

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

Thursday, 17th September 2020

The House met at 2.30 p.m.

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

PRAYERS**COMMUNICATION FROM THE CHAIR****WITHDRAWAL OF LAND REGISTRATION (AMENDMENT) BILL
(NATIONAL ASSEMBLY BILL NO. 7 OF 2020)**

Hon. Speaker: Hon. Members, as you may recall, the Land Registration (Amendment) Bill, (National Assembly Bill No. 7 of 2020), was published vide the *Kenya Gazette Supplement No. 29* of 23rd March, 2020. The Bill proposes to establish the Office of a Complaints Reviewer in the Lands Registry to act as a central office having statutory powers to receive, process and resolve all complaints relating to land registration and surveying lodged by the public and other interested parties as one of the pillars of easing conduct of business in the country. The Bill was read for a First Time on 14th April 2020 and then committed to the Departmental Committee on Lands for consideration.

Hon. Members, I wish to inform the House that I have received a letter from the sponsor of the same Bill, namely the Leader of the Majority Party, requesting to withdraw the Bill to allow for wider and comprehensive engagements with key stakeholders in view of the possibility that establishment of the proposed office may be done administratively. Standing Order No. 140 provides as follows:

“(1) Either before the commencement of business or on the Order of the Day for any stage of the Bill being read, the Member in charge of a Bill may, without notice, claim to withdraw a Bill.”

In this regard, I acceded to the request and, pursuant to the provisions of Standing Order No.140(3), I direct that the Bill be withdrawn from the House forthwith.

Nevertheless, the sponsor retains the liberty to reintroduce the Bill in accordance with the provisions of Standing Order No. 114. The House is thus accordingly guided.

Thank you.

PETITION

(Several Hon. Members walked into the Chamber)

Hon. Speaker: Hon. Members who are making their way in, please, do so quickly.

ENACTMENT OF LEGISLATION ON MAINTENANCE AND WELFARE OF
PARENTS AND SENIOR CITIZENS

Hon. Members, Standing Order No. 225(2)(b) requires the Speaker to report to the House any petition other than those presented by a Member. I wish to report to the House that my office has received a petition from an association calling itself Ukongwe Bora Welfare Society of Post Office Box 8076, Code 00200, Nairobi, seeking the indulgence of this House to enact legislation compelling the Government and individual citizens to take care of the elderly and parents, respectively.

The petitioners aver that many senior citizens who retire from productive work retain a vast wealth of knowledge, skills, talents and wisdom which can be harnessed through interaction with younger generations. As such, the petitioners are convinced that the elderly, the senior citizens and parents require comprehensive and mandatory care from both the Government and individual citizens.

It is on account of this conviction, Hon. Members, that the petitioners seek the enactment of legislation compelling the Government to provide homes and medical care for the elderly in every county. Further, the petitioners seek to make it mandatory for citizens to provide for their parents, failure to which they should be convicted for a specified period. To this end, the petitioners have attached a proposed Bill titled “The Maintenance and Welfare of Parents and Senior Citizens Bill, 2020.”

Hon. Members, as you are aware, there is currently before this House, the Care and Protection of Older Members of Society Bill, 2018, a Bill originating from the Senate, which has undergone First and Second Readings and is awaiting Committee of the whole House. The said Bill was referred to the Departmental Committee on Labour and Social Welfare for consideration and a report tabled in this House to that effect.

Consequently, and pursuant to the provisions of Standing Order No. 227(1), this Petition and the proposed Bill by the petitioners stand committed to the same Committee for consideration along with the Bill originating from the Senate. The Committee is requested to consider the Petition and report its findings to the House and to the petitioners in accordance with Standing Order No.227(2).

I thank you, Hon. Members.

PAPER LAID

Hon. Speaker: The Chairman of the Constitutional Implementation Oversight Committee.

Hon. Jeremiah Kioni (Ndaragwa, JP): Hon. Speaker, I beg to lay the following Paper on the Table of the House:

A Report of the Constitutional Implementation Oversight Committee on its consideration of the Referendum Bill, (National Assembly Bill No. 11 of 2020).

Hon. Speaker: Next Order.

QUESTIONS AND STATEMENTS

ORDINARY QUESTIONS

Question No.080/2020

PROVISION OF WATER TO BASUBA/HINDI WARDS IN LAMU COUNTY

Hon. Speaker: The first segment of this Order is Questions. The first Question is by the Member for Lamu County, Hon. (Capt.) Ruweida Obo. I am informed the Member is away attending to Committee business. So, the Question is deferred.

(Question deferred)

We will move to the next Question by the Member of Kathiani, Hon. Robert Mbui.

Question No.169/2020

REINSTATEMENT AND PAYMENT OF SALARIES TO NURSES DEPLOYED IN NAMIBIA

Hon. Robert Mbui (Kathiani, WDM-K): Hon. Speaker, I beg to ask the Cabinet Secretary of Health the following Question:

- (i) Could the Cabinet Secretary provide a list of nurses who were deployed and seconded to work in the Republic of Namibia and those whose contracts have expired and are out of employment and are yet to be reinstated as directed by the President?
- (ii) Could the Cabinet Secretary explain why the said nurses were not receiving their salaries and allowances despite having been seconded by the Government of Kenya?
- (iii) What steps is the Ministry taking for their immediate reinstatement?

Hon. Speaker: Very well. That Question is to be responded to before the Departmental Committee on Health. Next Question is by the Member for Laikipia County, Hon. Catherine Waruguru. Do you not have a card? Press the intervention button. Okay.

Question No.178/2020

IMPLEMENTATION OF ROADS PROJECT IN NANYUKI

Hon. (Ms.) Catherine Waruguru (Laikipia CWR, JP): Hon. Speaker, I beg to ask the Cabinet Secretary for Transport, Infrastructure, Housing, Urban Development and Public Works the following Question:

- (i) Could the Cabinet Secretary explain why the tarmacking of the road from Kichinjio area through Matanya to Thome areas in Nanyuki was halted?
- (ii) Considering that tarmacking of the said road is long overdue, what measures is the Ministry putting in place to ensure that the road project is implemented expeditiously?

Hon. Speaker: That Question is to be responded to before the Departmental Committee on Transport, Public Works and Housing. The next Question is by the Member for Ol Jorok, Hon. Muchira.

Question No.179/2020

IDENTIFICATION OF HEALTH FACILITIES TO TREAT COVID-19 PATIENTS UNDER NATIONAL HOSPITAL INSURANCE FUND

Hon. Michael Muchira (OI Jorok, JP): Hon. Speaker, I beg to ask the Cabinet Secretary of Health the following Question:

- (i) Could the Cabinet Secretary explain the rationale used by the Ministry in approving health facilities in which COVID-19 patients are covered under the National Hospital Insurance Fund (NHIF)?
- (ii) What measures has the Ministry taken to relieve Kenyans of the hospital bills incurred due to COVID-19 pandemic when admitted to health facilities that are not covered by the National Hospital Insurance Fund (NHIF)?

Hon. Speaker: That Question is to be responded to before the Departmental Committee on Health. The next Question is by the Member for Awendo, the Hon. Walter Owino who has requested for deferment. His request is acceded to. So, it will be asked on a different date.

Question No.189/2020

MEASURES TO AVERT CLOSURE OF INTER-CONTINENTAL HOTEL

(Question deferred)

The next Question is by the Member for Nairobi County, Hon. Esther Passaris.

Question No.197/2020

MEASURES TO REDUCE MORBIDITY AND MORTALITY FROM UNSAFE ABORTIONS

Hon. (Ms.) Esther Passaris (Nairobi CWR, ODM): Hon. Speaker, I beg to ask the Cabinet Secretary of Health the following Question:

- (i) What steps has the Ministry taken following the orders made by the court in Petition No. 266 of 2015 on reissuing of the standards and guidelines for reducing morbidity and mortality from unsafe abortions in Kenya and the national training curriculum for the management of unintended, risky and unplanned pregnancies?
- (ii) What steps has the Ministry taken to compensate the petitioner following the death of the petitioner's child who had procured unsafe abortion and later succumbed as a result of complications that arose?
- (iii) Why were the standards and guidelines for reducing morbidity and mortality from unsafe abortions in Kenya and the national training curriculum for the management of unintended, risky and unplanned pregnancies withdrawn?
- (iv) What enforcement mechanisms are currently in place to actualise the provisions of Section 35(3) of the Sexual Offences Act so as to ensure that victims of a sexual offence may at any time access treatment in any public hospital or institution, given that the standards and guidelines that provided the enforcement mechanism have since been withdrawn?

Hon. Speaker: That Question will be responded to before the Departmental Committee on Health. The next Question is by the Member for Kesses, Hon. Swarup Mishra.

Question No.198/2020

MEASURES TO AVERT DELAYS IN INSPECTION OF GOODS AT POINTS OF ENTRY

Hon. Swarup Mishra (Kesses, JP): Hon. Speaker, I beg to ask the Cabinet Secretary for Industry, Trade and Cooperatives the following Question:

- (i) Could the Cabinet Secretary explain the steps taken to reduce the number of agencies operating at the ports of entry to inspect goods and whether all such agencies possess the requisite expertise to undertake the inspections?
- (ii) Is the Cabinet Secretary aware that the period for the mandatory inspection was recently increased from four days to over four weeks, thus causing delays in provision of inspection services?
- (iii) What plans is the Ministry pursuing to avert inordinate delays in physical inspection especially for the multinational companies which also possess internationally recognised certification such as C.E. (*Conformité Européenne*) and the FDA (Food and Drug Administration)?

Hon. Speaker: That Question is to be responded to before the Departmental Committee on Trade, Industry and Cooperatives. The next Question is by the Member for Isiolo County, Hon. Rehema Jaldesa.

Question No.199/2020

HUMAN-WILDLIFE CONFLICT IN ISIOLO

Hon. (Ms.) Rehema Jaldesa (Isiolo CWR, JP): Hon. Speaker, I beg to ask the Cabinet Secretary for Tourism and Wildlife the following Question:

- (i) What immediate action is the Ministry undertaking to end the ongoing human-wildlife conflict in Kinna, Kulamawe and Sericho areas of Isiolo South Constituency, considering that the conflict has resulted in the loss of life, livelihoods and property and, in particular, loss of about nine camels that were killed by lions and 50 goats that were killed by hyenas during the night of 10th and 14th September, 2020?
- (ii) What measures is the Ministry putting in place to ensure timely and effective response to distress calls by the residents on matters regarding human-wildlife conflicts?
- (iii) Could the Cabinet Secretary provide a detailed report on the status of all pending compensations since 2015, indicating the names of the persons affected, nature of losses and amount of compensation, including the case for Mr. Mohamed Ali Kampicha, (ID No. 0366336), a herder who was attacked and seriously injured by a lion at Kinna area in July 2020? Could the Ministry consider offsetting his hospital bills?

Thank you, Hon. Speaker.

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

Hon. Members, that marks the end of the segment on Questions. We will now move to requests for Statements. The first request is by the Member for Kimilili, Hon. Didmus Barasa.

REQUESTS FOR STATEMENTS

MISAPPROPRIATION OF FUNDS BY MANAGEMENT TEAM OF KIMILILI HIGH SCHOOL

Hon. Didmus Barasa (Kimilili, JP): Hon. Speaker, pursuant to Standing Order No.44(2)(c), I wish to request for a Statement from the Chairperson of the Departmental Committee on Education and Research on misappropriation of funds by the Kimilili High School management team.

Hon. Speaker, it is of great concern that the management of Kimilili High School has allegedly misappropriated funds disbursed to the institution by the Government of Kenya and other donors like M/s Jenkins Check from the United Kingdom meant for school infrastructural development. It is on this account that I seek a Statement from the Chairperson of the Departmental Committee on Education and Research on the following:

- (i) What measures has the Ministry of Education put in place to address embezzlement and misappropriation of funds in public schools?
- (ii) What is the status of the forensic audit for the Financial Year 2019/2020 requested by the Board of Management of Kimilili High School, and has the Ministry taken any action against the persons involved in the embezzlement of funds?
- (iii) Could the Cabinet Secretary provide a list of the suppliers and contractors who have been contracted to supply goods and services, stating the names of the directors in the said companies and itemised goods and services supplied by each, and the criteria used in awarding contracts and tenders at Kimilili High School?
- (iv) Could the Cabinet Secretary provide a financial statement of any funds received from M/s Jenkins Check from the United Kingdom to the said school and give an account of how the funds have been utilised since 2007?

Thank you, Hon. Speaker.

Hon. Speaker: Chairperson of the Departmental Committee on Education and Research, are you in the Chamber? Hon. Florence Mutua, press the intervention button using your card. You are just fumbling with your fingers.

(Laughter)

Hon. (Ms.) Florence Mutua (Busia CWR, ODM): Hon. Speaker, I am well guided. I have heard the request from Hon. Didmus. The Ministry will give him a response in relation to the amount given for infrastructure. On embezzlement, you will guide us on how that can be handled by the Ministry

Hon. Speaker: Will two weeks be enough?

Hon. (Ms.) Florence Mutua (Busia CWR, ODM): Yes, Hon. Speaker.

Hon. Speaker: The next request is by Hon. Brighton Yegon, Member for Konoin.

DEMOLITION OF PROPERTY AT LUNAR PARK

Hon. Leonard Yegon (Konoin, JP): Hon. Speaker, I want to put forward a Statement regarding the demolition of Lunar Park.

Hon. Speaker: You are not putting forward a Statement. I thought you are requesting for a Statement.

Hon. Leonard Yegon (Konoin, JP): I am well guided.

Hon. Speaker, pursuant to Standing Order No.44(2) (c), I seek to request for a Statement from the Chairperson of the Departmental Committee on Transport, Public Works and Housing regarding evictions and demolitions of properties at Lunar Park and other surrounding business premises in Nairobi County.

Hon. Speaker, property worth millions of shillings at Lunar Park and other surrounding business premises were demolished on Tuesday, 15th September 2020 at 8.00 p.m. as Kenya Railways Pension Scheme moved in to reclaim the land for construction of the Nairobi Expressway Road Project.

Hon. Speaker, the four hours' notice issued by the Kenya Railways Pension Scheme on Tuesday evening, 15th September 2020 has adversely affected legitimate business owners such as M/s Patflex Solutions Limited, M/s Double X and M/s Mississippi Waters, among others, who have lease agreements for the next nine years. They have been occupying the premises for the last 10 years paying rent to the Kenya Railways Retirement Benefit Scheme. It is notable that over 1,000 people who are directly employed in the affected area and premises have been rendered jobless, and in particular, during this period of COVID-19 pandemic.

Hon. Speaker, it is against this background that I seek for a Statement from the Chairperson of the Departmental Committee on Transport, Public Works and Housing on the following:

- (i) Explain the criteria used during compulsory acquisition and evictions of people on developed lands or where business premises exist.
- (ii) What steps were followed during the eviction and demolition of people's properties at Lunar Park and other surrounding business premises and whether valuation of properties was carried out before evictions and demolitions?
- (iii) What measures has the Ministry put in place to ensure that persons affected during the evictions and demolitions at Lunar Park are compensated, how much and by when?
- (iv) What roles...

