Thank you.

Hon. Speaker: Hon. Members, allow me to acknowledge, in the Speaker's Gallery, Kyang'onde Secondary School from Mbooni in Makueni County.

In the Public Gallery, we have:

1. Mucibau Primary School from Kinangop, Nyandarua.
2. Gatuamba Junior Secondary School from Kieni, Nyeri.
3. Sekenani Primary School from Narok West, Narok.
4. Ngumo Boys from Kibwezi West, Makueni.
5. Teret Secondary School from Njoro, Nakuru.

On my behalf and that of the House, I welcome the students, their teachers and those accompanying them to the House of Parliament.

Hon. Jared, proceed.

Hon. Jared Okello (Nyando, ODM): Thank you for the opportunity. I join you in welcoming our colleagues back from the recess. I thank you for specifically walking this House through the journey of reclassification of hardship areas. Through your efforts, you invited the Prime Cabinet Secretary, who took us through the journey of the new reclassification of hardship areas. During his presentation, he mentioned new areas that had been identified by the Government for gazettment, although they were yet to be gazetted. However, I read a week ago that the gazettment process for areas already identified by the Government as hardship areas has been suspended. The reason is that those who are currently benefiting and are now to be removed from the scheme have made noise to the effect that they are not ready to lose. I have no problem with people retaining what they are currently getting, but what is the fate of those identified as new beneficiaries by the Government? You are not new to this process because you have always stood with us in this journey, Hon. Speaker.

Nyando Constituency was among the areas newly identified for gazetting, and the expectation was that beneficiaries would have varied payslips by the end of July in the new

financial year. Now, with this new information, it has dampened the spirits of teachers in particular, along with other public servants. They are now losing faith in what the Government says. When the Government, especially through a Prime Cabinet Secretary, makes a pronouncement, it must be implemented. You cannot walk back a promise made to people who genuinely need this support.

Hon. Speaker: Hon. Jared Okello, you are prosecuting an argument based on something you read somewhere. There has been no official communication to that effect. You may be flogging a dead horse. If you need better clarity, frame another request. The Leader of the Majority Party is here, and I can direct him to respond at an appropriate time, because you are basing your position on something you read somewhere. You are using that as the basis of your authority, contrary to the Standing Orders.

Hon. Jared Okello (Nyando, ODM): Hon. Speaker, whereas I read it in the mainstream media, which has a degree of authenticity, I take your direction and will submit a supplementary question on this matter so that the House leadership can give an authoritative answer.

Hon. Speaker: Go ahead and do so. I will approve it for you to bring it to the Floor.

Hon. Jared Okello (Nyando, ODM): I will do that right away, and I thank you, Hon. Speaker.

(Hon. Omboko Milemba spoke off the record)

Hon. Speaker: Yes, Hon. Milemba.

Hon. Omboko Milemba (Emuhaya, ANC): Thank you, Hon. Speaker, for this opportunity. On the same matter of hardship allowance, Hon. Jared may have overlooked one important issue. When the Prime Cabinet Secretary was here, the Speaker made a ruling. Hon. Speaker, I would like to draw your attention to the ruling you made. It was after Hon. Millie spoke about policy changing a law reenactment. You ruled that before such a matter proceeds beyond a certain point, it must return to the House. That is the path Hon. Jared should pursue, and I, too, am following it closely. I am committed to ensuring that no teacher who has been receiving hardship allowance loses their entitlement, and equally committed that newly qualified areas are included.

Thank you.

Hon. Speaker: Hon. Milemba, you have just fallen into the same trap as Hon. Okello because you are buttressing something that is based on rumours. Standing Order 87 is very clear: except as the Speaker may otherwise allow, it shall be out of order for a Member to refer to an extract from print or electronic media as authority in their speech.

He used a faulty authority, and now you are doing the same, as the basis of your argument. Let him, or you, as a trade unionist representing affected teachers bring a formal request.

(Hon. Omboko Milemba spoke off the record)

Yes, that is correct. Hon. Jared Okello is pursuing the rights of the people he represents based on rumours from the media. That should not be the case. Once he, or you, files a proper request, I will allow it to be prosecuted.

Next Order.

MOTIONS

ADOPTION OF REPORT ON PERFORMANCE AUDIT REPORT ON THE

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NATIONAL COUNCIL FOR PERSONS WITH DISABILITIES

THAT, this House adopts the Report of the Public Investments Committee on Social Services, Administration and Agriculture on its consideration of the performance audit report by the Auditor-General on the provision of services to the persons with disabilities (PWDs) by the National Council for Persons with Disabilities (NCPWD), laid on the Table of the House on Tuesday, 30th July 2024.

(Moved by Hon. Emmanuel Wangwe 1.7.2025)

(Debate concluded on 1.7.2025)

(Several Hon. Members stood in the gangways)

Hon. Speaker: Order! Members, on your feet, take your seats. Hon. DK, you are extremely active today.

Hon. Members, we will now put the question on Order 8.

(Question put and agreed to)

ADOPTION OF FIFTH REPORT ON AUDITED ACCOUNTS OF
NG-CDF FOR SIX CONSTITUENCIES IN BUSIA COUNTY

Hon. Speaker: Chairperson of the Decentralised Funds Accounts Committee, Hon. Mulyungi, Principal Secretary Emeritus.

Hon. Gideon Mulyungi (Mwingi Central, WDM): Thank you, Hon. Speaker. I beg to move that this House adopts the Fifth Report of the Decentralised Funds Accounts Committee on its examination of the audited financial statements for the National Government Constituencies Development Fund for six constituencies in Busia County for the financial years 2013/14 and 2014/15.

Hon. Speaker: Order, Hon. Mulyungi. Read the Motion as framed in the Order Paper. I beg to move the following Motion, then read the Motion as it appears in the Order Paper.

Hon. Gideon Mulyungi (Mwingi Central, WDM): Hon. Speaker, I beg to move...

Hon. Speaker: I beg to move the following Motion, then read the Motion as framed in the Order Paper.

Hon. Gideon Mulyungi (Mwingi Central, WDM): Sorry.

Hon. Speaker: You do not have the Order Paper?

Hon. Gideon Mulyungi (Mwingi Central, WDM): I have it now. Hon. Speaker, I beg to move the following Motion: consideration of the 5th Report of the financial statements for the NG-CDF accounts for six constituencies in Busia County.

Hon. Speaker: Order, Hon. Mulyungi. You are a seasoned Member. I beg to move the following Motion and then read the Motion as it is word for word.

Hon. Gideon Mulyungi (Mwingi Central, WDM): Okay. Thank you, Hon. Speaker.

Hon. Speaker: Hon. Millie, can you help your colleague behind you?

(Hon. Millie Odhiambo-Mabona spoke off the record)

Hon. Gideon Mulyungi (Mwingi Central, WDM): I have it now.

Hon. Speaker: Go ahead.

Hon. Gideon Mulyungi (Mwingi Central, WDM): Hon. Speaker, I beg to move the following Motion:

THAT, this House adopts the Fifth Report of the Decentralised Funds Accounts Committee on its consideration of the report of the Auditor-General on the financial statements for the National Government Constituencies Development Fund for six constituencies in Busia County, being Teso South, Matayos, Nambale, Funyula, Teso North, and Butula constituencies for the financial years 2013/2014, 2014/2015, 2015/2016, 2016/2017, 2017/2018, 2018/2019, 2019/2020, 2020/2021, and 2021/2022, laid on the Table of the House on Thursday, 10th April 2025.

Hon. Speaker: Excellent. Now you may use your notes to support the Motion in the manner you wish.

Hon. Gideon Mulyungi (Mwingi Central, WDM): Hon. Speaker, I beg to move that... Sorry. I think my clerk made the wrong notes.

The Decentralised Funds Accounts Committee is established pursuant to Standing Order 205(b). It is responsible for the examination of the reports of the Auditor-General on the accounts of the National Government Constituencies Development Fund (NG-CDF), the National Government Affirmative Action Fund (NGAAF) and their respective governing boards. That is to ensure transparency, efficiency and effective utilisation of public resources.

The Committee examined a total of 54 reports of the Auditor-General for Teso South, Nambale, Funyula, Teso North and Butula constituencies, covering nine financial years from 2013/2014 – 2021/2022. The observations, findings and recommendations are contained in the Committee Report that is before the House.

The Committee inherited a backlog of over 4,000 Audit Reports for the NG-CDF 2013/2014 Financial Year. Given that each of the 290 constituencies is audited independently, the Committee initially reviewed financial statements for three years concurrently per county. Later, we resolved to examine all the available reports up to the most recent which is the current year.

The Constituencies Development Fund (CDF) which was first enacted in 2003 and later realigned through the National Government Constituencies Development Fund Act, 2015 has remained to be a critical vehicle that supports grassroot development in constituencies through direct funding of local projects and impacting education, infrastructure and local institutions positively. The Fund has had a significant impact on the lives of the people of Busia County through various infrastructure and social development projects, including the construction and renovation of schools, purchase of land for public institutions, and supporting security and other initiatives.

A highlight of some of the projects undertaken in Busia County constituencies that have been examined include:

1. Teso South Constituency, the Fund supported the construction of a two-storey administration and tuition block at Busia Township Primary School;
2. Matayos Constituency, a major project undertaken was the construction of an administration block at Mundika Secondary School;
3. Nambale Constituency, the Fund was used to purchase land for expansion of Kulare Secondary School and Mungatsi Technical Training Institute;
4. Funyula Constituency, the Fund supported drilling of a borehole at Bunandi Primary School, providing the much-needed water to the community;
5. Teso North Constituency, the Fund financed the construction of Kocholia, Kenya Medical Training College (KMTC), including its administration block, lecture halls and laboratories; and,

6. Butula Constituency, the Fund was used to construct Burinda Chiefs Camp, which now serves as the office of the Marachi West Assistant County Commissioner.

Upon examination of the Auditor General's reports for the six constituencies, the Committee made the following general observations and recommendations. On outstanding land issues, the Committee observed that during the period under review, all six constituencies in Busia County had outstanding land issues, including transfer, succession and acquisition of title deeds for land purchased using the Fund relating to procurement done over 10 years ago, with no title deeds. Therefore, the Committee recommends that the NG-CDF Board in conjunction with the NG-CDF Committee to – within three months upon adoption of this Report – ensure that Fund Account Managers are guided on succession and land transfer processes to ensure that they have title deeds for their respective institutions and the institutions are listed as beneficiaries where appropriate on succession matters.

The Board should also establish a clear policy on the procedure for buying land to ensure due diligence is done, ensuring compliance with Section 11(1)(k) of the National Government Constituencies Development Fund Regulations, 2016, which mandates verification and authentication of ownership documents with relevant Government agencies.

On pending, ongoing and stalled projects, the Committee observed that a critical cause of stalled projects was partial allocation of funds and the late Exchequer releases by the Treasury. The Committee recommends that NG-CDF Board should discourage partial allocation of funds and ensure projects are completed within two financial years. The Board should also develop a realistic policy framework in consultation with the relevant Government departments for costing projects to ensure estimates are accurate to prevent stalling of projects.

On audit, coordination and documentation, the Committee noted that there is inadequate coordination between Fund Account Managers and the Office of the Auditor-General, particularly in responding to audit queries and availing the necessary documents for audit review in a timely manner. The Committee recommends that the NG-CDF Board issues administrative guidelines to ensure Fund Account Managers maintain original project files at the NG-CDF office to ensure that they are available for audit. Further, constituency committees should employ qualified accountants to strengthen financial management.

On non-compliance with procurement laws, the Committee observed that some of the project management committees failed to comply with the Public Procurement and Asset Disposal Act, 2015. The Committee recommends that the NG-CDF Board, in consultation with the Public Procurement Regulatory Authority, conduct continuous capacity building for all Fund Account Managers and PMCs on procurement laws and regulations.

On allocation of emergency funds, the Committee observed instances where funds were allocated for non-emergency purposes. The Committee recommends strict adherence to Section 6(2) and 8(1) (3) of the NG-CDF Act, 2015 which outlines the conditions for allocation and use of emergency funds.

Finally, on co-funding of projects, the Committee observed that buses were being purchased through hire purchase and asset financing, which is contrary to the specified procurement methods and the Board's directive on purchase of buses on a one-off basis. The Committee recommends that the NG-CDF Board enforces its guidelines on the purchase of school buses where co-funding is necessary. Evidence and availability of funds from the partner institutions should be provided before the Board's approval.

