

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 13th March, 2019

The House met at 2.30 p.m.

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

PRAYERS

Hon. Speaker: Hon. Members, I will issue a Communication from the Chair later.

PAPERS LAID

Hon. Speaker: The Leader of the Majority Party.

Hon. Aden Duale (Garissa Township, JP): Hon. Speaker, I beg to lay the following Papers on the Table of the House:

Reports of the Auditor General on the Financial Statements in respect of the following institutions for the year ending 30th June 2018, and the certificates therein:

- (i) Petroleum Development Levy Fund Holding Account;
- (ii) Railway Development Fund;
- (iii) Treasury Main Clearance Fund;
- (iv) Agricultural Information Resource Centre Revolving Fund;
- (v) Prison Farms Revolving Fund;
- (vi) Revenue Statement for State Department for Interior;
- (vii) Medical Practitioners and Dentist Board;
- (viii) National Government Constituencies Development Fund, Kisumu East Constituency, and;
- (ix) National Government Constituencies Development Fund, Emuhaya Constituency.

Thank you, Hon. Speaker.

Hon. Speaker: Next Order.

ORDINARY QUESTIONS

Hon. Speaker: The first Question is by the Member for Gatundu South.

Question No. 107/2019

SHAREHOLDING OF KENYA BROADCASTING CORPORATION IN MULTICHOICE KENYA LIMITED

Hon. Moses Kuria (Gatundu South, JP): Thank you, Hon. Speaker. I would like to ask the following Question to the Cabinet Secretary (CS) for Information, Communication and Technology:

(i) What is the percentage of shareholding of Kenya Broadcasting Corporation in Multichoice Kenya Limited and when was the shareholding acquired?

(ii) Could the Cabinet Secretary give the total number of subscribers of Multichoice Kenya Limited stating the number in each category, total monthly gross revenue from each subscriber and dividends received?

Hon. Speaker: Very well. The Question is referred to the Departmental Committee on Communication, Information and Innovation. The next Question is by the Member for Kuresoi South.

Question No. 108/2019

MEASURES TO CURB CATTLE THEFT IN OLPOSIMORU AREA

Hon. Joseph Kipkosgei (Kuresoi South, JP): Thank you Hon. Speaker for giving me this opportunity to ask Question No. 108/2019. I am directing it to the CS for Interior and Coordination of National Government:

(i) Is the Cabinet Secretary aware of rampant cattle theft among communities living in Olposimoru area of Kuresoi South Constituency?

(ii) Could the Cabinet Secretary consider establishing a permanent Anti-Stock Theft Police Unit in the area to curb insecurity and cattle theft?

Hon. Speaker: Very well. The Question is referred to the Departmental Committee on Administration and National Security.

Before we go to the next Question, allow me to recognise the presence, in the Speaker's Gallery and Public Gallery, of the following pupils and students: Kaplamai School, Kuresoi South Constituency of Nakuru County; Mwaki Primary Girls' School, Ruiru Constituency of Nairobi County; and, pupils from the Pupils Reward Scheme (PURES) from different constituencies in Nairobi County.

Also, we have those from Mwiki Boys' Primary School, Ruiru Constituency of Nairobi County; St. Joseph's Secondary School, Maragwa Constituency of Murang'a County; and, those from Kariobangi South Primary School, Njiru area of Nairobi County. There is no constituency known as Njiru. I have never known of a constituency known as Njiru here.

(Applause)

The third Question is from the Member for Kanduyi Constituency.

Question No. 109/2019

STATUS OF RESOLUTION ON HOSTING OF THE REGIONAL YOUTH FORUM SECRETARIAT OF ICGLR

Hon. Wafula Wamunyinyi (Kanduyi, FORD-K): Thank you, Hon. Speaker. I beg to ask Question No. 109/2019 to the Cabinet Secretary for Foreign Affairs:

(i) Is the Cabinet Secretary aware that the Government, in 2014 during the Special Summit of Heads of State and Government of the International Conference on the Great Lakes Region (ICGLR) on Youth Unemployment held in Nairobi, undertook to host the Regional Youth Forum Secretariat of ICGLR in Kenya, and further provide an initial US\$2million to set up and run the secretariat for the first two years (2014 – 2016)?

(ii) What is the status of implementation of this resolution and how many members of staff have been employed in the said secretariat?

(iii) How has the Government assisted the youth on the issue of unemployment through implementing the resolutions of the said Summit?

(iv) What were the budgetary allocations made to the secretariat, if any, for the Financial Years 2017/2018 and 2018/2019?

Hon. Speaker: It is referred to the Departmental Committee on Defence and Foreign Relations. Next is Member for Kwanza.

Question No. 110/2019

APPOINTMENT OF AGRICULTURE, FISHERIES AND FOOD AUTHORITY BOARD

Hon. Ferdinand Wanyonyi (Kwanza, FORD-K): Thank you very much, Hon. Speaker. My Question goes to the Cabinet Secretary for Agriculture, Livestock, Fisheries and Irrigation:

(i) Is the Cabinet Secretary aware that the Agriculture, Fisheries and Food Authority (AFFA) does not have a substantive board of directors and, further, that the secretariat is on temporary terms of service?

(ii) When will the said board be gazetted?

Hon. Speaker: It is referred to the Departmental Committee on Agriculture and Livestock. The next Question is by the Member for Alego-Usonga.

Question No. 111/2019

LIST OF DONOR-FUNDED PROJECTS IN ALEGO-USONGA

Hon. Samuel Atandi (Alego-Usonga, ODM): Thank you, Hon. Speaker. I rise to ask Question No. 111/2019 in today's Order Paper. It is addressed to the Cabinet Secretary for the National Treasury:

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Could the Cabinet Secretary provide a list of all donor-funded projects, including name, location and cost, in Alego-Usonga Constituency from the year 2013 to date and state whether the projects are funded through loans or grants?

Hon. Speaker: It is referred to the Departmental Committee on Finance and National Planning. The last Question is by the Member for Keiyo North.

Question No. 112/2019

COMPENSATION TO PERSONS AFFECTED BY CONSTRUCTION OF ITEN-BUGAR ROAD

Hon. James Murgor (Keiyo North, JP): Thank you, Hon. Speaker. I would like to ask Question No. 112 of 2019 to the Cabinet Secretary for Transport, Infrastructure, Housing and Urban Development:

(i) Is the Cabinet Secretary aware that the expansion and rehabilitation of a 20-kilometre section of the Iten-Bugar Road to bitumen standards was completed in December, 2016 and that persons affected by the expansion of the road have not been compensated to date?

(ii) What measures is the Ministry putting in place to ensure that those affected by the project are compensated and when will the compensation be effected?

Hon. Speaker: It is referred to the Departmental Committee on Transport, Public Works and Housing.

Sorry, Hon. Members. Before we move to the next Order, I have two Communications to make.

COMMUNICATION FROM THE CHAIR

APPROPRIATE DRESS CODE FOR MEMBERS IN PARLIAMENT

Hon. Speaker: Hon. Members, you will recall that during the afternoon sitting on Wednesday 20th February 2019, the Member for Kisumu West Constituency, Hon. John Olago Aluoch, rising on a point of order, sought the guidance and direction of the Chair on the matter of appropriate dress code for Members in the Chamber.

The Hon. Olago drew the attention of the Chair to the dress code of the Member for Rarieda, the Hon. (Dr.) Otiende Amollo, who was dressed in a collarless shirt and a matching jacket and, without a tie as prescribed in our rules.

Other Honourable Members, including the Deputy Speaker, the Hon. Moses Cheboi, the Leader of the Majority Party, the Hon. Aden Duale; the Leader of the Minority Party, the Hon. John Mbadi; the Hon. Chris Wamalwa; the Hon. Sakwa Bunyasi; the Hon. Abdulswamad Nassir; the Hon. Kubai Iringo; the Hon. Mohamed Mohamud, the Hon. (Dr.) Robert Pukose; the Hon. Kimani Ichung'wah; and the Hon. (Dr.) Makali Mulu weighed in to give their input or to seek further clarification on the matter.

I have perused the HANSARD Report of the day's proceedings so as to appreciate the issues raised by Hon. Olago and the issues canvassed by other Members on this subject, and I have identified the following key issues for consideration:

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- (1) What constitutes a proper dress code for Members of the National Assembly while in the Chamber?
- (2) Can there be exceptions to the rule and, if so, under what circumstances?
- (3) What is a decent attire/wear in respect of Honourable Lady Members?
- (4) Whether our diverse cultural regalia should be permitted to form part of the dress code for the Chamber and in committees of the House;
- (5) Whether the prescription of a dress code is an affront on the freedom of conscience, religion and belief of Members of this august House;
- (6) Whether, in fact, it is time to depart from the traditionally prescribed dress code that the House has been accustomed to for decades and which has been used for preserving the dignity and sartorial standards of this House.

The debate as to what constitutes appropriate dress code is not new to this House. History is replete with instances where the Chair has been invited to determine whether or not a Member is properly dressed. Indeed, it is a matter that is not unique to the Parliament of Kenya or, perhaps, the National Assembly. It has and shall continue to dominate discourse across parliaments the world over. This is because a House of Parliament without basic agreed standards of dress and manners can subject itself to dishonour.

In addressing the issues raised by Hon. Olago Aluoch and fellow Members as to what constitutes an appropriate dress code, I am, at the outset, bound to address three issues; namely,

- (1) What is the rule governing the manner of dress while attending plenary and committee sittings in the National Assembly?
- (2) What has the practice and application of the said rule been and how does it sit with practices and precedents in comparable jurisdictions?
- (3) Should we or should we not in fact have an absolutely determinate rule governing dress code?

As you may all be aware, Article 117(2) of the Constitution gives Parliament the authority, for the purpose of the orderly and effective discharge of its business, to provide for its powers, privileges and immunities. In furtherance of the said constitutional principle, Section 37 of the Parliamentary Powers and Privileges Act, 2017 provides that –

- “ (1) The Speaker of either House of Parliament may, from time to time, issue such orders as may be necessary or expedient for the better carrying out of the purposes of this Act.
- (2) Without prejudice to the generality of the foregoing, the orders may provide for—
- (a) the admittance of members of the public to the precincts of Parliament;
 - (b) the deduction of any monies due to a member in respect of refreshments or other facilities made available to members within the precincts of Parliament;
 - (c) the appropriate dress code for members.”

Accordingly, my predecessors did prescribe the ‘appropriate dress code’ for Members of the National Assembly in previous Speaker’s Rules. I also did affirm the same in the current Speaker’s Rules, 2017 (Revised). Rule No. 8 of the Speaker’s Rules (Dress Code for Members, Media Representatives and Guests) states that –

“Members, members of the press and guests shall not enter the Chamber, Lounges, Dining Room or Committee Rooms without being properly dressed. For the purposes of these Rules, proper dress means –

(a) a coat, collar, tie, long-sleeved shirt, long trousers, socks, and shoes or service uniform for men; and,

(b) decent formal/business wear for women”

I will resume my seat to allow Members to come in.

(Several Hon. Members walked into the Chamber)

Honourable Members may recall that the Clerk did provide a copy of the Speaker’s Rules issued by myself to every Member in keeping with Section 37(4) of the Parliamentary Powers and Privileges Act, 2017.

It is instructive to note that a prescription of an ‘appropriate dress code’ is not codified in our Standing Orders. In its wisdom, the House has, like in many comparable jurisdictions, left it to the discretion of the Speaker to make orders as may from time to time be necessary and as exigencies call for. It is also important to note that most legislatures in comparable jurisdictions have, for good reasons, refrained from codifying ‘appropriate dress code’ in their Standing Orders.

This takes us to the second question, which is: What has been the practice and application of the said rule and how does it sit with practice and precedent in comparable jurisdictions? A review of instances of alleged improper dressing in the House reveals that Speakers have always exercised due discretion while enforcing the rule. But, as the Hon. Olago Aluoch did admit, the matter of dress code is evolving fast. Consequently, a practice has developed whereby in cases where the claimed dressing is at variance with what is prescribed in the Rules, the determination of what constitutes “an appropriate dress code” has been left to the discretion of the Speaker.

In 1968, Speaker Humphrey Slade, was invited to determine whether or not the then Member for Embu North, Hon. Mbogoh, was properly dressed. Speaker Slade ruled thus–

“As I have said on other occasions, we have no Standing Orders concerning dress, which I can enforce. It rests on the collective opinion of the House as to what is or is not proper dress. If Hon Mbogoh does not meet with the approval of Hon. Members, he will doubtless hear about that.”

I am persuaded to agree with Speaker Slade that, where it is not clear whether a Member’s dress is proper or not, discretion has been left to the Speaker to make a determination on the matter, taking into account the collective opinion of the House as to what is or is not proper dress.

Hon. Members, on 10th July 2003, Speaker Francis Kaparo was confronted with a similar situation. The then Member for Gatundu North, the Hon. Patrick Muiruri had risen on a point of order contesting that the then Member for Kisumu Town East, the Hon. Gor Sungu, was not properly dressed. My review of the HANSARD reveals no description of how Hon. Sungu was dressed then but when called upon by the Speaker to rise in his place, the HANSARD records

that the House chanted “Shame! Shame!” indicating that the House was nearly of the unanimous view that Hon. Gor Sungu was improperly dressed.

Before ordering Hon. Sungu to withdraw from the Chamber, the Speaker is on record stating as follows—

“Order! Mr. Sungu, you can hear the displeasure of the House. I obey the command of the House. If your sight displeases the House, it is my duty to remove your sight out of the House...”

The Chair goes by the will of the House. Once the House disapproves, I have no choice. I am a servant of the House.”

On the question of a Muslim *kanzu*, my predecessors have ruled that being a universally recognised formal, albeit religious dress, the *kanzu* is acceptable within the rules governing dress in this House, provided that a Member wearing a *kanzu* also wears a coat as an outer garment. I have no intention of revisiting this established practice and tradition.

As to the question of admissibility of African male attire, those who have served in previous Parliaments would recall that the matter has come up several times. I have isolated a case involving the then Member for Subukia, Hon. Koigi wa Wamwere. On 10th July 2003, Hon. Wamwere entered the House dressed in smart African attire. This prompted the then Member for North Horr, the late Hon. (Dr.) Bonaya Godana, to seek the interpretation of the Chair as to whether Hon. Wamwere was properly dressed. The Speaker determined that decent as he may have been, the Member was not properly dressed.

May I also remind the House that the Chair is not oblivious of the progressive attempts that the Ministry of Culture made in 2004 to have Kenya’s national dress with an African theme that epitomizes the country’s cultural dressing diversity. As facts stand now, the envisioned Kenyan national dress remains work in progress.

Much as Hon. Otiende Amollo alluded to inalienability of the right to conscience, religion and culture under Chapter Four of the Constitution of Kenya, it ought not to be lost that for the case of Parliament, these entitlements must be construed to preserve our sartorial standards and ensure decency in the House. I am, therefore, constrained from granting latitude to male Members to dress in what they would consider to be African or national dress.

The Leader of the Majority Party seemed to be inviting the Chair to make a finding that nominated Member Hon. David Sankok’s manner of dressing, particularly his choice to don national colours, is outside the ambit of Rule 8 of the Speaker’s Rules. However, the Member still dons a coat, long-sleeved shirt, a tie, long trousers and shoes. I do not intend to belabour to prescribe the colour, shape and design of suits worn by Members. That is a matter of personal choice and taste.

But that notwithstanding, should the Chair establish that the nature and colour of the said dress is intended to crusade or advertise a certain course, he would not hesitate to make a determination.

Allow me to briefly share with the House the application of rules relating to dress code in selected jurisdictions. First, in the United Kingdom’s House of Commons, from where the practice in Kenya was heavily borrowed, Rule 23 on dress provides that—

“As with the language you use, the way in which you dress should also demonstrate respect for the House and for its central position in the life of the nation. There is no exact dress code. Convention has been that for men, a jacket and a tie is expected. For women, the equivalent level of formality should be observed.”

However, in June 2017, the House of Commons did revisit the matter of dress code for male Members of Parliament where my counterpart, Speaker John Bercow, did guide that Members have to be dressed in “business-like attire” but that ties are no longer essential. I have since checked and found out that a cross-section of the British society seems to be expressing fears that Parliament’s sartorial standards will decline, while others think that the House of Commons is finally entering the 21st Century. The question that begs is: Has the time for a fashion revolution come or is it time to allow fashion to permeate tradition?

In Australia, the dress code is not firmly anchored in the rules. In 1999, Speaker Andrew Neil observed that it was widely accepted throughout the Australian Parliament community that the standards of dressing should include good trousers, a jacket, collar and tie for men, and a similar standard of formality for women. In 2005, Speaker David Hawker echoed Speaker Andrew’s position, observing that it was not in keeping with the dignity of the House for Members to arrive in casual or sportswear.

Closer home in Zambia, the official dress code for Members of the National Assembly is codified in Standing Order 165, which provides as follows:

“The official dress for male Members of Parliament shall be a formal suit, a pair of long trousers, a shirt, a tie and jacket, *toga* or safari suit with long or short sleeves and a scarf or tie. The official dress for female Members of Parliament shall be a formal dress, dress suit or skirt suit, *chitenge* dress or suit, short or long sleeved and below the knee, or formal executive trouser suit.”

(Applause)

Order Members. Emphasis is “below the knee”.