Hon. Speaker: Hon. Yegon, you do not have any number four in the Statement that I approved. It must only be existing in your mind.

Hon. Leonard Yegon (Konoin, JP): Hon. Speaker, I forwarded it to your office. It is very pertinent.

Hon. Speaker: It does not matter whether it is pertinent because it is not here.

Hon. Leonard Yegon (Konoin, JP): Hon. Speaker, it is also a developing story.

Hon. Speaker: The Chairperson, Departmental Committee on Transport, Public Works and Housing, Hon. Pkosing, please tell us about this developing story.

An Hon. Member: He is not in.

Hon. Speaker: Who is the Vice-Chairperson? Chairpersons of Committees, you must always ensure that either you or the Vice-Chair is in the Chamber. The request will be channelled through the Office of the Leader of the Majority Party for appropriate responses.

The next request is by the Member for Nandi Hills, Hon. Keter. Do you have a card?

Hon. Alfred Keter (Nandi Hills, JP): Yes, Hon. Speaker.

Hon. Speaker: Press the intervention button. Do you not have a card?

Hon. Alfred Keter (Nandi Hills, JP): I have it.

Hon. Speaker: Where is it? How comes you are not pressing the intervention button? You must know that there is the normal request and the one for... We will assist you.

Hon. Alfred Keter (Nandi Hills, JP): Thank you, Hon. Speaker. I think the machines are faulty.

PLANS TO ADDRESS THE PROBLEM OF LANDSLIDES AND MUDSLIDES IN NANDI HILLS

Hon. Alfred Keter (Nandi Hills, JP): Sorry, Hon. Speaker. Pursuant to Standing Order No. 44(2)(c), I wish to request for a Statement from the Chairperson of the Departmental Committee on Environment and Natural Resources on recurring landslides and mudslides in parts of Nandi Hills Constituency.

In the recent past, the residents of Nandi Hills Constituency have been adversely affected by landslides and mudslides caused by rains. The following areas namely; Kapchanga, Lengon, Kimwogi and Uson have been heavily affected and the residents are in dire need of humanitarian assistance. Further, during the months of June and September, 2020, over 300 families have been displaced from their homes. Some were injured and their property destroyed by the said disaster.

It is against this background that I seek a Statement from the Chairperson of the Departmental Committee on Environment and Natural Resources on the following:

- (i) What immediate action is the Ministry taking to address landslides and mudslides that have recently affected the residents of Kapchanga, Lengon, Kimwogi and Uson areas of Nandi Hills Constituency that has led to destruction of property and displacements?
- (ii) What action has the Government taken to ensure that families and residents affected, in particular the young children and vulnerable people suffering the most, can access basic needs especially food and shelter and other essential services?
- (iii) What plans does the Government have to ensure that the affected people are settled in safer grounds?
- (iv) What future plans and precautionary steps has the Government taken to ensure that no further loss of lives and property is experienced as a result of mudslides and landslides in the country and, in particular, Nandi Hills Constituency?

Thank you.

Hon. Speaker: The Chair of the Committee. Who is the Chair of the relevant Committee?

Hon. Alfred Keter (Nandi Hills, JP): Hon. Kareke Mbiuki.

Hon. Speaker: Hon. Kareke Mbiuki. The request is channelled through the Office of the Leader of the Majority Party for a response within two weeks.

The last request is by the Member for Igembe North.

DISAPPEARANCE OF MR. DAVID TAITUMU NTOTENE IN MOMBASA COUNTY

Hon. Maoka Maore (Igembe North, JP): Hon. Speaker, pursuant to Standing Order No. 44(2)(c), I wish to request for a Statement from the Chairperson of the Departmental Committee on Administration and National Security regarding disappearance of Mr. David Ntotene, ID Card No.12888903 on 14th August 2020 at around 7.00 p.m. in Mombasa County.

Mr. David Taitumu Ntotene is a resident of Igembe North Constituency and a businessman operating in Mombasa County who was abducted in his vehicle, Toyota Premio, KBE 958U, where he was blocked and forcibly taken away by persons suspected to be police officers using two motor vehicles – Subaru and Toyota Crown models. The incident occurred in the vicinity of regional headquarters of the Directorate of Criminal Investigations (DCI) offices in Mombasa Town, Mombasa County. Mr. Ntotene's motor vehicle was found abandoned at the gate of Mombasa Primary School and taken by the police to Mombasa Police Station.

Up to date, the whereabouts of David Taitumu Ntotene is unknown. The matter was reported to the police by the family and recorded Vide Occurrence Book No. OB13/15/8/2020 at the Central Police Station, Mombasa. It is notable that his phone was on until 19th August, 2020. The daughter texted him on 16th August, 2020 on his *WhatsApp* and on 19th August 2020, that message was read and his phone went off.

It is against this background that I seek a Statement from the Chairperson of the Departmental Committee on Administration and National Security on the following:

- (i) What is the status of investigations into the disappearance of Mr. David Ntotene in Mombasa County?
- (ii) What measures are being undertaken by the relevant Ministry and other agencies to locate and bring back Mr. David Taitumu Ntotene to his family, who are living in distress and anguish as they look for their loved one?

Thank you.

Hon. Speaker: The Chairperson of the Departmental Committee on Administration and National Security, Hon Koinange. The Vice-Chair! The request is channelled through the Office of the Leader of the Majority Party.

Next Order!

Sorry, let us have the Leader of Majority Party.

BUSINESS FOR CONSIDERATION ON 22ND AND 24TH SEPTEMBER 2020

Hon. Amos Kimunya (Kipipiri, JP): Thank you, Hon. Speaker. Pursuant to the provisions of Standing Order No.44(2)(a), I rise to give the following Statement on behalf of the House Business Committee (HBC), which met on Wednesday, 16th September 2020, to prioritise business for consideration:

On Tuesday, 22nd September, 2020, the HBC has prioritised consideration in Committee of the whole House of the Refugees Bill of 2019. We shall also continue with the Second Reading of the following Bills, should they not be concluded today:

- (i) The County Wards (Equitable Development) Bill (Senate Bill No. 34 of 2018);
- (ii) The County Statutory Instruments Bill, (Senate Bill No.21 of 2018); and,
- (iii) The Statutory Instruments (Amendment) Bill (Senate Bill No.24 of 2018).

Hon. Speaker, the HBC has also prioritised for debate the Report of the Public Investments Committee (PIC) on Special Audit Report on Kenya Bureau of Standards and any other Committee reports that are ready.

In accordance with the provisions of Standing Order 42A(5) and (6), I wish to convey that the following Cabinet Secretaries (CS) are scheduled to appear before the departmental committees as follows:

- (i) The CS for Devolution and Arid and Semi-Arid Lands will appear before the Departmental Committee on Administration and National Security on Tuesday,

- 22nd September, 2020 to answer Questions from Hon. Bishop Kawira Mwangaza, MP and Hon. Joseph Koskey, MP.
- (ii) The CS, Ministry of Sports, Culture and Heritage will appear before the Departmental Committee on Sports, Culture and Tourism on Tuesday 22nd September, 2020 to answer a Question from Hon. Joseph Tonui, MP.
 - (iii) The CS, Ministry of Foreign Affairs will appear before the Departmental Committee on Defence and Foreign Relations on Wednesday 23rd September, 2020 to answer a Question from Hon. Samuel Atandi, MP.
 - (iv) The CS, Tourism and Wildlife to appear before the Departmental Committee on Environment and Natural Resources on Tuesday 22nd September, 2020 to answer Questions from Hon. Danson Mwashako, MP, Hon. Kubai Iringo, MP and Hon. Michael Muchira, MP.

The HBC will convene on Wednesday 23rd September, 2020 to consider business for the coming week. I now wish to lay this Statement on the Table of the House.

(Hon. Amos Kimunya laid the document on the Table)

Hon. Speaker: Very well. Let us go back to Order No. 8.

BILL

Second Reading

THE PUBLIC FINANCE MANAGEMENT (AMENDMENT) BILL

(Hon. (Ms.) Gladys Wanga on 15.9.2020)

(Debate concluded on 15.9.2020)

Hon. Speaker: Hon. Members, it looks like many of us may not have heard that there is expanded sitting space in the Chamber. The new normal of sitting in the tents seems to have attracted a majority. Or, maybe, they are still dealing with those other places. The Serjeant-at-Arms can check if there are any Members who may be relaxing under the tents. Tell them there is adequate space inside the Chamber, if they want to participate in the proceedings.

Debate on this Bill was concluded and what remained was for the Question to be put, which I hereby do.

(Question put and agreed to)

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

Hon. Speaker: Next Order.

MOTIONS**INQUIRY INTO THE DEATH OF ELEVEN BLACK RHINOS AFTER
TRANSLOCATION TO THE TSAVO EAST NATIONAL PARK SANCTUARY**

THAT, this House adopts the Report of the Departmental Committee on Environment and Natural Resources on its Inquiry into the Death of Eleven Black Rhinos after Translocation to the Tsavo East National Park Sanctuary, laid on the Table of the House on Thursday, 19th September 2019.

(Hon. Hassan Hulufu on 30.7.2020)

(Debate concluded on 15.9.2020 – Afternoon Sitting)

Hon. Speaker: Again, Hon. Members, debate on this Motion was concluded and what remained was for the Question to be put. I proceed to do so.

(Question put and agreed to)

Next Order.

REPORT ON AUDITED FINANCIAL STATEMENTS FOR CONSTITUENCIES IN KIAMBU COUNTY

Hon. Speaker: The Chair of the Special Funds Accounts Committee, Hon. Murungi.

Hon. Kathuri Murungi (South Imenti, Independent): Thank you, Hon. Speaker. I beg to move the following Motion:

THAT, this House adopts the Ninth Report of the Special Funds Accounts Committee on the Audited Financial Statements for the National Government Constituencies Development Fund (NG-CDF) for the twelve constituencies in Kiambu County for the Financial Years 2013/2014, 2014/2015 and 2015/2016, laid on the Table of the House on Tuesday, 25th February 2020.

Hon. Speaker, because of the time limit of 10 minutes, I will highlight only the key areas that this House needs to know. This Report contains observations, findings and recommendations derived from the Committee's examination of 36 reports of the Auditor-General on the NG-CDF of the following constituencies in Kiambu County:

1. Gatundu South.
2. Gatundu North.
3. Juja.
4. Thika Town.
5. Ruiru.
6. Githunguri.
7. Kiambu.
8. Kiambaa.
9. Kabete.
10. Kikuyu.
11. Limuru.
12. Lari.

This is a Fund which is overseen by Members of this House directly. This is a Fund that has actually transformed this country. If you compare what this Fund has been able to do and what has been done by the other funds that get to the constituencies, you will realise that this is one of the best funds that have really transformed our constituencies.

The key observation that we made is that there is no standardisation of the NG-CDF projects. We found out that two classrooms of the same measurement can cost Kshs600,000 in one area and Kshs1 million in another area. So, my Committee recommended that the NG-CDF Board should invest in quantity surveyors and architects to standardise the projects so that we do not have discrepancies in the cost of the same projects.

Another key point that we noted is the reallocation of funds in some constituencies without the approval of the Board. It is also good for the country to note that Members of this House are not the accounting officers of the Fund. There are Fund Account Managers (FAMs) who are directly responsible to the Board. Members of this House only play an oversight role. It is important for the country to know that whatever happens with this Fund is not directly the responsibility of the Member of Parliament. So, I want to exonerate Members of this House. Even when we summon the FAMs to appear before the Committee, it is the prerogative of the Member of Parliament to either appear or not. But we encourage Members to, at least, appear when we sit with the FAMs so that they can also know the issues raised in their constituencies. But the key people who are directly responsible are the FAMs.

The other observation was under-utilisation of Administration Police (AP) posts and police stations. In many constituencies - especially Gatundu North, Juja and Thika - there are so many projects for security facilities. This is common in almost all the constituencies. When Members of Parliament conduct public participation, members of the public demand police posts and police stations. The NG-CDF committees go ahead and construct the same. But due to lack of consultations between the sub-county security personnel and the NG-CDF committees, the Ministry of Interior and Coordination of National Government lacks security officers to post to those facilities. If you move around the constituencies, you will find so many police posts and police stations with no police officers. This is because the facilities were constructed without due consultations. But now there is a regulation that the constituency committees must liaise with the sub-county security team to approve where those police posts and police stations are needed. It is very difficult for *wananchi* to know whether an area really needs security personnel or not. Our recommendation is that adequate consultations should be done. The Board should also conduct a survey across the country and come up with a report on where there are such unoccupied establishments. So, after the adoption of this report, we expect the Board to come before this House again, maybe, through the Committee on Implementation, and tell us how many police posts and police stations are scattered all over the country with no personnel.

Another issue that my Committee noted in this Report is expenditure approvals by the District Accountants. In each constituency, there is an officer called a District Accountant. This is the officer who approves all payments made to the NG-CDF projects. In some constituencies, there is a lot of negligence on the part of the District Accountants. If the Board cannot have independent officers, then the District Accountants should take their work seriously. When auditors visit the constituencies to conduct audits - that is three months after the expiry of a financial year - they do not get the documents that they need to do their work. All the original payment documents, which are in the custody of the District Accountants, should be provided on time. One of our recommendations is that every FAM's office should have original files on every project in the

constituency. In most cases, the original documents on projects are with the project management committees (PMCs).

The recommendation is that every fund manager must have a complete file for every project. That file should be in the FAM's office. This is so that when the auditors get to the constituencies, they are able to give them all the documents that they need to do the audit. Most problems we found are that auditors do not get documents. When they go to the constituencies, they spend three days, five days and a week and later on, they leave their constituencies without doing their work.

Another issue is that there is a missing link between the Office of the Auditor-General and the FAM. This is because when the Auditor-General comes up with a report or a certificate on a certain financial year, if you are doing the audits for the Year 2013/2014, you will find that, that fund manager did not even attempt to visit the Auditor-General's Office in the region so that they can be cleared of the audit queries. Therefore, we advised that, that should be corrected. It is one of the recommendations on what should be done by the fund managers.

As I conclude, the other issue is on bursary allocations. We saw that some of the cheques get stale. When some students move from one school to another, they get stale. That should be streamlined. It can be streamlined through use of electronic system to wire money to schools so that cheques which are sent to the schools and get stale go back. Some are sent, and the students are never aware whether they were sent to their schools. We, therefore, recommended that we can have electronic money transfers.

Hon. Speaker: I give you two minutes to wind up.

Hon. Kathuri Murungi (South Imenti, Independent): Thank you, Hon. Speaker for being magnanimous. The last one was on oversight committees.