The Committee recommendations in this Report are aimed at enhancing accountability, transparency and efficiency in the management of the National Government Constituencies Development Fund in Busia and the development outcomes in our constituencies throughout the country. I beg to move and request Hon. Muthoni Ikiara to second the Motion.

Thank you.

[The Speaker (Hon. Moses Wetang'ula) left the Chair]

[The Deputy Speaker (Hon. Gladys Boss) took the Chair]

Hon. Deputy Speaker: Hon. Members, before she seconds, allow me to recognise in the Public Gallery the presence of the following schools: Harmony Hills Academy from Naivasha Constituency, Nakuru County. The Link Group from Mumias Constituency, Kakamega County and Nyahururu Highway JSS from Ndaragwa Constituency in Nyandarua County and Kiambatha Primary School from Gichugu Constituency in Kirinyaga County. Seated in the Speaker's Gallery is Arya School Kisumu from Kisumu Central Constituency, Kisumu County. On behalf of the substantive Speaker and the National Assembly, we welcome you to Parliament.

Thank you.

(Applause)

Hon. Deputy Speaker: You may proceed. Who's the seconder?

Hon. Dorothy Muthoni (Nominated, UDA): Thank you, Hon. Deputy Speaker. The Decentralised Funds Accounts Committee did interrogate the audited reports of Teso South, Matayos, Nambale, Funyula, Teso North and Butula Constituencies in Busia County. While examining the audited accounts, the Committee invited both the current and the former fund account managers, as well as the Chief Executive Officer of the National Government Constituency Development Fund Board, to clarify issues raised by the Auditor-General. The Committee made observations and came up with recommendations for the respective constituencies based on the nature of the audited issues raised.

It is evident that a majority of the issues that were raised cut across all the constituencies. Land was one of the major issues raised. This issue has become very emotive in almost all the constituencies. Land is purchased but it lacks documentation. With this widespread anomaly, the NG-CDF Board has been advised to fast-track the processing of the documents and ensure that all land purchased has the required documents.

Another matter of great concern is failure of the fund managers to submit the necessary documents for audit review at the time of the audit. The fund account managers are well-trained. They know all the documents that they are supposed to avail during audit but more often than not, the documents are not availed. Further, the Committee recommends that all members of Project Management Committees (PMCs) be trained to ensure that they are well versed with their role as constituency PMC members.

To prioritise proper audits, the Committee recommends that all the documents be availed at the time of audit. The Committee further urges improved coordination between the Office of the Auditor-General and the offices of the fund account managers.

The issue of stalled projects is critical for proper accounting and prudent use of public resources. The Committee recommends that in the future, the fund account managers allocate sufficient funds to complete all ongoing projects.

The NG-CDF continues to be a critical vehicle for grassroots development. The implementation of the Committee's recommendations as contained in this Report will go a long way in ensuring that there is improvement in the management and effectiveness of this very critical Fund. It is worth noting that among the tangible projects across all constituencies in the country are projects implemented using the NG-CDF Fund. Therefore, we must ask all Members of Parliament to undertake proper oversight to ensure timely service delivery and strengthening of accountability by the administrators of this Fund.

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Hon. Deputy Speaker, I second.

(Question proposed)

Hon. Deputy Speaker: Hon. Millie, did you want to contribute before I put the Question?

Hon. Millie Odhiambo-Mabona (Suba North, ODM): Hon. Deputy Speaker, I presume you have proposed.

Hon. Deputy Speaker: Yes, you may proceed now.

Hon. Millie Odhiambo-Mabona (Suba North, ODM): Thank you, Hon. Deputy Speaker, for giving me an opportunity to contribute to this Motion. I thank the Committee for its Report in relation to NG-CDF utilisation by the constituencies in Busia County. I do note that the Committee has concentrated on policy issues that will enhance efficiency and efficacy in service delivery. When we were proposing amendments to the Constitution, some of us spoke to this issue but some Members did not get opportunity to speak. One of the things that Kenya needs to understand is that political theory informs development.

In Africa, we adopted certain political theories from the West even though some of them are not necessarily applicable in some instances. Our country is multi-ethnic with more than 44 tribes. Given the nature of our politics, if you come from the opposition areas – like some of us here do – you find your constituencies going for over 40 years without being allocated national government funds for development. The only funds that are guaranteed to reach such areas to especially deal with education and security issues are from the NG-CDF Fund.

I want to clarify that even if the NG-CDF were to be stopped from going to the constituencies, it would not go to the counties. The NG-CDF Funds are not devolved. They are part of national government funds. Therefore, even if the centralised system that the national government has adopted were to be withdrawn so that we move away from decentralisation, then it would mean that the decision would solely be made at the national government level. Right now, we have our people making those decisions at the village level. Through public participation, people can say what their needs are, and the Member of Parliament oversees and intervenes where there is unfairness.

I just wanted to raise one issue that this Committee has talked about. I agree with the Committee on the issue of land. Whenever we work as national government, land needs to have title deed. When I became a Member of Parliament, I found court order to the effect that the land on which the biggest primary school in my constituency existed – Usare Primary School – be returned to its original owner. This is because when the land was donated, the owner never provided the title deed to the school management. Therefore, there was no official transfer of the land. Some individuals become clever in the sense that when their fathers or grandfathers donate land for public utility, after they pass away, the children or grandchildren claim ownership of the land, especially if its value has appreciated.

Hon. Deputy Speaker, I urge the Committee to reconsider the requirement that all projects must be delivered within the same financial year. If this were the situation, then Suba North would not have a Kenya Medical Training College (KMTC), a Teachers' Training Institute (TTI), a police divisional headquarters, and another sub-county headquarters. Each of these projects is worth more than Ksh50 million. Suba North has only been able to achieve this through the incremental allocation of resources. For example, Aondo in Suba North was once a quiet sleeping village, but it is now abuzz with students. Residents are constructing accommodation facilities for students due to a lack of adequate housing. Women in the area are supplying food to the institution, and economic activities are at an all-time high. Such institutions transform the face of a place. In every village I go to in Suba North, residents are

now asking for TTIs or KMTCS because they have witnessed the potential such institutions have on enhancement of economic activities within a community. Students come from as far away as Mombasa.

I urge the Committee to consider working with the Board. Certain special circumstances may necessitate the allocation of funds in a piecemeal manner. The NG-CDF allocation is not as much as many presume due to statutory allocation ceilings. For instance, if Ksh50 million is allocated to a project in one financial year, it would mean that apart from bursaries, no other project can be implemented. The Committee should reassess this situation. While I support recommendations such as the need for having title deeds processed for land acquired by NG-CDF, it is also important to acknowledge that in some areas, development takes time to materialise. I know that our counties are doing a lot but they do not have the mandate of building school infrastructure or undertaking security installations. For us to see change and have legacy projects in our constituencies...

[The Deputy Speaker (Hon. Gladys Boss) left the Chair]

[The Temporary Speaker (Hon. Peter Kaluma) took the Chair]

Madam Deputy Speaker, in order for us to see change and have legacy projects in our constituencies...

I apologise for addressing the Chair as “Madam Deputy Speaker.” We now have a Mr Speaker, lest I be accused of something you may disapprove of. We know that he is a proponent of a certain cause that I would prefer not to mention as both a Christian and a human rights activist, which places me in a delicate position. Hon. Temporary Speaker, I encourage the Committee to pay special attention to special projects.

Finally, I would like to speak to the issue of oversight. As Members of Parliament, we oversee these funds. During the oversight of these funds, it sometimes becomes apparent that a fund account manager employed at the national level may have misused the funds, perhaps by overspending on one area to the detriment of others. Such fund managers should be held accountable. In such instances, I urge the Board to carry through and not to shield people who may not necessarily have stolen but have misallocated the funds. For example, if funds intended for building a classroom are instead used for monitoring and evaluation, that is diversion of resources from their intended purpose, which is against the law. The NG-CDF Act is very clear regarding proper appropriation of these funds.

With those remarks, I support the Committee and thank its membership for the good work they have done.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Gitonga Murugara, do you want to speak to this matter? He is certainly not interested. Let us have Hon. Zamzam Chimba.

Hon. Zamzam Mohammed (Mombasa County, UDA): Asante sana, Mheshimiwa Spika wa Muda. Nami pia ningependa kuipongeza Kamati inayoshughulikia maswala ya NG-CDF na NGAAF.

Ni dhahiri kuwa Kamati inayoshughulikia suala la kupeleka maendeleo kule mashinani inafanya kazi nzuri. Ningependa kuzungumza hadharani ili Wakenya waelewe. Vita vimekuwa vingi hapa na Wabunge wamelaumiwa sana. Lakini si Wabunge wanaosimamia hazina hizi bali kuna kamati teule. Hata katika NGAAF, vikundi vikisha *apply* ile pesa kupitia kwa *Board*, wao hutuletea sisi *cheque* tu kupeleka. Yote tisa-kumi, hazina hizi zimesaidia uchumi wa taifa, ikizingatiwa kuwa sehemu kubwa ya taifa ilikuwa imetelekezwa kimaendeleo. Tuliokuwa katika upinzani, kwa muda mrefu, hatukupata matunda mengine bali tulitegemea kidogo kinachopatikana katika hazina ya NGAAF ili kufanya maendeleo.

Kwa mfano, nimejenga *GBV centre* kubwa Kenya nzima kule Mombasa kupitia hazina ya NGAAF. Hazina hii imesaidia kina mama mashinani. Kamati hii pia izingatie NGAAF. Wawakilishi wa kike wa kaunti pia tunatamani kujenga sehemu nyingi lakini kupata hati miliki ni shida. Watuite pia sisi Wawakilishi 47 tukae tujue ni vipi kamati hii inaweza kutusaidia. Kama alivyosema mtangulizi wangu, ili maendeleo yafike mashinani, tunapaswa kuwezesha NG-CDF kushika mpaka kule chini. Wabunge ndio huletewa malamishi ya ukosefu wa shule, ofisi za maaskari na ofisi za chifu. Wabunge hawa ndio wanao-*oversee* utendakazi wa kamati za NG-CDF na kuhakisha kuwa maendeleo yanafika mashinani. Kwa hivyo, Wabunge wawachiwe kazi ya ku-*oversee* NG-CDF. Wasipokonywe hazina hii.

Ndugu zetu magavana wamepewa hele nyingi sana lakini huwezi kuona maendeleo wanayoyafanya kama vile unavyoona maendeleo yanayosimamiwa na Wabunge. Napigia upato Kamati hii ili Wabunge wapate msaada unaostahili ili waweze kusimamia miradi inayohusu jamii kule mashinani. Wabunge walipigiwa kura ili kushughulikia jamii. Wakenya wanapaswa kuelewa kuwa matumizi ya pesa za NG-CDF si jukumu la Wabunge. Hakuna mahali mbunge anatia sahihi. Sisi hushughulikia tu maendeleo kwa wananchi na kuhakisha kwamba yanatimizwa.

Asante sana, Mheshimiwa Spika wa Muda.

The Temporary Speaker (Hon. Peter Kaluma): Hon. (Dr) James Nyikal, the Chairperson of the Departmental Committee on Health.

Hon. (Dr) James Nyikal (Seme, ODM): Thank you, Hon. Temporary Speaker for giving me this opportunity. I rise to support the Report of the Committee. I have related to the government for a long time in whatever I have done and I have not seen a single fund that the people have access to like the NG-CDF. I have not seen any fund which has low overhead cost as the NG-CDF. I have not seen any fund which gives equity like the NG-CDF. All the 290 constituencies are guaranteed access to the Fund. People can access and control the Fund. People may not realise it but even the Fund Manager does not control payments out of the NG-CDF. Once the money goes to the constituencies and it is given to the Project Management Committees, the Fund Manager is just one of the signatories. The Chairperson of the Project Management Committee is often an ordinary member of the community, like the chairperson of a school Board of Management. The Secretary of the Committee could even be an employee at a primary school. There is no other Fund that is controlled by the people like the NG-CDF. Therefore, we must support the Fund not just as Parliament, but as a country.

This Fund responds immediately to school emergencies, thus bypassing the otherwise time-consuming government bureaucracy. Therefore, I appreciate the work that this Committee has done of pointing out the few problems that are affecting this Fund. It is good that they have given recommendations, like the one on the issue of purchase of land that has no title deed. A school may indicate that it has a small school compound and requires land. The Fund can purchase land for schools within the allowed provisions. However, documentation of land in the rural areas is a problem. That issue should be brought to the attention of the Cabinet Secretary for Lands, Public Works, Housing and Urban Development. Many pieces of land in the rural areas are not owned by people who are alive. People in the rural areas claim land that has been passed down from a great-great-grandfather to a grandfather to a son as theirs. As a result, purchasing land in the rural areas is a complex process that is plaguing the NG-CDF Committees.