In New Zealand, the Speaker’s Rules require both male and female Members to dress in ‘business attire’. In terms of application, it is observed that most Speakers have interpreted that rule to mean ties and jackets for men.

Our counterparts in Uganda are expected to dress in a dignified manner. Rules governing dress code prescribe suits, pairs of trousers, jackets/coats, shirts and ties or *kanzus* or safari suits for men and blouses and skirts or dresses and jackets for lady Members. By virtue of the composition of Parliament, military Members wear their uniform. The rules further require Members to wear acceptable shoes, save for cases where a Member of Parliament could, with the Speaker’s permission, wear what might not necessarily be the norm.

Hon. Members, let me address myself to the manner of dressing of the Member for Rarieda, Hon. (Dr.) Otiende Amollo. Hon. Amollo seems to have a particular taste for collarless shirts. Indeed, as I have ruled before in 2014, *kaunda* suits and even, for lack of a better term, the Mao Zedong coats, worn without a tie, are admissible as part of proper dressing in the House. I have relooked at the manner in which Hon. Otiende Amollo was dressed on Wednesday, 20th

February, 2019 in the context of the definition of proper dress under Rule 8. Unlike the collarless coats that I have just described, Hon. Otiende Amollo's coat on that particular day was collared and, therefore, does not pass to be worn without a tie. I, therefore, find that the Member was not properly dressed on that day.

As I conclude, I must emphasise that it is in the interest of Members that whenever they appear in the House or its committees to transact business, they do so in decorous attire befitting their stature as legislators and that of Parliament as an institution. The same does apply to Members while in the Lounge and Dining Room. I hasten to restate that whenever the House shall find a Member to be improperly dressed, the Chair will not hesitate to enforce strict adherence to proper dressing. Members who incessantly dress improperly will be deemed to be disorderly and may be subject to applicable sanctions.

In conclusion Hon. Members, I will now address the question of what constitutes an appropriate dress code for the National Assembly. In doing so, I start by reiterating that Rule 8 of the Speaker's Rules (Revised) 2017 still applies, and for the avoidance of doubt, I quote:

“Members, members of the press and guests shall not enter the Chamber, Lounges, Dining Room or Committee Rooms without being properly dressed. For the purposes of these Rules, proper dress means –

- (a) a coat, collar, tie, long-sleeved shirt, long trousers, socks, and shoes or service uniform for men; and,
- (b) decent formal/business wear for women”

Consequently Hon. Members, in summary, it is my considered ruling that all Members, without exception, must observe Rule 8 of the Speaker's Rules (Revised) 2017 regarding dress code for Members while in the Chamber, Lounges, Dining Room or committee rooms at all times.

That, where for very good reasons a presiding officer or chairperson of a committee is approached by a member to exempt the application of the rule, necessary discretion shall be exercised by the presiding officer or chairperson of a committee.

That, with regard to what is decent attire in respect of our lady colleagues, again, presiding officers and chairpersons should exercise due discretion without compromising our sartorial standards. Lady colleagues are, therefore, duly advised to dress appropriately.

That, as to whether our diverse cultural regalia should be permitted to form part of appropriate dress code in the House and in committees of the House, I wish to state that, so as to ensure we do not compromise on our sartorial standards, to avoid confusion, and in order that we do not end up in utter disorder, the Committee on Procedure and House Rules shall, in future, explore what could be considered as acceptable ‘African’ or ‘national dress’.

That, as to whether the prescription of a dress code is an affront on the freedom of conscience, religion and belief of Members of this august House, I am of the considered opinion that the beauty with our rules is that they emanate from what we consider to be accepted standards; standards agreed on by this very House and when this House agrees, so it shall be.

That, as to whether in fact it is time to depart from the traditionally prescribed dress code that the House has been accustomed to for decades even while at the same time preserving the dignity and sartorial standards the House sets, I guide as your servant, that when the time comes

for the House to review its sartorial standards and to break with tradition, we shall proceed as the House shall determine.

The House is accordingly guided.

Hon. Jimmy Angwenyi (Kitutu Chache North, JP): *(Inaudible)*

Hon. Speaker: Hon. Angwenyi, what is to be clarified?

Hon. Jimmy Angwenyi (Kitutu Chache North, JP): Hon. Speaker, I did not hear clearly whether female Hon. Members can wear jeans to the House. My sister Hon. Millie is wearing jeans. Is that allowed?

Hon. Speaker: Jeans? Who is wearing jeans in the House? Is any Member dressed in jeans? Which Member is wearing jeans?

Hon. Aden Duale (Garissa Township, JP): *(Inaudible)*

Hon. Speaker: Hon. Millie Odhiambo, it is alleged that you are dressed in jeans. Is that true?

(Hon. (Ms.) Millie Odhiambo stood up, walked to the Dispatch Box and back to her seat)

(Laughter)

Hon. Speaker: Hon. Members, the Hon. Member for Suba North is very decently dressed.

Those are not jeans. That is a decent pair of trousers.

Hon. Members, due to some other function that at some point I may be required to go and do outside of the Chamber, I will give this Communication relating the business appearing as Order No.10 so that, when you get there, the House will be guided accordingly.

CONSIDERED RULING: REPORT ON ALLEGED IRREGULAR
SPECIALIST RECOGNITION OF DR. SAMIRA SONI BY KMPD BOARD

Hon. Speaker: Hon. Members, before we proceed to the business appearing as Order Number 10, allow me to issue the following Communication in respect of that particular business.

Hon. Members, you will recall that yesterday, Tuesday, 12th March 2019, during debate on the Motion for Adoption of the Report of the Departmental Committee on Health on Alleged Irregular Specialist Recognition of Dr. Samira Soni by the Kenya Medical Practitioners and Dentists Board, the Member for Suba North, Hon. Millie Odhiambo-Mabona, rose on a point of order seeking clarification as to whether it was within the mandate of the House to discuss the subject matter of the Report regarding the recognition as a specialist by a processional body.

In her submission, Hon. Millie Odhiambo-Mabona stated that the statutory body that is mandated to determine whether a person is or is not qualified to be recognized as a medical specialist is the Kenya Medical Practitioners and Dentists Board (KMPDB) through its laid down procedures and regulations. She added that, where the board makes the decision on a case, and

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either approves or rejects an application, there exist mechanisms in place for appeal in case of a rejection.

Hon. Members, you may further recall that several other Members made their contributions on the matter, including the Member for Kathiani, Hon. Robert Mbui, Member for Dadaab, Hon. Mohammed Duale, Nominated Member, Hon. David ole Sankok, the Member for Seme, Hon. (Dr.) James Nyikal, the Member for West Mugirango, Hon. Vincent Kemosi and the Mover of the Motion and Member for Murang'a County, Hon. (Ms.) Sabina Chege who weighed in to give their inputs or to seek further clarification on the matter. Consequently, I did order adjournment of debate on the Motion and undertook to guide the House today.

Hon. Members, from the issues raised by Hon. Millie Odhiambo and the issues canvassed by other Members, the following are the issues for my consideration:

(i) Whether the House is within its mandate to discuss a report of a committee such as the one by the Departmental Committee on Health on the Alleged Irregular Specialist Recognition of Dr. Samira Soni by the Kenya Medical Practitioners and Dentists Board.

(ii) How the Committee got seized of the matter and what prompted the Committee to conduct the inquiry.

Hon. Members, first, I wish to remind you that Standing Order 216(5) mandates Departmental Committees to, among other functions, investigate, inquire into and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments. Once a Committee has inquired into a matter and reported to the House, the House considers the report, and makes a decision on it, guided by the Standing Orders. The decision to inquire into any particular matter is therefore entirely that of a Committee, so long as the subject is within its mandate. In this particular case, the Committee on Health clearly indicated that the matter was first brought to its attention by the Member for Kisumu Town East, Hon. Shakeel Shabbir in the Eleventh Parliament through letters dated 19th November 2014 and 17th February 2016, respectively. The Report also indicates that Hon. Shakeel asked the Committee to look into the matter again through a letter dated 14th March 2018.

Hon. Members, it is my considered finding that the House is therefore within its mandate to discuss the Report of the Departmental Committee on Health on Alleged Irregular Specialist Recognition of Dr. Samira Soni by the Kenya Medical Practitioners and Dentists Board. Indeed, at the end of the debate, the House will be expected to make a decision in one way or the other.

Further, Hon. Members, yesterday, there were concerns regarding the nature of the Report in question with some Members intimating that it was a report on a petition and therefore, did not merit debate as per our Standing Order 227. In this regard, may I set the record straight.

From my findings, the Report before the House is a Report on an inquiry within the confines of Standing Order 216 (5) on functions of departmental committees and not a report on a petition.

Hon. Members, before I conclude, may I report that it has come to my attention that there were two versions of the Report; one being the Report tabled on 17th October 2018 which I had approved and another one being a report allegedly tabled on 19th February 2019 - also shown to have been brought to me for approval. It has since been clarified to me that, at the time of

renewing the Notice of Motion by the Committee on 19th February 2019 following the commencement of the Third Session, the second version, which was a working draft, was erroneously circulated. It important to note that this working draft does not meet the minimum requirements for a report to be tabled as, among other things, it was not signed by the Chairperson and did not contain minutes of the Committee as is required by the Standing Orders. Therefore, the authentic Report is the one tabled on 17th October 2018, and which is referred to in the Motion.

Hon. Members, I therefore wish to guide the House as follows:

- (i) That, the House does not impose upon committees on matters they should inquire into and therefore, the decision to inquire into any particular matter is entirely that of a committee so long as it falls within the particular Committee's mandate; and,
- (ii) That, the Report by the Departmental Committee on Health on Alleged Irregular Specialist Recognition of Dr. Samira Soni by the Kenya Medical Practitioners and Dentists Board, laid on the Table of the House on Wednesday, 17th October 2018, is properly before the House and the motion for adoption is in order and debate on the same may now resume at the appropriate time.

The House is guided accordingly

Hon. Junet Nuh (Suna East, ODM): On a point of order, Hon. Speaker.

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

Hon. Junet Nuh (Suna East, ODM): Hon. Speaker, I stand guided by your Communication. However, I want to seek clarification in the sense that I have both reports with me here. I was wondering how they both found their way on the table of the Speaker. As you are aware, when a committee does its report in draft form, the final report is the one that goes to the Director of Committees and then to Speaker for approval.

Therefore, this is a matter that I would like to seek further clarification in the sense that both reports were sent to the Speaker's Office for approval and tabling. I want to know how they found themselves there.

Hon. Speaker: Hon. Junet, it is just as was explained. Hon. Mbadi, do you also want to weigh in?

Hon. John Mbadi (Suba North, ODM): Thank you, Hon. Speaker for indulging me. As a follow up to what Hon. Junet has spoken about - I am not doubting the explanation that has been given by the Speaker - I am curious about how the two reports landed on the Speaker's desk for approval. This sets a very bad and dangerous precedent because the Speaker's Office can easily be given a wrong report to sign.

Hon. Speaker, we do not expect you to have time to go through the pages and volumes of reports. It is expected that the work of scrutinizing is done elsewhere, but your approval should be ceremonial so to speak, as the Head of Parliament. My concern is that looking at those two reports, there is a material difference in one of the recommendations.

In fact, the entire Report is the same, but one recommendation talks about reviewing the certificate of that doctor with a bid to regularise it. Then, the other one says, cancel. To me, this is so material that we need to get clear explanation how these two reports could land on the Speaker's Desk, so that we rule out mischief. You are aware that there have been many

complaints that, probably, committees of this House, sometimes, do not act in a manner that upholds the integrity of the House.

So, in my view, although you have made a ruling, I was just asking for this House to be certain and satisfied that there was no mischief. That neither a Member nor the Members of this Committee or even the Clerk's Office, tried to play games by introducing a report in this House that is not factual and approved by the Committee. Therefore, this matter needs further investigation. This House has a way of investigating such matters. If you ask me, I am just going to plead with you to reconsider making a ruling that this was just an innocent mistake.

For us to be comfortable, it was an innocent mistake. We need it to be investigated and a report given to us on how two reports with materially different recommendations landed on the Speaker's Desk. Really, for a report to reach the Speaker's Office is not by accident. The Clerk's Office must look at it, and then it goes to the Director of Committees. We assume it goes to the Clerk of the National Assembly or someone senior who stands for him. Then, the Committee is supposed to adopt the report.

So, introducing a report to your office, in my view, looks mischievous and we need clarity, certainty and confidence on the reports which we have been considering in this House. We need that reassurance because I am scared! Probably, we have passed reports which are not factual in this House.

Hon. Speaker: Hon. Olago Aluoch, I think you will be the last on this.

Hon. Olago Aluoch (Kisumu West, FORD-K): Thank you, Hon. Speaker. I was not in the House yesterday afternoon when Hon. Millie Odhiambo was raising the issue. However, I think she raised a proper issue. Therefore, I agree with her and also with the issues raised by Hon. Mbadi about the authenticity of this Report.

In my view, I think that somebody in the Departmental Committee on Health wants to take this House for a ride. Somebody imagines that he or she is too smart for other Members of this House. Ordinarily, looking at Standing Order No. 227, when petitions are referred to Committees, they must finish with the Petition within 60 days. The reports are never debated before the House.

How comes this particular Report is being debated? What can be debated in terms of Standing Order No.227 is only the 20 minutes which you allow at your own discretion. At the time you are committing the Petition to the Committee... Once the Committee has dealt with it, that is the end. It does not come here for debate. So, how did this one find its way to the Floor of the House? Something is seriously wrong and the House is being taken for a ride.

Hon. Speaker: Unfortunately, I think Hon. Olago Aluoch did not get the explanation that this is not a report on a petition. In fact, that is part of the reason why it raised some concerns yesterday. This is because if it was, then, there would have been no need for it to be debated going by Standing Order No.227. It is an inquiry by the Committee in exercise of the mandate given under Standing Order No. 216(5) on functions of Departmental Committees. It is not a report on a petition. Any Member can raise an issue with any of the Committees and even move it to do an inquiry or investigation on any matter that is within the mandate of the particular committee. This is one such case.

However, I think the more important matter is the one that has been raised by Hon. John Mbadi because the purported report which was tabled on 19th February took advantage of the fact that when we resumed for this Third Session, some committees were allowed to table the reports which they had completed and proceed to give notice for adoption of those motions. Somebody somewhere appears to have taken that advantage and ignored the fact that, indeed, the Report had been tabled on 17th October 2018 and notice of it was already given. So, indeed, there is somebody who must have been playing some mischief with regard to the purported second report, which report we direct should not be anywhere near here. It is fake to the extent that it is different in the material in respect of what Hon. John Mbadi has just stated. Indeed, that purported report has only five recommendations whereas the original report has six recommendations and it is just one page. So, it is just somebody who must have been trying to play mischief but the matter is being looked into. That is because it must have involved our staff or somebody in the Table Office.

However, what I think is important is the Report by the Departmental Committee on Health which is before the House appearing as Order No. 10 will continue and the House will be at liberty to make whatever decision the House deems fit on the basis of those recommendations. Let us proceed.

SPECIAL MOTION

APPROVAL OF NOMINEES FOR APPOINTMENT TO THE NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT BOARD

Hon. Maoka Maore (Igembe North, JP): Hon. Speaker, I beg to move the following Motion:

THAT, taking into consideration the findings of the Select Committee on the National Government Constituencies Development Fund in its Report on the Vetting of Nominees for Appointment as members of the National Government Constituencies Development Fund Board, laid on the Table of House on Tuesday, 12th March 2019 and, pursuant to Section 15(1)(e) of the National Government Constituencies Development Fund Act, 2015 and Section 8(1) of Public Appointments (Parliamentary Approval) Act, 2011, approves the appointment of the following persons to the National Government Constituencies Development Fund Board:

- (i) Mr. Robert Nyariki Momanyi Masese;
- (ii) Ms. Irene C. Masit;
- (iii) Mr. Abdiaziz Bulle Yarrow;
- (iv) Ms. Isabel Nyambura Waiyaki;
- (v) Ms. Maria Lekoloto;
- (vi) Hon. Peter Edick Omondi Anyanga; and,
- (vii) Mr. George Kasatua ole Meshuko.

Hon. Speaker, on Tuesday, 26th February 2019, the Select Committee on National Government Constituencies Development Fund (NG-CDF) received the names of the seven nominees for appointment to the position of board of directors to NG-CDF. The Committee was

further directed to report to the house on its consideration of the nominees not later than Tuesday, 12th March 2019.

The Committee embarked immediately on the approval exercise in accordance with the provisions of the Constitution, the Public Appointments (Parliamentary Approval) Act 2011, the National Government Constituencies Development Fund Act (No.30 of 2015) and the National Assembly Standing Orders. On 28th February 2019, the Committee, pursuant to Section 6(9) of the Public Appointments (Parliamentary Approval) Act 2011 invited the public to submit memoranda contesting the suitability of any of the nominees. On the same day, the general public was notified of the appointments, pursuant to Section 6(4) of the Public Appointments (Parliamentary Approval) Act 2011 and the date of the approval hearing scheduled for Thursday 7th March, 2019 in Committee Room, 5th Floor Continental House.

The nominees were also required to submit clearances from the following agencies:

The Ethics and Anti-Corruption Commission (EACC), the Kenya Revenue Authority (KRA), the Higher Education Loans Board (HELB), the Directorate of Criminal Investigations (DCI), the Office of the Registrar of Political Parties and the Credit Reference Bureaus.