In the NG-CDF Act, 2016, we established oversight committees in the constituencies. Those committees are not functional in the constituencies. This is simply because there was no allocation for their allowances. There is money for monitoring and evaluation which is done by the FAMs and the NG-CDF Committee. Those are the people who implement the project. If I am the chairman of this committee, that money should be put under oversight committee. You cannot do the project then after a few months, you go to mark the same project yourself. So, the oversight committees should utilise that money. If this House agrees with me, monitoring and evaluation money should go to oversight committees, which would be very independent when they go to monitor the projects.

These are the issues that really touch us. I ask the Member for Mbooni Constituency, Hon. Erastus Kivasu Nzioka, to second the Motion.

Hon. Speaker: Hon. Erastus Kivasu, have the Floor.

Hon. Erastus Nzioka (Mbooni, Independent): Thank you, Hon. Speaker, for giving me the opportunity to second this Motion on the adoption of the 9th Report of the Special Funds Accounts Committee on the Audited Financial Statements for the NG-CDF for the 12 Constituencies in Kiambu County.

I was one of the Members who went round Kiambu County and visited around six constituencies. What the Chairman has already presented are issues that came out from the audit report.

One issue that we realised on the ground was the under-utilised police posts. This is whereby, through NG-CDF, at least Administration Police posts were constructed. They were commissioned but have not been used up to today. This posed the question on how public participation was done, and whether there was any consultation with the relevant Ministry before

they did the construction. This, if checked well with Ministries, or done well with public participation, will ensure proper utilisation of the NG-CDF money.

On the issue of bursary, we realised that there were delays in disbursing those bursaries to beneficiary institutions. There was non-presentation and cancellation of bursary cheques which have led to loss of money which is supposed to have benefited students. This led to the recommendations that we gave.

We need NG-CDF to give guidelines on how we are going to issue some of those cheques. Being a consultant in the area of Information and Communication Technology, we also request fast-tracking of the use of electronic funds transfer (EFT) so that we can ensure all bursaries are disbursed well to the relevant institutions in order to benefit the people who are supposed to benefit.

Finally, we also observed that in construction of classes, many Members do not have any standard way of doing the buildings. There is need for NG-CDF to ensure that they have standardisation especially, on those constructions taking into considerations the parameters within the region, and most likely, having a quantity surveyor or an architect within the county or the constituency. That is going to ensure that costing and designs are done properly so that we ensure proper use of NG-CDF money.

With that, I second the adoption of this 9th Report.

(Question proposed)

Hon. Speaker: Looking at the requests, the Member for Rarieda appears to be on top of my list.

(Hon. (Dr.) Otiende Amolo spoke off-record)

Member for Rangwe, do you want to contribute to this?

(Hon. (Dr.) Lilian Gogo spoke off-record)

Ooh! The next one. Member for Mandera East, Hon. Omar, kindly have the Floor.

Hon. Omar Mohamed (Mandera East, EFP): Hon. Speaker, at the outset, I want to support the Report by the Chairman.

I concur with the findings that they have put. It is important to note that NG-CDF relies heavily on the Ministry of Public Works for designs of different projects and, as a result of that, what the Committee has found out is a clear indicator that the board requires to recruit its own technical staff to do those designs.

As per the findings, it is important to also note that different regions have got different geographical locations and different costing. It is going to be very difficult to standardise costs for classrooms. In Nairobi, a bag of cement costs Kshs600. It costs Kshs1,200 in Mandera and far-fetched constituencies. Therefore, the most important thing here is for the board to create the capacity to do bills of quantities and the technical know-how in terms of designing those projects.

Otherwise, I support. Thank you.

Hon. Speaker: Minority Whip, Member for Kathiani. Kindly have the Floor.

Hon. Robert Mbui (Kathiani, WDM-K): Thank you. I am the Deputy Minority Leader, Hon. Speaker. I am acting Minority Leader because my Leader is in Migori fighting the battle there.

Hon. Speaker: So, you are the one ...

Hon. Robert Mbui (Kathiani, WDM-K): I am now acting.

(Applause)

Hon. Speaker: Proceed.

Hon. Robert Mbui (Kathiani, WDM-K): Thank you, Hon. Speaker for giving me the opportunity to also make a contribution on this issue of NG-CDF audit.

We all know that this is the most visible fund in the country. We have devolved funds. The counties have billions. However, if you go to every constituency in Kenya, from front, back, right and left, the projects that you will see are NG-CDF-funded projects. It is a Fund that has actually supported the people of this country. In fact, on the issue of education, parents used to contribute to build schools, toilets and classes. Now I think in most of this country, parents are able to spend their money on other issues so that the NG-CDF can do those constructions.

Hon. Speaker, on the issue of audits, I have noted that it is true that we all have to be audited and the Auditor General and his team have to go to every constituency every so often and give a report. However, I have observed severally that the reports that they give when they go to any place to do an audit, they are supposed to go and ask questions to the fund managers. Unfortunately, there are times that the questions that have been asked- we call them audit queries- before they are responded to, they find their space in media. Therefore, the questions that have been asked before the fund manager answers, somebody leaks them out and then it looks like the money has been lost when there is no money that has been lost. In fact, most of those questions can actually easily be answered. Therefore, it is important that the Auditor-General's Office notes that before you receive a response, do not release that report because it is basically half-baked. In addition, that is why you saw two or three years ago, there was a report that said that almost 99 per cent of Members of Parliament (MPs) were accused of having embezzled constituencies' development funds.

The other issue that is critical to note is that, of course, this is a political fund. Unfortunately, Members of Parliament do not implement the projects. Our role is simply to offer oversight. Anybody aspiring to be a Member of Parliament in Kenya- any one of the 290 constituencies- is going for NG-CDF to look for mistakes so that they use that against a sitting Member. That has been the norm all over. In fact, the reason why 70 per cent of Members go home is something to do with the NG-CDF. Some mistake is made somewhere- even the construction of a police post that is not manned - and they say that the Member has failed. Therefore, it is important that everyone notes that this is a political fund because people do not understand. But the reality is that we, as Members of Parliament, are just there to offer oversight.

Hon. Speaker, I listened keenly to the Chair of the Special Funds Accounts Committee when he talked about the issue of standardisation of construction. He has talked about a classroom costing Kshs600,000 all the way up to Kshs1.2 million. That comment can be used to attack some Members here who come from places which are so far from the source of materials. This is because the cost of transportation...

Moreover, I will say this: Even in my own constituency, there are certain schools that cost more to construct than others. This is because you could even transport the materials somewhere

near, but you have about a kilometre where those stones, sand, ballast, and the cement will be pushed using wheelbarrow. We all know that the country is not fully developed. Therefore, it is important that those things be taken into consideration because, sometimes, you may make a comment and it is used against a Member that "you spent Kshs1.2 million", but the reality is that every region and area has its own cost and that is why we work with the project management committees.

Hon. Speaker, there is again a difference in cost when you construct a class using the project management committee and when it is given to a contractor. This is because with a contractor, there is cost of Value Added Tax (VAT). There is cost of, of course, overheads and all that. However, if it is the project management committee implementing, they only buy cement, sand and stones and employ a local *fundu*. Therefore, the cost will obviously be different. It is important that the NG-CDF also tells us the right way to do it. Do we go with the project committee to construct and implement or do we give those jobs to contractors? This is because when you go to contractors, it becomes very expensive.

Finally, I want to say that we are going through a constitutional moment and NG-CDF is a very critical fund. Maybe, it is the right time that we entrenched NG-CDF as a chorus in the Building Bridges Initiative (BBI) so that we can be sure that Kenyans will have NG-CDF going forward and it does not die. This is because I know there is a push for the Ward Development Fund in the Constitution.

With those few remarks, Hon. Speaker, I support.

Hon. Speaker: Well, I think that is business number 11. I think it is the County Wards (Equitable Development) Bill. Very well. Member for Igembe North.

Hon. Maoka Maore (Igembe North, JP): Hon. Speaker, on the issue of NG-CDF, we have seen what it has been doing in the last 17 years. In addition, it is important to say that the most important part of the NG-CDF we can actually debate is the audit. Moreover, the feedback from the experts on what has actually happened on the ground with this money is that the entire country has been transformed. It is in the 1980s and 1990s and even the early parts of this millennium when we were seeing most of the classrooms in the country being of either mud or badly done. I do not have a story to say why we have the same 17 years later after the introduction of NG-CDF. Therefore, when you listen to what has happened or what has been reported by the Chair, I concur but I wanted to remind my predecessor in speaking about the issue of audit. There are actually two audits. There is an audit done by the NG-CDF Board, that is the internal audit and then there is the Auditor-General's. Therefore, I believe the report that he is talking about having leakages is not from the Auditor-General.

What we are facing as people in the field is the feedback. In addition, I wanted to explain something they are calling retention money. If you give a job to somebody to build a classroom and the price may be Kshs800,000 or Kshs900,000, then you are told you are having a retention fee of 10 per cent, the 10 per cent you are talking about is actually beyond the profit of some of the projects, given the cost or the size of it. Therefore, I think we need to reflect and also seek exemption of the CDF projects from those retention fees because it is very little amount of money we are talking about. Moreover, we are talking about the projects. Let us say you have done 60 projects and then you are doing retention for each of them, you will be causing chaos in the communities that are supposed to benefit from constructing or doing those businesses or those jobs. So those who are doing Kenya Rural Roads Authority (KeRRA) jobs there might be Kshs4 million or Kshs6 million maximum or average. When you are doing a job of Kshs6 million you do not have any retention money but, if you do a classroom of Kshs600,000, you are doing

retention of 10 per cent. I think the most urgent thing that is needed to streamline the operations of those jobs is to seek a situation whereby we do not have this clause in the NG-CDF Board operations. Moreover, this should actually be pushed by the NG-CDF Board, the Committee on NG-CDF as well as this Committee on the Special Funds but, mostly, the Board. They should be able to go and say there is a headache in the implementation of those jobs. When we do this, we will have better results instead of having the job done but, in the evening or at the end of the day, almost everyone is complaining because of the retention money.

Thank you Hon. Speaker.

Hon. Speaker: Member for Kiminini.

Hon. (Dr.) Chris Wamalwa (Kiminini, FORD-K): Thank you, Hon. Speaker, for giving me this opportunity to contribute. First and foremost, I want to thank the Special Funds Accounts Committee for the good work they have done. In the entire country, the only Fund that is felt at the lowest possible level is actually the NG-CDF. It has transformed lives.

Hon. Speaker, it has brought hope where there was no hope. This is a fund that should be increased from 2.5 per cent to 5 per cent. Despite the coming of devolution, it has not been felt on the ground. It is good for the country to know that the CDF Act was amended to the title National Government-Constituencies Development Fund (NG-CDF). They need to know that Members of Parliament do not implement, but only provide oversight. Many people have come to me for tenders. Members of Parliament do not give tenders. If you want to get a tender go to the Project Management Committee (PMC). We have the CDF Committees. Where there is a project in a school, there is a project management committee where the Principal is a member. That is where you go for tenders. I do not know if you Hon. Members give tenders. Where do you get tenders from? We do not give tenders. You go to the PMCs and follow the due process. The procurement method used is open tendering. Most of the time tenders are not given to the locals.

Hon. Speaker, it is disturbing. Some people who want to contest for parliamentary seats just look for somebody to blackmail. If there are any audit queries, the person who is accountable and responsible is the fund manager.

Recently, we saw on television the Lari MP and Malindi MP being taken to court. I have been wondering where the connection is. It is important for the Auditor-General and the Director of Public Prosecutions (DPP) to understand the law. The CDF Act was amended and is now the NG-CDF where an MP has no responsibility when it comes to expenditure. They only oversee.

The kind of embarrassment we are seeing is something that has to be sorted out. As we move forward, project identification is supposed to be done using the bottom-up approach. Many times some projects are identified in schools during the Annual General Meetings (AGM). I have had a situation in my constituency where the school wanted a school bus just because the neighbouring school had one. When it came to the NG-CDF for approval, it was rejected. I am now calling upon our Special Funds Committee...The CDF Board should be told that since projects are identified using the bottom-up approach, they should approve whatever project has been identified by the community because it is not the MP who decides. They will tell you in the AGM that they do not want a certain project, and that they want a school bus just like others, only to hear that the school buses have motivating factors.

In my constituency, I have seen performance improve in the Kenya Certificate of Secondary Education (KCSE). Even the enrolment has gone up. You find a class of one stream but upon purchase of a school bus, you find the enrolment moves to two streams and this is a day school. So, project approval must be based on the bottom-up approach. I am requesting the Special Funds Committee to talk to those who approve.

We have a big problem with fund managers. They are lazy. They do not report to office daily. Most payments are delaying, and there is rivalry between the Funds Accounts Managers and the District Accountants. They should look for a way of harmonising because they are critical for the success of the operation of this Fund.

Thank you. I support.

Hon. Speaker: Let us have the Member for Kinangop.

Hon. Zachary Thuku (Kinangop, JP): Thank you, Hon. Speaker for this opportunity to support the Report by the Special Funds Committee on the Audited Report on the NG-CDF Accounts of the said constituencies in Kiambu County.

At the outset, I join my colleagues in the chorus that the NG-CDF is a miracle in the village because this is the only Fund that is transforming lives in our individual constituencies. It is changing the lives of people who had no hope by giving them hope.

However, on the same note you realise that the NG-CDF is given to constituencies equally. I believe that equality is not equity. This is because some constituencies are big, populous and vast. Giving an example of my own constituency, the size is about 934.7 square kilometres compared to some constituencies. I happen to sit on the Departmental Committee on Defence and Foreign Relations. One of my colleagues said his constituency is 8 square kilometres. I thought my constituency is almost 100 times bigger than that constituency and yet we get the same allocation of NG-CDF. I believe this is the height of inequality and inequity that we need to look into. Going forward, we need to develop a formula that is going to be acceptable where we use population and maybe land mass just to ensure that we do not disadvantage some constituencies. You will find that one constituency has about 10 schools and another has 200 schools and yet we are getting the same amount of funds.

It is interesting to note that some colleagues here are procuring school buses for their schools because that is their priority and yet some of us are still fighting with mud classrooms, iron sheet classrooms and timber classrooms. This is something we need to address. The NG-CDF is for constructing schools and security. We need to look at these parameters when we develop a formula that will be effective and give us equity across the board.

Hon. Speaker, I have also realised from the Report that the Chairman mentioned something in regard to cheques. We need to have a system where monies are dispensed via Electronic Funds Transfer (EFT) as opposed to doing cheques. We had challenges where some school managements did not bank cheques issued to them or the cheques had errors. Such errors can be corrected in real time if we develop standard software for use by all constituencies so that we disburse money via EFT.

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

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

Hon. Deputy Speaker, there is the issue of late disbursements. The constituencies cannot implement their projects on time because the National Treasury is delaying in disbursing funds. There is the issue of inequality in terms of disbursing the same. You find that when one constituency has received 100 per cent funding the other constituency is at 20 per cent. We need to know why this is happening as much as some constituencies may have given their priority list of projects to be done. As a House, we must do what we are supposed to do to compel the CDF

Board to disburse money as and when it is required so that we do not jump to the next financial year before receiving our disbursements for the current financial year.