There are no land registries or Environment and Land Courts in some areas. People have to travel very far to get services. One can take a whole day travelling to get to a land registry office and another day to get to an Environment and Land Court. Because of that, people hand over land by word of mouth. Land is sold by word of mouth. The lawyers in the House should look into helping our people to get title deeds for their land. I know a lot is going on but this is an issue that should be looked into because the NG-CDF will be used a lot,

particularly to purchase land for schools. It is good that this issue has been pointed out as well, and not just the issue with the Project Management Committees.

The Committee also discovered that it does not make sense to buy buses on hire purchase. With the current law, once money is disbursed to the Project Management Committees, it is not sent back to the National Treasury at the end of the financial year. Therefore, the committees can plan to purchase buses once money is in the account instead of a hire purchase arrangement, which increases the cost of the bus. I agree with that recommendation.

We should not allow room for stalled projects. This is the only Fund that people have access to. Only needy people seek out the NG-CDF. The Fund has helped in terms of security and school infrastructure. This Fund has also made a difference to chiefs in improving security. Chiefs and assistant chiefs have been managing or running their sub-locations and locations from their houses for a long time. Because of this Fund, many chiefs now have very neat police stations. The Fund has done a lot.

People think that if we do away with the Fund, the money will go to the counties. It will not. This money is allocated after division of revenue has been done at the national level. I would be concerned if that were true because funds allocated to the counties have not matched the value for money with the NG-CDF. Some governors oppose being audited by the Auditor-General, which is ridiculous. It is crazy for people to think that we want to redistribute these funds to the counties. We are currently discussing the Auditor-General's Report, which is part of our oversight role. As per the law, Members of Parliament only oversee the NG-CDF. We have lawyers in the House who can inform us. We should encourage closer oversight. If something is working well, like the NG-CDF is doing, we should see how to improve on it, and not to kill it. People will not kill something which is good for them. I do not understand why people view the NG-CDF as a fund for Members of Parliament. It is not Members of Parliament who will suffer. It is the...

Hon. Millie Odhiambo-Mabona (Suba North, ODM): On a point of information, Hon. Temporary Speaker.

Hon. (Dr) James Nyikal (Seme, ODM): I will accept the information.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Millie.

Hon. Millie Odhiambo-Mabona (Suba North, ODM): Thank you, Hon. Temporary Speaker. Hon. Nyikal keeps on referring to us lawyers. I just wanted to inform him on his question on whether the role of Members of Parliament is purely oversight. That is true, as per the Constitution. However, I do not understand why the courts have not accepted the reality that there is no complete separation of powers. It is a fusion of powers in most countries. I do not want to belabour the point because I want to give a chance to other Members. I am doing this as part of my PhD thesis. We must Africanise. We cannot blindly follow the West. If we have something good coming from Africa, why should we follow what the West does because Montesquieu from France came up with it in 1748? Did Montesquieu know my village in Kolo Kanyala in Rusinga Island? We need to do things which work in Kolo Kanyala or Omoche in Rangwe Constituency or Kanyala Kanyabala in Homa Bay Town Constituency. My point of information is that there is no absolute separation of powers even in the United Kingdom (UK), where we borrow from.

The Temporary Speaker (Hon. Peter Kaluma): Hon. (Dr) Nyikal, let me say something that Hon. Millie did not tell you. When we decided that we would budget for the building of courts in the 11th Parliament, the Executive agreed. However, they said the money should go to the State Department for Public Works and not to the Judiciary because the work of the Judiciary is to dispense justice, and not to build courts. I remember being alive to the principle of separation of powers when the then Parliament felt that it would be better for that money to go to the Judiciary to build courts.

Before that, money was being allocated for courts and nothing was being built anyway. We advised as the then Departmental Committee on Justice and Legal Affairs (JLAC) that the money should go to the Judiciary. During a sitting of our committee, where the current Chairperson of the Departmental Committee on Justice and Legal Affairs, Hon. Gitonga Murugara, sat as a Member, we advised the Judiciary to establish a construction department. This department would employ architects, engineers, quantity surveyors, amongst other specialists, to synchronise construction. If we were not to have pure separation of powers, then the Judiciary would not be receiving that money for building courts. It would be going to the Ministry of works. So, indeed there is no pure separation of powers but the point that Hon. (Dr) Nyikal was making, which you are distracting him from, Hon. Members, is also very critical. I saw in *Citizen* news today, governors saying that the bursaries they give should not be audited. I heard Hon. (Dr) Nyikal saying an MP must oversee all public entities. That is one of the roles that this House currently has, and it includes overseeing the NG-CDF. The audit reports you are talking about came from the Auditor-General and are now before Parliament for cross-checking and for oversight purposes.

Proceed, Hon. (Dr) Nyikal.

Hon. (Dr) James Nyikal (Seme, ODM): Hon. Temporary Speaker, I have received a lot of information. I have been educated but even if we say there is separation of powers, in my view, this is still separation, looking at how the NG-CDF is operating in my Constituency. If you look at the prevailing arrangement carefully, you will realise that the Deputy County Commissioner has a more direct role on the management of NG-CDF than an MP, right from the selection of the committee to the sittings of that committee. Therefore, in my mind, even that separation has just gone further down. So, Hon. Millie, in your PhD thesis, I think you should also look at it from this angle. Even if you accept separation, then let it be known that the separation is still there even at the constituency level. I have indicated very clearly that if you look at the Project Management Committee, the MP has no role up to that level. So, to me, should it be that the separation is, in principle, needed not be there, then you can bring it out because of where we come from, taking into our histories and our colonial history. Even if you accept the principle of separation of powers, I still see principle prevailing up to the grassroots level.

With those remarks, I support the Report of the Committee.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Geoffrey Odanga is now recognised to speak.

Hon. Geoffrey Odanga (Matayos, ODM): Thank you, Hon. Temporary Speaker. Coming from Busia, where the team visited, I want to appreciate and thank them for the work they have done. Bringing out those challenges is quite critical and very important in terms of helping in improving the management of the NG-CDF by our committees and managers. My concern, first, is that the Decentralised Funds Accounts Committee came and was looking at an audit report that was done nine years ago. It has taken too long for the audit report to be reviewed by the Committee. Many things may have gone wrong. They are only coming up with the Report of the audit that has covered a whole nine years. This is to ask the Office of the Auditor-General to bring out these reports frequently so that we and the committees are able to correct the errors they have made, because the way they are doing it will take a long time for people to be able to put in place even their recommendations. I like the recommendations of the Decentralised Funds Accounts Committee and Hon. Mulyungi.

Hon. Temporary Speaker, the issue of land is very emotive and almost every Member has commented on it. I do not want to repeat what others have said about the same issue of land but, again, many of our people are not easy on releasing their title deeds to go for evaluation before they see payment. Some of them imagine that people are going to play around with their certificates. So, the requirement that they first have to do evaluation and the owners of this land

surrender their title deeds at least for use of evaluation, makes the whole business very long and tedious. The Board may need to find a better way.

Secondly is the issue of buses. Initially when we started, some of us took those buses on higher-purchase. We usually wrote proposals, which were vetted by the Board. The Board needs to reject those proposals and advise the committees accordingly. Otherwise, the easiest way is to buy them at once, but the Board needs to put it very clearly that they will not accept buses on higher-purchase.

The NG-CDF has done a lot. In my constituency last week, I delegated some work to some of my people in one of the schools. One of those guys representing the county government tried to say that the NG-CDF has done nothing. We have not done cabro paving in schools and so on. Members of the community just told them, show us one of the Early Childhood Development and Education (ECDE) classes you have constructed since you came to office. There is none actually. All development they are seeing is by the NG-CDF.

Hon. Temporary Speaker, co-funding is very important in some of these organisations but capacity building, like they have said, needs to be done regularly to the memberships of the committees. One of the members of the former NG-CDF board visited Matayos Constituency and we went to one of the schools. So, when we told them that we were doing co-funding, he argued that it was not provided for in law, but I told him to look at the Act. So, everybody needs capacity building, even from the Board itself. The directors may not exactly know what is required of the NG-CDF about co-funding. With co-funding, you just have to state exactly what the other party has done, what your NG-CDF is going to do and the cost. I want to agree with Hon. Millie that we do not need to copy-paste things from other parts of the world, including Europe and United States of America (USA), when we make our laws. We also have our own ways of doing things. We only need to improve our practice and do things that suit our circumstances.

Hon. Temporary Speaker, NG-CDF is a very popular Fund in this country. As we were making amendments to the NG-CDF Act, we had a few rejections from a few Members from our sister House – something which was uncalled for. Even if we went to a referendum now, the NG-CDF will be voted for by 100 per cent of Kenyans. The people of Kenya need the NG-CDF. We want the recommendations of the Committee implemented.

With those remarks, I support.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Ferdinand Wanyonyi, MP for Kwanza, you will speak but before you do so, let me recognise a public visit to the National Assembly.

Hon. Members, seated in the Speaker's Gallery this afternoon are students of St. Angela Merici Wamagana School from Tetu Constituency, Nyeri County. I am unable to see them clearly, but it appears it is a girls' school. Because the Member for Tetu is not here, I will allow the Whip of the Minority Party to welcome them to this House of Parliament on behalf of the House.

Hon. Millie Grace Akoth Odhiambo-Mabona, please, proceed.

Hon. Millie Odhiambo-Mabona (Suba North, ODM): Thank you, Hon. Temporary Speaker, for giving me this opportunity. I welcome the girls' school from Tetu Constituency. I know your eyesight is bad. Mine is also bad but is not as bad as yours. So, I can see that they are girls. You might also just be protecting yourself by pretending that you cannot see that they are girls.

(Laughter)

I encourage the young girls let them know that I had earlier raised the issue about the death of Hon. Phoebe Asiyo. I watched her when I was about 11 years old, but not within

Parliament. I watched her outside when they were counting her votes. She is amongst the first 10 women Members of Parliament in this country. She was the first woman Member of Parliament in my county. I came after her hiatus of 16 years. I am telling the girls this because they are privileged to be watching us from within Parliament. If I watched Hon. Phoebe Asiyo from outside Parliament and I became a Member of Parliament serving my fourth term, watching me from here can be precedence. I encourage you to work hard, be focused and disciplined and you will get whatever you want. It is not only being a Member of Parliament, but also being a leader where you are or where God chooses you, even if it is selling sukuma wiki. Occupy the corner office.

Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Peter Kaluma): On my own behalf and that of the House, I welcome students from St. Angela Merici Wamagana School to the National Assembly to watch the proceedings. May you grow to be good girls, but not bad ones.

(Laughter)

Hon. Ferdinand Wanyonyi will now make his contributions.

Hon. Ferdinand Wanyonyi (Kwanza, FORD-K): May I make my contribution on this Motion, Hon. Temporary Speaker? I have read and heard the presentation by my good brother, Hon. Chairperson, on what happened in his area. First and foremost, let us be serious. The NG-CDF is there and some of the people who are making all sorts of remarks are not very happy.

We have these problems and they have gone to court. They want to nullify and discontinue the NG-CDF. Because we are all Kenyans, we know that it has done too much for this country. In its absence, we will go back to the *Harambee* system, which does not make sense in this country. Even when someone passes on in your area, they request you to go there and supervise, be a master of ceremony or a guest of honour for the burial. *Harambees* are not anything that you can go by. We should do everything possible in this particular House to protect the NG-CDF. I sat here because I wanted to make this contribution. I want the Members of Parliament from Busia County to benchmark. My colleague is present but others are not here. I have been in this National Assembly. This is my third year. I am very strict. I oversee the NG-CDF. If you leave it as it is, you will have a fund manager who will work for about four or five months and then he goes away with no records at all. If you do not play the oversight role, you will have these kinds of problems that you face. The NG-CDF has done too much in terms of employment, infrastructure development and issuance of bursaries that educate our children who have been left with those old men and women because their parents passed on and are unable to take them to school.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Ferdinand Wanyonyi, do you agree to be informed by Hon. (Dr) Lilian Gogo?

Hon. Ferdinand Wanyonyi (Kwanza, FORD-K): She can make her remarks after I finish my contribution. She is a good lady.

(Laughter)

The Temporary Speaker (Hon. Peter Kaluma): Hon. Lilian Gogo, you can only inform a Member who wants information. Unfortunately, it is rejected. Hon. Ferdinand Wanyonyi, proceed.