Hon. Speaker, by close of day on Wednesday, 6th March 2019, the Clerk of the National Assembly had not received any memoranda contesting the suitability of any of the nominees. The Committee, therefore, undertook the approval hearings on 7th March 2019, pursuant to Section 15(1) (e) of the National Government Constituencies Development Fund Act (No.30 of 2015 and Section 8(2) of the Public Appointments (Parliamentary Approval) Act (No 33 of 2011).

As you can see the list, three out of the seven nominees are women. One is on the disability category. We did actually receive the vetting letter from the EACC and the information provided on all the seven nominees was based on records available as at 6th March 2019. There is a disclaimer by the EACC saying:

“Please note that the absence of records in the Commission’s database is not a guarantee of absolute integrity of the nominees.”

This means that in the future, for whatever reason, if any of the nominees happens to be subject of investigations, it will be incumbent upon Chapter Six to apply and the nominee will be forced to step aside and excluded from the board thereafter. The members should be aware that we have gone for nearly four years without a substantive board at the NG-CDF. Members can recall how they have suffered to get the project proposals, any request or anything you write to the board approved because of lack of quorum. This is because we have been operating only with statutory nominees who were seconded from the ministries by the Treasury. It has not been easy.

This afternoon, Members are urged to approve these nominees. The good news is that there has not been any contest by any member of the public or any office on any of the nominees that were forwarded to the House *vide* a letter that came on 26th February 2019 to the Speaker. Members should also recall that for eight years, there has not been a substantive CEO for the NG-CDF board up to today. I see the urgency on which Members should approve this list so that, as they go and embark on recruitment of a substantive CEO, we can have a board that is effective to ensure that the secretariat under the CEO is able to run smoothly. The issue of the misuse or use of NG-CDF funds will be supervised by the board. They will have the necessary mandate to

ensure that the fund managers do their work. The complaints by many of you regarding changes in the officers will be addressed.

The Committee recommends that the National Assembly approves the seven nominees for appointment as board members to the NG-CDF Board. At this point, I will ask Hon. Omar Maalim to second.

Hon. Speaker: Have you moved the Motion?

Hon. Maoka Maore (Igembe North, JP): Yes, Hon. Speaker. I have said I beg to move.

Hon. Speaker: Who did you would second?

Hon. Maoka Maore (Igembe North, JP): Hon. Omar Maalim, the Vice-Chair of the Committee on NG-CDF.

Hon. Omar Mohamed (Mandera East, EFP): Thank you, Hon. Speaker. I rise to second this Motion on the approval of the nominees for appointment to the NG-CDF Board.

The Fund has operated without a fully-constituted board for several years. This has resulted in delays of approving project proposals from constituencies and subsequent disbursement of funds. The Committee observed that those nominees are men and women who have the capability and capacity to steer the Fund to the next desired level. They bring on board vast experience in financial management, public administration and general management. If those nominees are approved today, the delays experienced in disbursement and proposal approval will be a thing of the past.

I beg to second.

(Question proposed)

Hon. (Dr.) Robert Pukose (Endebess, JP): Put the Question!

Hon. Speaker: Member for Kikuyu, your hand has been up all through.

Hon. Kimani Ichung'wah (Kikuyu, JP): Thank you, Hon. Speaker. I was raising my hand because Hon. Pukose of the "put the Question" fame was very quick to ask that you to put the Question, but we want to contribute to this Motion.

I rise to support this Motion. I would particularly like to talk about a number of the nominees that I know in person. Let me first begin by declaring my interest. I know three of those nominees. I served with Hon. Anyanga in the 11th Parliament. When Masese was a director in the Ministry of Education, I worked very closely with him in the 11th Parliament. Dr. Isabel Nyambura Waiyaki, as is clearly captured in the Report, is currently the Chair of my NG-CDF Committee in Kikuyu Constituency. She also hails from my village of Gikambura in Karai Location of Kikuyu Constituency. We take pride in the fact that she was among the very first people from my village - young Kenyans - to get her PhD while still under the age of 30. She worked very well at the University of Nairobi. She worked with the County Government of Kiambu as the County Executive Committee Member in charge of Trade until sometime last year. As she stated to the Committee, she also indicated to me that should her name be approved, she will be resigning as Chair of my NG-CDF Committee. I bear witness that only last year, our NG-CDF Committee was voted by the National Board as the best in terms of project implementation during 2017/2018. This was due to her very good guidance in the Committee.

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I served with Hon. Anyanga in the 11th Parliament. He is a man whose integrity is unquestionable. He qualifies under Chapter Six of the Constitution as the Chair of the Committee as said. As I said, when Mr. Masese served as Director of Education in the Ministry of Education, he came across to me as a very committed civil servant. He did very well while at the Ministry of Education. Last month, when the Kabete NG-CDF under Hon. Wamacukuru was launching their strategic plan, Masese was there as the chief guest. I listened to him as he delivered his speech on that day. It was quite clear that he knew what NG-CDF is. Having come from an education background, he appreciated the immense contribution that NG-CDF plays especially in the development of our secondary and primary schools.

Therefore, these three members on the board – Masese, Anyanga who has been a Member of Parliament (MP) and now Dr. Isabel Waiyaki, who has worked with NG-CDF and in the public sector, are people who will truly appreciate what MPs go through with their NG-CDF. Therefore, they will help us as we seek to enhance allocation of more resources towards NG-CDF. I am particularly happy that someone like Masese is on the board with his background in the Ministry of Education, now that NG-CDF is one of the arms in Government that will help in the implementation of educational policies, especially the 100 per cent transition.

I hope and pray that as they sit on the board, as the Chair has said, they will move towards appointing a substantive CEO of the board. It is very unfair that the current CEO has been serving in an acting capacity for almost six years since 2011. It is very unfair to put somebody in an acting position. I hope that, as soon as we approve these board members, their first order of business will be to appoint a substantive CEO. I encourage them to consider CEO Mbuno who has served very well as the CEO of the NG-CDF Board.

With that, I support the Motion and urge other Members to do the same.

Hon. Speaker: Obviously, I want to follow the list. There is a tradition in this House. You know who is always the first on the list. So, do not ask! It is obvious. You may begin rising, Member for Makueni.

Hon. Daniel Maanzo (Makueni, WDM-K): Thank you Hon. Speaker for giving me an opportunity to contribute to this very important Motion.

First of all, the list represents the true face of Kenya. It also complies with the one-third gender rule. There is gender balance in the list. Again, the appointment of Hon. Peter Edick Omondi Anyanga, who was with us in this House, and who has managed the NG-CDF before, gives the board a person with inside experience on how the NG-CDF operates. The NG-CDF is a very important tool of development in the country as it reaches the grassroots and Kenyans appreciate its work

The appointment of the board is urgent, crucial and important. We have been without a full board for quite some time. The permanent secretaries or representatives of ministries have been sitting in the board. Despite that challenge and that of having an acting CEO, the NG-CDF Board – which was partial – has delivered very well in the last two Sessions of the 12th Parliament. I believe the appointment of the board is important and urgent. I urge all Members to support it.

As Hon. Ichung'wah has said, Ms. Isabel Nyambura Waiyaki, who has been the Chairperson of Kikuyu Constituency NG-CDF, brings in true experience. Chairpersons of NG-

CDF usually do a very good job all over the country. Many Members know the benefits of the knowledge of that former Chairperson of NG-CDF in Kikuyu Constituency.

Mr. Robert Nyariki Momanyi Masese is a very experienced educationist. The NG-CDF mainly deals with education bursaries, construction of primary and secondary schools and security installations. He brings very good experience together with the rest of the team.

We have Mr. Abdiaziz Bulle Yarrow, whom I know. He represents the pastoralists, a big section of the country. He has the experience of hardships which pastoralist go through in developing those areas. We support all the names. Their first business will be to appoint a substantive CEO. The House has pronounced itself many times about the Acting CEO, Mr. Yusuf Mbuno. I believe that having worked very well with Members so far, Mr. Mbuno will be the best candidate for this board.

With those remarks, I beg to support the Motion and urge Members to do so.

Hon. Speaker: Leader of the Majority Party.

Hon. Aden Duale (Garissa Township, JP): Hon. Speaker, the Vice-Chair is back in the House with Dr. Samira.

I support the Report of the Select Committee on NG-CFD on the vetting of the nominees. These are the men and women who will deal with project proposals that will be submitted by the various constituencies. They will also make sure that they ensure timely and efficient disbursement of funds to every constituency. I am sure that when they take over office, maybe, next week, they will ensure that, that is done. They must also ensure, as per the law, that there is proper and efficient management of the Fund. They also receive and address complaints from our voters that may arise from the implementation of the Fund. So, they are very important people.

I am happy to declare that the Chair of the Budget and Appropriations Committee and the person who sent these names to the House, the Cabinet Secretary of the National Treasury, have a relationship that helped him secure a job for one of the members of the board. That is the whole story. In fact, the Directorate of Criminal Investigation (DCI) should investigate the matter. That is an abuse of office, notwithstanding the qualifications of Dr. Isabel. I thought these names came from the Ministry in charge of devolution, but they have come from the National Treasury. We are at a time of the budget-making process, and the Chair of the Budget and Appropriations Committee is very important. There is a serious conflict of interest. He is my good friend. He only said that she is the chair of his NG-CDF. He was supposed to make more disclosures. As a good friend, I have done the disclosure on his behalf.

I also know Ms. Irene Masit, who was a Commissioner with the Independent Electoral and Boundaries Commission (IEBC). I also know Hon. Anyanga. Ms. Masit comes from the place of dams, Elgeyo Marakwet. In fact, I do not know Abdiaziz. Maybe, the Chair should tell us the county he comes from. I knew Ms. Masit because she was a Member of IEBC. At the time, in the 10th Parliament, we were dealing with creation of the new constituencies. She comes from Elgeyo Marakwet. Hon. Kipchumba Murkomen and Hon. Kisang are her relatives.

Hon. Anyanga is a very good friend of mine. I served with him in the 10th and 11th Parliaments. It is good to have such a former Member of Parliament sitting in the board because

he has historical memory and a feel of what the NG-CDF is. In fact, I thank the National Treasury for nominating a former Member of Parliament for appointment as a board member.

The issue that has been raised, and which the board must address once constituted, is why people are discriminating against Mr. Mbuno. How can he act for eight years? There were substantive Cabinet Secretaries from Ms. Anne Waiguru, Hon. Kiunjuri to Eugene Wamalwa. Every time the board conducted an interview and Mr. Mbuno became number one, they cancelled the interview. Let us speak the truth. What crime has Mr. Mbuno committed? He is a Kenyan who has dealt with politicians before; being a renowned administrator. He used to be the Programme Director before he became the Acting CEO. He is also very experienced. He respects Members of Parliament and answers all our questions. The board's first item should be to regularize the appointment of that person.

(Applause)

I ask the Chair to be very firm. The board must tell us where the arrears come from. The board is owed billions of shillings by the National Treasury. I have been a Member of Parliament since 2007. Where there is a new Member of Parliament, the condition of the board is that he must finish the existing or pending works. In fact, they will not approve your projects unless you complete the works began by the previous Members of Parliament. So, the Committee must tell us why every time we ask for money for the kitty from the National Treasury, we are told that there are arrears to the tune of Kshs4.9 billion. Who owes the Kshs4.9 billion? It is not the current Members of Parliament. If there is money with the previous Members of Parliament, they should look for them. The National Treasury says that I have no arrears in my books. What I need to pay the National Treasury is the Kshs33 billion for the Financial Year 2018/2019. But the board tells us, through the CEO, that we have arrears. Hon. Chairman, as the Speaker directed, next time tell us if Garissa Township Constituency has arrears of Kshs2 million. You can tell me.

(Hon. Jimmy Angwenyi spoke off record)

The Kitutu Chache North Member is waiting for the Report from the Departmental Committee on Health because he is a living victim of that doctor. That is why today he is not leaving. My deputy cannot be a victim of an Indian doctor. We will deal with her this afternoon.

Hon. Speaker, you gave a directive to the Committee and let them tell us where the arrears are. The NG-CDF cannot have pending bills. You are given Kshs100 million and the amount for bursaries and infrastructure is budgeted for. Who among us has a pending bill? Tell us the pending projects. Are they in Mwingi Central, Garissa Township, Suba or Ugunja? We need to know because we cannot carry debts that we do not know. The Kshs4.9 billion must be brought to this House and we are told the constituency it belongs to.

Hon. Anyanga was a very good Member of the Departmental Committee on Health. I am sure he will bring value to the board. I am happy today because for close to four years, there was

no board outside the public nominees. The only people who were in the board were people who were alternates to Principal Secretaries.

With those many remarks, I beg to support the Report of the Committee.

Hon. Speaker: Before we proceed, let me recognise the presence of the students from Kima Secondary School, Kilome Constituency; Makueni County in the Gallery. Member for Funyula.

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Thank you, Hon. Speaker. While I agree from the outset that the membership of this board is long overdue; probably it is the most opportune time. I want to raise a few fundamental issues that will need your guidance.

The letter seconding the members for approval of this House is dated 20th February 2019 signed by Henry Rotich, Cabinet Secretary, National Treasury and Planning. It is expected that in appointment of these persons, the Cabinet Secretary should have surely given all Kenyans an opportunity to apply for the available positions. Granted that the Act gives him the power to appoint seven persons, it is expected that as per the provision of the Constitution, he will have to adhere to the principles of fair administrative action and give every Kenyan a chance to apply for these positions.

In their covering letter, there is no attachment to indicate that the appointment of these persons was done competitively in the spirit of the Constitution. In that regard, we are probably looking at a situation where we have broken the basic principle of the Constitution of fairness and giving each and every member of the society...

Hon. Speaker: Hon. Maore, I know a point of order when I look at intervention box. I am sure you are used to the practice in 1993 to 2007. These days, I am sure you have noticed that you must carry a card. What is your point of order?

Hon. Maoka Maore (Igembe North, JP): Hon. Speaker, I hope you have followed the proceedings of the Member on the Floor. He is insinuating that there is some illegality in the proceedings of the business before us. It is the Cabinet Secretary in charge of the NG-CDF at that time who presents the names to the Speaker. As to where he gets them, it is stated in that Act. It says: "The Cabinet Secretary will present the names." There is no provision of advertising and requiring members to apply. It does not arise. He is out of order.

Hon. Speaker: Hon. Maore, all you needed to do is to wait when you are replying so that you can educate him. He is a new Member. He has not looked at the Act. Just look at the Act. Hon. Oundo is a robust debater here.

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): For sure, Hon. Speaker, I agree that the Act provides that the Cabinet Secretary has the powers to appoint. I was looking at the provisions of the Constitution which require public officers to act in a manner to promote fair competition for public positions.

Secondly, the Act is very clear that in appointing members to the board, the Cabinet Secretary shall ensure regional balance in respect of the appointees. While again I totally agree with you, the Constitution does not define regional balance, but looking at the appointees that have been presented for approval on this Floor, there is obvious manifest disadvantage of other regions of this country. There is no regional representation in this list. If you look at the membership as indicated in the Report of the Committee, Mr. Robert Nyariki Momanyi comes

from Rift Valley; he is indicated to be from Trans Nzoia. For all that we care to know, looking at the names; he could be an immigrant from Nyanza.

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

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

Secondly, Irene Masit comes from Rift Valley, Abdiaziz Bulle Yarrow comes from North Eastern, Isabel Nyambura Waiyaki comes from Central, Maria Lekoloto comes from Rift Valley, Anyanga comes from Nyanza and George Kasatua Ole Meshuko comes from the Rift Valley.

Hon. Aden Duale (Garissa Township, JP): On a point of order, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Order, Hon. Oundo Ojiambo. We have a point of order by the Leader of the Majority Party.

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Speaker, you must rule him out of order. You cannot profile individual Kenyans and read out their names and give their tribes and regions. We are one country, one people. These people have been vetted.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Leader of the Majority Party, what is out of order?

Hon. Aden Duale (Garissa Township, JP): What is out of order is to profile individual Kenyans who cannot protect themselves on the Floor of this House, based on their ethnicity and the regions they come from. That is unconstitutional. It does not augur well with the national values as enshrined in Article 10 of the Constitution.

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

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Hon. Millie Odhiambo, the Leader of the Majority Party was on a point of order. Is it a point of information? Hon. Oundo Ojiambo, please be guided by our Standing Orders. Hon. Millie Odhiambo, what is out of order and who is out of order?

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Thank you, Hon. Temporary Deputy Speaker. He is misinforming the House. If I have the Standing Order I will quote it for you. Is it in order for the Hon. Member to misinform the House? The way he is misinforming the House is not on the basis that Hon. Duale was saying. The Constitution allows for recognition of ethnicity, so that there is fairness but not recognition of regions. Is the Member in order to mislead the House that the list is unconstitutional when we should actually be looking at the ethnic composition that appears fair as opposed to regional composition?

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): You are well guided, Hon. Ojiambo. As I had directed before, be guided by our Constitution and the House rules and procedures as captured in the Standing Orders.

Proceed.

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Thank you, Hon. Temporary Deputy Speaker. Probably, I need to draw the attention of the House to the provisions of the Constitution. In its preamble it is specific. If I may read partly as:

“RECOGNISING the aspirations of all Kenyans for a government based on the essential values of human rights, equality, freedom, democracy, social justice and the rule of law:

PROUD of our ethnic, cultural and religious diversity and determined to live in peace and unity as one indivisible sovereign nation...”