With those remarks, I support the Report.

Hon. Deputy Speaker: Very well. Let us have Hon. Amin Kassim.

Hon. Rashid Kassim (Wajir East, WDM-K): Thank you, Hon. Deputy Speaker for giving me an opportunity to add my support to this Report presented by the Special Funds Committee. The contribution of the NG-CDF in terms of development in the society is extremely important. It has changed the lives of many people, particularly those interested in pursuing education. It has improved infrastructure and construction of classrooms as well as other aspects within its mandate. It has done much improvement particularly in support of security matters by way of construction of police lines and sub district headquarters.

Hon. Deputy Speaker, the NG-CDF has been transformative in terms of its allocation and support to development in the rural areas. There is a similar arrangement at the ward-level in some counties in the rural areas where Wards Development Funds have been established though not anchored in law. If you compare the contribution of the NG-CDF and the Wards Development Funds, particularly in equal amounts, you will realise that the NG-CDF has a mark that is visible in terms of infrastructural improvement in schools and other sectors. Therefore, I suggest that as we proceed with the Building Bridges Initiative (BBI), we increase the NG-CDF allocation to between 5 and 10 per cent so as to have meaningful improvement on our people's lives. We can realise an increment in terms of the NG-CDF contributions if we increased it to five or 10 per cent so as to have a meaningful improvement.

One thing I have noted is that the Government of Kenya has rolled out 100 per cent transition. This means every child who finishes class eight has to proceed to secondary school. The Government despite initiating the policy, failed to initiate commensurate development or allocate funds for classes, other infrastructure and laboratories. So, the NG-CDF has become very handy in supporting the 100 per cent transition rolled out by the Government of Kenya.

We have also realised that day schools have significant impact. If we construct more day schools, many children will live in the comfort of their homes and go to school. This will create a significant impact in supporting education. Through the support of the NG-CDF I have been able to roll out three girls' secondary schools in the last three years with an enrolment of about 1,500 girls. This is a significant improvement in a pastoralist setting where girls are known not to go to school. So, the contribution and life changing aspect of the NG-CDF is significant and something that can be emulated by any meaningful development partners in future.

Through the NG-CDF, I was able to initiate the development of a sub-district which was gazetted by His Excellency Uhuru Muigai Kenyatta way back in 2017 and could not move because of lack of funds. So, we were able to build an office block and a residential house for the sub-county Assistant County Commissioner for Khorof Harar through the NG-CDF. So, the significance of the NG-CDF is enormous and something that needs to be supported so that we can change the lives of many.

Thank you.

Hon. Deputy Speaker: Hon. Otiende Amollo, I am just following the list. I will not follow your hands. So, the next one on the list is the Majority Whip.

Hon. Emmanuel Wangwe (Navakholo, JP): Thank you, Hon. Deputy Speaker. Allow me to appreciate the Report by the Special Funds Accounts Committee and thank them for the good work they have done.

What comes out of this is the question, what is an audit? In my view, an audit is not a word that puts you in trouble or blames you. Instead, it is simply a statement to enable you correct the past for a better tomorrow. Therefore, I feel a properly done audit will help an organisation to run its affairs very well. I want to agree and appreciate the Report in its entirety so that the various constituencies involved can improve from what has been highlighted in the audit.

One of the key issues that has come up is reallocation of funds. I want to agree that this is a challenge not just emanating from the constituency alone, but also the manner in which the NG-CDF Board takes time to effect the proposed changes of the reallocation. I wish to ask the Chief Executive Officer (CEO) together with the Board to recognise that they are a secretariat supporting various constituencies in terms of implementing the Fund. Therefore, let them be very effective when it comes to reallocation. The approach of the operation of the Fund is bottom-up. A particular need that existed six months ago varies from what is possible today. Let the Board appreciate the changes to that effect.

It is my plea and request to the Board to move quickly. For instance, we received a circular from the Board asking that we can vary funding from bursaries to other development concerns for instance, building of classrooms because of the covid-19 issues. For those who applied up to-date this issue has not been effected. So, how do you put this into action on the ground? This is the case and yet we can see the CS for Education saying schools are reopening next week, the week after or next month. He needs to make a quick decision on when the schools will reopen. Should he say they reopen in October, it means the funds committed from the bursaries will still not have been effectively put to use. We know the Public Procurement Disposal Act gives us a number of days when we are supposed to procure. Therefore, the issue of reallocation must be supported by the Board and the membership of NG-CDF.

An issue coming out from the Report is about disparities in terms of amounts used. For example, building a classroom at Ksh500,000 and the same institution building another classroom at Ksh600,000 or Ksh800,000. This is an issue of quantity. It should not be used to either abuse or correct issues happening in a particular constituency. Should you build a one-storey building equivalent to two classrooms by virtue of the two floors the ratio will be different. Should you build, for example, using bricks or blocks the figure will be different. Should you use natural stones verses the machine cut stones, the cost will be different.

Therefore, universality in terms of the pricing should be put to use by the Board. So, the Quantity Surveyor (QS) can ascertain what the relatively acceptable prices that apply for particular square metres of a building are.

With that in mind, I beg to support the Report.

Hon. Deputy Speaker: Hon. (Dr.) Lilian Gogo, you have the Floor.

Hon. (Dr.) Lilian Gogo (Rangwe, ODM): Thank you, Hon. Deputy Speaker for allowing me to indulge in this matter. I think those who have spoken ahead of me, have well-articulated matters NG-CDF. I must not take a lot of time to belabour the point that NG-CDF has literally changed lives of communities.

Apart from many other things that should be done to NG-CDF it should be constitutionalised. This is because NG-CDF is the main Fund felt by that very person at the ground level. All the NG-CDF funds are well audited. I want to thank the Member who indicated that there was an amendment that made it NG-CDF, and made the role of the MP to be reduced mainly to oversight. The MP should mainly participate in the NG-CDF oversight committee as a Member.

We have made many castigations of MPs when it comes to matters NG-CDF. It is high

time we told our own story as MPs. This is because if we do not tell it as lions, then the hunter will get credit for what has happened. But as it is NG-CDF is literally managed by communities. It has a fund accounts manager who disburses funds, and they work together with the district accountant. NG-CDF should not be tampered with in any way. At the same time, I stand here to question why there are too many auditors auditing the accounts of NG-CDF. I just learnt today that we have an auditor from the NG-CDF Board and another from the Auditor-General's Office.

However, as I stand here, there is always an auditor auditing accounts of Rangwe NG-CDF every week. Literally, every week there is somebody auditing accounts of NG-CDF. We have one from the county, another from the sub-county, another one from Kisumu and a team from Nairobi. I think we also get a regional team that goes to audit accounts of Rangwe NG-CDF.

From where I stand, the procedure is very clear on the management of this particular Fund. I echo and laud the Report that has been given by this Special Funds Accounts Committee. I also support their work and highlight various issues that affect NG-CDF. One of my colleagues has said here that the projects are identified by the community. We have provisions for making roads that go to schools but when the community wants a bus... I have found that school buses are so close to the hearts of communities. Who is the Committee to refuse what the community wants? So, there are clear procedures for managing this Fund. I would propose and suggest that the amounts be increased because previously the 2.5 per cent was obtained from the main fund but it was reduced to 2.5 per cent of what is given to the national Government. If we would have a situation where we have more money allocated to NG-CDF and more work done by NG-CDF, then this noise that goes around the Member of Parliament (MP) would stop. The MP has not done water and health projects. When it comes to a school, the MP needs to do the classrooms. When it comes to security, the MP needs to do it. There is a constituency NG-CDF Committee that handles this work. Too many Members have also been taken to court on matters that relate to NG-CDF but are not related with oversight.

Hon. Deputy Speaker, we need your protection when it comes to this. The Commission needs to protect Members so that our names do not just keep going up and about courts. You find you are already taken to court on matters that do not even concern you and when you enter a judicial system, getting out is as hard as giving birth to two children at the same time.

So, I appeal that we continue doing the good work we are doing with the NG-CDF, and we allocate more money but we also have this Fund embedded in the Constitution so that it lives for posterity and apart from that, it helps more and more people. When it comes to the work of day schools and NG-CDF, most of the pupils and students that go to day schools come from fairly disadvantaged communities. However, through NG-CDF, if you buy a bus, they have the same learning advantage as those who go to groups of schools because of NG-CDF. When you use NG-CDF, they are able to use classrooms that are tiled in the middle of nowhere like the children who go to the group of schools. So, I appreciate the work that has been done by the Committee and...

Hon. Deputy Speaker: We go to my left now since I can see the top three here are to my right. So, I will find one here. They are way down. That is Hon. Kioni.

Hon. Jeremiah Kioni (Ndaragwa, JP): Thank you, Hon. Deputy Speaker, for getting me way down. I do not know where way down is but let me start by saying that NG-CDF...

Hon. Deputy Speaker: You were number four and the three were to my left.

Hon. Jeremiah Kioni (Ndaragwa, JP): Okay. I need to familiarise myself with the left and right.

Hon. Omboko Milemba (Emuhaya, ANC): On a point of order, Hon. Deputy Speaker.

Hon. Deputy Speaker: Hon. Omboko Milemba, what is it?

Hon. Jeremiah Kioni (Ndaragwa, JP): Hon. Deputy Speaker, note that they are taking my time.

Hon. Omboko Milemba (Emuhaya, ANC): Sorry for taking senior Hon. Kioni's time but in the morning you ruled that because of the spacing now, the mask is a must. Could the Hon. Member put on his mask? Thank you.

Hon. Jeremiah Kioni (Ndaragwa, JP): Hon. Deputy Speaker, he did not have to take all that time to just say I put my mask on.

Hon. Deputy Speaker: It is a very serious thing, Hon. Kioni. In fact, I am surprised that I noticed you. Actually I might use that as... Anyway, you are lucky you have already had the Floor. Otherwise, I would not have noticed you at all. I realise it is because of the multicolour gadget that you have used.

Hon. Jeremiah Kioni (Ndaragwa, JP): You are not likely to threaten me, Hon. Deputy Speaker. It is very difficult to. I was going to say that...

Hon. Deputy Speaker: Hon. Kioni, I do not threaten. I take action.

Hon. Jeremiah Kioni (Ndaragwa, JP): Hon. Deputy Speaker, I was going to say that NG-CDF is not a political fund. There is a Member who said that a bit earlier and when you say that, you feed into the legal exercises that are taking place, and you can arm others who would want to do away with NG-CDF. It is not a political fund but a special fund that is meant to bring development to our area. It is a Fund that was introduced way back in 2002 or 2003 when Members realised that the national Government was not having impact in terms of development at the constituency level. That is why they came up with the NG-CDF which has had monumental impact in the constituencies, including mine. I can tell you that any constitutional amendment that is on the way through this House, BBI or any other channel that may want to take away NG-CDF or that does not give prominence to it, will likely have difficulties passing. I am encouraged to see that we have a County Development Fund Bill that is before us. In complete appreciation that unless we have funds that have been earmarked for development to the smallest unit in this country, there are areas that will never be developed and will continue suffering because the amount of money that is meant for development is always consumed through other areas of recurrent nature. That is what informed the Members back in 2002 to come up with NG-CDF.

I think it is also important to note that only 6 per cent of the amount of money that has been sent to the constituency is allowed for recurrent expenditure. There is also 3 per cent for monitoring. However, a whole 91 per cent of the funds go towards development. This is a model that we need to take and pass on to the devolved funds. In fact, there are times I feel like we may want to chop off some money that is taken for devolution and put it in NG-CDF. It is also another way of devolving funds and development to the people. I know we are all happy about devolution but the happiness in devolution should come because it is impacting on the people in form of development. If it is not, we have to re-look at other channels or ways of bringing around development in our areas that are more effective. I am saying this as a challenge to county governments. We can see the impact NG-CDF is having. Why is it that we cannot see the same impact from county devolved funds yet they are receiving billions? This is just Ksh100 million and the impact is very massive. You cannot believe that a county will receive Ksh5 billion and you fail to see any amount of impact in your area.

Hon. Deputy Speaker, I know that in that audit there was the issue of standardisation of classrooms and the rest. I want to caution the Committee. That is a very dangerous route to follow because factors that affect the cost of development vary from one area to the other. I think there

are many papers that have been written on that. I know we need to audit the cost of that classroom as opposed to trying to look for a way of standardising the cost of constructing classrooms across.

Also, there are some areas where you seek for permission to help, like in the access to education. I am specifically talking about access roads.

When you try to help people to get to a school, the board is very reluctant. They need to address that issue in a better way because it is very crucial in many places. The Special Funds Committee needs to pay attention to this Act. The Act and the board requires you to put a name or to label the building using ordinary paint. I think it is a thing that requires more thinking. The man who was here before me just loved what I had done before and he actually labelled buildings to reflect his term. It is the most useless thing that you require constituencies to do. You need to address some of these issues so that it become more progressive. Come up with something that is better and do not replace the name of the school with the financial year. You are confusing pupils in the school.

I thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Very well. I will give Hon. Maanzo a chance. Kindly Members, if we can speak for few minutes, as many Members as possible will get the opportunity to contribute because I see the interest is a bit high.

Hon. Daniel Maanzo (Makueni, WDM-K): Thank you, Hon. Deputy Speaker. I really want to thank the Chairman of the Special Funds Committee for a job well done in Kiambu County. When you look at the recommendations, they reflect some weaknesses which have affected other counties. There is definitely room for improvement in the NG – CDF Board and the auditors so that we can serve the people better.

These funds get very tricky when it is an election time and a lot of people want to use every method. It must be made clear to the country that the Member of Parliament is only doing oversight. He does not participate. The local committees which deal with these funds are very careful and are watched by the people there. That is why you find that these funds are very difficult. When a cheque has been issued to construct a classroom somewhere, for anyone to steal any money whether they used a contractor or some local fundi, the committee implements. It can easily be accounted for and valued. I have heard something to do with standards. There are many ways you can look at it. It can be audited but the same time, the Ministry of Housing can come up with a standard like the way we did our offices. There is a certain level of standard from the little money that is given. You could see all the NG-CDF offices in the country. They came up with very good offices at reasonable cost and the design was almost the same. I really want to commend the team and say this model should be replicated in other levels to make sure that devolution works.

You know devolution has been there for 7 years now, and averagely, every county has received Kshs80 billion. The CDF which is about 10 per cent of that, but you can spot the impact in the constituencies. You can see how it has worked, and the projects can be seen. They are of good standard and they are thoroughly monitored.

Finally, I would like to talk about oversight. The House has been a team to oversight. Currently, of all of the auditors, the development committees are the ones which are overseeing themselves. It is important that the MPs office is empowered to do the oversight and to make sure that every little detail is followed. I am sure if we do that; if we empower the overseeing, then the Reports will be very clear. You will not have Members of Parliament being hunted down for matters which they have no responsibility over or are not aware of.