(Loud consultations)

Hon. Ferdinand Wanyonyi (Kwanza, FORD-K): Thank you very much for your protection. There is a lot of experience and I am sure my colleagues from Busia have the same problem. We have a lot of changes of fund managers. When this happens, the records are incorrect. This is what this Committee found out. It is unfortunate that they have not corrected the records for eight or nine years.

For example, land is very emotive. You are quite right when you say that. In fact, you find land that has changed hands more than four or five times. So, by the time you come in and you want to purchase it for a school or for whatever institution, first of all, you must have an agreement to go by. You are a lawyer. It does not matter who was the owner of that particular piece of land. I ask the Members of Parliament from Busia County to protect the NG-CDF. When outside people see these kinds of loopholes, we will have problems and not move as it is expected.

I also want to make a remark on the issue of buying buses. I know you are all doing that. You cannot have buses on hire purchase. Buy two or three buses in this particular financial year and buy another one in another financial year. However, you are all buying buses on hire purchase, which is a loophole. What happens after you fail to raise the money because it is not guaranteed? For example, we have not even received enough money for the last financial year, yet we are now in a new financial year. Whoever has given you money or a bus on hire purchase may pull it off the road and the name of the NG-CDF is tarnished. Therefore, my colleagues from Busia County, that observation is not very good. Let us change the tactics. Do what is supposed to be done.

I support this Report, hoping and praying that changes will be made so that we can protect the NG-CDF. So many people including governors, Members of County Assemblies (MCAs) and even our colleagues, the Senators, want it to be removed from us. You never know what can happen. If you find loopholes like these and then they go to the public, we will find ourselves in the wrong place. Therefore, I support this Committee. I hope our brothers and sisters from Busia County will learn and benchmark. Come to Kwanza Constituency and see what I have done.

(Loud consultations)

Thank you very much, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Peter Kaluma): Hon. (Dr) Lilian Gogo.

Hon. (Dr) Lilian Gogo (Rangwe, ODM): I really appreciate you, Hon. Temporary Speaker and great-grandson of Asumbi and Rangwe. I rise to support the Report of this Committee. Hon. Temporary Speaker, I appreciate the Committee for considering audit reports of very many years in order to bring these matters to speed.

From the outset, I want to say that audit reports should be done and brought to the House at the earliest possible time. Ideally, audit issues are not supposed to be punitive.

*(Hon. George Murugara, Hon. Millie Odhiambo-Mabona,
and other Members spoke off the record)*

The Temporary Speaker (Hon. Peter Kaluma): Hon. Members you will have another time to commiserate with him. Hon. Lillian Gogo, you may proceed because I know how the debate will end.

(Hon. Millie Odhiambo-Mabona spoke off the record)

Hon. (Dr) Lillian Gogo (Rangwe, ODM): We wish our colleague well and will appreciate when he makes an appearance in this august House again.

As I was saying, audit matters are generally not supposed to be punitive. They are meant to identify areas that need improvement. Audits are done to ensure compliance, transparency, mitigate risk and fraud, strengthen decision-making processes within systems of management, build stakeholder confidence, and promote operational efficiency. When audits are brought to the Floor of the House nine years later, we miss the noble intentions of the auditing system.

I also want to indicate that NG-CDF was largely borrowed from Zambia. As my senior, *Gesagesa*, Hon. Millie Odhiambo has indicated, there are times when we as Africans should Africanise certain systems. NG-CDF systems are also practiced in India as a jurisdiction. Many other jurisdictions come to benchmark, learn and borrow from our processes so as to implement in their regions. This means it is a good thing. People would not come to learn about NG-CDF if they have not seen or followed the benefits of this governance method. How I plead with the Kenyan citizenry that we should constitutionalise NG-CDF.

There was delayed disbursement of NG-CDF bursaries to Rangwe Constituency. However, it was done in the last two weeks or so. This was probably because of delays in disbursement of funds by the Board. When the NG-CDF Committee was distributing the cheques through the Director of Education in Rangwe Sub-County, the Deputy County Commissioner (DCC) among other people attended. I can assure you that this disbursement was a big plus to the various local day schools and boarding schools. Why? This is because at times, capitation from the Ministry of Education delays. It is true, capitation has delayed. So, disbursement of bursaries has mitigated this. It has benefited learners and facilitated heads of schools in running schools.

The NG-CDF is one of the Funds that is audited many times. This is because of the length of time it has existed. I am shocked that committees in some sub-counties like where my brother Hon. Wanyonyi comes from are buying buses on hire purchase. I only wanted to inform him that this Fund reaches the lowest people in this country.

Through NG-CDF, my committee has constructed classes in local primary schools like Bondo Primary School. I went there and could not believe what has been done. Classrooms have been built to modern standards. They are tiled with modern white boards. This would not have happened were it not for NG-CDF.

(Hon. Ferdinand Wanyonyi spoke off the record)

I pray for your protection. He did not give me an opportunity to speak when he was speaking.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Wanyonyi, you are not standing on a point of information. What is out of order?

Hon. Ferdinand Wanyonyi (Kwanza, FORD-K): Thank you, Hon. Temporary Speaker. I said that we buy buses. In my constituency, no school bus was acquired through hire purchase.

The Temporary Speaker (Hon. Peter Kaluma): That is what Hon. Gogo said.

Hon. Ferdinand Wanyonyi (Kwanza, FORD-K): I am correcting her statement. Let it be on record that we buy buses.

(Hon. Millie Odhiambo-Mabona spoke off the record)

The Temporary Speaker (Hon. Peter Kaluma): Order, Hon. Members. The audit report indicates a possibility that some NG-CDF programmes are done on hire purchase. That

is what I have heard both Hon. Ferdinand Wanyonyi and Hon. Gogo counsel against. Either way, nothing is out of order. Proceed, Hon. Lillian Gogo.

Hon. (Dr) Lillian Gogo (Rangwe, ODM): Thank you very much, Hon. Temporary Speaker. I stand on the Floor of this House to indicate that the NG-CDF committee of Rangwe Constituency has broken record by purchasing school buses, not on credit or hire purchase terms and delivering the logbooks and keys to 14 schools in one term of Parliament.

Suba North has done the same. Last week I saw Suba North delivering two brand new school buses to schools. What a celebration. I have personally seen Homa Bay Town Constituency do an excellent job with NG-CDF through its committee. I implore my people and the greater Republic of Kenya that we want to shield this source of funds for the development of our constituencies.

Members of Parliament strictly perform oversight roles. Currently, we are dealing with audit reports generated from a raft of constituencies. The national Government is not fighting devolution. We have seen intergovernmental cooperation in various areas including education. NG-CDF mainly covers education and security. So, I plead with various stakeholders that as we develop social areas, let us ring-fence NG-CDF funds for infrastructural development in our education and security systems. Without it, there will be so much hue and cry from communities that benefit from this special fund.

Thank you, Hon. Temporary Speaker, for the opportunity

The Temporary Speaker (Hon. Peter Kaluma): Hon. Agnes Pareyio, Member for Narok North will now speak. Hon. Members, I want to alert you that the Motion coming up next, under Order No.10, is a very serious one. It is consideration of the third Report on employment diversity audit in public institutions. It is a very critical matter around inclusivity and equity. All Hon. Members should come to the House because debate on it will be concluded.

Hon. Pareyio.

Hon. Agnes Pareyio (Narok North, JP): Thank you, Hon. Temporary Speaker, for this opportunity to support the Report. NG-CDF is popular in Kenya. I speak on behalf of my people and my constituency. Without this Fund, our schools cannot afford to buy buses to take children for educational tours. Last week, I delivered one bus and in two years, we have bought five school buses.

When it comes to separation of duties, the role of the Member of Parliament is oversight. There is a committee that runs the day-to-day activities of the Fund. We should support this Fund because it has brought development in our constituencies. It does not belong to Members of Parliament. Without this money, our communities cannot afford to construct school toilets. So, this Fund needs to be protected. As Members of Parliament, our role is oversight and to ensure that there is accountability. The Fund is meant to change our communities and improve the quality of education in our schools.

Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Abdi Ali, Member for Ijara I cannot see your request on the screen. Do you want to speak to this? Please proceed.

Hon. Abdi Ali Abdi (Ijara, NAP-K): Thank you, Hon. Temporary Speaker. I am happy to participate in this debate and support the Report. NG-CDF has made a lot of positive impact on the ground. In my case, Ijara is the only constituency implementing free secondary school programme for students. We have achieved this big milestone because of NG-CDF.

We sat with education stakeholders and agreed on how to improve education in our region. The rate of transition from primary to secondary was less than 50 per cent. So, with the support of the NG-CDF Board, we implemented the programme three years ago. As we speak, over 3,000 students have not paid a single coin courtesy of NG-CDF.

People out there are selling a bad narrative that this Fund is for Members of Parliament. The work of a Member of Parliament is oversight. In the last two years, though NG-CDF we have constructed over 10 primary schools. I can confirm to you that in every corner of Ijara, every child attends school. The claim that we are against devolution is not true. We just need to protect this Fund because the common *mwanaanchi* on the ground feels its impact. A Member Parliament has no role in it. We just have an oversight role. So, I urge my colleagues and the entire public to support the Fund because it is the only one whose impact is felt on the ground.

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

The Temporary Speaker (Hon. Peter Kaluma): Hon. Stephen Mogaka is recognised to speak.

Hon. Stephen Mogaka (West Mugirango, JP): Thank you, Hon. Temporary Speaker, for this chance.

Hon. Cynthia Muge (Nandi County, UDA): On a point of order, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Peter Kaluma): What is out of order, Hon. Cynthia Muge?

Hon. Cynthia Muge (Nandi County, UDA): Thank you, Hon. Temporary Speaker. I do not know why I did not catch your eye earlier when Hon. Abdi Ali was on the Floor. He made a statement that does not sit very well with me. That NG-CDF is the only Fund whose impact can be felt on the ground. However, there are many other funds whose impact can be felt on the ground. The first one is NG-CDF. So, it is not the only one.

The Temporary Speaker (Hon. Peter Kaluma): I will give you time to make your contribution. Obviously, under the Standing Orders, you cannot address the issue now because the Member has concluded his contribution. Hon. Mogaka, proceed.

Hon. Stephen Mogaka (West Mugirango, JP): Thank you very much, Hon. Temporary Speaker. I am a Member of the Committee that tabled the Report and moved the Motion. I am very happy to hear the comments this Report has received.

The Report covers the Financial Years 2013/2014 to 2021/2022. I must commend the Chairman of the Committee, Hon. (Eng.) Gideon Mulyungi, for being steadfast in managing the delivery of this Report of six constituencies in Busia county. Many more reports will be coming. I have employed my accounting and legal knowledge in examining what the Auditor-General has said about the management of NG-CDF. I must confess that even auditors have capacity deficiencies in examining what is required in the application of NG-CDF.

Particularly, I am deeply disturbed that in many constituencies, agreements are being made concerning properties belonging to deceased people without any grant of Letters of Administration. The assumption that someone is someone's child and is therefore automatically entitled to a particular property - which they can then sell to a public entity - is a serious overreach. That line of reason is being taken too far. My Chairman and senior colleague, Hon. Murugara, can confirm that impersonating a deceased person and purporting to sell property on their behalf is unacceptable and cannot be allowed to stand.

These are among the concerns that prompted us to involve our legal minds and assist the Board to mitigate potential losses from such cases. Hon. Temporary Speaker, imagine a scenario where an individual who assumes they are a rightful heir learns during the distribution of the estate that the property in question was willed to someone else - and worse, that the NG-CDF had already entered into an agreement based on that mistaken claim. The legal consequences that will follow are unimaginable. It will be a disaster.

All said and done, this Committee is doing a great job and we have worked round the clock to ensure that we are up to date. On the issue of NG-CDF, I agree with my senior, the Whip of the Minority Party, Hon. Millie Odhiambo that it is a miracle fund. In fact, I believe that it is not only a Fund but a development model. In economics class, we were taught of

development models created or invented by certain people in the Western world. NG-CDF as engineered and what it is achieving in Kenya, is a development model. Very soon, it will be exported to other developing countries as a way of getting out of poverty and dependency and becoming industrialised. I hope Hon. Millie will offer me a chapter in her book so that I can give my perspectives from an auditor's angle after examining the Report of the Auditor-General on the NG-CDF.