Section 15(2) of the National Government Constituency Development Fund Act is very specific. It is contained in this Report and it reads as follows:

“In nominating or approving the appointment of a person as a member of the board under sub-section (1), the Cabinet Secretary and the National Assembly shall take into account gender equity and the regional diversities of the people of Kenya.”

You need to add me more time. My time has been taken by points of order. So, the point I am trying to prosecute is that the list so far presented, whereas it is necessary to enable us proceed to the next level, it does not meet the requirements of the Constitution and the provisions of the appointing Act.

On that account, I oppose the nominees as presented on the Floor of the House.

Thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Are you opposing or proposing?

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): I oppose.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Very well. Let us have the Hon. Father of the House. He seems agitated.

Hon. Jimmy Angwenyi (Kitutu Chache North, JP): Thank you, Hon. Temporary Deputy Speaker. For me, I want to contribute to this important Report.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): For the record, you are Hon. Jimmy Solomon Angwenyi.

Hon. Jimmy Angwenyi (Kitutu Chache North, JP): Hon. Temporary Deputy Speaker, I rise to support the recommendations in the Report. The people who have been nominated are capable of carrying out the work of the NG-CDF Board. I am particularly pleased because a former Member of this House is a nominee to this board. He can share with the other nominees the ideas he picked from this House on how the NG-CDF Board should work. A nominee like Mr. Robert Nyariki Momanyi Masese - I was told today he comes from the Rift Valley. I thought he came from Mombasa. He has been in the education field which is major sector under the NG-CDF in the country. I am sure he will assist. I am glad that Ms. Isabel Nyambura Waiyaki, the former Chairperson of the Kikuyu NG-CDF Board is a nominee. I am sure that Hon. Ichung’wah, the Chairperson of the Budget and Appropriations Committee will not reduce the budget of for NG-CDF. As you are aware, this year we should have had a budget for NG-CDF of Kshs42 billion but what they gave us was only Kshs33 billion. That means that Ichung’wah and

his Committee reduced the amount that we should have got from Kshs42 billion to Kshs33 billion. Now that Ms. Isabel is there, I am sure he will not reduce the amount.

(Laughter)

Hon. Kimani Ichung'wah (Kikuyu, JP): On a point of order, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Hon. Jimmy Angwenyi, you have mentioned the Member for Kikuyu and he is on intervention. What is your point of order, Hon. Ichung'wah?

Hon. Kimani Ichung'wah (Kikuyu, JP): Hon. Temporary Deputy Speaker, I have heard the Hon. Member for Mwea shouting from behind on which Standing Order I am raising my point of order. You must inform him that I am a seasoned Member.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Hon. Member, just go straight to your point.

Hon. Kimani Ichung'wah (Kikuyu, JP): Hon. Temporary Deputy Speaker, Hon. Jimmy Angwenyi has a responsibility to substantiate. Is he in order to insinuate that, as the Chairperson of the Budget and Appropriations Committee, I make decisions on how and where to allocate resources as an individual? Hon. Angwenyi, as the *baba* of this house, knows that the decisions we make are usually the Committee's decisions. They are informed by the availability of resources and not personal relations. Therefore, I take great offence that Hon. Jimmy Angwenyi is insinuating that I am going against Standing Order No. 90(2). That I should have declared interest like personal relationships.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): So, you feel that you have been adversely mentioned?

Hon. Kimani Ichung'wah (Kikuyu, JP): Yes, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Hon. Jimmy Angwenyi, you need to clarify that.

Hon. Jimmy Angwenyi (Kitutu Chache North, JP): Hon. Temporary Deputy Speaker, let me clarify. I was trying to justify the point I was making. The point is that our NG-CDF which is supposed to be 2.5 per cent of the National revenue was reduced from Kshs42 billion to Kshs33 billion by the Committee chaired by friend. He is somebody I respect because he was the only Member who was elected unopposed. He should be proud of himself. Therefore, he should add the money that he was supposed to give to the NG-CDF.

Once we approve the NG-CDF Board, their first job will be to seek a higher percentage to be allocated to the NG-CDF in the same way a higher percentage has been allocated to the counties, although the Constitution says a minimum of 15 per cent. They have now given them more than 20 per cent. Why can they not give four or five per cent to the NG-CDF?

The second thing is on the arrears. These arrears are not what the constituencies owe the Government. They are arrears of money that was not released to the constituencies. They should be released to the NG-CDF Board, so that it can allocate them to the correct constituencies. *Ikiingia kwa...* When it gets to the board, the board will give it to the constituencies.

(Laughter)

Aliniuliza kwa Kiswahili.

I ask the NG-CDF Board, when approved, to immediately confirm the CEO. That man has worked well for the last eight years. He needs to be confirmed.

We must know the stalled projects. As you know, when the governors went to court, some of the projects that we were dealing with were withdrawn from us because the court said they are devolved governments' projects. We stopped them and now they are white elephants. Our Committee and the NG-CDF Board should seek funding for completion of those projects.

Finally, the Constituencies Development Committee of this House should work closely with the NG-CDF Board and tell them the feelings of the Members of Parliament. I am sure with nominees like Ms. Isabel, Mr. Masese, and Mr. Anyanga we will get good benefits from the NG-CDF Board.

With those few remarks, I beg to support.

Hon. David ole Sankok (Nominated, JP): On a point of order, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Very well. Let us have Hon. Osotsi Godfrey. Sorry, before you... Hon. David ole Sankok, you are out of order.

Let us have the Leader of the Minority Party.

Hon. John Mbadi (Suba South, ODM): Thank you, Hon. Temporary Deputy Speaker. I support this Motion that is asking this House to approve the appointment of seven members to the NG-CDF Board.

I will start by addressing myself to the contentious issue that was raised by Hon. Oundo regarding regional representation and ethnic diversity. The truth is that our Constitution expects us, as a House and peoples' representatives, to ensure that the constitutional provisions are followed. One of the constitutional provisions is gender. Looking at the nominees, there is fair gender distribution. We have three women and four men. That meets the constitutional threshold.

There is also a requirement that when you are making an appointment of public officers, you must consider regional representation and ethnic diversity. We cannot run away from that fact. Regional is spelt out as regional and ethnic is equally the same. I have heard a discussion with some of my colleagues who have expressed fear that the former Coast Province has not been represented in this list. That is a fact. There is also the fear that the former Western Province is not included. Those are issues that, as a house, we must engage our minds to. We cannot ignore those concerns.

(An Hon. Member spoke off-record)

I plead with the Hon. Members - this is a House of debate - to listen to other contributions. You are moving ahead of me. Probably, what you are saying is where I am heading to. The truth is that this is just a list of seven members and you cannot have all the counties represented through them. I have looked at these names. From the records, Mr. Ole Meshuko comes from Narok County.

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(Hon. Members consulted loudly)

Hon. Temporary Deputy Speaker, there is no way an Hon. Member will ask me not to go there. Why did you put it in the records? It is in your Report.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Carry on the Leader of the Minority Party. Do not listen to the Members. Address the Chair.

Hon. John Mbadi (Suba South, ODM): Hon. Temporary Deputy Speaker, Mr. Edick Omondi Anyanga comes from Migori County; Ms. Lekoloto comes from Marsabit County; Ms. Isabel Nyambura comes from Kiambu; Mr. Abdiaziz comes from Mandera County; Ms. Irene Masit comes from Elgeyo Marakwet County and...

(An Hon. Member spoke off-record)

I am working with records. Please, do not interrupt me. You have not read the Report and I am quoting what I have picked from the Report.

The Acting Chairperson, as it is today, Mr. Masese – whom we all know – has not been specified in the report which county he comes from. I was suspecting that he could be from Kisii County or Nyamira County.

However, I am told he comes from Trans Nzoia County. There is nothing wrong with that. These seven nominees come from seven counties. We must observe that. But, as a House, what we need to move towards is to ask ourselves whether we should constitute a committee which will look at all the appointments. We need such a committee. You cannot pick on one appointment of board members and reject the appointment of its nominees because it has not met the threshold of regional representation, yet there is no information about the appointments of other boards. So, as we talk about regional representation, it should be in a holistic manner. What we need to start talking about, right away, is whether we need a committee that will audit all the appointments so that in future we get to know which regions are marginalised in terms of appointments.

Appointments could be coming from other areas and it is just targeting one community or one ethnic group or one clan. That should not be assumed. Coming to the specific qualification and competencies of the members who have been proposed or nominated for approval today for appointment, I do not have any problem. We all know Mr. Masese. Most of us have dealt with Ministry of Education, Infrastructure...

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Hon. Member for Taveta, have you pressed the intervention button for a point of order, or it is a point of information?

Hon. John Mbadi (Suba South, ODM): I know the Member for Taveta never tells me. If it is a point of information, I agree.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Order, the Leader of the Minority Party!

Hon. John Mbadi (Suba South, ODM): I accept if it is a point of information.

Hon. (Dr.) Naomi Shaban (Taveta, JP): Hon. Temporary Deputy Speaker, I just wanted to intervene under Standing Order No. 95. Considering that the Leader of the Minority Party is

becoming repetitive on issues that have already been canvassed, can the Mover be called upon to reply after the Leader of the Minority Party is done?

(Loud consultations)

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Before we get there, let the Leader of the Minority Party finish with his contribution.

Hon. John Mbadi (Suba South, ODM): I think the Hon. Member for Taveta wanted the debate to come to a closure. However, I do not know whether I was being repetitive. I had just finished on the issue of constitutionality, ethnic and regional balance and I was going to competencies. I was just saying that Masese in my view qualifies. But allow me to mention that in terms of age, although the youth in terms of the definition are not represented, there is no one who is 35 years and below, but we have 37 years. We have two members, Abdiaziz and Isabella who are 37 years old. In my view, they are fairly young for this board.

Lastly, allow me to talk about Hon. Edick Anyanga who is my friend and used to be a Member of Parliament in my neighboring constituency. We served with Hon. Omondi Anyanga for 10 years. I know he is a go-getter. He is a very strong personality whom we need in this board. By the way, I want to tell Hon. Members that honestly when a former colleague gets nominated for an appointment and that person does not have issues of constitutionality and integrity around him or her, the best we can do is to approve the appointment or nomination of such a person. You know we are an endangered species in this country. Once you serve here even just for five years, you are considered to have lost knowledge of your professional standing or orientation and you are expected to just go home and *chunga mbuzi*, as I may put it. I, therefore, want to plead with this House to approve these names.

(Hon. Daniel Maanzo consulted loudly)

There is an Hon. Member behind me who is really a problem. I will deal with him once I am done with my contribution.

Thank you, Hon. Temporary Deputy Speaker. I support.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Hon. Members, the Member for Taveta stood procedurally under Standing Order No. 95. I may not be able to read the mood of the House from where I sit. Therefore, I will put the Question for the House.

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

Member for Mwingi Central, Hon. Mulyungi Mutemi

Hon. Gideon Mulyungi (Mwingi Central, WDM-K): Thank you, Hon. Temporary Deputy Speaker. I rise to support this Motion. I want to start by congratulating the Committee for a job well done. This is a very special Motion because it touches on the Members of Parliament and their performance on the ground. Therefore, the Motion is timely and I want to support it from the bottom of my heart.

From the list of Members who have been recommended for appointment, in my opinion they meet the threshold of the Constitution in terms of regional balance, ethnicity, gender, integrity and even academic qualification. The only thing that I see missing is the youth. My immediate Member of Parliament is a youth and he is complaining that there is no youth. But 35 plus or minus is okay. I have convinced him that the youth are represented.

The NGCDF Board has been operating like a kiosk. There has been no board and that is why we have been suffering as Members of Parliament with delayed disbursements of the NG-CDF. Further, the CEO Mr. Mbuno has acted for over eight years.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Order! Member for Kilome, I have checked the records, and students from Kima Secondary School, Kilome Constituency, and Makueni County had been recognised by the Speaker.

Hon. Gideon Mulyungi (Mwingi Central, WDM-K): The CEO of the NG-CDF has been acting for over eight years and that has been very unfair and irregular. Even by the rule of thumb, the CEO should not be interviewed; he should be confirmed as the CEO of the Fund. He is a very nice man. Mr. Mbuno is a very nice man. He will even pick your calls at midnight. I do not think we can ever get a guy similar to Mr. Mbuno. I am sure once this board is confirmed, they are going to appoint, Mr. Mbuno as the substantial CEO of the NG-CDF. If they do not, the Chair of the NG-CDF should take action. We can also send them back home. The list which has been presented by the Chair of the Committee is very good. Academic qualifications are okay. There is one with a PhD, the rest of them have masters and are complemented by a politician who is one of us.

On those grounds, even without regional balance which we cannot achieve with seven members... I am saying this knowing that even my region is not represented. Member for Kikuyu has brought the Chair of NG-CDF and I am not complaining. There is no person from my ethnicity and I am supporting. That is why I am saying the CEO must be confirmed. I support and I want to thank the Chairman for a good job. Once this board is put in place, they must move with speed because as we speak, disbursement of the NG-CDF funds has been delayed. We are now three months to the end of the financial year and less than 20 per cent of the NG-CDF fund has been disbursed. Therefore, the board must move with speed to ensure that the NG-CDF money is disbursed very quickly so that we do not deny Kenyans the right to development, especially in villages where this money touches the local *mwananchi*.

Hon. Temporary Deputy Speaker, Sir, I support. Thank you very much.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Hon. Mulyungi, I know from where you sit you can recognise me as a she not a he. The Member for Mwea, Hon. Wachira Kabinga.

Hon. Josphat Kabinga (Mwea, JP): Thank you, Hon. Temporary Deputy Speaker, for giving me this chance to contribute to this particular Motion.

At the outset, I want to support the report by the committee. I have listened to those who have spoken before me and also gone through the report and I am satisfied that the names that are being presented are qualified and we look forward to a better operation of the board.

I also want to comment on something that was said by a Member that this list is not reflective of ethnicity and other things that we would expect. I want to advise that as per the

Constitution, it is not about one board; it is about looking at all the boards we have in the country in totality. The same goes for the various commissions we have. If you just pick one and you want to see how balanced it is, you may not get it. So, I would urge Members to constantly look at the various boards and constitutional bodies in totality and not just one.

I think the NG-CDF, as much as people talk about it out there, is a good example of how devolution should work. Without the NG-CDF I am not sure how some of the institutions we have out there, including those in the education and security sectors would be operating. It is NG-CDF that has made a difference out there. Therefore, we look forward to not only having this board but also having an increment of funds that go to the NG-CDF so that we can meet the demands out there. As you know, there is a transition policy that has been adopted by the Government. Without having enough funds, we may not be able to cater for the demands out there.

I also want to talk about the current CEO, Mr. Mbuno. This is one person who has been very helpful to us as Members of Parliament. Last year I had challenges with my NG-CDF, where I could see from my oversight role that there were issues, but with the help and cooperation of the CEO and his willingness to be disturbed even at night and in the morning, he was able to help us overcome all the challenges. Therefore, I join my colleagues in calling for his confirmation so that he can continue executing his work in the best way possible.

As I support this list, it is my sincere hope and wish that once the board is put in place, it will liaise with the Treasury so that funds that come to this very important Fund may be prioritised. Right now we are talking about only 25 per cent that has been released. We have a lot of demands out there. People are looking upon us. Sometimes they think we are the ones not performing yet our performance is determined by somebody else in the Treasury. We hope that this board will create a better relationship with the Treasury to have these funds released.

As I look at this list, I also learn one or two lessons. Number one, and for those who are out there, I would urge those who manage NG-CDF in various positions to learn something out of this list: That you can be a chair and depending on your performance, you can rise to the level of a member of the board. This is well reflected by Isabel who is a chair and because of her good performance she is now rising to the position of a board member. I am also encouraged to see an honourable Member, who I am sure if he did not perform well, if he was not of good status, he would not be in this particular list. Therefore, another lesson even for us Members of Parliament is that we need to look at our performance because that performance may determine what we will be when we are out of this House.

It is for that reason that I want to fully support this list and commend the Committee for a job well done. I hope, as I said, that this board will move with speed to ensure that we receive the funds that we are waiting for and also ensure that the operations of the board continue as expected. We do expect that the board will be out there disseminating as much information as possible and giving our units as much support so that the efficiency of this Fund may be seen as it has always been seen because it is being compared with many other funds out there, some of which are underperforming, but this is a high performance Fund. Therefore, I support.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): The Member for Kajiado South, Hon. ole Metito Judah.

Hon. Katoo ole Metito (Kajiado South, JP): Thank you, Hon. Temporary Deputy Speaker.

At the outset, I support this Motion. I have no problems with all the names as presented. It is good that this board is getting expertise from members who have been in this House, that is Hon. Anyanga, and those who have been helping us out there in managing this Fund, that is the nominee from Kikuyu Constituency of Kiambu County. I am sure that will help the board in realising its goal and objective as stated.

Because I am going to be brief, Members have talked about the Acting CEO having been acting for the last eight years. It is true he has been a very able and competent officer in steering the Fund in the right direction. But those of us in strategy really do not read any mischief in his acting for eight years. Members should remember that once you are confirmed, the maximum time you can be in the position is only six years; that is you serve for a period of three years renewable only once. That is the Act. So, there is nothing Mr. Mbuno is missing by acting as the CEO. That is a strategy. If he gets confirmed, he will serve only for a maximum of six years. He has already served for eight years and those will not be counted.