Finally, as a lawyer, I want to tell Members to just keep to our side of oversight because should there be conflict of interest in any way, then one is likely to be charged and it is likely to spoil your political life. The CDF alone makes too many Members not to come back to this House.

I support and I thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Very well. Hon. Melly. He is absent. Next to him is Hon. Limo. He is also absent.

Hon. Joseph Limo (Kipkelion East, JP): Hon. Deputy Speaker, I cannot be absent.

Hon. Deputy Speaker I thank you for giving me this chance to contribute to this very important Report. The CDF is a household name. I want to congratulate the committee for coming up with such a Report.

The CDF Act has gone through several stages and the last amendment was in 2015 when it was changed to the NG-CDF with the aim of ensuring that this fund is for the purpose of implementing projects which are touching on national Government functions. The reason for that is that, there was a lot of cries from the governors. The governors were accusing the CDF of implementing projects which belong to counties. It is very sad that since the CDF stopped funding projects like water, especially the villages, early childhood classrooms and health facilities, there has never been any meaningful construction done by the county government, especially in the health sector.

Hon. Deputy Speaker, I know you are my neighbour and because you cannot speak while you are on the Chair, I can actually speak on your behalf. You did very well when you constructed many health centres in your constituency. As a mono, I followed you and we did very well. But right now, the counties have not even used those facilities. They are not providing medicine and staff to serve the people of Kenya. So, when we change it from CDF to NG-CDF, we now concentrate on education and security. However, the other sectors are suffering.

In the 11th Parliament, I remember many Members in this House then, were proposing that devolution be done in a model looking like CDF, but there was a lot of noise from the then Chair of Council of Governors, our friend Isaac Ruto. He said these are the agents of anti-devolution. We were saying that because we have tried and the NG-CDF model and it is working, we could have implemented that and avoid the duplication of national Government in to county governments. County governments are very busy forming very big structures having Cabinet Secretaries and Principal Secretaries, yet it is not in the Constitution. They are even employing people like chief of staff and all sorts of things. Counties currently are spending over 80 per cent on recurrent and are remaining only with 20 per cent while CDF is only spending 90 per cent on development including money going to *mwananchi* directly. So, 90 per cent of CDF – this has to go on record – is going to *mwananchi* directly. What goes to administration and monitoring is only nine per cent to be specific. So, if this country can wake up today and say we want to do reforms, leave alone these reforms, *sijui* Building Bridges Initiative (BBI) or what, if we want to do real reforms, why do we not reform the structures of county government and we return it to a situation where, at least, 90 per cent goes to *mwananchi*. That will be meaningful.

I want to end by saying this to the National Assembly. The issue of increasing funding to CDF lies in allocation of funding during the budget process. By the way, the NG-CDF Act says that, at least, 2.5 per cent goes to CDF, it does not say 2.5 per cent. So, you can even put it during allocation of funding here, if we become a House which we know is a House of honour. We must allocate more money to CDF and state the reasons of going round.

I beg to support. Thank you.

Hon. Deputy Speaker: Very well. Hon. Obara Akinyi, the Member for Kabondo Kasipul, you have the Floor.

Hon. (Ms.) Eve Obara (Kabondo Kasipul, ODM): Thank you, Hon. Deputy Speaker. At least, you got it right, Kabondo Kasipul Constituency. I too stand to support the Report. I want to agree with the sentiments of my colleagues.

Hon. Deputy Speaker: Order! Who are these two Members seated very close. I cannot see. But before I see, they should observe some social distancing. Proceed, Hon. (Ms.) Eve Obara.

Hon. (Ms.) Eve Obara (Kabondo Kasipul, ODM): Hon. Deputy Speaker, as I have said, I, too, support the sentiments of my colleagues.

The NG – CDF has played a critical role in almost all constituencies. This is obvious to the extent that you wonder, as my colleagues have said, what exactly is happening to the money of the county? My colleagues will agree with me that on all problems that face the constituents, the first stop is at the Member of Parliament's office. They will ask you things like health, we do not have medicine; we do not have water; we do not have roads; we are looking for fertilizers and you wonder, maybe, we need to educate our citizens on the critical roles of these offices. So that they know that when they want pads and those kinds of things, where they are supposed to go. If they are talking of health and all those devolved functions, they know where they are supposed to go and what they are supposed to do in the office of the MP. That has been a problem in my first year in office.

Hon. Deputy Speaker, I will just talk on one area of observation and that is on the role of the district accountant. While playing my oversight role, I have noticed something that was picked by the Committee on managing the accounts of the NG – CDF. How can a district accountant take seven months before they do reconciliation of accounts? How can they take seven months, making no entry in the vote book? You wonder, because these are the most basic functions of accounting. This is happening. So, at the end of the year, they have nothing to show the auditors. The issue is, where are these documents? We do not have them, and we are still looking for them. They do not keep records the way they are supposed to. This is an area that the Committee should strongly recommend that the Board should have its own independent accountants to be handling the books of accounts for the NG – CDF, even if it means a few sub-counties coming together with one accountant to look at the books. Otherwise, this is an area where money is lost if we are not careful and ...

(Loud consultations)

There are too much loud consultations, Hon. Deputy Speaker.

Hon. Deputy Speaker: Order, Members! Actually, it can be understood when it is the Leader of the Majority Party consulting because there are three other groups, one led by Nyandarua and Kirinyaga combined and another one close by. Please, let us give Hon. (Ms.) Eve Obara an opportunity to canvas her issues in peace.

Hon. (Ms.) Eve Obara (Kabondo Kasipul, ODM): Finally, if I must say, Hon. Deputy Speaker, even as we do what we are doing with the NG – CDF, this country must critically look at how money is disbursed to the counties, if we are to realize the gains of devolution. There is so much leakage and wastage that if we are not careful... I hear they want to be allowed to borrow money. I got scared when I heard that. If that happens this country will be completely strangled with debts.

I thank you. I support.

Hon. Deputy Speaker: Very well. Let us have Hon. Charles Nguna. After him, I will give two Members from this other side a chance.

Hon. Charles Nguna (Mwingi West, WDM – K): Thank you, Hon. Deputy Speaker, for the opportunity given. Let me congratulate the Committee for the good job it has done. Hon. Kathuri Mununga was very eloquent and articulate on it.

I have realised that most of the villages in this country have never seen any other Government Fund, except the NG – CDF, which is given to the constituencies. I would like to laud His Excellency Mwai Kibaki for bringing up the issue of NG – CDF. Were it not for NG – CDF, most of the villages would have not seen anything from the Government. So, it is acting as a way of equalising the development and everything in this country.

Hon. Deputy Speaker, I have realised from the Report that majority of the constituencies are experiencing the same challenges and problems when it comes to issues of NG – CDF. If you look at what has already been raised, for instance, the issue of district accountant who is supposed to authorise every cheque that is going to leave that office, we share the same problem. It is high time that we started engaging them and ensuring that the cheques and everything is delivered on time. You will find out that the Committee has already approved a project and it is taking too long, even a month, for the district accountant to approve that cheque. Those are some of the issues that we need to iron out.

When we appoint our committees, it is very important to encourage the Board to be fair when it comes to the issue of tendering. I have been surprised in many occasions when suppliers, contractors and businessmen come to my office to ask for tenders. But tenders are not given by MPs. So, it is also high time that we educated Kenyans on how things are done, with the Constituencies Development Fund (CDF) Act and the NG – CDF Committee.

Hon. Deputy Speaker, I have realised that if this Fund is properly utilised, we can see a lot of development. But I will give you an example. When it comes to issues of bursaries in some constituencies, you will find that a constituency somewhere has only 3,000 students while mine has over 30,000 students schooling in the same constituency, and we are getting the same allocation of bursary. So, it is high time we also created another Fund, apart from the Equalization Fund that we have been talking about in NG - CDF, to ensure constituencies which have a large population and high number of schools do not get discriminated in this issue. If you look at the number of schools that I have in my constituency, over 208 schools, and we are being given the same amount with Starehe Constituency, which has like seven schools... That is not a fair deal. We need to look at these issues.

There is no way we will talk of Ward Development Fund without NG – CDF. We need to enhance it. If the Ward Development Fund can be implemented the way NG – CDF is done, we are going to achieve meaningful development. You will see that some of the activities which are done by the NG – CDF are limited. For instance, in the area where I come from, the perennial issues of water shortages are always there. But I cannot do anything with NG – CDF money, yet, I will not be addressing the issues of that community in particular. So, with these few remarks, Hon. Deputy Speaker, let the NG – CDF perform other activities like water, roads, and other things apart from security and education.

I thank you. I support.

Hon. Deputy Speaker: Let us now hear Hon. (Dr.) Robert Pukose.

Hon. (Dr.) Robert Pukose (Endebess, JP): Thank you, Hon. Deputy Speaker, for allowing me to contribute to this Report by the Special Funds Accounts Committee. At the onset, I want to

declare that I am a member of that Committee and I support the Report that was done by the Committee.

If you read the Report, you will realise that one of the key issues, which is in its introductory part, talks of Article 226 (5) of our Constitution, which holds every officer accountable. Whether you are in a political or an administrative office, you are able to direct the procurement process either directly or indirectly. The Funds Accounts Managers who have participated in allocation of funds should come and respond to these audit queries.

Hon. Deputy Speaker, the Report covers three Financial Years: 2013/2014, 2014/2015 and 2015/2016. However, we are in the 2019/2020 Financial Year. The latest audited account by the Auditor-General is 2017/2018 Financial Year. In our last meeting in the Committee, we agreed that we need to cover as much ground as possible now. We thank your office for allowing us to retreat this week to cover all the constituencies in the coastal region. It is important for Members to read the audit reports from their constituencies. When issues are picked by the Committee, at times, you find that Members realise them when they are tabled on the Floor here. When the Leader of the Majority Party tables the constituencies audit reports by the Auditor-General, it is important for Members to look at them and see the issues that happen within their constituencies. If you look at this Report, Gatundu North, Juja and Thika Town Constituencies constructed security offices. Up to the time the Report was written, those offices were not occupied. It begs the question whether public participation was done in identifying those projects. That is a waste of funds and yet those are offices that can be utilised to provide security for people within those areas. It is important for Members to look at some of these audit reports.

The Report also talks about stale cheques as a result of bursaries. It is important for Members to look at some of them. Out there, you have needy students who might miss school and yet you have bursary money as a result of stale cheques which are lying idly within your account. Somebody else can benefit from them.

At times, Hon. Members might not realise that there are activities or projects which have been done in the wrong way. At one stage or another, it is important to support the Committee to hold those Funds Accounts Managers, Project Management Committees (PMCs) or whoever is responsible or accountable for some of those projects. This will help a Member to protect his or her integrity. It will not seem as if he or she is the one who has caused loss of public funds.

The Report talks about having an accountant to look at the accounts of the constituency. Many Members have contributed to this issue. Our Committee recommendation is to have an accountant in every constituency. However, that can be debated. If we can have one accountant per two constituencies or paired within a county, they can address many of the issues.

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

Hon. Deputy Speaker: The Member for Tarbaj, I can see that you are doing some pastoralists' activities from one seat to the other. Your card is not working. So, the best thing is for you is to go back to the seat which you were in and then I give you an opportunity to contribute. I know that you came here very early and you pressed the request button. However, your card is not working. You will take it to the Information and Communications Technology (ICT) Department to be checked. You can use the microphone which is next to you.

Hon. Ahmed Gaal (Tarbaj, PDR): Thank you, Hon. Deputy Speaker for giving me this opportunity to contribute. First and foremost, let me congratulate the Committee for doing a good job. The issues which were raised in Kiambu Constituency are similar in my constituency. We cannot overemphasise the impact of NG-CDF in the development of the areas, and especially on

the choice of security and education. This is very good, especially in marginalised areas which had no enrolment in schools in a lifetime. It has increased.

Even at the county level, though the Ward Development Fund is not anchored in law, it has brought a lot of improvement or development. It is good as long as we need to improve devolution. If the BBI will come, we should increase the funding of the Ward Development Fund and anchor it in the law.

The third issue which I want to discuss is the National Treasury. Disbursement, payments and implementation are reduced or delayed because one person who is supposed to sign the cheques cannot be found. Even where there are other institutions, payments are done within themselves. The NG-CDF should do the same way. We should employ workers. We need to change the NG-CDF Act, so that such payments are done internally. That is the best way. One of my colleagues has said that standardisation cannot be done because the costs are different. In our areas, it takes a long distance to bring materials. There is no water in some areas. We pay to have security. We cannot standardise cost and infrastructure. The weather of different regions is not the same. We cannot standardise payments, costs and infrastructure.

Thank you. I support the Motion.

Hon. Deputy Speaker: Hon. Akoth Geza Geza.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Thank you, Hon. Deputy Speaker for getting my name right. As you have said, it is Hon. Akoth Geza Geza. My name is also *Mrembo wa Suba* which is the one you have forgotten.

(Laughter)

I support the Report of the Committee. I agree with the Members that NG-CDF has changed the landscape of development in the country. I remember when we were coming up with the Constitution 2010, Hon. Amina Abdalla told me that I would agree with her one day. I disagreed with her at that time. I agree with her now. What we needed to do was economic devolution but not political devolution. We would not have the problems that we have now between the Senate and Governors because the money would already be in NG-CDF. We would be disbursing money for building health facilities, Early Childhood Development Centres (ECDs) and every other work that county governments do.

We have significantly less money than county governments. Even though most of us do not do the big projects as they are supposed to do, you can see the work of NG-CDF in every single village. There is a class, laboratory, dormitory, fence, water in schools, roads that lead to schools and security facilities. NG-CDF does a bit of work. The only challenge is that it is very misunderstood. Most people do not know the structure. It is very important for the NG-CDF Board to do a lot of civic education. As Parliament, we can facilitate this by putting in funds, so that it can take effect. A lot of people think that Members of Parliament are in-charge of NG-CDF. Many people are actually asking Members to give them tenders yet we have Project Management Committees (PMCs). The NG-CDF is one of the funds that is now very streamlined that the role of the MP is almost remote. MPs may facilitate in getting public participation done so that the public's voice is heard. But in terms of the work, we have PMCs effecting this work.

I was shocked that even as late as yesterday one of my chiefs who did not understand what a role of a PMC is when our NG-CDF was going to undertake a project in his own village ran away because people have demonised NG-CDF. He thought it is something sinister if he is called to sit in any PMC. Fortunately, because the Deputy County Commissioner (DCC) understands, he

gave us somebody else to be in the PMC. Sitting in the PMC means that your voice is heard and it means that you are the one who ensures the tendering process is done well. It also means that the building will be done to your standard. The only challenge I see, as the Committee goes around, is that it should help us to take stock. The Committee should bring this amendment.