Since this is a very unique development model, no wonder the civil society is being funded by neo-colonialists to fight NG-CDF. Why is it that every time it is taken to court by the civil society? Who funds them? Africa will not continue being dependent. We are capable of evolving and creating development models like NG-CDF that will change the world. The civil society may look like they are anti NG-CDF but I give them credit in equal measure. There are challenges that have made this House improve governance and control of the NG-CDF Act to make it a super development model which will not be fought, but entrenched in the Constitution.

In fact, we should be very careful and any country that comes to benchmark should pay royalties for our miracle model. We must entrenchment NG-CDF in the Constitution because it is managed by the NG-CDF committees at the constituencies level so that the local communities see how the money is being used. I want to encourage Members because in as much as NG-CDF is demonised and fought, many Kenyans are for it. Let us bite the bullet and ensure that we protect the people and the Fund. Let us enhance it instead of being threatened by the anti-developmental neo-colonialist's agencies.

I beg to support and congratulate my Chairman, Hon. (Eng.) Mulyungi, for being the best Chairman I have ever had, this being my first term. I am also praying that through NG-CDF, I get another term. Thank you very much.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Edith Nyenze, Member for Kitui West, is recognised to make her contribution.

Hon. Edith Nyenze (Kitui West, WDM): Thank you, Hon. Temporary Speaker. Noting the mood of the House, the many contributions which have been made and the importance of the next Motion, I beg to move that the Mover be now called upon to reply.

Thank you.

The Temporary Speaker (Hon. Peter Kaluma): When a Member stands at her place and proposes that the Mover be called upon to reply, the presiding Speaker has to put a question for resolution and decision by the House.

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

The Temporary Speaker (Hon. Peter Kaluma): Before the Mover replies, I welcome a delegation of students from Kithunzi Primary School, Kitui West Constituency, Kitui County, who are seated in the Public Gallery. On my own behalf and that of the House, they are welcome to the National Assembly to observe the proceedings.

(Hon. Edith Nyenze stood in her place)

Hon. Nyenze, why are you standing again? You spoke a short while ago.

Hon. Edith Nyenze (Kitui West, WDM): Thank you, Hon. Temporary Speaker, kindly give me a minute to welcome the students from my constituency.

The Temporary Speaker (Hon. Peter Kaluma): Are the students still in the Public Gallery?

Hon. Edith Nyenze (Kitui West, WDM): Yes.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Edith Nyenze please welcome the students to this House of Parliament.

Hon. Edith Nyenze (Kitui West, WDM): Thank you, Hon. Temporary Speaker. The students from Kithunzi Primary School are from Kitui West Constituency. I sincerely welcome them to the National Assembly and wish them all the best.

I pray that you work very hard because you can achieve anything. You can even make it to Parliament or other higher offices. You cannot get the best in life without hard work, discipline and determination. Your school is one of the best in our constituency and NG-CDF has contributed a lot to this school and others in Kitui West Constituency.

Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Edith Nyenze, you know the Member for Tharaka who is the Chairman of the Departmental Committee on Justice and Legal Affairs is your neighbor. I, therefore, allow him to also welcome the visiting students.

Hon. George Murugara (Tharaka, UDA): Thank you very much, Hon. Temporary Speaker. I join Hon. Edith Nyenze in welcoming the students from Kitui County which neighbours Tharaka – Nithi County. I also have a good relationship with this county of great people. We have just debated the Motion by Hon. Architect Gideon Mutemi Mulyungi from Mwingi Central; a great gentleman. My neighbour is supposed to be Eng. Musyimi Zengu, who was seated over there but has left. Hon. Nyenze is from the other side. It is good to note that Kitui has produce such learned people. The young students seated up there should emulate these leaders who are highly learned and contribute a lot in this House. You should also aspire to come here as leaders of tomorrow.

With those remarks, I welcome the students to observe the proceedings, as we continue with today's order of business.

The Temporary Speaker (Hon. Peter Kaluma): Thank you. I reiterate that the students of Kithunzi Primary School are welcome to the National Assembly to observe proceedings.

The Mover of the Motion will now reply.

Hon. Gideon Mulyungi (Mwingi Central, WDM): Thank you, Hon. Temporary Speaker. My neighbour and respected lawyer, Hon. Gitonga Murugara has said nice words about me and when you put the question he was the loudest to say no. So, allow me to give him just two minutes to say something about this Report and then I will reply.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Mulyungi, I know how generous you are particularly, when Members support your Motion. I know Hon. Murugara will reject that act of generosity because he knows under the Standing Orders, when called upon to reply you cannot donate time. You can only proceed and reply as directed.

Hon. Caroli Omondi (Suba South, ODM): On a point of information, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Peter Kaluma): Who do you want to inform? The Mover has not requested for...

(Hon. Caroli Omondi spoke off the record)

Mover, have you agreed to be informed about anything by Hon. Caroli?

Hon. Gideon Mulyungi (Mwingi Central, WDM): He is my lawyer, so I have to agree.

(Hon. Caroli Omondi spoke off the record)

The Temporary Speaker (Hon. Peter Kaluma): Order Hon. Caroli. I have not heard the Mover make any statement in replying, for any form of information to be given. Do you want to inform him about how he is standing to speak or what? He has not made any statement,

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the basis upon which you may give him supplementary information. Therefore, despite the visible and highly discernible generosity of the Mover to be informed even before he says anything, that point of information is contrary to the Standing Order and is rejected.

Mover, you will now reply.

Hon. Gideon Mulyungi (Mwingi Central, WDM): Hon. Temporary Speaker, I want to thank Members for their good contributions on this Motion. I take note that these contributions made on the Floor of this House will enrich future Reports of this Committee. I reaffirm that NG-CDF is a national fund and Members only play an oversight role. As the Chairperson of this Committee, I audit the Fund and do not audit Members of Parliament. I audit fund managers and the Chief Executive Officer (CEO) of NG-CDF.

Due to the impact created by NG-CDF in the constituencies, it is high time that it was entrenched in the Constitution so that it is permanent and nobody on this earth should touch it. This will ensure that it can live to eternity.

Hon. Caroli Omondi (Suba South, ODM): On a point of information, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Gideon Mulyungi, do you wish to be informed by Hon. Caroli Omondi?

Hon. Gideon Mulyungi (Mwingi Central, WDM): Hon. Temporary Speaker, I told you that at one time I was working with Hon. Caroli Omondi in the Ministry, under the Kibaki administration. From that time, he became my lead counsel. Therefore, I have no business to refuse.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Caroli Omondi, you can now inform Hon. Mulyungi. Hon. Members who are leaving, please check what is coming next in Order Nos.10 and 11; very serious Motions. Hon. Caroli Omondi.

Hon. Caroli Omondi (Suba South, ODM): Thank you very much, Hon. Gideon Mulyungi. It is true that we worked very well. It is also true that I am his lawyer and he also consults me on other matters as well.

I want to inform the Hon. Chairman that last week, the Committee on Constitutional Implementation had a long meeting with the Judiciary. They were represented by a Judge of the Court of Appeal, Justice Fatuma Sichale and the Judicial Service Commission (JSC) represented by Commissioner Isaac Rutto and the Chief Registrar of the Judiciary. We reached an agreement that going forward, we will, as Members of Parliament, partner with the Judiciary, to facilitate the construction of courts in our constituencies using NG-CDF funds. This initiative will not benefit Members of Parliament but serve the needs of our constituents.

I think this is a very significant development that this House should take judicial notice of. So, that when we go for public participation in jurisdictions where we still do not have courts, we can put a word to the NG-CDF Committees and the public. If they agree, the Judiciary has already prepared a prototype court which they shared with us. Therefore, going forward, the Judiciary and NG-CDF will be partnering in building courts. I think that is a very important piece of information for the public.

Thank you very much, Hon. Temporary Speaker.

Hon. George Murugara (Tharaka, UDA): On a point of further information, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Peter Kaluma): Thank you. The Chairperson of the Departmental Committee on Justice and Legal Affairs wants to inform you. Hon. Gideon Mulyungi, do you want his information?

Hon. Gideon Mulyungi (Mwingi Central, WDM): Hon. Temporary Speaker, I told you he is my neighbour and my good friend. He can proceed.

The Temporary Speaker (Hon. Peter Kaluma): Hon. George Gitonga Murugara.

Hon. George Murugara (Tharaka, UDA): Thank you very much, Hon. Temporary Speaker. I want to give further information to what Hon. Caroli has alluded to that we have allowed NG-CDF to partner with the Judiciary and build courts in the constituencies. I want to confirm that the Judiciary has a department known as the Department of Building Services (DBS), which is headed by an architect like Hon. Mulyungi so that courts including the prototype that Hon. Caroli has referred to are constructed in a very effective and pocket-friendly manner. Therefore, the NG-CDF will do all this, not through Members of Parliament, but through the constituency committees.

Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Gideon Mulyungi, you can now proceed.

Hon. Gideon Mulyungi (Mwingi Central, WDM): Hon. Temporary Speaker, as I conclude, allow me to confirm to the nation that if you take a chopper and fly over Kenya, the only icons of development you will see in every village are projects funded by the NG-CDF. Therefore, it is a Fund that should be protected by all and sundry.

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

Hon. Stephen Mogaka (West Mugirango, JP): On a point of information.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Stephen Mogaka requests to inform you. Do you accept his information?

Hon. Gideon Mulyungi (Mwingi Central, WDM): Hon. Temporary Speaker, he is the only senior counsel in my Committee. So, I cannot refuse. He is allowed to speak at any time.

The Temporary Speaker (Hon. Peter Kaluma): You are very easy with advocates of the High Court serving as State officers in Parliament.

Hon. Stephen Mogaka, proceed and give the information.

Hon. Stephen Mogaka (West Mugirango, JP): Thank you, Hon. Temporary Speaker. I wish to expand what my Chairperson has said. For the record, the NG-CDF funds are only utilised to do developments in the Executive and the Judiciary arms of Government. However, not a penny is spent on the Legislature. Therefore, as they demonise Members of Parliament for being associated with the NG-CDF, the facts remain that it is schools, which fall under the Executive, and courts, which fall under the Judiciary, that are the beneficiaries of these funds.

Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Stephen Mogaka, I thought you were going to inform Hon. Gideon Mulyungi that the Ngong Law Courts are purely a NG-CDF project. Actually, the entire Ngong Law Courts are built by the NG-CDF.

Hon. Stephen Mogaka (West Mugirango, JP): And many more.

The Temporary Speaker (Hon. Peter Kaluma): What Hon. Caroli Omondi was informing Hon. Gideon Mulyungi about is not something new; it has been ongoing.

Hon. Gideon Mulyungi, please, conclude.

Hon. Gideon Mulyungi (Mwingi Central, WDM): Hon. Temporary Speaker, with those few remarks, I beg to reply.

Pursuant to the provisions of Standing Order 53(3), I request that you defer the putting of the Question to another sitting.

Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Peter Kaluma): Thank you. The putting of the Question to this Motion will be done in future when it is next listed for consideration by the House Business Committee.

(Putting of the Question deferred)

Next Order.

ADOPTION OF THIRD REPORT ON EMPLOYMENT
DIVERSITY AUDIT IN PUBLIC INSTITUTIONS

The Temporary Speaker (Hon. Peter Kaluma): Chairperson of the Select Committee on National Cohesion and Equal Opportunity.

Hon. Yusuf Adan (Mandera West, UDM): Hon. Temporary Speaker, I beg to move the following Motion:

THAT the House adopts the Third Report of the Select Committee on National Cohesion and Equal Opportunity on employment diversity audit in public institutions laid on the Table of the House on Wednesday, 30th April 2025.

Hon. Temporary Speaker, allow me to touch on the mandate of this Committee through various legal proceedings. The Committee is established under Standing Order 212C. It derives its mandate from various Articles of the Constitution. Article 54(2) of the Constitution provides that the State shall ensure the progressive implementation of the principle that at least five per cent of the members of the public in elective and appointive positions are persons with disabilities. Article 55(b) states that the State shall take measures, including affirmative action programmes, to ensure that the youth have opportunities to associate, be represented and participate in political, social, economic and other spheres of life. Article 232(1) provides for values and principles of the public service, including affirmative action. The Committee is further guided by Section 7 of the National Cohesion and Integration Act No.12 of 2008, which the Committee is now trying to repeal and replace with a new Act under the new Constitution.

The Committee, on its own motion, resolved to carry out inquiries into employment diversity in public institutions. In this Report, the Committee looked at various institutions. This is the third report, and it is largely similar to the first and the second reports. The institutions we looked at under this report are: Lake Victoria South Water Works Development Agency, Rivatex East Africa Limited, Moi Teaching and Referral Hospital, Lake Victoria North Water Works Development Agency, Kenya Industrial Estates, Kenya Medical Supplies Authority and the Kenya Medical Training College.