The board, if approved by this House, need to adhere to the law. Maybe this is going to be of keen interest to Members because no Member who has contributed has mentioned it. I would like the board to stick to the law when they are considering and approving projects as proposed and forwarded by the constituencies. I will give a very good example of instances where the law has been ignored by the previous boards. It is always known that there is the Act and there are circulars from different Ministries. I am happy the Chair of the Select Committee is listening very carefully and he is a seasoned Member who understands the operations of the House very well.

There is no way a circular can overrule an Act of Parliament. In the NG-CDF Act, we are allowed to set aside funds for purposes of doing assessments in terms of mock examinations. That is allowed in the Act. Remember, others are automatic Members of this board one of them being the Principal Secretary of the Ministry responsible for education or his alternate, a representative that he appoints in writing. When it comes to the board, I remember an instance where members proposed to set aside funds for mocks and assessment of examinations for both primary and secondary education but the board overruled the members. They said such examinations may lead to leakage of the national examinations. I have tried to find out why it has been rejected while the Act allows that activity, but the answers I got is that the Ministry has issued a circular. A circular cannot overrule an Act of Parliament. That is why I am saying that once the new board is constituted, it should adhere to the rule of law, consider, approve or disapprove projects in accordance with the Acts that govern those projects and leave alone issues to do with circulars because circulars never overrule Acts of Parliament.

Hon. Temporary Deputy Speaker, much has been said about the timely release of funds, but it makes no harm to repeat it. As we speak, the constituencies that have received the biggest amounts of their allocations have received only 30 per cent. We are left with about four months because in the next two weeks we will be starting the last quarter of the current financial year. So, the question is whether we are in a position to consume the remaining 70 per cent within the last quarter of the financial year. I think there is need for timely disbursement of these funds.

That is when you can make sense of this money, especially having submitted the proposal and having it approved, tenders having been floated and contracts having been awarded.

Ironically, by the end of the financial year, you receive a maximum of 40 per cent of the funds and that is it; we go into the next financial year. That is how the Government accumulates pending bills. As you go to the next financial year, the first charge is always on pending bills. In essence, you may end up not implementing any development project. So, there is need for timely release of the funds.

With regard to the issue of arrears, as raised by Hon. Members, that needs to be addressed by this board. I am happy about what members have proposed. Hon. Members have experience on the issue of arrears, some of which date back to five years. There is need for us, as a House, to push through that proposal. I appreciate the work that has been done by the NG-CDF nationally. It has changed the lives of Kenyans. I always say that the NG-CDF is doing more than the county governments. If you go to constituencies, the projects that can be easily identified are those implemented using the NG-CDF.

I also want to comment on the issue of auditing of the NG-CDF projects. Just about two weeks ago, we were doing presentations. I wish the Chairperson of the Budget and Appropriations Committee was here when the Departmental Committees presented their reports to the BAC. I happened to be in a Committee session where the Auditor General also made a presentation of his office's budget to the BAC. There was a very pertinent question that the Auditor General was asked - why within a week, there are three different auditors auditing the NG-CDF projects. Some are from the Kenya National Audit Office (KENAO), others from the regional office, others from the national office and others from the county itself. I do not think the auditors focus so much on other devolved funds the way they do on the NG-CDF projects. There is nothing to hide, but I remember what the Auditor General was asked in that session. They come with a specific project that they want to see. Is it not enough for the Auditor General and the national office of the NG-CDF Board to send an auditor to audit the books of accounts and the projects on the ground for the respective NG-CDF? Having different auditors on a weekly basis destabilises the work of the NG-CDF offices on the ground. A lot of time and money is spent just auditing one project by four different categories of auditors.

I do not know whether after the audits, those officers send their reports to one office or they send them to four different offices. So, let us have a lean and efficient system. There is nothing to hide. Audit the NG-CDF projects all over the country, but do not overburden the officers because there is much to be done by the office as well.

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

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Let us have Nominated Member, Hon. Osotsi Godfrey.

Hon. Godfrey Osotsi (Nominated, ANC): Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity to contribute to this very important Motion.

At the outset, let me say that I oppose this Motion. The NG-CDF is a very important institution in this country. As hon. Members have said, the work of the NG-CDF is more visible than that of the county governments. Things are happening in our various constituencies,

courtesy of the NG-CDF. For that matter, it is important that the membership of the NG-CDF Board is representative of the entire country.

The issue of regional and ethnic balance should not be taken for granted. As said by various hon. Members, including my colleague from Funyula, some parts of this country have not been considered in these appointments. Apart from the seven Members appointed by the CS, we have four other members – the PS in charge of finance, and the Attorney-General, who we know are from Central Kenya; the PS in charge of Economic Policy and Planning; and the PS for Education, who is from the Rift Valley. So, we look at it and wonder what happens to the other regions of this country, for example the former Western Province and the Coast Province. As leaders from those regions, we cannot be coming to this House just to approve names.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Hon. Osotsi, we have seen the names from seven counties. To substantiate your statement, how else would you have wanted it to be constituted?

Hon. Members: *Inaudible*

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): There is nothing out of order.

Hon. Godfrey Osotsi (Nominated, ANC): Hon. Temporary Deputy Speaker, please protect me from all those interruptions.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): You are protected. These are only seven names.

Hon. Godfrey Osotsi (Nominated, ANC): Hon. Temporary Deputy Speaker, the point I was raising is about the seven names appointed by the CS. However, we have other members who sit on the board representing the Government. We know the PS for Education is from the Rift Valley, the PS of the National Treasury and planning is from Central and also, the Attorney-General is from Central. What happened to the other regions?

We are seeing a trend where the appointments are gradually leaving out some parts of this country, especially Western Region, where I come from. We are wondering whether we are Kenyans to also benefit from these appointments. We have reached a point where we are saying that we want an analysis of all public appointments and a report brought to this House so that we can have proper ethnic and regional balance.

I think this is a very good Report, but there is one major omission. It does not contain signatures endorsing it. I have looked at the minutes and introductory pages; there are no signatures in this Report. So, my question is: Is this Report authentic to be considered by this House?

Hon. Maoka Maore (Igembe North, JP): On a point of order, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Hon. Nominated Member, there is a point of order by the Chairperson.

Hon. Maoka Maore (Igembe North, JP): On a point of order, Hon. Temporary Deputy Speaker. It is important to note that earlier on there was an attempt to close the debate. The reason being there is not much to belabor in this Report. So, Members are digging deep to see what to say, specifically this Member. Is he in order to question a Report which has come to the

Floor of this House under the signature of the Chair? Not unless he is a Member of that Committee raising questions about its authenticity. Is he actually making sense?

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Hon. Osotsi, which signatures are you talking about? Maybe the Chair would like to know. I can also pronounce myself that the Report was tabled in the House procedurally. Maybe, you can raise your issues so that even when you are not in the Chamber the Chairman can reply.

Hon. Godfrey Osotsi (Nominated, ANC): We have an established quality assurance in this House for report writing. One of it is that a report must be endorsed by Members of that Committee.

Hon. (Ms.) Sophia Noor (Ijara, PDR): On a point of order, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Yes, Member for Ijara, Hon. Noor Sophia. I am aware you are a Member of that Committee. Maybe, you can address the issue by the Hon. Member.

Hon. (Ms.) Sophia Noor (Ijara, PDR): On a point of order, Hon. Temporary Deputy Speaker. I want to confirm as a Member of that Committee that we held several meetings, vetted these Members and signed the Report. The signatures are attached. The Report was sent to the Clerk's Office and has gone through the process.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Is the Hon. Member holding a different Report? Maybe you can table what you have.

Hon. Godfrey Osotsi (Nominated, ANC): Thank you, Hon. Temporary Deputy Speaker. I have just noticed that the Report I have does not have the last page with signatures.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Hon. Osotsi, on record can you confirm and apologise to the House for saying that the Report has not been signed by Members. It is bad for you to mention that to the public. Either, you are using a wrong report and that is why I have ordered for mine. From where I sit, I know the procedures of this House. Therefore, it will be in bad faith to pronounce that a Report which has been procedurally tabled, moved, seconded, Question proposed and now in debate, has not been signed. From where I sit, I order that you withdraw and confirm to the House that the Report has signatures of Members.

Hon. Godfrey Osotsi (Nominated, ANC): Hon. Temporary Deputy Speaker, I apologise for that omission. I have just been given the Report by the Majority Whip and, indeed, in the last page there are signatures of the Members. I am sorry, for that omission.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Very well. Now, you can debate.

Hon. Godfrey Osotsi (Nominated, ANC): The last point is that we know that the appointment of these Members is based on the NG-CDF Act. However, as we know when making public appointments, we also need to consider the Public Appointments (Parliamentary Approval) Act. I have gone through the Report and it is only making reference to Section 8 of the Public Appointments (Parliamentary Approval) Act. I want to bring to your attention Section 7 of Public Appointments (Parliamentary Approval) Act, which requires that the procedure used to arrive at the nominees be provided.

Though the NG-CDF Act gives the CS, National Treasury and Planning, the powers to make the appointments, Section 7 of the Public Appointments (Parliamentary Approval) Act requires that while making public appointments, the issues for consideration by the relevant House of Parliament in relation to nomination shall be the procedure used to arrive at the nominee. However, this seems not to have been captured in this Report.

Hon. Temporary Deputy Speaker, with those few points, I oppose this Report.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Hon. Members, this is a House of debate.

The Member for Wajir South.

Hon. Mohamed Mohamud (Wajir South, JP): Thank you, Hon. Temporary Deputy Speaker. I stand to support the Motion on appointment of persons to the NG-CDF Board. We need to understand that this confirmation will fast track the responsibilities of NG-CDF staff and work of the CEO who has been on acting capacity for the last eight years.

The NG-CDF has lost the glory it carried. The reason is because of the lethargy and long waiting for funds to be released. This is therefore to request the new board to fast track the process and do what they are expected.

Wajir South is a very expansive constituency. It is the second largest and I stood up another time and said that it is almost the size of a country like Rwanda or almost the size of Mandera County. It is vast, the driest, hottest and has got the lowest number of schools and educational infrastructure yet it is still unable to get what it deserves. The funds we expected in 2018/19 are nowhere to be seen. So, I wonder whether a miracle will happen after approving this board.

I support the nomination of this board and urge them to ensure that they deliver to us as per the requirements so that we get the glory of the NG-CDF again. While I have this opportunity, I want to add that we should expand the NG-CDF mandate to include health services which at this particular stage the counties are not delivering as required.

I also urge that the NG-CDF funds be increased. Without taking much time as my other colleagues want to speak - I have waited for two-and-a-half hours just to get this opportunity to contribute to this Motion - I want to ask the new board to fast track release of the NG-CDF funds.

Thank you, very much.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): I am confirming the number of Members in the House. We have 349 Members and as at now, I have 29 requests to speak to this. Again, guided by Standing Order No. 106, we can avoid repetition. It is provided for in our Standing Orders that repetition of Member's own arguments or arguments used by other Members in debate should be avoided. So, Hon. Members, it is important to give arguments that have not been said by other Members.

Next on my request list is the Member for Kitui Central, Hon. (Dr.) Makali Mulu.

Hon. (Dr.) Makali Mulu (Kitui Central, WDM-K): Thank you, Hon. Temporary Deputy Speaker. I also want to make my observations in terms of this Motion.

(Hon. Mohamed Mohamud crossed the Floor without bowing)

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Order! Member for Wajir, you are completely out of order. Order! Order Member for Wajir! Please walk back, do the necessary and come back. We cannot keep on breaking the House's rules.

Thank you.

Hon. (Dr.) Makali Mulu (Kitui Central, WDM-K): Thank you, Hon. Temporary Deputy Speaker. I must say that the appointment of these board members is long overdue. We all know that it has taken four years to have this board in place. I think we are going to be very unfair to the process, if we do not say that some people have slept on their job, more so, the Cabinet Secretaries who have been in charge of this NG-CDF docket. How do you expect an important Fund like this to be managed in four years without a board? To me, this is serious oversight and we must call a spade a spade. The CSs have failed us as the NG-CDF in terms of board representation.

Any time we mention about regional representation, gender and all that, I get concerned when we take these things very lightly. It cannot be by chance that these things found themselves in the Constitution. To be fair to the process, I think it is worth noting that when you look at these names, there is a big challenge with regional representation. Actually, if we are to analyse and subject this list in terms of regional representation, it will actually fail the test. Look at the whole of coast, western, Nairobi and eastern regions. You cannot tell us that those regions do not have competent people who can sit in the NG-CDF Board. There is no nuclear science with the NG-CDF Board. We must call a spade a spade.

When the appointing authorities are doing it, we want them to bear in mind that Kenya is one country, but it has regions and tribes so that we do not appear like we are only focussing on a few who seem to be the "right tribes". We are all talking about national unity and we cannot build national unity when some of us feel excluded out of the mainstream. I want to state categorically that even as we talk about the totality of commissions, we cannot say that we will look at the totality of commissions when this list has four members from Rift Valley. One commission has four people from Rift Valley when we are talking about Kenya. We are joking.

Even as we support the Motion because we know the urgency of the matter, let us also be realistic that these things must be done correctly.

Hon. Kipsengeret Koros (Sigowet/Soin, Independent): On a point of order, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Hon. Makali, there is a point of order by the Member for Sigowet. Please Member for Sigowet, as you rise on a point of order, as a rule of this House - and I want to be a bit strict - please let the House know the Standing Order you are standing on. You have your Standing Orders and every Member was supplied with copies.

Otherwise, I will rule you out of order.

Hon. Kipsengeret Koros (Sigowet/Soin, Independent): (*Off record*)

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): You want clarification? Who is him? Order, Hon. Member! Who is him? Who is your colleague?

Hon. Kipsengeret Koros (Sigowet/Soin, Independent): (*Off record*)

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): The Member is Hon. Makali Mulu. You want clarification. He thinks you are out of order. Hon. Makali Mulu, as you debate, the Hon. Member is looking for substantiation when you said four members.

Hon. Makali Mulu (Kitui Central, WDM-K): Hon. Temporary Deputy Speaker, this is a serious House and this information is in the Report. It is not my work to read for Hon. Members. It is their work to read for themselves. If he has not read, he can tell his people he has not read. That is why he is here representing his people. The truth of the matter is to look at the Report and you will see the four people I am mentioning. I do not have to mention names here.

The other important issue which once the board takes office should do is the CEO. I can see we are approving it because it touches on our lives as Members of Parliament. This CEO has been acting for eight years and my belief is, if you do not want to confirm him, sack or transfer him and close the chapter. This pretence will not take us anywhere.

With those remarks, I support. However, these things must be noted.

Thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Next is Hon. David ole Sankok, nominate Member 001.

Hon. David ole Sankok (Nominated, JP): Thank you very much, Hon. Temporary Deputy Speaker, for giving me this opportunity to rise and support this Motion. Even though I am a nominated Member and may not have the benefit of having the NG-CDF, I know the miracles that it has been performing in our specific regions. When it stayed for a number of years without a board and it involves billions of shillings, it seems that our country and the CS responsible were not serious enough.

We need to be serious because even as we speak now, the National Council for Persons with Disabilities does not have a Chair. The appointing authority should also be proactive and know which boards or chairs are not in place. I support this list because unlike what other Members are saying, you know when you have seven nominees and we have 43 tribes, then to have all of them on board will be a bit difficult. However, if you see these names and the regions they come from, the appointing authorities have tried their best.

I want to declare some interest that I know Mr. Robert Masese. He is highly qualified. Ms. Isabel Nyambura Waiyaki is actually a PhD holder at a very young age. These are the people that we need. It has two-thirds gender representation. It also has youth representation because George Kasatua ole Meshuko is also a youth. I know him personally. George Kasatua ole Meshuko comes from my county and he is a very qualified person who once was a student leader at the University of Nairobi. So, these names have gender representation. They also have youth representation and diversity.

There is also a representative of persons with disabilities as I have been informed by the Chair of the Select Committee on the NG-CDF. It is important to have representation of people with disabilities especially on matters to do with the NG-CDF that deals with bursaries and education. Persons with disabilities in the country have been lagging behind especially in education. Because of prejudice and stigmatisation of persons with disabilities, traditionally, they are considered as a curse and some of them have been hidden. When you have a person with disability in such a very important board that deals with the NG-CDF, I am confident that that

representative will table the needs of persons with disabilities. I am 100 per cent sure that from the support we have received from Members of Parliament, you will be setting aside 5 per cent of your bursaries to go specifically to children with disabilities in your specific regions. I am not asking for much.

Those children with disabilities are not necessarily from Narok or brothers of Sankok. I am just asking you in the name of God. You have them in your own constituencies. Just set aside 5 per cent of the bursary funds for children with disabilities. Children with disabilities have no plan B. They only have plan A. Some of them succeed in academics and become lawyers. That is their only key to success. If they do not study, you know the rest.

Hon. Kaluma, for example, if you did not go to school, you would have been pushing a wheelbarrow or be employed as a watchman. If, for example, Sankok is employed as a watchman; *watanivunja mguu huu mwingine ambao uko sawa*. They will break my other leg.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Hon. Sankok guided by the Standing Orders, you are out of order. If you start your debate in English, you complete it in English. If it is in Kiswahili, you do it in Kiswahili. For this matter, you have mixed languages. Maybe you can correct yourself.