We have an oversight committee that currently earns only Ksh30,000 a year yet it is expected to undertake its oversight mandate well. Sometimes we shoot ourselves in the foot as Members of Parliament. If our primary role is oversight, how can we be overseeing billions worth of projects with Ksh30,000 in a whole year? It means that even if we were to divide it, we would be spending, probably, Ksh2,000 on oversight in a year. That is something we need to do. There needs to be greater oversight from the Board of the fund account managers. You find a lot of challenges coming in the NG-CDF's way are related directly to the fund account managers, yet when there is a problem, the first person who is called is the Member of Parliament. At one point, MPs need to go to court to challenge why an MP is dragged in when there is no direct link between an MP and any lost fund. That is actually an abuse of the process of law by bringing MPs into things that really do not concern them.

Hon. Deputy Speaker, I see my time is over. I support.

Hon. Deputy Speaker: Hon. Haika Mizighi, you have the Floor.

Hon. (Ms.) Haika Mizighi (Taita Taveta CWR, JP): Thank you, Hon. Deputy Speaker, for giving me this opportunity to contribute. Mine will be brief. I think, I am the only county MP who is speaking to this.

The NG-CDF is doing marvellous work in this country. It is a Fund that needs a lot of support where necessary so that it can be more efficient. The National Government Affirmative Action Fund (NGAAF) also needs support. It is also a national Government Fund which is also transforming lives in this country. Therefore, it needs a lot of support.

I congratulate the Special Funds Committee for the good Report. Thank you for giving me this opportunity. I support.

Hon. Deputy Speaker: Let me go to Hon. Ouma Ochieng'.

Hon. David Ochieng' (Ugenya, MDG): Thank you very much, Hon. Deputy Speaker. I want to join my colleagues who have lauded the nobility and importance of ...

(Several Members gestured to Hon. Deputy Speaker)

Hon. Deputy Speaker: I see some Members making gestures. You will get your chance. I am following the list I have here. So, you will get your opportunity. You are not many. You are almost the numbers that can be transacted quickly.

Hon. David Ochieng' (Ugenya, MDG): Thank you very much, Hon. Deputy Speaker. I listened to the Chairman of the Special Funds Committee.

Hon. Deputy Speaker: I know probably many Members are looking at Hon. Ochieng' getting an opportunity and thinking that he probably has jumped the queue. He has not. He was here, left and his name is on top of the list.

Hon. David Ochieng' (Ugenya, MDG): Hon. Deputy Speaker, for the record, I was here at 2.30.P.M. today.

I listened to the Chairperson of the Special Funds Committee and I did not hear from him anything to do with MPs role in managing day to day of the Fund yet what is happening now and has been happening in the last seven months is that the number of MPs who have been put on a very short leash, if you say your mind or say what is happening in the country, they threaten you

that they are going to investigate your NG-CDF. I want it to be known that the role of the MP in NG-CDF is a patron. The MP does not run the day to day activities of the Fund. I also want to request Members of Parliament to look at that law and ensure that they are always away from the nitty gritty of the Fund because that is not our role.

You hardly find white elephants where NG-CDF is concerned because we have continually improved the law on NG-CDF. So, even if you were to have your plans, the projects done in the previous regime must be finished. That is why you hardly find white elephants within the framework. The efficiency, the lack of bureaucracy and the ease and flexibility with which the NG-CDF is managed makes it the Fund for the people. There are no forms to be filled and there are not many procedures to be followed. How I wish that the group we now have getting money from Uwezo Fund and the groups that get money from the Women Enterprise Fund are able to participate in the tenders for construction and doing things in the NG-CDF framework without having to be companies. If groups can get money from Uwezo Fund and National Government Affirmative Action Fund, they should also be allowed to supply and participate in the procurement at the NG-CDF level without requiring many bureaucratic things like the National Construction Authority (NCA), Kenya Revenue Authority (KRA) and all that.

The impact of the NG-CDF in the country cannot be gainsaid. That is why we need to have all encompassing audits. The audits should not be only about money, but should also be about value for money, what is achieved and how much is being achieved. I dare say that we should start comparing the audit reports from county governments and the NG-CDF. You will find, like Hon. Kioni said earlier, that the money that goes to administering NG-CDF is very small: 5 to 6 per cent. From Ksh100 million, we can only use Ksh5 million for administration. Contrast that with the county government fund where we are now using around 80 or 90 per cent of the money in wage bills and running cost, and having only 10 per cent for development. That is why I agree with Members who have said that if we could emulate the structure of NG-CDF in county planning and in county development, we will save a lot of money for development and reduce the bureaucracy that goes with employment and running costs. At the county level, we have the governor and the deputy governor, some people called ministers and other officers. All these have cars with running costs. How I wish that the country would get the NG-CDF framework as the SI unit for planning for development projects in this country.

I support. Thank you.

Hon. Deputy Speaker: It is your chance Hon. Oundo Ojiambo.

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Thank you, Hon. Deputy Speaker, for giving me this opportunity to contribute on the Motion before the House today. At the outset, let me take this chance to congratulate and sincerely thank the Committee for presenting this Report even though we still have many financial years that need to be covered so that we come to speed.

An audit has always been a recommended management and control tool because it highlights areas of shortcomings and areas of weaknesses. All of us, whichever level we are operating on, should willingly accept audit reports and address issues that emerge out of the audit. The recommendations and the findings of the Committee are fairly telling. I want to focus on one or two issues that seem to recur and be slowing down or making it administratively expensive to undertake works under the NG-CDF framework.

The first one is that it is a requirement that the NG-CDF committees must involve the relevant departments of the national Government. It is a requirement that accounts must be kept by the district accountants. As my colleagues have indicated, they are either too busy or do not find any value in doing the NG-CDF work.

That is why you find that quite a number of these audit queries arise from poor documentation and inability to prepare basic things like bank reconciliations and relevant accounts. I would propose to the Committee that we look at the regulations pertaining to the operations of the NG-CDF. We need to request the NG-CDF Board to make amendments to the regulations, so that they have their own accountants and people to supervise the works, generate BQs and relevant certificates for payment. Currently, NG-CDF Managers rely on officers from the Public Works Department yet those officers have so much work. This has resulted in poorly prepared BQs and lack of supervision of works. Some of the structural challenges being highlighted here result from lack of supervision and negligence. I would, therefore, recommend to the Committee that they go back to the NG-CDF Board and make amendments. Even if it means slightly increasing the funding for administration and planning, it will be okay as long as the NG-CDF management committees become independent by completely de-linking them from the national Government in respect of undertaking of works.

Secondly, there is the issue of the procurement process. The essence of the NG-CDF is to devolve and use local contractors. The requirements that are now being proposed in undertaking works are difficult. Ordinary contractors and self-help groups in the constituencies cannot meet those requirements. I would suggest that we amend the Public Procurement and Asset Disposal Act or the regulations to allow local contractors and groups to undertake the projects in the constituencies because they will do them at much cheaper prices. For instance, aspiring contractors are now required to acquire National Construction Authority (NCA) Certificate and Tax Compliance Certificate yet most of our people do not pay taxes. The process is becoming cumbersome. So, I would like to suggest changes, so that we have a case of local contractors embedded into the process.

Finally, I want to challenge the Ministry of Education. I know they have a lot of funds for infrastructure development. The cost of undertaking works is far much higher than that of the NG-CDF. The process of identifying projects that need to be done by the Ministry is opaque. The process does not highlight the aspirations of the people on the ground. I want to challenge the Ministry to partner with the NG-CDF in using the funds that we earmarked for every constituency. Let the constituencies, through public participation forums, identify the projects that need to be done.

With those few remarks, I beg to support.

Hon. Deputy Speaker: Okay. Next is Hon. Lekumontare Lentoijoni Jackson.

Hon. Jackson Lekumontare (Samburu East, KANU): Thank you, Hon. Deputy Speaker, for this opportunity. I want to support the Report from the Committee. We thank God because of the NG-CDF in some marginalised areas. The funds are doing a lot of good work in the local areas. Maybe what we need to think of is that sometimes, as a representative of the people, when you go to a place where the locals require a dispensary, you are not allowed to use the funds. So, the Committee needs to look into this aspect because we really need to open up the funds since we are not seeing what the county governments are doing in some places. Sometimes you even find pre-school children learning under trees and the parents request you to build a classroom for them, but the law does not allow you to do so.

The allocation for youth affairs in the NG-CDF is very little yet we know that the youth in this country have a lot of challenges. It is high time we reviewed the Act, so that the allocation can be improved in order to help the youth. Otherwise, this Report is good. If we move in the direction suggested therein, our people will be assisted through these funds.

With those few remarks, I support.

Hon. Deputy Speaker: Hon. Omboko Milemba.

Hon. Omboko Milemba (Emuhaya, ANC): Thank you, Hon. Deputy Speaker. Let me congratulate the Chairperson of the Special Funds Accounts Committee for this Report. The Report is a true reflection of what is happening everywhere in the country. It shows exactly the face of NG-CDF not only in the constituencies in Kiambu County, but also in the entire country. It speaks on things that we are also feeling from where we are even though it was a case study in Kiambu County. An example is lack of standardisation of projects, which we are facing in all parts of Kenya.

The Report also speaks of the approvals which have had a challenge, especially where the locals decide on a project, but getting approval for the same becomes difficult. Many Members have spoken on this issue. What seems to have been prioritised should be respected because that is what the locals want. However, on standardisation, I would be quick to advise the Committee to look at it a little more. You may not ask the NG-CDF Board to come up with standardised projects about classrooms because standardisation of costs of construction of classrooms, from my background of teaching and trade unionism, is found in the Ministry of Education. They tried to come up with a standard cost for a classroom and even put some money on it, which is about Kshs1 million to Kshs1.2 million, but it never worked for them because of the variations that many Members have spoken about in terms of where the materials come from.

I loved one of the Members who said that, for instance, a classroom in North Eastern Kenya, because of the climate there, is extremely different from a classroom elsewhere in this country. So, we can look at that standardisation from different perspectives in terms of size and quality, but not necessarily money.

I spoke about police posts and the case study was Kiambu County. In this Report, again, I would tell the Chairperson that he considers the needs of Kiambu County. Needs of different areas are so different. In Kiambu, you noticed they were coming up with so many police posts because the issue of insecurity could have been historical in the area. However, if you were to go to the western region, you would find that their need for police posts would be less, and they would be asking for more schools. When you put this into consideration, we cannot completely blame the Kiambu team for investing much on security because this could be historical. Maybe, we should trace how we can link the NG-CDF bottom demand by the people with the central Government's ability to supply those institutions with police officers to make them active. Possibly, that is exactly what they need, but when you go to the western region, you will hear a few people speaking about buses for schools.

This Report speaks about cheques. In as much as I would support the idea of Electronic Funds Transfer to schools, I would ask the Chairperson that when they retreat back to the Committee, they need to understand how school management system works. When you send un-earmarked amount of money to schools, it does not clearly show the particular student to benefit from it. Therefore, this will beg for follow up, which is part of oversight from a parent to a school to ensure that the amount of money allocated to his or her child does not change from one person to another. I have this background and hope I will add value to this debate. It is very important. That is why cheques have been doing well. Of course, we cannot live in the reign of paper work forever. So, I thought I should speak on this aspect.

Lastly, I wanted to speak on the aspect of youth. The NG-CDF has a very small per centum of the allocation to the youth, and it is mainly going to sports and other areas. If you look at the population of the country, youth are more. They are more creative and the education system is now using Competency Based Curriculum (CBC). So, there is talent search. We also have sports and

many other things around youths. So, possibly as a Committee, help us to increase the percentage not only of the Fund, but also of that allocation of the youth, so that they benefit commensurately to their numbers and population in the country.

Thank you for this chance, Hon. Deputy Speaker. I beg to support.

Hon. Julius Melly (Tinderet, JP): Thank you, Hon. Deputy Speaker. I rise to support the Report by the Special Funds Accounts Committee.

I laud the Chairperson, especially on the details that the Report has brought forward on the impact of the NG-CDF in our society. The NG-CDF, like many other funds which the national Government channels to the ground, is the only Fund that is very visible and explicit. It has touched the lives of many Kenyans. You will realise that funds that go to the *mwananchi* from the national Government, especially from ministries, parastatals, partners and all other sources are rarely felt as the NG-CDF is. I laud the initiator of this Fund and more specifically, the Member of Parliament who moved the Motion that founded this Fund.

You will realise that in my constituency, like in many other constituencies that Hon. Members have spoken about, the NG-CDF has seen a number of orphans go to school. The orphans would have otherwise not been able to make ends meet in their lives. We have seen areas where there were no schools and they now have good vibrant primary and secondary schools and even colleges.

You will realise that the teacher training institutes (TTIs) that the national Government has built across the country have been successful because of the NG-CDF. The NG-CDF factored in Kshs10 million to all those TTIs across the country. We now have over 200 of them. This has made sure that the youth have skills, manpower and understand how they can work in the communities.

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

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

On that note, the NG-CDF needs to be entrenched in the Constitution and in the laws of the land. You will realise that the NG-CDF is so lean in its operations and even structure. The decision-making of the NG-CDF is bottom-up. The public plays a critical role in identification of projects. That is why it is rare to have white elephant projects in the NG-CDF. You will also realise that the cost of running and maintaining the NG-CDF is so lean. It is less than two per cent. Look at other devolved funds, the funds that have been taken to county governments. Billions of shillings are used in running the funds. The national Government sends about Kshs7 billion to particular counties and the impact of the funds is not there. You will realise that most of the funds get consumed at the county headquarters through salaries, purchase of vehicles and the day to day operations. Some of them even employ non-essential staff. The NG-CDF is quite explicit on how many members of staff are to be employed, their roles and how the Fund is to be overseen. This is a case where we really need to ensure that Members of Parliament are involved. We do not play any role. We are just patrons and we do oversight. I just want to ask this House to ensure that oversight committees like the National Government Constituencies Development Fund Committee are given a lot of powers to be able to oversee well.

The Member for Suba North has just asked: How do you give Kshs30,000 for a whole year to an oversight committee yet they are in essence overseeing Kshs130 million? We really need to give it more funds. The Chairperson of the Special Funds Accounts Committee and the

Chairperson of the NG-CDF Committee need to hear this, so that as we move forward to next year, we will make sure that an oversight committee which is able to oversee the standing committee on NG-CDF will be able to oversee all the projects in the constituency without any problem. Two, let us also ensure that this Fund is entrenched in the Constitution...

The Temporary Deputy Speaker (Hon. Christopher Omulele): Very well spoken, Member for Tinderet. Personally, I have always wondered why we have never had a comparative study between what the NG-CDF and the county governments do for development funds. This development is happening in the same areas. It is high time, as we think about the model we want to take as a country, for the development of our country, we do this comparative study. Why should we beat about the bush if something is working and the other is not?

Very well. We will have Hon. Osotsi Godfrey. He is not in the House. Hon. Mutua. She is not in the House. I am just running through the list because I have just come in. Let us have Hon. Richard ole Kenta Moitalel. You have been here.