The main objective of this inquiry was guided by four parameters: ethnicity, gender, age and persons with disabilities. During the inquiry, the Committee received both oral and written submissions from the Chief Executive Officers of these organisations.

I will give a brief overview. The Committee observed that in terms of ethnic community representation, Moi Teaching and Referral Hospital has the highest representation of one ethnic community, the Kalenjin, comprising 66.2 per cent of its staff. The Kalenjin community dominates the following four institutions: Rivatex East Africa Limited, Kenya Industrial Estates, Kenya Medical Training College, and Moi Teaching and Referral Hospital. The Lake Victoria South Water Works Development Agency has been dominated by the Luo community, while the Kenya Medical Supplies Authority has been dominated by the Kikuyu community. Looking at the percentages, this dominance may be as a result of the location of the institutions, where the majority of people from these communities in those areas are in the lower cadre.

Hon. Joseph Makilap (Baringo North, UDA): On a point of order, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Peter Kaluma): Yes, Hon. Makilap.

Hon. Joseph Makilap (Baringo North, UDA): Hon. Temporary Speaker, is it in order for the Chairman to say that Kalenjins make up 66 per cent in Moi Teaching and Referral Hospital (MTRH) yet Kalenjin is not registered anywhere as a tribe? There is Tugen, Nandi, Kipsigis, Marakwet, Keiyo, and others. So, to say that 66 per cent of the employees of MTRH are Kalenjins is fiction because there is no Kalenjin tribe in this country!

The Temporary Speaker (Hon. Peter Kaluma): Chairman, where do you get the community called Kalenjin in our ethnic groupings in Kenya?

Hon. Yusuf Adan (Mandera West, UDM): This is as presented by the CEO of the hospital. We asked that same question and he said he got the information from the Kenya National Bureau of Statistics (KNBS).

Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Peter Kaluma): Chairman, so far as I know, there is no ethnic community in Kenya called the Kalenjin. The Kalenjin is a grouping of various ethnic communities mostly from Rift Valley. What you are saying is the same groupings like the Mount Kenya community or Gikuyu, Embu, Meru and Akamba (GEMA) communities. There is no such ethnic community. I direct that you give us a breakdown of what communities are within the 66 per cent. There is no community in Kenya called the Kalenjin community.

Hon. Yusuf Adan (Mandera West, UDM): Hon. Temporary Speaker, I have the larger Report which I tabled earlier. If you look at the Report...

Hon. Joseph Makilap (Baringo North, UDA): On a point of order, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Makilap, what do you still find to be out of order?

Hon. Joseph Makilap (Baringo North, UDA): Hon. Temporary Speaker, we need to expunge the words 'Kalenjin community' from this Report. If the Chairman is serious about it, he could break down the representation of Keiyos, Nandis, Kipsigis or any other Kalenjin community in the Report. A blanket tribe called 'Kalenjin' is neither here nor there. It needs to be expunged from the records.

The Temporary Speaker (Hon. Peter Kaluma): Chairman, does your Report break down the communities you put under the umbrella of Kalenjin community, which is not a recognised ethnic group in Kenya?

Hon. Yusuf Adan (Mandera West, UDM): Hon. Temporary Speaker, this is the Report from KNBS. We can refer to it. That is the way it has been presented.

Thank you, Hon. Temporary Speaker.

Hon. Caroli Omondi (Suba South, ODM): On a point of order, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Caroli Omondi, what is out of order?

Hon. Caroli Omondi (Suba South, ODM): Hon. Temporary Speaker, could the expert in the House quickly get us the KNBS census reports of 2009 and 2019 so that we see what ethnic groups are captured. This is because we know for sure that Kalenjin, as a group, did not exist until 1979 when it started appearing in official Government documents. Could the Clerks-at-the-Table quickly get us the census reports of 2009 and 2019 published by KNBS?

Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Peter Kaluma): Chairman, you remember the community was trying to move to Kamatusa. I doubt you would talk about Kamatusa University now. We also have GEMA, GEMA South and Mount Kenya. In your view, what community occupies 66 per cent of the employment opportunities at MTRH? This is a serious matter.

Hon. Yusuf Adan (Mandera West, UDM): Hon. Temporary Speaker, I stand by what I said. According to the report by the CEO, 66.2 per cent of the staff are Kalenjin. I stand firm unless otherwise.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Owen Baya is always very alert about communities. The last community we recognised, by your intervention, was the Pemba. That was after the Makonde. So, we have about 46 ethnic communities by now. Chairman, we

are not saying this in any idle way. Article 232(1)(g), (h) and (i) of the Constitution speaks to ethnic communities, which are about 46 in number. They do not include this community you call Kalenjin. I suggest that you request for time to put additional information so that in the meantime we allow you to continue moving the Motion. This is a serious issue because we would like to see whether the Constitution is being implemented. Remember, even the President is required to give a State of the Nation Address on national values, which include inclusivity and how national resources and public service appointments are distributed to the ethnic communities as mentioned in Article 232.

Hon. Murugara.

Hon. George Murugara (Tharaka, UDA): Thank you very much, Hon. Temporary Speaker. You are right to say that the Chairperson should get a little more time so that he gives us a breakdown of how the communities are known in law. This is to ensure that we do not have clusters of communities being referred to as one group. Soon, possibly, I will be asking, when it comes to the Tharaka... He would say that the Tharaka are part of the Meru, which is true. I do not refuse any of that, but Tharaka is recognised as a community distinct and separate from the Ameru. We also have the Mijikenda whom we are told occupy 0.001 per cent of the land, and we ask ourselves who they are. We need to strictly go by what the law says and how our ethnic communities are refereed to so that we understand any blame of imbalance. I propose that he stops moving the Motion so that we get a supplementary report on this to understand what he is saying. If he continues giving us all this information, we may not be able to contribute in the debate.

Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Peter Kaluma): Did you move under Standing Order 96?

Hon. George Murugara (Tharaka, UDA): Yes, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Peter Kaluma): Kindly get the Standing Order so that you can move rightly. Hon. Murugara, look at the Standing Order and see whether you want to so move. As Hon. Murugara finds the Standing Order, Hon. Millie Odhiambo, you can proceed.

Hon. Millie Odhiambo-Mabona (Suba North, ODM): Thank you, Hon. Temporary Speaker, for giving me this opportunity. I agree with Hon. Murugara that we need to go by Standing Order 96. I am multitasking in this era of technology. I was trying to look at the Schedules to the Constitution to see how the tribes are defined. If the law does not define who the Kalenjin are, then you cannot also cluster certain sub-ethnicities as Kalenjin. Since I know everybody is very keen on the issue of communities, if you get an opportunity to look at your Report, I hope that you have not included the Suba when you talk about the Luo because they are a very distinct tribe. You may rank the Luo very high yet the Suba have nothing. I am lucky because I am half Suba and half Luo. Suba is a Bantu tribe, while Luo is Nilotic. So, when you lump them together and say that the Luo have this many appointments, you may end up marginalising or misrepresenting certain communities.

I urge the Committee to take this duty very seriously. If you listen to the former Deputy President, he strongly pushes for the Kikuyu agenda. We complain when he does so, but, at least, he is very honest that this country is ethnically divided. Unless we plan with that ethnic reality in mind, we will continue fighting.

In my earlier contribution...

(Hon. Caroli Omondi spoke off the record)

I am on a point of order.

The Temporary Speaker (Hon. Peter Kaluma): You cannot inform a Member who is on a point of order. I will give you a chance to speak if you have a matter to raise.

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(Hon. Naisula Lesuuda complimented Hon. Millie Odhiambo-Mabona for being smart)

Hon. Millie Odhiambo-Mabona (Suba North, ODM): Thank you. I have been told I look nice. You know I always look nice. It is in my DNA.

I contributed to three-quarters of the Bill being discussed. We should take seriously the issues that are bedeviling our country, one of which is skewed appointments. Give the correct representation of figures! Even if it affects my community, I will tell you that that is wrong and that we should remember others. Look at the appointments vis-à-vis population size in your computation. If the Kikuyu are dominant and we know their population size, we cannot vilify them for that. Appointments must be proportional to population size. If the Kikuyu get 90 per cent of the appointments, what about the rest of the country? Will they only get 10 per cent? On the other hand, it may make sense for the Kikuyu to get 40 per cent of the appointments except that the law does not allow that. We put a percentage in that law for a purpose. So, I request that the Committee looks at that again.

Even though I am anticipating debate, I support Hon. Murugara's assertion that the Committee should go back and request for better information that uses legal definitions. I would like to see the Suba and the Luo. I wish I could also include the Ndebele but unfortunately, they are not there, but, at least, we now have the Shona.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Caroli Omondi.

Hon. Caroli Omondi (Suba South, ODM): Hon. Temporary Speaker, the Constitution clearly recognises that we have ethnic groups or nationalities in this country. We may argue about who they are or what their names are, but that recognition exists. We all understand what ethnic grouping is, whether we use local laws or international instruments.

However, let me go straight to the data on ethnic affiliations as issued on 22nd March 2013 by KNBS. The first ethnic group recognised by the KNBS is the Abasuba then the Embu and the rest. Some communities are broken down into sub-ethnic groups. The first one is the Luhya. We have the Abakhayo, Abanyala, Abanyore, Abatsotso, Bukusu, Idakho, Isukha, Kabras, Kisa, Marachi, Maragoli, Marama, Samia, Tachoni, Tiriki, Tura, and Wanga. The second group that is recognised into its sub-ethnic groups is the Mijikenda. We have the Boni, Chonyi, Dahalo, Digo, Duruma, Giriama, Jibana, Kambe, Kauma, Pokomo, Rabai, Ribe, and Wata. We then have the Waswahili made up of the Amu, Bajuni, Chitundu, Jomvu, Mnyoyaya, Mvita, Ngare, Pate, Siu, Vumba, Wachangamwe, Wafasa, Wakatwa, Wakilifi, and Wakilindini. We then have the Kalenjin broken down into the Arror, Bong'omek, Cherangany, Dorobo, Elmolo, Endo, Keiyo, Kipsigis, Marakwet, Nandi, Ogiek, Sabaot, Samor, Senger, Sengwer, Terik, Tugen, Pokot, and Endorois.

The Temporary Speaker (Hon. Peter Kaluma): He is on a point of order. Hon. Owen Baya, I will allow you to speak after him. We are a House of rules. He is on a point of order.

Hon. Caroli Omondi (Suba South, ODM): They can be described in one nomenclature. Even the Somalis are broken down into different ethnicities.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Caroli, we want you to confirm how many ethnic communities we have in Kenya. We are told there are 46.

Hon. Caroli Omondi (Suba South, ODM): I have read more than 46, but this is an official Government document. So, the Hon. Chairman is quite right to group the ethnicities as either Kalenjin or Luhya without going into the sub-ethnicities.

The Temporary Speaker (Hon. Peter Kaluma): You are a very senior lawyer. Is that the document we should consult if we want to know the ethnic communities in Kenya? Is that the authority?

Hon. Caroli Omondi (Suba South, ODM): Where else will you find them?

The Temporary Speaker (Hon. Peter Kaluma): I doubt it.

Hon. Caroli Omondi (Suba South, ODM): The Constitution does not list them. The only agency that has done a census that speaks to them is the KNBS. There is no other document.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Owen Baya.

Hon. Owen Baya (Kilifi North, UDA): Hon. Temporary Speaker, listening to the Member, I start doubting his credentials as a lawyer. Everybody in this country knows who the Mijikenda are. The Pokomo are not part of the Mijikenda. Even you know that. So, it is misleading when you read a document that states that the Pokomo are part of the Mijikenda. It also designates the Wata as part of the Mijikenda. The Mijikenda are named so because they are nine *miji* or homes, but you have read a list that includes almost 12 homes. You cannot rely on a document that you know is wrong, *ab initio*, and present it on the Floor of the House.

The Cabinet Secretary for Interior and National Administration holds the authentic information. When we included the Pemba as one of the ethnic communities in this country, the Cabinet Secretary for Interior and National Administration gave us a list and said that the Pemba were the 46th tribe as entered into the data of the country, not the KNBS.