Hon. David ole Sankok (Nominated, JP): Hon. Temporary Deputy Speaker, I am almost through. I just said it in quotes. It is just the way *githeri* and *sukumawiki* are said in quotes.

I plead with this House and the incoming board to please consider setting aside a percentage for bursaries for children with disabilities. God will bless all of you.

I support the Motion 100 per cent.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): You said “*mguu huu mwingine uko sawa*”. I can now see that you are representing the disabled. I confirm that you said “*uko sawa*”.

Very well. Let us have the Member for Bondo, Ogolla Ochanda.

Hon. Gideon Ochanda (Bondo, ODM): Thank you, Hon. Temporary Deputy Speaker. I rise to support this Motion, but I want to mention a number of things.

For sure, this is a troubled Fund. If you trace it in the last six years, you realise that there is very serious trouble with the Fund. I want to believe that the trouble is not so visible because it touches on Members of the Assembly. First, this Fund has not been properly domiciled for the last five years. It has been swaying in between departments in terms of which department houses it. It is very good that this time round it is housed under Ministry of the National Treasury and Planning. Before, it was under the Ministry of Devolution and Arid and Semi-Arid Lands and the next time it was in a different place. This is why it has been so difficult to have a board for the Fund. By the time a Cabinet Secretary settles down to realise that they are supposed to make appointments, their term is gone and nothing is done. That is why the Fund has functioned for five or six years without a very clear board.

As this board comes into place, there are a number of things they need to look at. A critical one is the issue of arrears. In real sense, there should be no arrears. The board needs to be very clear that when funds are not utilised in a specific financial year, those funds should remain with the board. They should not go to the National Treasury. This is why they are talking about arrears with Treasury. Treasury on the other hand says that they do not know whether there are

any arrears because in real sense, monies are supposed to be spent as projects are submitted annually. If there are monies meant for the previous financial year that were not used in a constituency, in the next allocation of money to that particular constituency, those projects that were not done need to be the first beneficiaries of the first transfers in the next financial year. If we did it like that, there would be no arrears as at now. Previously, we have been skipping years because some of the projects of the previous year were not finished. Therefore, a year or a number of months are skipped then in the next transfer, the constituency moves to implement the other projects. That is happening even now. There are constituencies that have monies for projects that have not yet been completed in terms of transfers of the last financial year.

There were instructions this year that the little money that was allocated two weeks ago should not go into those projects. They must go into the new projects. That is why we are accumulating arrears. The board needs to take care of this. There should be no arrears. It is illegal. If that is the case, Treasury should not hold our money. The money should be held by the board such that each financial year, the board can trace back which constituency has outstanding projects that are yet to be completed. Those projects should be completed with the first transfers.

There is also the issue of audits. I am the Member who Ole Metito referred to as picking this up with the Auditor-General in the last one week or so. In as much as the NG-CDF is so small, it is subjected to a series of audits that are completely different from others.

(Hon. Peter Kaluma consulted loudly)

Kaluma is interfering. Can you move him from here?

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Hon. Kaluma, you have been mentioned by Hon. Ogolla Ochanda as consulting loudly. That does not give you an opportunity to contribute.

Hon. Gideon Ochanda (Bondo, ODM): He is really annoyed by the facts that I am raising.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Hon. Ochanda, just carry on your debate. Do not be distracted.

Hon. Gideon Ochanda (Bondo, ODM): Thanks a lot, Hon. Temporary Deputy Speaker. Hon. Kaluma is positively irritated by the audit issue where we have very many parallel audit lines targeting constituencies where staff cannot work anymore. There are some distinct auditors I do not know where from. They are chasing a few things in the constituency. There is KENAO and our own internal board auditors. They do not have a time-frame for the audits. They do not say that they will start from the 2015/2016 Financial Year to wherever. They consider the same years that they have presented reports on. Nothing is moving in the constituency. The Chair of the Select Committee needs to pick this up so that it is not repeated. It should be very clear that we have our own internal audit arrangements with the board. The next audit arrangement is with KENAO and then we are done. That will make the constituency and offices to work.

There is the whole issue of...

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Member for Kwanza, your card is on intervention. Can you remove it from the intervention slot so that we know who wants to intervene and who does not? Carry on, Hon. Member.

Hon. Gideon Ochanda (Bondo, ODM): Thank you, Hon. Temporary Deputy Speaker.

The other thing is the issue of the secretariat now bringing in certain things that are not procedural and are illegal. When our fund account managers are summoned in some seminars and instructed to name four or five flagship projects, there is no such provision in the NG-CDF Act. All the projects are supposed to be submitted through a process. That process is very clear that there must be some participation. The secretariat keeps giving instructions that this time round they need projects of this kind or that we should exclude certain projects. It causes delays. There are also issues of reallocation. You may submit projects then the secretariat in one way or another takes you round and round for ages. That is a problem. The new board must look into it.

The other thing that the new board must look into is the transfer of money. Right now, there is the issue of 100 per cent transition of students from primary to secondary school. When the Ministry of Education is asked at any moment why they are insisting on this yet there are no classes, all of them refer to NG-CDF. They say that the NG-CDF should come in. The NG-CDF is also very clear that no monies have been transferred to constituencies.

The board has a lot of work cut out for it. It must look at how this thing must be moved forward. We are now two months away from the end of the financial year. That means that the remaining monies of over 80 per cent will be treated as arrears in the next financial year, if we are not careful. It is important that the board wakes up to this.

I support the Motion.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Very well. Hon. Passaris is not in the House. Hon. Martin Owino has informed the Speaker that he wants to speak to the other Motion. So, let me give the chance to the Member for Keiyo South, before I go to the Member for Yatta.

Hon. Rono Kipkogei.

Hon. Daniel Rono (Keiyo South, JP): For avoidance of doubt, Hon. Temporary Deputy Speaker, my name is Daniel Rono Member for Keiyo South.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Are you disowning your name, Kipkogei?

Hon. Daniel Rono (Keiyo South, JP): No, it is also part of the blending of the name.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Daniel Rono Kipkogei, Member for Keiyo South, Please carry on.

Hon. Daniel Rono (Keiyo South, JP): I wish to support the Motion that has been brought to the House about the names we have here.

I concur with most of the Members and I support the Motion of the seven listed names. I declare that one of the members comes from my county. She did a good job in the IEBC. I equally support the names that have been listed.

As we have heard, the NG-CDF has done a good job on the ground. We all must support it. We oversee the NG-CDF but we need to look at the stalled projects. The board coming on board now should look at the stalled projects that were abandoned and complete them.

Equally, there are the ICT funds. They were granted but not given support. We need support for the funds to see to it that they do the job.

I support. Let us be sensitive to other people when we have such a Motion which touches all of us and try to use less time as set out. I support.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): You have set out an example of using less time. Hon. Kilonzo Mutavi, a senior Member of the House.

Hon. Charles Kilonzo (Yatta, Independent): Thank you, Hon. Temporary Deputy Speaker. For once, at least, there is something good coming from the Cabinet Secretary National Treasury, Mr. Henry Rotich. When smaller communities are given slots, Members from big communities should not complain in all fairness because when these communities' members' names are brought here, the small communities do not complain. Let us be fair.

We need a very strong board. I say so because I served in the Select Committee of Parliament on NG-CDF for 10 years. When we formed the first committee, we had big challenges. We have very many enemies. Let me take you down memory lane, Hon. Temporary Deputy Speaker. Our enemy number one were the Non-Governmental Organisations (NGOs). You would imagine that under the old Act, where we had even left a slot for the NGOs in the board, they declined it and went to court because they thought the NG-CDF would get them out of business, which in reality is true. We have seen many NGOs, but we do not understand what they do on the ground.

Another enemy we have, and I call them enemies of the NG-CDF because they still are, is the civil society. The NGOs took us to court and the civil society also came and took the NG-CDF to court. I remember Members of Parliament then contributing from their salaries to pay lawyers in courts. Another enemy that showed up after the new Constitution is the governor. Today, governors want access to the NG-CDF. Already they have money we do not see yet they want the little Members of Parliament have.

I also get worried whether the Executive has also become an enemy of NG-CDF. Why are there delays? In the 9th and 10th Parliaments, delay was not an issue. In fact, the challenge we had was that Members were too slow to absorb the money.

Members in this team are very strong. I said for once the CS has done a good job. Look at where the people come from and their qualifications. Mr. Nyariki Masese is a graduate, Irene Masit and Abdiaziz Yarrow are holders of Masters degree. Isabel Waiyaki, the friend of Hon. Ichung'wah, is a PhD holder. At least, *hakutuletea mtu bila karatasi*. He brought somebody with papers. We have Maria from Marsabit a Masters degree holder. We have Hon. Edick Ayanga, somebody I know and served with in the 10th Parliament who nobody is looking at his paper, but he has a Masters degree in Business Administration. Finally, we have George Kasatua with Masters degree in Economic Planning. They have qualification for once.

We also need to accept the challenges we are facing. The Chair of the Select Committee has a lot of work to do. When we come to cuts on the Budget, we first target the NG-CDF. This is unacceptable. As we move on, we also need to deal with the court cases. We need to know the origin. We cannot have a court case after another.

I do not want to dwell on what has been said. I support the Motion but encourage the new board that we have put them in place to make our work easier. Audits have been done in almost

all constituencies. When money is delayed, it becomes an audit query. I encourage the new members that once they have been confirmed to take the NG-CDF matter seriously. I believe the Committee first got a commitment from them because the biggest challenge we have had with previous board members is that of turning MPs their enemies. I believe that once they are confirmed, the Select Committee will have a workshop with them and let them know their mandate. Their mandate is to protect NG-CDF and facilitate Members of Parliament in deliverance of their services in as far as NG-CDF is concerned.

With those few remarks, I support.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Hon. Dennitah Ghati. We are sorry that we have kept long. I know you cannot sit for long.

Hon. (Ms.) Dennitah Ghati (Nominated, ODM): Thank you very much for giving me the opportunity to speak and for considering gender on this serious issue of the NG-CDF.

I support the nominees that have been presented here to join the NG-CDF Board. I know it has been quite a long time and the NG-CDF Board usually becomes vacant upon the commencement of Parliament. Therefore, it has come at the right time because we have been seeing from the Special Funds Committee, where I sit that it has been interrogating the various funds from various constituencies. We have just finished Nairobi and Kisumu. What has come out from the fund managers are basically the delay and the trouble they get from the untimely disbursement of NG-CDF.

The NG-CDF is the best thing that has happened. I am a product of the NG-CDF having received a lot of support in form of bursary from Hon. Dr. Wilfred Machage who was my MP in Kuria at that time. The NG-CDF has helped many people and children in bursaries and the schools built by the NG-CDF from the rural areas where we come from. That is the reason I would like to commend and request Members of this honourable House to consider children with disabilities whose only way of advancing in life is through education when allocating bursaries. I pick from Hon. Sankok, who has just mentioned it, and urge Members that by the time they are putting together the list of children to benefit from the bursary funds, they should prioritise children with disabilities. Even if it is not children with disabilities, they should consider children of parents living with disability. That is the only way we are going to promote equity.

Having said that, and looking at the list of nominees before the House, it reflects the face of Kenya. This list has lived according to the Constitution of this country that looks at regional representation. It also looks at the issue of gender. This list is about 50-50. In the list of seven, we have three ladies and four gentlemen. That is almost 50:50 ratio. I commend the NG-CDF team that has brought this list.

I also want to take special recognition of the fact that there is a person living with disability on the board. The lady by the name Maria Lekoloto is a lady living with disability from Marsabit County. This is extremely commendable that in serious institutions and bodies, we can go an extra mile to think of persons that are usually down there to present us in such serious assignments like the NG-CDF. I am confident because of the presence of this lady who is living with disability knowing the challenges that persons living with disabilities face in terms of accessing the NG-CDF bursary. She has worked at the Kenya Methodist University (KEMU). She is an expert in her field. She has been a Human Resource Manager and an Administrator at

KEMU. I am sure she will bring to the board a lot of expertise in terms of community mobilisation skills that she possesses.

Hon. Temporary Deputy Speaker, allow me to take a keen recognition of one other nominee on the board, the immediate former Member of Parliament for Nyatike, Hon. Omondi Anyanga. Hon. Omondi Anyanga served in this House in the last Parliament as a Member for Nyatike, Migori County, which is my county of birth, which I represented in this House before as County Woman Representative. This is a man who has worked so hard in terms of ensuring that Nyatike Constituency addresses the issues of education and water, which possess a big challenge. I am sure he will bring in his expertise by virtue of having been a Member of this House. Hon. Omondi Anyanga will definitely fit in the board because as a former Member of Parliament, he knows what it means to lack NG-CDF funds in the various constituencies.

Mr. Robert Nyariki Momanyi Masese is an educationist. He comes from the education sector and you know the NG-CDF has a serious component of education. From my experience, bursaries are the biggest challenge that parents face in ensuring that their children go to school. I am confident that the presence of Mr. Robert Nyariki, who is the Acting Chair, will contribute greatly. You very much know that I am one of the proponents of what we are calling 'equity'. I come from the Kuria community, which is a minority community in this country. We have communities that have hardly been represented in many serious bodies and institutions. When we have seven slots out of the 47 counties, sometimes when you look at nominees like this, they are equally representative. We cannot talk about looking at seven slots and looking at various ethnicities. There are things sometimes you overlook, like ethnicities, especially when we have few chances that do not warrant a lot of argument. That is why I am saying this is an appointment that is in line with the requirement of our Constitution. It is equally representative. It is fair to gender and disability. I urge the members who have been proposed to the board to get serious on their job, so that the NG-CDF can be disbursed in a timely manner. I am hoping that once the board gets into office and sits down to nominate and elect the chair and vice-chair, for the first time, they can decide to nominate one of the best ladies a chance to be chairperson or vice-chairperson of the NG-CDF Board, so that when we talk about the NG-CDF, we can look at the gender representation in terms of the chairperson and the vice-chairperson of the board.

To sum up, I support and ask that the board acts with fairness, respect and equity in terms of how they disburse the NG-CDF resources in order to continue to serve this country with the dignity it deserves.

Allow me to support the nominees.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Member for Nyaribari Chache, then the Member for Kwanza.

Hon. Ngunjiri Wambugu (Nyeri Town, JP): On a point of order, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Let me hear the intervention.

Hon. Ngunjiri Wambugu (Nyeri Town, JP): Thank you, Hon. Temporary Deputy Speaker. I stand under Standing Order 95. I was thinking we have had a long discussion about the approval of these nominees. We seem to be saying the same things. We all seem to be in

agreement. When you listen to us, we are speaking about the fact that we have people with disabilities, young people and a good gender mix. That is what we keep saying. Should we now not ask the Mover to reply, so that we can move to the next business of the House?

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): You are procedurally in order, but I had already called Hon. Tongi'i. Hon. Tong'i, you can use five minutes and the Member for Kwanza can speak for five minutes. Thereafter, I will put the Question for closure of debate.

Hon. Richard Tong'i (Nyaribari Chache, JP): Thank you, Hon. Temporary Deputy Speaker, for giving me the opportunity.

Hon. Onyango Oyoo (Muhoroni, ODM): On a point of order, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Member for Muhoroni, what is out of order?

Hon. Onyango Oyoo (Muhoroni, ODM): With all reverence and respect, unless my machine is malfunctioning, the Member for Kwanza found me here.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): No. Hon. Tong'i.

Hon. Richard Tong'i (Nyaribari Chache, JP): Thank you, Hon. Temporary Deputy Speaker, for giving me an opportunity to support this Motion. Just like my colleagues, I want to congratulate the Committee on NG-CDF for a job well-done.

We sat for long hours to look at these names. We did a background check and I want to confirm what my colleagues have said. These are very qualified Kenyans. I wish we would have as many as 47 slots. We appreciate that even if we had 47 slots, they would never be enough because ethnicity issue would set in and we would never be satisfied. What we looked at, under the chairmanship of my boss, were the qualifications. We looked at the competencies of the people we were getting on board, the gender issue and the capacity to deliver especially on a very key institutions such as what we have on the NG-CDF. Having acknowledged that the NG-CDF has impacted on Kenyans in almost every part of this country, we can associate ourselves with the NG-CDF projects. We said that we are going for competency and the best people who could deliver that.

I was so impressed when I looked at Dr. Isabela Nyambura Waiyaki, who is very qualified. I felt that even as we are looking for the two-thirds gender rule, if we had people that are qualified like Isabella, we would not have an issue with such an approval. In the past, people have been given opportunities without looking at the qualifications as we did. I am grateful that we gave the best to support the agenda of the NG-CDF and the four pillars of the President to ensure that development is being felt, not just in one region, but in the entire country. We are lucky that in this board, we got some people who have had experience in the NG-CDF. Mr. Robert Nyariki Masese has had experience in this industry having been a Director General of Education in the country. He has also served as the Acting Chair of the NG-CDF for some time and we could not have got a better experienced person to handle the job than Masese.

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

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*(The Temporary Deputy Speaker
(Hon. (Ms.) Soipan Tuya) took the Chair]*

They have the capacity to hit the road running because they already have the exposure of what the NG-CDF can do. When we conducted the interview, all of them in affirmation confirmed that they wish that the NG-CDF could be given more funds because of what it has done in the constituencies, which is felt everywhere. I want to agree with my colleagues who have said that some members who have served in these institutions were not competent and qualified. I am happy that under the chairmanship of my boss, we looked at the disability cases and we considered people living with disabilities. You cannot be unfair to somebody twice. Somebody is already disabled, and then you discriminate them on employment.