Hon. Richard ole Kenta (Narok North, ODM): Thank you, Hon. Temporary Deputy Speaker. Let me, first of all, commend the Committee for doing such a good job.

I would like to first of all state as you have said that when you look at what the NG-CDF has done and what county governments have done, these activities are worlds apart. In fact, if anything, if you look at the kind of money some governors are charged for stealing hundreds of millions, you wonder what the balance of what has been left at the counties is doing. There is nothing at all on the ground to show that any money has been disbursed through the county governments. The importance of the NG-CDF cannot be gainsaid. In fact, we have had Members of Parliament from other jurisdictions trooping to Kenya to find out how the NG-CDF is run. Most of them have started such kinds of funds in their countries.

It is very important to know that without the NG-CDF or if the NG-CDF was not introduced in 2002, we would not have reached the developmental goals that we have in this country. The only problem is the limitation of the application of this Fund to education and security, which has left a lot of other sectors unattended. Most of them, like roads, water and health services have been left in a quagmire because county governments are not working on them. As one of the Members has suggested, it is important that we connect security with infrastructure. For example, if there is no infrastructure, how can you ensure there is security? How can you ensure there is security if there is no good road network? If there is no water, how do you ensure that children get proper health care? If, for example, there are no health facilities, how do you ensure that our children are secure? So, it is imperative that these things are seen as interconnected such that those roles are returned to the NG-CDF. While we were doing that in the last Parliament, a lot was achieved. A lot has been lost. In fact, we need more funds allocated to the NG-CDF. We cannot run away from it. If the minimum is two per cent of the Budget for example, what we are getting is not even that minimum. So, it is important that we increase it, so that it is able to assist our people other than letting a few "hyenas" take everything from our people.

I have seen the challenges that were highlighted by the Committee. One of them is oversight committees. When you give Kshs30,000 to an oversight committee which is supposed to oversee implementation of projects, you wonder what is happening. It is another way of saying that nobody wants this kind of oversight. It is time the Committee looked at this, so that they can have up to a minimum of three per cent of the Budget.

The issue of bursaries going stale is big. As the Committee said, ways must be found of ensuring that the money goes to assist the children. Sometimes money is sent to schools and the

children have either left for college or they are not even aware the money was sent. Some of the money is lost through some dubious ways, and that needs to change.

On police stations, I do not blame the NG-CDF committees because there is need for a security facility. The Ministry of Interior and Coordination of National Government does not prioritise security of the citizens because if it was, then it would post police officers to those regions. They are only talking about lack of good housing and working facilities such as police stations, but once we build them, they still fail to deploy police officers. We are doing it for the people because their security is paramount. The Ministry must take note of this and deploy police officers to those stations.

On the issue of District Accountants, you will agree with me that we have all encountered problems. We have people who never sit in their work stations and others who do not want to work. It is important that the NG-CDF has its own accountants, so that we can have a seamless operation.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. ole Kenta, you seem to have had quite a lot to say. Let us have Hon. Tuitoek, Member for Mogotio.

Hon. Daniel Tuitoek (Mogotio, JP): Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity. Members have testified about the success of the NG-CDF model in moving the development agenda of the nation in many constituencies. The expectation of the citizens is that Members of Parliament construct roads, build hospitals and schools, provide water, and even connect power to their households. This is an area that the Committee needs to look at. The Act specifies that at least 2.5 per cent of the budget goes to investment. Currently, the NG-CDF focuses on development. About 90 per cent goes to development expenditure while 10 per cent goes to recurrent expenditure. However, the youth sector is underfunded with just about 2 per cent in sports. There is need for an amendment to increase this to about 10 per cent, so that talents can be tapped.

There is need to cover the ICT sector in the Act. We have been requested to put up ICT centres, but the recurrent expenditure on that is not covered. There is need for an amendment so that the NG-CDF committees can hire staff to run the centres once they are constructed. Most of the institutions such as universities and schools are running courses online and the use of resource centres would be ideal especially to students from the rural areas. Currently, we do not have a recurrent expenditure to cover staff who run the ICT centres. We should amend the Act, so that committees can recruit ICT technicians to man the centres.

Hon. Temporary Deputy Speaker, we have other funds such as the Uwezo Fund and the Youth Enterprise Development Fund that are not making any impact in the grassroots. They need to borrow from the NG-CDF model so that the youth can benefit. The youth are not currently benefiting from the two funds because they are a bit restrictive. These functions are run by officers at the Executive branch, but if we have committees running them and we oversee them, the youth can benefit and utilise the funds effectively.

I understand the Act is not entrenched in the Constitution. We have heard that once the BBI is adopted, a ward fund will be created and the NG-CDF will be phased out. We should focus on the functions of the NG-CDF, which are infrastructure for primary and secondary schools and security. These are functions of the national Government. How will these functions be captured if we created a ward fund that will be under the counties? Counties have their own budgets and they can create their own ward funds without interfering with the NG-CDF. That is an area that Members should be careful on any amendments that will be introduced to the Constitution so that we do not lose the NG-CDF.

With those remarks, I support.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. T.J. Kajwang', Member for Ruaraka.

Hon. T.J. Kajwang' (Ruaraka, ODM): Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Just a minute, Hon. T.J. The Member for Suba North, I am sure this is on a light note. Do you have a gripe with Hon. T.J., representing the good people of Ruaraka?

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Speaker, I have no problem with Hon. T.J., but I want to request him to sit down. It is procedural that two Members cannot be upstanding. I had pressed my button for the next debate, but when you called Hon. T.J., I was given the chance. We originally come from Suba North, but they cannot confuse us. From our names to the anatomy, we cannot be confused.

The Temporary Deputy Speaker (Hon. Christopher Omulele): The system seems to be biased towards ladies. It is a precursor for better things to come that we will probably have more representations in future from Suba. You have done a good job for the people of Suba North.

Hon. T.J. Kajwang' (Ruaraka, ODM): Hon. Temporary Deputy Speaker, I am proud that my Cradle Member of Parliament, the Member for Suba North, is in the House, and is doing a splendid work. I am the only one with dual citizenship in two constituencies. The Member for Suba North does not need replacement at all. I did not want to speak to the NG-CDF because it is the best thing that has happened. I have heard people talking about phasing it out, but I know they are jokers. They will never get to that because if they did, people will respond to them accordingly.

I am waiting to speak to the Senate Bill on County Statutory Instruments Bill. I will be more useful there than in the NG-CDF where Members have said enough.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Thank you, Hon. T.J. The Member for Gatanga has something to add.

Hon. Joseph Nduati (Gatanga, JP): Thank you, Hon. Speaker. I would like to support what Hon. T.J. has said but since I am on the Floor, I would like to contribute. The NG-CDF is the best fund in this country. I am recommending that we adopt this model in the national Government. With the NG-CDF, as a businessman executing a project, you are sure that the funds are available and the project is alive. You only need speed to execute the project. That is opposite of whatever is happening in the counties; you are not sure whether a project is there. When it comes to payment, you have to plead with people, starting with junior people up to governorship level. At least with the National Government Constituencies Development Fund (NG-CDF), you are sure. For county projects, you are at the mercy of people.

The NG-CDF in our constituencies is the only visible Fund. At least, we are able to fund schools, security projects, and administrative offices projects. There is nothing to see from the county in my constituency. To make the NG-CDF better, I suggest as follows: We standardise drawings – it used to happen in the past in the Ministry of Public Works where we had standard drawings for schools, security projects, offices for chiefs and assistant chiefs and Assistant County Commissioners – so that when one comes here and claims that they would undertake a class project for Ksh500,000, we will have something to compare with. The same will apply on specifications. Even if we come from different places, at least, we need to compare. I have seen some Members, through social media, undertaking projects which are not maintenance free. I have seen colleagues painting schools, especially the exterior. That is not recommended. When you paint schools, it means that parents will continue suffering. They cannot afford do that every year. This is something that we need to agree with the boards. There is no need of wasting public funds.

On the reallocation of resources, it is lengthy. It takes a long time. It will take more than three months when you submit to the board. This should be done online. There is no need of wasting Members time waiting for ordinary projects to be undertaken.

On youths, I recommend that we increase their funds. I come from a constituency that has a lot of talent. We are known. In fact, we say that our cash crop is not tea or coffee, it is music. We have produced the greatest stars from central province like John De Mathew, Peter Kigia, and Timona Mburu. I cannot name all of them. They are many. These people earn a lot of money through Viusasa and YouTube. So, for our youth, we do not have to go the old fashioned way of taking them through Polytechnics and other places. If they are talented in other areas, please let us support them. I thank the Government. The other day it gave us Ksh25 million to do a music studio and a film hub, which is currently ongoing. I was impressed when we trained more than 100 young people. They came for five days without any pay. So, that means if you do the right things our youth will benefit.

With those few remarks, I support.

The Temporary Deputy Chairman (Hon. Christopher Omulele): The Member for Gatanga, we have heard you clearly saying that you produce the best musicians in the country. I am sure there is no doubt about that. I was wondering whether the new one who has produced “Jerusalem” is also from Gatanga. Is he from there? Very well.

Hon. Members, interest on this has waned. I will, therefore--- Hon. Member for Nyando, do you have anything to say? You can have the opportunity. Hon. Members, the Member for Nyando does not have a card, but has submitted his card for rectification. It has a problem. That is why I am allowing him to make his contribution. Ordinarily, if you do not carry your card, you will not have a bite at the cherry.

Hon. Jared Okelo (Nyando, ODM): I thank you, Hon. Temporary Deputy Speaker. I am a Member of the Special Funds Account Committee. I want to congratulate my Chair, Hon. Kathuri and the Members of the Committee for burning the mid night oil to come up with this Report. As has been enumerated by many of us, many people who would have otherwise dropped out of school and confined their lives into villages under shanties in deplorable state are now having renewed hope. Through bursaries, which is an annexure of NG-CDF, they are able to complete schooling, get jobs and reorganise their lives. So, the benefits that come with NG-CDF cannot be properly underscored. We also know that county governments do some miniature bursary disbursements. The problem is that, it is shrouded in mystery and opaqueness that many times you end up with people having double allocations. They benefit from both the county – because you never know the criteria that is followed – and the NG-CDF bursary. So, some people are denied an opportunity, but others get double allocation because there is no harmony in these kinds of transactions.

When we were re-examining the Report from the Auditor-General, we realised that the problems experienced, not just in Kiambu, but across the nation, is lateness in submission of exonerating evidence. You will have an Auditor-General finishing his or her work, presenting the Report to the headquarters and submitting it to Parliament, yet there are critical and crucial documents that could have been presented before that Audit Committee at the ground that delay until the report comes to us. The NG-CDF managers run to us to exonerate themselves at our level on something that could have been done at the ground level. Section 16 of the Public Procurement and Disposal Act together with the Public Finance Management (PFM) Act are clear on the timeframe upon which documents can be presented for auditing. So, this is a challenge that we present to all our fund managers. They should be proactive, so that such delays are set aside.

We, in the course of our transactions, realised that we are dealing with issues from 2013 up to date, yet there were issues that could have been resolved then. Seven years down the line is a long time. Even if you have a phonographic memory, you are bound to forget.

The Temporary Deputy Chairman (Hon. Christopher Omulele): Member for Nyando, you said what?

Hon. Jared Okelo (Nyando, ODM): Photographic memory, Hon. Temporary Deputy Speaker.

(Laughter)

English and where I come from are close partners. Suffice it to say, we rarely make mistakes. As a Committee, we need to bring ourselves up to speed, so that there is no incessant delays on clearing of this backlog that we have before us. My sister, Hon. Millie said that we need to put in more money to NG-CDF, so that it carries out civic education by conducting trainings to the committees down in the constituencies. However, it needs to go beyond that. Many people still confuse the roles of NG-CDF and those which are undertaken as a devolved function from the counties. Many times when somebody is sick and hospitals lack medicine; there is no water in a place; and roads are dilapidated, queries about them are presented to an MP. That civic education that ought to be quickly undertaken, should also delve into letting the public know the roles of both the County Government and what NG-CDF needs to do.

With that, I thank you and I support the Motion.

The Temporary Deputy Chairman (Hon. Christopher Omulele): The Member for Nyando, probably the reason why all problems are directed to you is because you are the tree that bears the most fruits in that area. When you bear good fruits, you are bound to be the centre for attention for everyone to solve all their problems. I call upon the Mover to reply.

Hon. Kathuri Murungi (South Imenti, Independent): Thank you, Hon. Temporary Deputy Speaker. I really want to thank Members of this House who have given wonderful suggestions on the way this Fund should be run. To be honest, my Committee has benefitted from the contributions of the Members. In future, we will give more input into the suggestions that have been put across. I want to thank the Office of the Speaker for giving us permission to work even during the COVID-19 Pandemic. He has even allowed us to travel to Mombasa in the next one week to tackle the Coast region constituencies which are almost 25.

I can see many Members are not comfortable with standardisation. What we meant with this is that if it is Mandera, for example, we want the buildings there to be standardised, especially in design, so that you can have quality. When we go to Kakamega, there should be designs for that region. Standardisation is not meant to make sure that you spend Ksh600,000 per classroom. No, it is to improve quality and designs.

Members have expressed their intent to increase the Fund to 10 per cent. Actually that is the way we should go. The BBI process should compare what is working for Kenya. If the engine is working, why should you fix it? Why should you waste a lot of time trying to fix things and yet this Fund is working for us? As you put it well, Hon. Temporary Deputy Speaker, let us have a comparative study to look at what devolution has achieved since 2010 and what the NG-CDF has achieved and then we can see the best model to use for this country. As Hon. Ochieng' said, let us also conduct a social impact assessment on this Fund. Let us hear Kenyans. Let us see people moving across the country to conduct a social impact assessment. That report should be tabled and

adopted by the House. The Board should take up that task and provide funds for the social impact assessment of the NG-CDF since its establishment.

For this Fund to be safe, as Members have put it, it should be a constitutional fund like the Equalisation Fund, so that it is not under any threat from any regime that assumes power. As it is, somebody can say, "In my budget, I do not want NG-CDF to receive part of the development funds. Let that Kshs36 billion go through the ministries." That policy can work. But if this Fund is anchored in the Constitution of Kenya, we will be safe. As we pass many laws towards the BBI, this is one of the issues that Members should take up and demand to be included in the amendments that will come to this House, whether constitutional amendments or any other amendments.

I want to thank you very much for the time and thank the more than 25 Members who have contributed to this Report. I want to assure the House that we shall move to all regions in this country and bring the reports up to date; the 2019/2020 Financial Year.

Thank you, Hon. Temporary Deputy Speaker. I beg to reply.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Kathuri Murungi, the Member for South Imenti, and your Committee, a job well done.

(Applause)

Hon. Members, I will direct that the next necessary steps on this particular Motion be undertaken when the matter will be placed again on the Order Paper. I direct that we move to the next business.