I have seen the document by the KNBS, however, they rely on what people say they are. If you look at the KNBS document on ethnicities, certain people call themselves the Mijikenda such as the Giriama, the Chonyi, the Kauma, the Kambe, and the Pokomo. However, data and facts are very stubborn. History and facts indicate that certain communities were bunched together by the Europeans and called the Kalenjin. There is no tribe called “Kalenjin”. Because of colonial shenanigans, different sub-ethnicities were put together just like the Mijikenda. We must set historical facts straight and Parliament should not allow substandard information. I have a lot of respect for the Chairman because he helped me, especially on the issue of the Pemba. He was one of the people who helped us and I have a lot of respect for him. However, he is presenting an inauthentic document. Hon. Temporary Speaker, anything unconstitutional cannot be presented in this House. I believe that is the rule of the House. That Report must be withdrawn. Thank you.

The Temporary Speaker (Hon. Peter Kaluma): Order, Hon. Members. Hon. Murugara, I have read Standing Order No.96, which we intend to move under. It appears to suggest that you may only do so once the Question has been proposed by the Hon. Chairman. I, therefore, request all Members to allow the Mover to move the Motion in full. The Temporary Speaker will then propose the Question, after which these issues can be raised.

The Mover may proceed. If the Motion by Hon. Murugara under Standing Order 96 does not succeed, Members will still have an opportunity to contribute, rectify or even amend the Report.

Mover, proceed.

Hon. Yusuf Adan (Mandera West, UDM): Thank you, Hon. Temporary Speaker, for your guidance. I wish to report on the persons with disabilities. None of the institutions mentioned above complied with the constitutional mandate which requires, at least, five per cent of employment opportunities for persons with disabilities. For example, Kenya Industrial Estates had the lowest representation, having only 0.97 per cent of persons with disabilities among the staff. The Constitution of Kenya requires a minimum of five per cent.

Additionally, several institutions reported low representation of youth. They said a lot of youth are not considered because of the job requirements that demand five to ten years experience, which most youth do not have yet. On gender representation, most institutions met the two-thirds gender rule. However, Lake Victoria North Water Services Board fell slightly short, with 28 per cent female representation against the 30 per cent requirement.

The Committee recommends that public institutions which fail to show improvement in recruitment compliance within a year of appearing before the Committee should have their Chief Executive Officers held accountable. The Committee further recommends that the Public

Service Commission (PSC) prepares quarterly and annual audit reports to assess the progress of public institutions in complying with the constitutional employment requirements.

The Committee also recommended that the National Council for Persons with Disabilities conducts a semi-annual audit to evaluate the representation and inclusion of persons living with disability in public service. Another key recommendation is that public institutions must work closely and proactively with relevant organisations to develop effective constitutional requirements. The PSC should also establish clear, transparent standards and criteria for promotions, to eliminate biases and dominance which are above the constitutional requirements.

Hon. Temporary Speaker, this report sheds light on critical issues regarding employment diversity in our public institutions. By fostering an inclusive and diverse workforce, these institutions can help address the needs of citizens and contribute to positive social change. We must ensure an equitable future for all.

Having noted the proceedings of the National Cohesion and Equal Opportunity Committee on the Employment Diversity Audit in public institutions, I beg to move and urge the House to adopt this Report.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Chairman. Article 232(1) (i) of the Constitution of Kenya provides that one of the principles of public service is the provision of adequate and equal opportunities for appointment, training and advancement at all levels of the public service for men and women, members of all ethnic groups and persons with disabilities.

Your Report is correct but have you broken down this data according to levels of service? This is a major national concern. You might be reporting that, for instance, at Moi Teaching and Referral Hospital, the Kalenjin are the majority by 66 per cent of the staff, but they could all be sweepers. Do you have a categorisation? Kindly conclude your contribution.

Hon. Yusuf Adan (Mandera West, UDM): Thank you, Hon. Temporary Speaker. I am well guided. I beg to move and request the House to adopt this Report. I request Hon. Agnes Pareiyo to second the Motion.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Agnes Pareiyo.

Hon. Agnes Mantaine (Narok North, JP): Thank you, Hon. Temporary Speaker. As a Member of the Committee, I second the Motion. With your guidance and the contributions of other Members, we need to consider that factor. I second with an amendment on the issue of communities in Kenya.

I beg to second.

(Question proposed)

Hon. George Murugara (Tharaka, UDA): Thank you very much, Hon. Temporary Speaker. I rise under Standing Order No.96 and request that the debate on the consideration of the Third Report of the Employment Diversity Audit in Public Institutions be adjourned. This is to allow Members to go through the Report and debate from a point of information when the Motion is scheduled next.

Hon. Chairman, as you may have noted from the Floor of the House, several questions have been raised. We need those gaps abridged so that when we debate next, we have full information on what the debate is all about. This is a dilatory Motion and is purely confined to this particular Motion which is on the consideration of the Third Report of the Employment Diversity Audit in Public Institutions. With that, Hon. Temporary Speaker, I beg to move.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Murugara, who is seconding your dilatory Motion?

Hon. George Murugara (Tharaka, UDA): I request the Member from Bomet, Hon. Francis Sigei, who is a former Provincial Commissioner of the City of Nairobi and an Ambassador, to second.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Ambassador, Francis Sigei, Member of Parliament for Sotik.

Hon. Francis Sigei (Sotik, UDA): I beg to correct the Mover that I am the Member of Parliament for Sotik, not Bomet Constituency.

I second the Motion. I want to say two things.

Firstly, I thank the Chair for really trying to bring out issues in this country. The problem of ethnicity in our institutions is a national issue. What our Chair has brought up in his Committee is a tip of the iceberg. I sit in the Public Investments Committee on Education and Governance (PIC-EG). This problem crops up almost every time we sit.

Therefore, there is need for a serious conversation to bring out facts on issues that are glaring in this country. I second Hon. Murugara on what he has said in reference to Standing Order 96.

(Question, that debate be now adjourned proposed)

The Temporary Speaker (Hon. Peter Kaluma): I have proposed the Question. Is it the mood of the House that I put the Question?

(Loud consultations)

Let me give Hon. Naisula Lesuuda a chance to contribute to the dilatory Motion; not the substantive Motion.

Hon. Naisula Lesuuda (Samburu West, KANU): Yes and thank you, Hon. Temporary Speaker.

I have been your good student. Therefore, I know that I have to debate the Motion now.

Having said that, I find it very interesting especially for those who have already spoken on the same issue to say that we defer the Motion. I do not mean the ones who have proposed adjournment but the ones shouting that we defer this Motion.

We will not defer if Hon. Murugara has not read the Report.

Hon. Owen Baya (Kilifi North, UDA): On a point of order, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Owen Baya, what is out of order?

Hon. Owen Baya (Kilifi North, UDA): You know Hon. Lesuuda is very senior. She is senior even to me. However, we have never heard the word “shouting” in National Assembly or Parliament as a whole. It is unparliamentary. We are taking a vote. The Standing Orders allow us to say “Nay” or “Aye”. She needs to withdraw the sentiment that we are shouting. Constitutionally, we are taking a vote within the ambit of parliamentary Standing Orders. We are not shouting.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Naisula Lesuuda will withdraw that and continue.

Hon. Naisula Lesuuda (Samburu West, KANU): I did not say who was shouting. I do not know why the Deputy Leader of the Majority Party is very guilty.

However, I want to say that this is a very important national issue. Some of us have read the Report and researched on it. We are ready to debate this important Motion. I can see the slyness of my colleague. I think we are in the same rank. From the slyness and cheekiness, I know to which Motion he wants us to go to. Let us proceed.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Members, you cannot impute ill motive on a Member. Hon. Naisula Lesuuda, you have to withdraw that statement. No Member

runs the House. The House is run and presided over by the Speaker. But decisions in terms of how we proceed are ultimately made by Members. Withdraw the words ‘slyness’ and ‘cheekiness’. Members can never be sly and cheeky.

Hon. Naisula Lesuuda (Samburu West, KANU): I withdraw. On a very serious note, I am ready to debate on this very important Motion. Once you put the Question, I will propose that we proceed with the Motion.

The Temporary Speaker (Hon. Peter Kaluma): Thank you. Hon. (Dr) Lilian Gogo.

Hon. (Dr) Lilian Gogo (Rangwe, ODM): Thank you, Hon. Temporary Speaker. Allow me to take the position of Hon. Naisula. Some of us have researched well on this matter. We know that employment diversity is a very emotive issue in this country and yet we want to push it to another time. Some of us have been waiting to contribute. We have researched on it, prepared talking points and are ready to debate the matter. We need clarity from the Chairman of the Committee on why he lumps people together and says 66 per cent are of a particular ethnic community. We need clarity on whether they are lower or middle cadre workers or specialised officers. We cannot get sweepers to work at MTRH when the local community can do the cleaning work. So, I oppose the proposition that this matter be adjourned.

Thank you.

*(Question, that debate be now
adjourned, put and agreed to)*

(Debate adjourned)

The Temporary Speaker (Hon. Peter Kaluma): I hope that the Motion will be scheduled by the House Business Committee (HBC) at the earliest opportunity, now that it has been duly moved for debate. I can tell you that, gauging from the mood of the House, it will be a very serious debate in the manner we want it to be. So, let all Members get hold of the Report. As you look at the Report, you should also have a global picture of the nation. I do not know why we chose some small organisations like Lake Victoria South Water Works Authority. Which other organisation is in the Report? I thought you would start from the Cabinet, where it matters most, coming down.

Next Order.

Hon. Irene Mayaka (Nominated, ODM): On a point of information, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Peter Kaluma): You cannot inform the Speaker, Chairlady of the Committee on Regional Integration.

Next Order.

BILL

Second Reading

THE ELECTION OFFENCES (AMENDMENT) (No.2) BILL (Senate Bill No.28 of 2024)

The Temporary Speaker (Hon. Peter Kaluma): Mover.

Hon. Owen Baya (Kilifi North, UDA): Hon. Temporary Speaker, I beg to move that the Election Offences (Amendment) (No.2) Bill (Senate Bill No.28 of 2024) be now read a Second Time.

I would like to ask Hon. Mayaka and Hon. Lesuuda to listen. This Bill is very important and I am sure you will all contribute. You need to stay around.

By way of introduction, the Bill seeks to amend Section 6 of the Election Offences Act, 2016 (Cap. 66) to enhance the integrity of Kenya's electoral process by addressing gaps in the legal framework governing electoral offences, ensuring timely declaration of election results and protecting candidates and voters from coercion and misinformation. I am trying to lay the basis of this Bill. As we approach 2027, we have to ensure that these things are done. This Bill provides the framework governing electoral offences, ensuring timely declaration of election results. This amendment is about ensuring timely declaration of election results and protecting candidates and voters from coercion and misinformation. That is the gist of this amendment. I hope the Hon. Member for Seme has heard the things I am talking about.

As a background, we know what happened in 2022 when people tried to delay the results. People tried to stop the release of election outcomes. They rushed to hold press conferences and engaged in all manner of shenanigans to delay the announcement of the results. But now, under the National Dialogue Committee (NADCO) Report, after the National Dialogue Committee talks, we must move from just having a Report to an actual law to ensure that we implement what NADCO talked about.

So, the Elections Offences (Amendment) No.2 Bill, 2024, arises from the recommendations of the NADCO Report. This Committee was established by both the National Assembly and the Senate through resolutions passed on 9th and 16th 2023, respectively. NADCO was mandated to facilitate dialogue, build consensus and recommend constitutional, legal and policy reforms. These included issues of electoral justice. The NADCO Report was submitted to Parliament and adopted by the National Assembly on 27th February 2024, and by the Senate on 21st February 2024. The Report proposed legislative reforms, including the introduction of the Elections Offences (Amendment) Bill, 2024. Following deliberations between the Speakers and the Majority and Minority Party Leaders of both Houses, it was agreed that this Bill be introduced in the Senate. Accordingly, the Bill was published in the Kenya Gazette Supplement No.98 on 7th May 2024. It was introduced in the Senate and passed with amendments on 19th November 2024. It was then forwarded to the National Assembly for consideration. And that is where we are now, to consider both the Bill and its amendments.

Permit me to highlight the sections of the principal Act that this Bill seeks to amend. The Bill amends Section 6 of the principal Act by introducing offences for failing to declare presidential election results within a seven-day period. That is it becomes an offence if results are not declared within the seven days mandated by Article 138 of the Constitution. Article 138 clearly states that presidential election results must be declared within seven days. If this is not done, it becomes an election offence. I want the new Commission to take note that failing to declare results within that period would be an offence under this amendment. It also becomes an offence to fail to declare election results immediately after the close of polling stations. We have seen polling stations closed without any results being declared. But results should be declared immediately after close, usually 6 p.m., as required by Section 39(1) of the Elections Act. If this does not happen, it becomes a criminal offence. Those tasked with overseeing elections must understand: if you do not declare results within the specified period, you will be committing an offence if this amendment is passed.