(Hon. Benjamin Washiali and Hon. Katoo ole Metito consulted)

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Order Hon. Chief Whip and the Member for Kajiado, you are blocking us from hearing the Member who is on his feet.

Hon. Richard Tong'i (Nyaribari Chache, JP): Thank you, Hon. Temporary Deputy Speaker for protecting me from the loud consultations. I was not being heard properly. We have had a chance of listening to all these people and I am so happy that George, Peter, Maria, Dr. Isabela, Abdiaziz and Robert are very qualified people. I want to encourage other committees to look at qualifications when conducting interviews like these because this negates the idea of ethnicity. Some of these people have had opportunity to serve at the national level without looking at where they are coming from. They need to look at somebody like Robert who comes from Trans Nzoia and by accident, he has a Kisii name. He has no idea of what happens in that part of the world. He is born and bred in Trans Nzoia, married to a lady from that region and his children speak the language of that part of the world. Everything about him is in that region. I am grateful that my colleagues in the Committee were kind enough to look at all those issues in totality, so that they could make the right decision to come up with these kinds of names. Once they settle down, they will appoint a chairman who is competent and has expertise to drive the agenda of the NG-CDF going forward without having to wait.

Having acted for that period, I pray that Masese will be given an opportunity to continue serving so that he can drive the agenda without having to wait. We all know how sensitive the NG-CDF is to the Members of Parliament. It is the reason why most of us never come back to Parliament. They do not use the NG-CDF properly, the constituency managers mismanage the money or they are simply incompetent and have no capacity to use the money. That is not the mistake of the Member of Parliament. This is the function of management of the NG-CDF at national level. National level can only do so much. Without the board that they have not had for several years, they are incapacitated. Therefore, they are not able to do as much as they should do.

Many of my colleagues in Parliament are complaining of having incompetent fund managers. You can only raise the issue of the fund managers to the CEO, who has been acting

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for eight years. How unfair can a system be to an individual? Acting for eight years! We all know that when you are acting, just like Masese was acting, before you make any critical decision, you have to look over your shoulder to see who else is concerned about the decision. This happens before you make the hard decision a manager is supposed to make. When these names are approved, and I am urging the House to approve them because it is in our interest and the interest of the country, they will be able to make the hard decision to push for the release of funds. We have not received the funds. Some of our Members have not issued bursaries because we do not have the money in our accounts and the Treasury has not released the money. They have taken advantage of the loophole that we do not have the NG-CDF Board. We have suffered because of that and consequently, Kenyans have suffered.

With those many remarks, and since my colleagues may want to say something, I want to conclude by saying that I support these names. I am hoping that when they sit down, they will be able to get an experienced manager who has a good track record and consider gender in the appointments so that we can have a chairman who is from another gender to drive this agenda forward and help the President to achieve his Big Four Agenda.

I support. Thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuyu): That was fast and eloquent. We are operating on Speaker's discretion. Hon. Members, you know that Hon. Ngunjiri has invoked Standing Order No.95 by calling that the Mover be called upon to reply. On speaker's discretion, since there are too many requests, I will give a chance to two Members from each side for five minutes each, and then we will prosecute Hon. Ngunjiri's Motion on calling the Mover to reply. Hon. Member for kwanza.

Hon. Ferdinand Wanyonyi (Kwanza, FORD-K): Hon. Temporary Deputy Speaker, patience pays. I have been very patient. I wanted to contribute to this very important Motion. Thank you for this opportunity.

First of all, it is good that we are going to have the board in place after eight years of lapse. Secondly, we hope that the delay in disbursement of funds, with the board in place, will be something of the past. Today, there is a backlog in disbursement and the fear is that this money might be disbursed at once and maybe misused. Therefore, it is important that with the board in place, this will be a thing of the past. When this board is constituted, we will have an appropriate way of having fund managers. We have had cases where fund managers cover about two or three constituencies and this becomes very difficult to do some work out there.

Lastly but not least, the process of appointment by the Cabinet Secretary for the National Treasury was based on gender and regional balance, and I quote: "The Cabinet Secretary is further required to take into consideration gender equality and regional disparity." That is what we have talked about. As far as I am concerned, these appointees are very educated and efficient. Their papers are alright. The only problem that we saw is the fact that either the Cabinet Secretary was misinformed or ill-advised and picked three people from the Rift Valley. That is where the problem was. Coast and western regions are not represented. I know we are not talking about tribes but we are talking about regional disparity, which is an issue here. I think that is why my colleagues have complained. I am not talking about ethnicity. They are talking about regional disparity, which I think we have to take into consideration if we talk about unity in this country.

That is one problem that I think the Cabinet Secretary did not take into consideration. There are three people from the Rift Valley and we are complaining about the same. I come from the Rift Valley myself. Mr. Masese Robert comes from my constituency and he qualifies for the position. He is an old man and I think it is okay. The only problem was that there was regional disparity and that missed out.

I hope the board will sit down and increase the funding from the current 2.5 per cent to 5 per cent as requested. That is what we are looking for. I hope this board will do it because if you go out there, as has been said by others, the only thing you see is the NG-CDF projects. Therefore, this board should work with the Committee to increase the disbursement from the current 2.5 per cent to 5 per cent. I hope this is the first thing they will do and when it comes to this House, we will support it.

The CEO has been acting for a very long time. I am quite in agreement that he should be confirmed. He is very knowledgeable. Given that he has been in that position, he will be able to take the NG-CDF far than where it is today. Otherwise, I support the appointment of these people.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Aramat, five minutes.

Hon. Lemanken Aramat (Narok East, JP): Thank you, Hon. Temporary Deputy Speaker. From the outset, I want to support the Report from the Select Committee on NG-CDF for a job well done. And I want to declare my interest. We served with Hon. Peter in the last Parliament in the Energy Committee and he was very effective. He led us in writing various reports. I believe he will take forward the NG-CDF with the zeal with which he led us in the Energy Committee in the 11th Parliament. George Meshuko Kasatua comes from my constituency and I know him. He was in the Department of Immigration before he moved to the county to serve as a CEC member. He is a brilliant young Kenyan. I want to thank the Cabinet Secretary and the national Government for looking at the minorities in this country and giving them the chance to serve in the national Government.

As you know, the NG-CDF is a core mandate. Proposals normally delay before they go through. We believe with the NG-CDF Board being operational, all projects will be considered and executed within the timeframe given. We know the CEO, Mr. Mbuno, has served for long. We would request that he be confirmed by the board because he has done a lot for the NG-CDF for the last eight years. I want to appreciate the work that has been done by the NG-CDF Committee. I support this Report.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Member for Suba North.

Hon. (Ms.) Millie Odhiambo (Suba North, ODM): Thank you, Hon. Temporary Deputy Speaker, for giving me the opportunity. I wish to support. I will be very brief. Number one, the role of the Member of Parliament in the NG-CDF is oversight. Members have been speaking as though we have a role beyond that. Secondly, there are Members that have been appointed, some that are known to me and that I have worked with in various capacities like Mr. Masese, Irene Masit and Edick Anyanga. From the work we have done with them, I have confidence. Even though I may not know the others, from what the Members have said, I want to say that they are

qualified. I am specifically happy that we have Isabel Nyambura Waiyaki. I was telling the Chair of Budget and Appropriations Committee that even though he is gone, I am always a defender of women. So, I am here to make sure that all the women that have been put through pass. I am, therefore, very happy with the gender inclusion.

On the ethnic inclusion, I want to refer to Article 232 of the Constitution on values and principles of public service, specifically paragraph (h) that says that one of the values is representing Kenya's diverse communities and in (i), affording adequate and equal opportunities for appointment, training and advancement at all levels of public service of men and women, members of all ethnic groups and persons with disabilities. If you look at the list that we have before us, Robert Nyariki is a Kisii, Irene Masit is a Kalenjin, Abdiaziz is a Somali, Isabel is a Kikuyu, Maria is a Pokot, Lekoloto is a Rendille, Edick Anyanga is a Luo and Kasatua is a Maasai. Even though Members have raised very valid concerns, out of seven, you cannot really have 47 tribes. There are communities that have raised concerns that they have consistently been seeing that they are excluded. We need to look at all the bodies that we have established and see whether there is actual representation for purposes of inclusion and cohesion in the country.

Members have spoken to Mr. Mbuno's appointment and I think this Committee is letting us down. They need to be serious and ensure that this is followed through. I think it is also discriminatory on him that he is forced to stay for more than eight years in an acting capacity. He also needs certainty.

I can see Hon. Washiali is very concerned and he wants to move to the next business. I want to encourage the House leadership that we should not sacrifice our representation role at the altar of speed. Ideally, every Member in this Parliament should speak because we represent each constituency. Members sit here from 2.00 p.m. and as a senior Member - I am one of the few people serving a third term - I have sat patiently, even disregarding issues of ranking. We cannot just be told that the Mover be called upon to reply. I want to encourage the Member for Nyeri that if he has something of interest he is waiting for, let him have other people also contribute to what they want. Let us not get that trend of gagging Members. I support.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): I hear you Hon. Millie. However, you cannot also gag a Member from invoking a provision of the Standing Orders. It is right within his right as a Member. I had said I will give one person from this side and then we will prosecute Hon. Ngunjiri's Motion.

It is within your rights, Hon. Members. All I will do is put the Question and then you can decide. Let us have the Member for Ainabkoi.

Hon. William Chepkut (Ainabkoi, Independent): Very good. Thank you, Hon. Temporary Deputy Speaker. I urge all the Members to approve the names of these persons. This list is excellent and a true reflection of all Kenyans. Hon. Millie, I respect and honour you, but we cannot accommodate 47 tribes. So, this is okay.

Having said that, I, indeed, subscribe to Article 232. We want unity in diversity and a Government that is all-inclusive. I want to say today, in the presence of all of you, that President Uhuru Kenyatta is the greatest man in the world. In line with Articles 129, 130 and 131 of the Constitution, President Uhuru Kenyatta is the symbol of national unity. Do not mind because I must say it in black and white.

Many people are mentioning people's names carelessly. Hon. Temporary Deputy Speaker, you are the greatest person I have ever seen.

(Laughter)

This is because it is you who approved the Value Added Tax and so, I owe a lot to you.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Order, Hon. Chepkut. The record of the House must be put straight. The Speaker does not approve or pass Motions. Decisions are made by the House. So, by no means did I ever approve or pass a Motion as the Speaker.

Hon. William Chepkut (Ainabkoi, Independent): Hon. Temporary Deputy Speaker, it happened that you were on the Chair. Having said that, I congratulate Hon. Maoka Maore for the good job. The Cabinet Secretary for the National Treasury has done a very good job and so I approve the list in totality. Thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Order Members. Hon. Members, before the House is a Motion calling the Mover to be called upon to reply by Hon. Ngunjiri. The decision is yours, Hon. Members and I will go on to put the Question.

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

You have no numbers. Order Members. You are only three. Mover.

Hon. Maoka Maore (Igembe North, JP): Hon. Temporary Deputy Speaker, I wish to thank the Members and as you can see, there is tremendous interest in Members wishing to deliberate on this Motion. However, I wish they would deploy some wisdom. You will notice there was a very eloquent issue executed by Hon. Kilonzo Mutavi, Member for Yatta.

It does not matter how much you want to talk, you do not have to say everything especially on this Motion where there is adversity from very many quarters about the NG-CDF. In most cases, it is wise to listen to the leadership. We have deliberated on the nominees. I wanted to respond to only two points that are on the other side when it comes to this afternoon's debate.

I wanted to clarify about the Kshs4,976,750,000 that they said to be running from the year 2011/2012, 2013/2014 and also 2014/2015. That is how we were getting nearly Kshs4.9 billion. It was said that during those years, the National Treasury did not release the funds that were allocated for the financial years.

So, when we get the board in place, I ask them to do a resolution and seek to have, maybe a special audit, an interrogation, a conversation or a discussion between the National Treasury and the board to see whether the actual money should be forwarded to the board. If so, see whether the National Treasury needs to do a special funding.

Almost every year, we lose money. As of today, we have lost Kshs3.6 billion that has gone to meet the gap that was occasioned then. So, every year, you have money for the future being used to pay for past gap and this can be a problem. So, to avoid that problem, we ask that

when the board is constituted, they should seek to put the issue to rest. I can assure you that our Committee will be very keen to see how it is handled.

The other issue is that of looking for additional funds. Specifically, the national Government pronounced 100 per cent transition from primary to secondary school, but did not take into consideration the fact that facilities will be needed in terms of classrooms. They just said that they wanted 100 per cent transition from primary to secondary school. It is easy to announce those things, but it is quite a different thing to mind about the facilities. A Government cannot just wake up one morning and announce 100 per cent transition without putting money where their mouth is. I do share the sentiments of the Members that the NG-CDF is shouldering a lot of burden on some of these pronouncements.

Finally, the issue of regional balance was put forward, but we deliberated on it in the Committee and thought it had been settled. I do not want to belabor on this and wish we had more numbers. I wish the board required 30 members and not seven. The fact that we have seven members and there is nobody from coast or western does not mean the list is illegitimate.

Looking at the national Government, namely, CSs, PSs, ambassadors and others, there is diversity there. Do not look at a seven-member board and expect it to reflect the whole country. I want to urge the Members to support the appointment of these persons to the board. It is our only hope to bringing order in the NG-CDF. We lost this several years ago because Members became reckless or careless and fought the formation of a board.

I am glad that many Members have supported the idea that we move with this board regardless of how it comes out. Finally, I wish to ask the House to support the appointment of the persons to the board because it is good and timely.

I beg to reply.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Members, we shall defer the putting of the Question on this particular Motion until the next slotting by the House Business Committee (HBC). So, let us move to the next Order.

(Putting of the Question deferred)

SENATE AMENDMENTS TO THE KENYA ROADS BILLS

THAT, the Senate amendments to the Kenya Roads Bill (National Assembly Bill No.47 of 2017) be now considered.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): We also defer this one because the Mover is not available. So, let us move to the next Order.

(Motion deferred)

REPORT ON ALLEGED IRREGULAR SPECIALIST RECOGNITION OF DR. SONI
BY THE KENYA MEDICAL PRACTITIONERS AND DENTISTS BOARD

THAT, this House adopts the Report of the Departmental Committee on Health on alleged irregular specialist recognition of Dr. Samira Soni by the Kenya Medical Practitioners and Dentists Board, laid on the Table of the House on Wednesday, 17th October 2018.

(Hon. (Ms.) Sabina Chege on 12.3.2019)

(Resumption of Debate interrupted on 12.3.2019)

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Members, we are resuming debate on this Motion. A total of four Members had contributed. I am not sure whether the requests I have with me are for this Motion. Is Hon. Murungi here? Let us have the Member for Ndhiwa.

Hon. Martin Owino (Ndhiwa, ODM): Thank you, Hon. Temporary Deputy Speaker. I take this opportunity to contribute to this Motion, which I totally support. I also want to declare that I am a Member of the Departmental Committee on Health. In this Committee, we take health very seriously because this is the highest House that protects the ordinary Kenyans.

You can recall that Anyango or Wanjiku down there does not know who is a doctor or a specialist. However, it is this House which can set rules straight. Regarding this Report, awarding specialist recognition to undeserving doctor was the whole domain of investigation. As a Committee, we spent a lot of time talking, interviewing people and investigating. Therefore, I hope that any report brought by a committee to the House is taken seriously.

I thank the Speaker for having made his ruling because we have two documents here. One was doctored both in the executive summary and recommendations. However, a ruling was given, so that we could debate this. Kenyans may be at risk of accessing sub-standard eye care if this Report is not taken seriously.

Hon. Shakeel Shabbir wrote to us and that was the basis for investigation. We took a lot of time calling the stakeholders. Dr. Soni had not complied with the recommendations given by the 11th Parliament. That was the cause for the writing by Hon. Shabbir. Dr. Soni graduated with Master of Medicine (Ophthalmology) Degree in 2004 and we did not dispute that at all. However, her first application for recognition was five years later in 2009 and it was rejected. It was an eye blow to the Committee on why the rejection was done.

In 2014, six years later, she did an application and it was approved based on recommendation of friends. That is not allowed in the medical process of recognition of specialists. We probed all this and at one point, the board could not answer some questions, which we will deal with later on.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Sorry to interrupt you, Member for Ndhiwa. I want to request Members wishing to speak to this Motion to press their intervention buttons. Go on.

Hon. Martin Owino (Ndhiwa, ODM): Thank you, Hon. Temporary Deputy Speaker. For the specialisation in question, the minimum requirement is to serve under specialist supervision for, at least, two years, in a recognised institution, which did not happen for the doctor in question. Dr. Soni admitted that her limitation in surgery was there especially her competence as a surgeon. We heard wanting cases presented to us which happened while she was trying to do an operation.

It should be recorded that the 12th Parliament Committee was not concerned about business rivalry which happened to be debated here yesterday. We had no business talking in business terms. In fact, we had no issues of her being an owner and manager of the hospital where she was practising. However, we had a problem with the process used to make her a specialist in surgery.