(Putting of the Question deferred)

BILLS

Second Readings

THE COUNTY WARDS (EQUITABLE DEVELOPMENT) BILL

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

Hon. Omar Mohamed (Mandera East, EFP): Hon. Temporary Deputy Speaker, the Senate Bill No.34 of 2018 was published in the *Kenya Gazette* Supplement No.138 on 8th November 2018 and subsequently tabled in the Senate for First Reading on 6th December 2018 and thereafter committed to the Senate Standing Committee on Finance and Budget for consideration, pursuant to Standing Order 140(1) of the Senate Standing Orders. The Bill was passed...

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Hassan, you need to move the Bill. You need to use the words: 'I beg to move.'

Hon. Omar Mohamed (Mandera East, EFP): Thank you, Hon. Temporary Deputy Speaker, for the correction.

I beg to move that the County Wards (Equitable Development) Bill (Senate Bill No. 34 of 2018) be now read a Second Time.

Pursuant to the provisions of Standing Order 143(3) of the National Assembly Standing Orders, the Bill went through the First Reading on Tuesday, 8th October 2019 and was committed to the Select Committee on NG-CDF for consideration and reporting to the House. The Bill seeks to promote further decentralisation of development by creating a framework for identifying

projects that are beneficial to locals at the ward level. It also has modalities of resource allocation to the projects, implementation and oversight of the identified projects. The Bill is premised on Article 174 of the Constitution, which sets out the objects of devolution, among them being:

- (a) To give powers of self-governance to the people and enhance the participation of the people in the exercise of the powers of the State and in making decisions affecting them.
- (b) To promote social and economic development and the provision of proximate, easily accessible services throughout Kenya.
- (c) To ensure equitable sharing of national and local resources throughout Kenya.

Part II of the Bill provides for the identification of ward-based projects for equitable development within the counties. Each county government is required to allocate its resources equitably across all the wards in the county, prioritising the marginalised areas within the county. The county executive committee (CEC) is to develop criteria for allocation of resources and, in doing so, ensure that the allocation is not less than 15 per cent of the county government's allocation for development expenditure as provided for under Section 107(2)(b) of the PFM Act. The allocation criteria selected by the CEC must be presented to and approved by the county assembly. The responsible CEC member is to ensure and coordinate public participation by residents of the county in identifying development projects for implementation in their respective wards. This is to be done in collaboration with the respective village councils and village administrators. The CEC member thereafter consolidates and submits the proposals received to the CEC for prioritisation and determination of projects for implementation in each ward. The CEC is to prioritise projects determined as marginalised or requiring special or urgent intervention. Clause 10 of the Bill provides that the identified projects be included in:

- (a) The development plan provided for under Section 126 of the PFM Act.
- (b) The county fiscal strategy paper.
- (c) The county budget estimates provided for under Section 13 of the PFM Act.

Part III of the Bill speaks to implementation of projects. Clause 12 provides further guidelines regarding funds allocated to ward development projects. Part IV of the Bill provides for oversight and reporting requirements. Clause 13 precludes a county assembly from approving a county plan or budget that does not clearly indicate the manner in which the resources have been equitably distributed across the wards in the county. A CEC member is required to maintain accurate reports with respect to the projects and submit to the county assembly quarterly reports which shall be scrutinised by the relevant committee of the county assembly. Clause 17 of the Bill makes it an offence to misappropriate any funds or assets from the funds. Clause 18 specifies the matters on which county governments may legislate in relation to ward development projects.

Hon. Temporary Deputy Speaker, pursuant to the above, the Bill was subjected to public participation in accordance with the provisions of Article 118 (1) (b) of the Constitution of Kenya and Standing Order No.127(3). The Committee invited submissions from members of the public via advertisements in the daily newspapers on 17th October 2019 and submissions were only made by the NG-CDF Board. It is important to mention that the Board submitted the proposed Bill with duplicates of the County Government Act and the Public Finance Management Act for review. There are sufficient provisions in both Acts to deal with the issues that the Bill is purporting to address.

The Committee was alive to the fact that as a Bill originating from the Senate, the Senate conducted its own public participation. It is on these primaries that the Committee considered submissions from various organisations submitted to the Senate. These include:

- (i) International Budget Partnership;
- (ii) the Commission of Revenue Allocation;
- (iii) the Controller of Budget;
- (iv) the Uasin Gishu County Assembly;
- (v) Mr. Dominic Mboya, Youth Representative, Homa Bay County;
- (vi) the Institute of Certified Public Accountants of Kenya;
- (vii) the County Assemblies Forum;
- (viii) the National Treasury and Planning; and,
- (ix) the Council of Governors.

Hon. Temporary Deputy Speaker, most importantly, the Committee took note of the National Treasury's submissions and observed that the objects that the Bill proposes to address have been adequately covered by the Constitution of Kenya, 2010, the County Government Act, 2012, and the Public Finance Management Act, 2012.

The Constitution provides the guiding principles and framework of devolution and public finance. In addition, it provides for the Equalisation Fund. Section 3 of the County Government provides for inter-alia the same objects as enumerated in the Bill. The Public Finance Management Act has an elaborate framework for financing county government budget execution, monitoring and oversight. It is not clear what legal gap the Bill is addressing outside the existing legal and regulatory framework. The Bill negates the fiscal powers of county governments to plan, budget, spend and report on revenue allocated pursuant to Sections 202 and 203 of the Constitution.

Clause 5(3)(a) of the Bill proposes an allocation of not less than 15 per cent of county government allocations of development expenditure to ward-based projects. The Constitution contemplates that county government should plan, budget, spend and account for the revenue independently. Legislation on formula for sharing revenue amongst some units of county governments as proposed by the Bill is tantamount to taking away the fiscal powers of county governments to determine the allocation of resources amongst the various county government units.

Therefore, the Committee recommends that the County Ward (Equitable Development) Bill (Senate Bill No.34 of 2018) should not be proceeded with as it is unnecessary since there are adequate and existing laws on fiscal decentralisation. The subsisting law has a clear and elaborate framework of financing county governments, budget execution, monitoring and oversight. There is no legal gap that the Bill is addressing outside existing legal and regulatory frameworks.

With those remarks, I beg to move. I request Hon. Thuku, the Member for Kinangop, to second.

Hon. Zachary Thuku (Kinangop, JP): Thank you, Hon. Temporary Deputy Speaker. I wish to second this Bill as proposed.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Just hold on. I am finding this interesting. The Mover has informed the House that the recommendation of the Committee is unanimous that the proposed Bill should not be proceeded with as it is unnecessary. Therefore, to second, what would the Seconder of the Report be doing? Hon. Thuku, just hold on. Hon. Millie, what is out of order?

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): On a point of order. I stand guided. However, my understanding is what the Committee is doing is actually rejecting and persuading the House to reject the Bill. In that case, it should be placed before us and the House will make a decision.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Millie, I think my mind is clear on that. Hon. Thuku, you may proceed.

Hon. Zachary Thuku (Kinangop, JP): Thank you, Hon. Temporary Deputy Speaker. I rise to second the position taken by the CDF Committee on the issue of the Bill that has been brought to this House or presented to us by the Senate.

I take a keen consideration of the Report that emanated from the deliberations of the CDF Committee. Without saying much, the people who have the primary duty of developing our wards are the county assemblies because they are established by the Constitution. Therefore, it would be their duty to allocate money to their wards. Therefore, this matter should not have come here for our deliberations because they already have the money in the county coffers. It is for them to allocate money as per the needs of the individual wards.

With those remarks, I second and support the Committee's position.

(Question proposed)

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Am I allowed to proceed?

The Temporary Deputy Speaker (Hon. Christopher Omulele): Yes.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Thank you, Hon. Temporary Deputy Speaker for giving me the opportunity.

Respectfully, I wish to disagree with the Committee. I wish to say that I support, but with amendments.

The Committee has raised a very fundamental legal issue. They are saying that there are legal frameworks that are providing for this Bill. I had not looked at them. I am going to look at them in-depth. However, from my understanding of those frameworks, first, the Constitution gives a very broad legal framework. Therefore, what provides the detailed framework of implementation is a law. It is a secondary legislation.

The other issue that is of concern to me, which may not necessarily relate to this Bill, and which I previously raised before this House, is that I am seeing things that come to this House which could easily be part of policy and not really legal amendments. I sometimes also see even four or five similar legal amendments or provisions that come to the House. To me, this speaks to the fact that our legal personnel could be overwhelmed. Maybe, our number has increased significantly and we have not increased the number of the legal personnel to help them cope with the numbers that have come with a very brilliant House, especially if you are dealing with Parliament as a whole not just the National Assembly. However, what they are trying to do is to ensure equitable share of projects across the county. What happens in many counties is that once the governors get the money, the minority communities might suffer. Areas where people did not support the governor's election might also suffer. The funds that would go to them may be less. The only challenge I have with this Bill is that it also makes provisions that take away the role of the County Executive, which is basically implementation.

In addition, I was hoping that this Bill could try to mirror what is happening at the national level, so that even if we wanted to empower members of the county assemblies (MCAs), then they have a fund which is similar to the NG-CDF, if that is the way we want it to go. Otherwise, there needs to be a framework that states clearly the way to divide and distribute resources across counties. The only challenge is that even as the Mover has those intentions, I do not see it very properly executed because even when they are talking about communities ensuring that they come up with projects, they are not saying exactly how that is to be effected.

Therefore, I am seeing it very strong on ideology, but very thin on implementation and that is why I am saying that I would want to support with amendments. Moreover, I am hoping that by the time it will be coming to the Committee of the whole House, I will have had time to look at the other two County Governments Acts and the Public Finance Management (PFM) Act which mainly talks about principles of equitable share. However, it does not go at length on how this is done at county levels.

In addition, I would want to reserve this comment, but if then I find that what the Committee is saying in relation to those pieces of legislation is true, then I will withdraw my support. However, as of now, I support, but with the proposed amendment based on the Bill alone without reading the other two pieces of legislation that are referred to. Therefore, I would want to encourage the Committee. I do not know if they had the benefit of advice from the Legal Department. However, I think if you have principle and implementation of the principle, then you need another piece of legislation to ensure that is done.

Therefore, respectfully, I do not support the Committee's position and I support with amendments.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Very well. The Hon. Oundo Ojiambo, you have the Floor.

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Hon. Temporary Deputy Speaker, I stand here a bit confused or a bit disappointed in the way the Bill has been drafted, discussed and passed in the Senate and brought to this House for deliberation. I stand here in a way to support the recommendations of the Committee in respect of this Bill. I truly believe parliamentary time should be used in the most useful manner that results in the best output. Moreover, I also believe that what is already legislated, there is really no need to re-legislate. Looking at the Bill, it more or less looks like an executive summary drawing various chapters and sections of the law to come up with a Bill that is not capable of being implemented and achieving the desired results.

Hon. Temporary Deputy Speaker, the County Governments Act, the Public Finance Management Act and the supreme law; the Constitution, literally sets out the functions and duties of a county government, a governor and a county assembly. This law purports to go into an exercise of repetition. It is repeating what is already provided for in the County Government Act, repeating what is already provided for in the Constitution and also what is provided for under the PFM Act. If we were ever to make amendments to the Acts to align them to the Constitution, Government policy and the PFM Act, this Bill would be rendered hopelessly useless. For example, Section 5 of the County Governments Act literally lays down the functions and duties of the county government. This Act is purporting to just regurgitate, repeat, cut and paste what is already there and probably to put it in a different language that really means the same thing.

The county assembly is seized with the power of making the budget, just like the National Assembly. There can never be any other way of making the budget without following the procedure laid down in the PFM Act and the County Government Act. If the MCAs are unable to make budgets or unable to sway their Executive in making the budget, they should not look for a lazy way of getting their work done without following the law. The Executive, namely, the governor and the Executive Committee Members, present a budget to the county assembly. It is incumbent upon the MCAs to realign the budget to meet the requirements of the people they represent. The county government is required by law to prepare a county in their greater development plan and that is a consultative process that starts with public participation on the ground. Why on earth would you want to have another law or another Act that seems to thrash the

recommendations of the people when they present their views under the county integrated development plan?

Each year the county government is required to prepare a county fiscal strategy paper that lays down the way projects are going to be done and the way of raising funds. I truly believe the drafter of the law just needed to find relevance where there is none. I truly believe probably he was egged on by MCAs to try and copy the NG-CDF yet the circumstances of the two are totally different. On that view, I know my time is up. I stand to oppose and would make amendments that would literally negate and kill this Bill. It is improper and of no use to this country.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Very well spoken, Hon. Oundo. I now call upon the Mover to reply.

Hon. Omar Mohamed (Mandera East, EFP): Thank you very much, Hon. Temporary Deputy Speaker. Hon. Oundo has said it very well. First of all, Hon. Millie Odhiambo, who has just walked out, said that she had queried the legal minds that had looked at this piece of legislation. In addition, I would say that the able minds of the Legal Department of Parliament have compared the existing laws and came out clearly that this is a copy paste pieces of legislation that are uncalled for. I, therefore, with the recommendations of the Committee, beg to reply and ask for its rejection. I ask the House not to allow the Bill to proceed.

I beg to reply.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Very well. Hon. Members, I instruct that the next necessary steps in regard to this business be undertaken when the matter will be sat down again for consideration before the House. I, therefore, direct that we move on to the next business in the Order Paper.

(Putting of the Question deferred)

Hon. Maoka Maore (Igembe North, JP): Hon. Temporary Deputy Speaker, I want to request for your indulgence that we do step down the business appearing as Order Numbers 12, 13 and 14 given that the Movers are not here to do the necessary.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Very well. I had received intervention in that regard. It is good that you have formerly laid it down. I, therefore, direct that the business listed as Order Numbers 12, 13 and 14 be stepped down from the Order Paper for the day. Yes, the Clerk will read them out, so that we take the necessary action.

THE COUNTY STATUTORY INSTRUMENTS BILL

THE STATUTORY INSTRUMENTS (AMENDMENT) BILL

(Bills deferred)

The Temporary Deputy Speaker (Hon. Christopher Omulele): Next Order!

MOTION

SPECIAL AUDIT REPORT ON PROCUREMENT OF PRE-EXPORT VERIFICATION

THAT, this House adopts the Report of the Public Investment Committee on its consideration of the Special Audit Report on Procurement of Pre-Export Verification of Conformity to Standard Services for Used Motor Vehicles, Mobile Equipment and Used Spare Parts by Kenya Bureau of Standards, laid on the Table of the House on Tuesday, 2nd June, 2020.

The Temporary Deputy Speaker (Hon. Christopher Omulele): I further direct that the business listed as Order No.14 be stepped down from the Order Paper for the day.

(Motion deferred)

ADJOURNMENT

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Members, that being the last business of the House and the time being 6.01 p.m., this House stands adjourned until Tuesday, 22nd September 2020, at 2.30p.m.

The House rose at 6.01p.m.