Also, the Bill criminalises any act of knowingly interfering with, altering, destroying, or concealing election materials or declared results. This includes knowingly causing another person to do so. So, once we pass this law, those acts become criminal. Knowingly interfering with, altering, destroying, or concealing election materials or declared results, including encouraging another to do so becomes a criminal offence.

The Bill also amends Section 13 to clarify another important issue. It makes it an offence to make false statements about a candidate. This is very important. I urge all politicians

in this country to hear this. It is common practice for people to spread falsehoods. Sometimes, in the heat of politics, you go out there and say, “Hon. Kaluma is this and that” which is not factual. Or you go and say, “Hon. Kaluma has withdrawn from the race” yet he has not. That now becomes a criminal offence once we pass this law. You know how people loosely talk about certain candidates or say, “this political party has this and that,” when it is not factual or correct. That now amounts to misinformation and becomes a criminal offence. So, those aspiring to be politicians and have always sailed on the boat of lies and misinformation, you had better anchor your boat now, because you have no space to sail. It becomes criminal to give false information about a candidate, a political party or a candidate's withdrawal. If you go out there and say a candidate has withdrawn when they have not, it constitutes an electoral offence.

Hon. Temporary Speaker, I am losing my thoughts because I think I am too excited about this law. It expands the scope of discriminatory language. Initially, the law addressed discrimination only on the aspect of religion and gender. However, the new law includes sex and marital status. You cannot discriminate against somebody based on sex, marital status, religion or gender. It is prohibited. You cannot discriminate or make inflammatory remarks about a person's gender, sex, religion and so on. That becomes an electoral offence.

The Bill further introduces a new offence under Section 17 for willfully communicating electronically or otherwise. I want those who are happy to run to electronic media to hear this: it becomes an offence, in the new Section 17, to wilfully communicate, electronically or otherwise, with intent to induce or compel a person to refrain from becoming a candidate, withdraw their candidacy, prevent their nomination or discourage voting for a candidate or their political party. We have seen such situations. People publish false information about candidates online, claiming that a certain candidate has withdrawn. If that post is found to be incorrect, it is punishable. It is offensive to do that, or to discourage someone from voting for a candidate of a political party. Sometimes politicians get excited, and use goons to prevent people from voting at polling stations. They sometimes bar someone, block someone's car to deny them passage to go and vote, or cause chaos so that they do not vote. That becomes punishable under New Section 17.

The Elections Offences (Amendment) (No.2) Bill is a critical component of the NADCO Report. Among its recommendations is the thematic area of electoral justice, which, for a long time, Hon. Raila Odinga has talked about. For instance, somebody loses an election not on the basis of votes cast or procedure, but on the basis of electoral injustices that are meted out to a candidate at the polling station, or offences that ensure somebody loses an election. At times, it is not because people did not vote for him, but because of electoral malpractices, which actually constitute electoral injustice. We must cure this.

If you look at the Kriegler Report and other reports that come after every violent election, the word that runs through is electoral injustice. As a country, we must anchor electoral justice for our country to have correct leaders elected based on the actual votes cast and counted. At times, shenanigans happen such that the person with the highest vote is not declared the winner. That is electoral injustice. Therefore, this law has been put in place to ensure that we cure electoral injustices and related matters. It addresses vulnerabilities in the Election Offences Act, 2016 that undermine free and fair elections such as delays in declaration of results. I am not a lawyer, but you are, Hon. Temporary Speaker. It is said that justice delayed is justice denied. When results are delayed for whatever reason, the electorate is denied the right to have a leader at the opportune time. This amendment Bill must include free and fair elections. Delays in declaration of results should be an electoral injustice. Such delays have historically eroded public trust. Once declaration of results is delayed, public trust is eroded giving way to emerging threats like manipulation of election materials and coercive communication even on our digital platforms.

As we head towards 2027, we need to be very careful about digital communication. With the current prevalence of Artificial Intelligence (AI), you can be declared President without vying for the position. AI can do dangerous things. Because of that, we must have the right regulations and statutes to protect our electoral integrity from such malpractices.

This amendment Bill aligns with the Government's commitment to upholding the political rights guaranteed under Article 38 of the Constitution, as well as the procedural integrity of elections under Article 138 of the Constitution.

As I wind up, the enactment of the Election Offences (Amendment) (No.2) Bill of 2024 will fortify the legal framework for conducting transparent, free and fair elections in Kenya in line with Articles 38 and 138 of the Constitution by addressing critical gaps in the Election Offences Act, 2016. This Bill will deter electoral malpractices, promote accountability and enhance public trust in the democratic process.

I urge all Members to support the passage of this Bill to safeguard Kenya's electoral integrity.

I want to ask Hon. Counsel...

The Temporary Speaker (Hon. Peter Kaluma): Please say, "I beg to move and I ask..."

Hon. Owen Baya (Kilifi North, UDA): Yes, Hon. Temporary Speaker. I beg to move and request Hon. Senior Counsel Murugara to second.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Sir George Gitonga Murugara.

Hon. George Murugara (Tharaka, UDA): Thank you very much, Hon. Temporary Speaker. Allow me to make a few comments as I second the Bill.

I commend the Deputy Leader of the Majority Party because he has done justice to what we are doing here this evening. We have to become more serious than ever before with electoral matters. I do not know if there is anything else that threatens our peace like elections. We must at all times ensure that all our elections are free, fair, and verifiable as stipulated in our Constitution, so that we can remain cohesive, united and carry on with the discharge of our democratic rights without any hindrances.

This Bill seeks to amend Section 6 of the main Act, which deals with offences that can be committed by members and staff of the Commission. With regard to the other, the rest of us who are neither that, we have other sections, right from Sections 3 to 5 which deal with the offences we can commit, but today let us see what these members and staff of the Commission can do which would constitute an offence under the main Act which is the Election Offences Act, Chapter 66 of the Laws of Kenya.

We have had these two introduced subsections in paragraphs A, B and C. Then A as subparagraphs (h) and H (a), while C as a new paragraph N being introduced. This means that the offences which members of the Commission and members of staff of the Commission can commit are increased, trying to tighten up loops and openings which can be abused when we come to elections. We must commend the National Dialogue Committee (NADCO) that came up with this Bill because it was after the tumultuous elections of 2022 whereby, there were disputes as regards the veracity of those results and all that went up to the Supreme Court. Even after the Supreme Court made a decision there was a dispute.

So, the answer to it is always we look at the law, seal any loopholes that are there, seal any gaps that may be open so that nobody actually abuses an electoral process. The Independent and Electoral Boundaries Commission (IEBC) has just been constituted; the Commissioners are in office. I am told they are now doing an induction, so that after that we can move on to serious business including looking and relooking at amendments that are necessary to our electoral laws. We need to delay this no more. The 2027 elections are around the corner and even if there are people going around the country beating drums (they are called war drums), trying to say this is going to happen, this is not going to happen.

I think we have an Electoral Commission that is cut out for its work and we want them to move in there, reassure and give Kenyans confidence that the elections that are forthcoming will not only be free and fair, but will actually be credible and everybody is going to agree with the results once they are announced. What is the penalty? It is good also to let Kenyans know what would happen to any of these commissioners and members of staff who commit an offence. We have the general penalty Clause at Section 24.

If any of these people, whether they are junior clerks, returning officers at the constituency or returning officers at the county level or even the national returning officer who is actually the chairperson or the chairman of the Independent Electoral and Boundaries Commission, commit an offence, you have a fine being the first option, not exceeding Ksh1 million or imprisonment for a time not exceeding three years. Let them be warned that this is not going to be easy, especially for youngsters who would possibly conduct these elections and who think they can be manipulated so that they do anything that is untoward to that election.

So, let us have the Chairperson of the Independent Electoral and Boundaries Commission announcing those elections as per the Constitution within seven days and as per the Elections Act as provided so that we do not have to put the country in an anxious mood. And in fact, for the rest of us, Elections Act is very clear that once the results are tallied, they have to be declared. Even for the presidential election, we do not have to wait for seven days. It is only that we have to do so within a period of seven days. As soon as the tallying is over, the elections results are verified and an announcement ought to be made so that the country is not kept in anxiety. These laws and many others will be brought to this House immediately Independent Electoral and Boundaries Commission comes into office. As the Departmental Committee on Justice and Legal Affairs, we are set to meet the commissioners as soon as we can to tell them to offload whatever is in that basket or in tray, especially on electoral laws. There is a lot that is supposed to be done, but it has not been done. We are still waiting for by-elections to be done. They must be done. We must also prepare the road map or path to the 2027 General Election.

With those remarks, I urge the Members to support the proposed amendments and pass this Bill as the first law under the new IEBC. We will continue to look at what else they will bring to this House so that the 2027 General Election is free, fair, credible, verifiable and all the adjectives we can use to make them what Kenyans want. As Members of Parliament, we must restrain ourselves, even from our political rallies and other avenues where we go to make pronouncements, from tarnishing the name of the IEBC or bringing disrepute to it. We must also restrain from making alarming statements like the elections will not be free and fair. Rest assured that we have full confidence in the new IEBC. We believe it will work well.

With those remarks, Hon. Temporary Speaker, I beg to second.

(Question proposed)

The Temporary Speaker (Hon. Peter Kaluma): Do we have any Member who wants to contribute to this Bill?

(The Temporary Speaker consulted with the Clerk-at-the-Table)

Hon. (Dr) James Nyikal (Seme, ODM): On a point of order, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Peter Kaluma): What is your point of order?

Hon. (Dr) James Nyikal (Seme, ODM): Thank you, Hon. Temporary Speaker.

I rise on Standing Order 96. This is an extremely important Motion that should be discussed to the end. In my view, with the full House when Members are fully informed, having

read the Report and everything. It is fundamental to what we are doing. Therefore, I beg to move that the debate be now adjourned.

The Temporary Speaker (Hon. Peter Kaluma): Who is seconding your dilatory Motion? Hon. Naisula Lesuuda? I have seen the microphone somewhere to your right.

Hon. Naisula Lesuuda (Samburu West, KANU): I second.

(Question proposed)

Is it the mood of the House that I put the Question?

Hon. Members: Yes.

(Question, that debate be now adjourned, put and agreed to)

(Debate adjourned)

Next Order.

MOTIONS

ADOPTION OF REPORT ON AUDITED ACCOUNTS OF SELECTED STATE CORPORATIONS

THAT, this House adopts the Report of the Public Investments Committee on Commercial Affairs and Energy on its examination of the Reports of the Auditor-General on the Financial Statements of selected State corporations, laid on the Table of the House on Wednesday, 4th June 2025.

The Temporary Speaker (Hon. Peter Kaluma): Mover. The Chairperson, Public Investments Committee on Commercial Affairs and Energy. Hon. Owen Baya.

Hon. Owen Baya (Kilifi North, UDA): Hon. Temporary Speaker, thank you. I, kindly, want to indulge you. Allow us to stand down this for now and we put it next when the Chairman is available.

(Motion deferred)

The Temporary Speaker (Hon. Peter Kaluma): Next Order.

ADOPTION OF SECOND REPORT ON STATUS OF IMPLEMENTATION OF THE CONSTITUTION

THAT, this House adopts the Second Report of the Constitutional Implementation Oversight Committee, laid on the Table of the House on Tuesday, 24th June 2025, on the Status of Implementation of the Constitution by:

1. The Office of the Controller of Budget.
2. The Commission on Revenue Allocation.
3. The Office of the Auditor-General.

The Temporary Speaker (Hon. Peter Kaluma): The Mover. Yes, Hon. Owen Baya.

Hon. Owen Baya (Kilifi North, UDA): Hon. Temporary Speaker, noting that the Chairman is not in the House, and this is an important Report that we must debate, I request

that this be deferred until next time when the Chairman is available for moving the same and debate thereafter.

Thank you.

The Temporary Speaker (Hon. Peter Kaluma): The Motion appearing under Order 13 is stepped down to a future date when it will be next scheduled for consideration by the House Business Committee.

(Motion deferred)

ADJOURNMENT

The Temporary Speaker (Hon. Peter Kaluma): Hon. Members, be upstanding. The time being 6.50 p.m., this House stands adjourned until tomorrow, Wednesday, 23rd July 2025, at 9.30 a.m.

The House rose at 6.50 p.m.

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