We recommended more investigations to be done on her competency and also her previous conduct. However, we said that the KMPDB should do their job stringently. They could not answer several questions aligned to recognition of specialists in any area. I take this issue very passionately because eyesight to everyone here is very important in many domains. This Committee has a lot of expertise in health and if we come with a Report and say that Dr. Soni is not properly trained, we have evidence. She admitted herself. She wanted to go through another programme to be acknowledged. Anybody standing this Report down does not have Kenyans at heart. If we cannot defend them, who else will defend Wanjiku and Anyango that I talked about? To them, anybody in white in a place is a doctor. They do not know otherwise. It is upon us. It the work of this Committee and this House to set standards.

This is also connected to the issue of foreign doctors especially at the hospital where one of us, Hon. Angwenyi, suffered malpractices. The same doctor is in charge there. Supervision and regulation of the so-called expatriates at our facilities should be intensified and those who happen to call themselves specialists should be supervised by local specialists. In the same hospital where Dr. Soni practises, there are people who come from India. Our question was: If she is not recognised as a specialist, how will she supervise or oversee those who come as specialists? We also have questions with the board which is supposed to do this. There is more than meets the eye here. The board does not work in isolation. As a Committee, we supervise them on behalf of the House and the notion that came on the Floor that the board's decision is final is erroneous. If a Member talks like that, it is kind of oxymoron. Why do you say that you are supposed to set the standards? Kenyans uphold us greatly.

In short, we spent a lot of hours in this and it is in good faith that Members approve this Report for the protection of Kenyans who do not know who a general practitioner, a medical officer and a specialist in an area is. They do not know all these things. We should set the standards straight.

With all those remarks, I urge the Members to support the Motion for the sake of Kenyans and for the sake of regulating the medical practice in this country.

Thank you, Hon. Temporary Deputy Speaker. I support.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Member for Suba North.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Thank you, Hon. Temporary Deputy Speaker. Let me take this opportunity to thank the Speaker for the ruling he gave today

which allowed this Motion to come to the Floor. I am the one who raised the point of order yesterday in regard to the process. The reason I was raising the issue in regard to the process is because I was appalled that we will be dealing with individual cases and the sort of Pandora's box that we are likely to open. For instance, if we are not happy with the Law Society of Kenya (LSK), we can come here and decide that somebody is not qualified.

However, given that our mandate is broad and the Speaker has ruled that way, that is okay. I did not speak to the issue of substance and I do not want to speak much to it, but I said that on the merit of what the Committee is presenting, if the facts are as they are, then I support the Committee. The reason I will do that in terms of substance - and I said so yesterday - is that I am shocked that you would be talking about a person undertaking ophthalmic surgery and yet her qualifications is as is. I remember one Member saying: "Nobody has complained about her practise or her miss-performing." When it comes to a human body, that means somebody has to come and say: "I lost my eyesight." We cannot take chances with our bodies. So, whenever any issue is raised, I think it should be addressed immediately. My challenge goes back to the Departmental Committee on Health. I think they are sleeping on the job because when you have serious issues like these come before the Committee, the person you should look at is the board. How and why did the board enable such a person to practise if, indeed, this is not an issue of business competition and it is an issue of lack of competence?

I urge the Chair and I spoke to Hon. Sabina, who was here earlier and I know she has had a very busy day moving back and forth between here and Murang'a. I can see the Committee Members here like Hon. Nyikal. I urge them to take this as a matter of concern with the relevant board and if there is any compromise, then they need to give us more serious recommendations in relation to that board and not an individual. It was not her fault that she was approved. It is the fault of the board that she was approved with her incompetence or with the challenges.

Otherwise, based on the facts that have been presented, I support the Committee.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Very well said. Next is Hon. Mule, Member for Matungulu.

Hon. Stephen Mule (Matungulu, WDM-K): Thank you very much, Hon. Temporary Deputy Speaker. From the outset, I want to state very clearly that I am a Member of the Departmental Committee on Health during this 12th Parliament. I was also a Member of the same Committee in the last Parliament. I want Members to understand where the Committee is coming from. We have dealt with this issue not only once or twice, but it kept on coming back to us and we did not have a choice, but to do a thorough investigation and come up with a Report, which we have tabled in the House. When we called the board, they had challenges to verify how one Dr. Soni had been allowed to practise. There was a chronology of events, which were extremely wanting, which started as early as the time for internship when the particular doctor had been requested to do an internship at the Kikuyu Hospital and she could not follow instructions from the supervisors. The first incident of a patient losing her eye or becoming blind happened there. It is all in this Report.

So, as much as we are looking forward to very strong recommendation towards the board, we have put the board into a very clear indication. Recommendation No.2 of the Report says:

“The Board to proactively and independently investigate allegations of medical misconduct of Dr. Soni in her previous engagements to verify their veracity and/or prove or discount claims of pure business rivalry.”

We are dealing with people’s lives in this case and as the people’s representatives, we cannot assume that we are going to go for the board and leave the particular doctor continue to practise. That is why we have put it very clearly in our Report that the board immediately cancels the speciality recognition of Dr. Soni and follows the laid down procedure of recommendation. Committees in this House do a thorough job, table reports and those reports are adopted by the House. It is not the business of the Committee to follow up if the report is implemented. It is the business of the Committee on Implementation to make sure that the reports which are brought to the House are implemented to the letter. I want to put it very clearly to the Committee on Implementation that any report which comes to this House is a product of taxpayers’ money and the taxpayers’ money should be respected. So, the Committee on Implementation should take up all these reports and follow up with the relevant authorities to make sure that they are implemented to the letter.

When we were investigating this, we found that there were several wanting issues with regard to foreign doctors. We put the board to task to deal with the issues coming up with regard to foreign doctors. The board has committed to the Committee and assured Kenyans that they will do everything. There are doctors who have been checked into the country by various local doctors. They check in on a Friday, run some clinics over the weekends or in between the week in some hotels, yet Kenyans do not get proper services. These foreign doctors refer Kenyans to India on some ailments which can be treated locally. We took note of that and put the board to task to make sure that we do not have such practices.

This is a serious Report which touches on one of our colleagues in this House. I cannot understand where the second report of the Committee came from. The Office of the Clerk of the National Assembly must give answers about where the second report came from. As a Committee, we did not have two reports. We only had one Report, which we tabled. It is very unfair when a Committee has spent taxpayers’ money then somebody else, with his own mischievous ideas, sneaks in another report to the House. If a report of a Committee can be sneaked into this House through the backdoor, what else will not be done in Kenya? It is high time we dealt squarely with this issue. That is corruption that I cannot understand. I cannot believe that somebody has the audacity and power to deliver a report to the Speaker and sign it when we have the Clerk.

What it out of order, Hon. Katoo?

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Katoo, what is out of order?

Hon. Katoo ole Metito (Kajiado South, JP): Hon. Temporary Deputy Speaker, just for the record of this House, maybe my very good friend, Hon. Mule, was not in the House when the Speaker made a communication on this Motion about the tabling of those two reports. He made a ruling and a clarification on how it happened. It will be out of order to again go back and debate what the Speaker had ruled on. Maybe he was not in the House at that particular point.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): You are right, Hon. Katoo. Hon. Mule, the matter was ruled upon by the Speaker this afternoon. What we have before the House is the correct Report. You say you are a Member of the Committee so, confine yourself to the right one. There is an investigation to find out where the other report came from. Let us not dwell on that one. Let us focus on the right Report, which is before the House.

Hon. Stephen Mule (Matungulu, WDM-K): Thank you, Hon. Temporary Deputy Speaker. I stand guided, but the truth is painful. We want to be very clear. It is high time we talked of integrity in this House and remain honourable Members. As Members of Parliament, we should use all the ways and means to table a Motion to establish what happened to mislead the Speaker.

When looking at the universal healthcare in this country and spending Government money, this Committee said that we will be above board in everything that we do. We want to provide services to Kenyans which are above board. Health is a devolved function under the county governments, which are overseen by the Senate. As a Committee, we will not allow Kenyans to be given substandard treatment in clinics in Kenya. When we considered the entire scenario and reports, there was nothing like business rivalry. Looking at the chronological events of the case that we are dealing with, we summoned the CEO of the Board and the particular doctors who supervised Dr. Soni and we established without fear or malice that there was a problem.

I urge the Members of this House to stand boldly with the Committee, so that the Committee on Implementation can take over this Report and make sure it is implemented as recommended by the Committee. The Committee on Implementation should put the board to task to make sure that the recommendations are implemented to ensure that Kenyans are protected.

Hon. Temporary Deputy Speaker, you and I have been elected twice by our constituencies because they trust that we can protect them. That is why we are here. We want to stand firm and tell those who may think that they will bring business rivalry to this House that they will never see the light of day. Today, it will be me and tomorrow, it will be you. We cannot politicise issues of health or look at them from a business angle. We must look at them in a professional way because tomorrow you and I might be the patients.

I support the Report and urge the Members to support it.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Well said. Let us have Hon. Hassan Maalim.

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

From the outset, I support the Report. The elephant in the House is the KMPD Board. These are the people who authorise quacks to practise in this country and many people have lost their lives. A week ago, I was reading a story about a young lady who lost her life because of a doctor who calls himself a specialist. She underwent a simple procedure, but lost her life in the process. The husband complained to the same board and was taken round in circles. Having a board that knows its mandate can solve the problems of people leaving other countries and coming to Kenya to practise in the name of specialised doctors.

I support this Report and ask the Departmental Committee on Health to be very firm on the criteria and procedure used by the board in approving any person who purports to be a specialist in any field that we need in Kenya. Kenyans are paying a lot of money to travel to India and other countries for services that could be provided locally just because of the mindset that there is a specialist somewhere who could help.

I support the Report.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Let us have the Member for Kwanza. You should not be nomadic when you know you are supposed to be speaking.

Hon. Ferdinand Wanyonyi (Kwanza, FORD-K): Hon. Temporary Deputy Speaker, I am getting into the issue of the Committee recommendations. This Committee of the House, with all due respect, has professionals who have looked at this Report. I want us to support the Report of the Committee. Hon. Mule has talked about it and he was in the previous Departmental Committee on Health.

We have had a lot of problems in this country because doctors come from overseas. They have found Kenya to be a dumping area and a place for doing business. I had a very serious case of one of my relatives who went to see a doctor in a private clinic who messed up their life. This is one of the good examples. We have many instances like this. It is just unfortunate this has come up. We should not ignore the Report of the Committee with professionals. I, therefore, urge this House to support the Report of the Committee and look at the issue. What is so special about this particular doctor?

From what I have heard and read, she is incompetent. We have had cases like this even with professors. There are some professors who are incompetent even in front of students. We are now dealing with the lives of our people. This is something that is just one way. It only has one way, but not another. In medical practice, it is either there or not there. The question of trying to see whether she can do it or not or whether there are two or three reports is immaterial. Let us go by the Report of this House. Members of the House are beyond reproach. I hope nobody has sneaked in anything. I have heard, although I am not a Member of the Committee, that this is a case of business rivalry and that is not important for us as Kenyans. When I go to a hospital like the Nairobi Hospital, I want to be referred to somebody who is competent.

My wife was sick during the long recess and we went to see a doctor who prescribed some drugs for almost two weeks. She now has problems because we were later told that the medicine she had been given was wrong and there is nothing I can do about it. We now have this case that has been picked by the Committee. Let us accept the Report of the Committee and move on because we have many such doctors from India and South Africa who are coming here while they have failed in their countries. I know of a case of a young man who had a toothache and they removed four of his teeth when they were supposed to remove only one. They wanted to put artificial ones which did not work. So, the boy has a problem. This is one case that we should deal with because once you are not diagnosed, it can lead to death. You may have seemed okay, but it would be said that it was bad luck. Why can we not stop such kind of things?

I support the Report of the Committee. Let us go by the reports other than trying to juggle around to see what can be done. I talked to the Member, who I know is a professional, and he also has some doubts. So, who am I to oppose the Report?

I support it.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Well said. We do not have the Mover here to reply. So, we are going to defer calling on him to reply to such a time as the HBC will bring this business back to the House.

We, therefore, move to the next Order.

REPORT ON INQUIRY INTO THE KENYA-SOMALIA BORDER SECURITISATION PROJECT

THAT, this House adopts the Report of the Departmental Committee on Defence and Foreign Relations on the Inquiry into the Kenya-Somalia Border Securitization Project, laid on the Table of the House on Tuesday, November 20, 2018.

(Hon. Major (Rtd.) Bashir S. Abdullaih on 12.3.2019)

(Resumption of Debate interrupted on 12.3.2019)

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): We had a total of 11 Members who had contributed. Again, Hon. Members who wish to contribute should press the intervention button. I can see Hon. Amin Kassim, Member for Wajir East on the list.

Hon. Rashid Kassim (Wajir East, WDM-K) Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity to move an amendment to the Motion.

Hon. Temporary Deputy Speaker, I beg to move that the Motion be amended by inserting the following expression...

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Kassim, I see that you contributed to the Motion yesterday.

Hon. Rashid Kassim (Wajir East, WDM-K) I am moving an amendment on the same and it is clear.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): You have no chance, Hon. Member.

Hon. Rashid Kassim (Wajir East, WDM-K) Why?

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): You can only contribute to the amendment.

Hon. Rashid Kassim (Wajir East, WDM-K) The amendment has been approved by the Speaker and that is within the rules of the House.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Kassim, you can only contribute to the amendment, but you cannot move it because you already spoke to the Motion.

Hon. Rashid Kassim (Wajir East, WDM-K) Which Standing Order provides for that so that I can be enlightened? It is quite clear that this is an on-going process and we have made our reservations on it to an extent that we requested for an amendment on the Report.

Hon. Temporary Deputy Speaker, I want to make a serious observation on the recommendations made by the Committee regarding the Government of Kenya stopping the construction of the Kenya border wall and funds meant for the wall be utilised in...

Hon. Katoo ole Metito (Kajiado South, JP): On a point of order, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Katoo. Order, Hon. Kassim, Hon. Katoo is on the Floor. So, please, be seated until Hon. Katoo is through with prosecuting his point of order.

Hon. Katoo ole Metito (Kajiado South, JP): It is good for Members to acquaint themselves with the Standing Orders of the House. Once a Member has contributed on a Motion, the Member cannot move any amendment to it. The amendment was approved by the Hon. Speaker because he was not aware that the owner of the amendment had already contributed on the Motion. Therefore, the net effect of that amendment is that it is dead on arrival. I also tried to move an amendment, but being a seasoned Member of the House, I understand the rules. That is why I delegated it to my Vice-Chair to move it. Therefore, the amendment by the Member is dead on arrival. That is the rule.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): But again, Hon. Kassim, is your name also Hon. Rashid Amin?

Hon. Rashid Kassim (Wajir East, WDM-K) Yes.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): This might have been the confusion that was occasioned on the Hon. Speaker. We have your names as Amin Kassim as having contributed, but the approved proposed amendment is by Rashid Amin, who is the same person. So, you cannot do it. Therefore, it is dead on arrival. Hon. Kassim, there is no shortcut. You can only borrow a leaf from the Chair of the Departmental Committee on Defence and Foreign Relations. You should not do that on your feet right now. You cannot then contribute twice. You cannot move an amendment to a Motion you have already contributed to.

So, I move to the next Member. Member for Mumias East, Hon. Washiali.

Hon. Benjamin Washiali (Mumias East, JP): Thank you, Hon. Temporary Deputy Speaker. What is coming out clearly from the Member who has attempted to move an amendment after he had already debated on the Motion is misleading the House. He cannot purport not to have spoken on the Motion and use a different name to apply for an amendment. I do not know why it is so serious to him that he has to speak. Why can he not transfer whatever amendment he has to a different Member because the Motion is still under debate?

(Hon. Rashid Kassim stood in his place)

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): You are out of order, Hon. Kassim. Be seated. You cannot stand while another Member is on his feet contributing.

(Hon. Rashid Kassim spoke off record)

You are just addressing yourself. You do not have the Floor.

Hon. Benjamin Washiali (Mumias East, JP): Hon. Temporary Deputy Speaker, would I be in order to ask Hon. Kassim to obey the Standing Orders and sit down because his amendment cannot go through? Thank you, Hon. Temporary Deputy Speaker.

(Hon. Rashid Kassim stood in his place and spoke off record)

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): You are out of order, Hon. Kassim. Be seated. Let us have Hon. Tong'i.

You are out of order. You do not even have the Floor, Hon. Kassim.

Hon. Richard Tong'i (Nyaribari Chache, JP): Hon. Temporary Deputy Speaker, I am moving an amendment as follows:

THAT, the Motion be amended-

(i) by deleting the word "adopts" appearing immediately after the expression "that this House" and substituting thereof with the word "notes".

(ii) by deleting the word "inquiry into" after the words "foreign relations".

Hon. Omar Mohamed (Mandera East, EFP): On a point of order, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): What is out of order, Hon. Member?

Hon. Omar Mohamed (Mandera East, EFP): Hon. Temporary Deputy Speaker, Under Standing Order 35(1), there is no quorum.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Is that Hon. Hassan Maalim?

Hon. Omar Mohamed (Mandera East, EFP): Yes. Under Standing No.35(1), there is no quorum for the business of the House.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Order, Members! I order that the Quorum Bell be rung for five minutes.

(Quorum Bell was rung)

ADJOURNMENT

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Members, the time being 7.00 p.m., this House stands adjourned until Thursday, 14th March 2019 at 2.30 p.m.

The House rose at 7.00 p.m.