

PARLIAMENT OF KENYA

THE NATIONAL ASSEMBLY

THE HANSARD

Thursday, 20th February 2020

The House met at 2.30 p.m.

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

PRAYERS

COMMUNICATION FROM THE CHAIR

SUBMISSION OF FINANCIAL STATEMENTS AND ANNUAL REPORTS OF PUBLIC ENTITIES

Hon. Speaker: Order Members! Hon. Members, I wish to inform you that my office is in receipt of a letter dated 24th December 2019, from the Cabinet Secretary (CS) of the National Treasury and Planning regarding the statutory requirement for the submission of the financial statements and annual reports of all public entities within six months after the end of each financial year.

In his letter, the CS wishes to bring to the attention of the House, the provisions of Article 229 of the Constitution that requires the Auditor-General to audit and report to Parliament the financial statements of all public entities within six months after the end of each financial year. Given that the Office of the Auditor-General is currently vacant and the process of appointment is ongoing, the National Treasury is, therefore, seeking extension of the time limit for submission of the audited financial statements for the 2018/2019 Financial Year of public entities until such a time as the Auditor-General is appointed.

Section 81 of the Public Finance Management Act, 2012, requires the accounting officer of a national Government entity to, not later than three months after the end of each financial year, submit the financial statements to the Auditor-General, amongst other constitutional offices, and publish the said financial statements. In the case of a State corporation, the accounting officer is required to submit the corporation's financial statements to the CS responsible for matters relating to that corporation who should, upon approving it, submit a copy to the Auditor-General.

As you are aware, the position of the Auditor-General is currently vacant with the term of the former Auditor-General having come to an end on 22nd August 2019. Given the foregoing fact, the CS is requesting the National Assembly to extend the time limit for submission of audited financial statements by public entities until such a time the Auditor-General shall be appointed pursuant to the provisions of Section 90 of the Public Finance Management Act, 2012 which states as follows:

“Any House of Parliament may by resolution extend the time limit other than the time limit set in the Constitution for submitting a statement or other document required to be submitted to wit under this Act.”

Hon. Members, this is the second time that a similar request has been made with the first one being the request for extension of the time limit for the Central Bank of Kenya (CBK) to submit and publish certified financial statements for the 2018/2019 Financial Year - a request made and approved during the Third Session of the current Parliament.

In view of the foregoing, I refer the request to the Public Investments Committee, the Public Accounts Committee and the Special Funds Account Committee for joint consideration with the Public Investments Committee, which examines the highest number of audited reports and accounts of public entities, being the lead committee. The referral informed by the fact that financial statements in reference relate to accounts of the national Government, State corporations and Special Funds whose examinations fall within the mandate of these committees.

The committees should expeditiously consider this matter jointly and submit their report to the House by 11th March 2020 to enable the House to consider the said request by the CS for the National Treasury and Planning. In their report, the joint committees should apprise the House on the progress of the ongoing process of the appointment of the Auditor-General among other related matters that the committees may desire to consider.

There will be another Communication that will come later. Proceed.

PAPERS LAID

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

Report of the Public Inquiry on Insecurity and its Impact on the Enjoyment of Human Rights in the coastal region of Kenya from the Kenya National Commission on Human Rights (KNCHR).

Hon. Speaker: Very well. Next Order.

NOTICES OF MOTIONS

Hon. Speaker: Let us have Hon. Kathuri Murungi.

ADOPTION OF REPORT ON AUDITED FINANCIAL STATEMENTS OF COMMODITIES FUND

Hon. Mark Lomunokol (Kacheliba, PDR): Thank you, Hon. Speaker. On behalf of the Chairman, I beg to give Notice of the following Motion:

THAT, the House adopts the Report of the Special Funds Account Committee on its consideration of audited financial statements of the Commodities Fund for the year ended 30th June 2016 and 30th June 2017, laid on the Table of the House on Tuesday, 29th October 2019.

Hon. Speaker: Very well. Next is by Hon. Kareke Mbiuki.

Hon. Kareke Mbiuki (Maara, JP): Hon. Speaker, I beg to give notices of the following Motions:

ADOPTION OF REPORT ON INQUIRY INTO STATUS OF DAMS IN KENYA

THAT, this House adopts the Report of the Departmental Committee on Environment and Natural Resources on an inquiry into the status of dams in Kenya, laid on the Table of the House on Thursday, 17th October 2019.

ADOPTION OF REPORT ON INQUIRY INTO DEATH OF BLACK RHINOS IN
TSAVO EAST NATIONAL PARK SANCTUARY

THAT, this House adopts the Report of the Departmental Committee on Environment and Natural Resources on its inquiry into the death of 11 black rhinos after their translocation to the Tsavo East National Park Sanctuary, laid on the Table of the House on Thursday, 19th September 2019.

ADOPTION OF REPORT ON INQUIRY INTO ENCROACHMENT OF
RIPARIAN AREAS IN KENYA

THAT, this House adopts the Report of the Departmental Committee on Environment and Natural Resources into the encroachment of riparian areas in Kenya, laid on the Table of the House on Thursday, 19th September 2019.

Hon. Speaker: Very well. Next Order.

ORDINARY QUESTIONS*Question No.011/2020*

Hon. Speaker: Hon. Ichung'wah, you made a request that your Question be deferred.

Hon. Kimani Ichung'wah (Kikuyu, JP): Thank you, Hon. Speaker. There is a Question listed on the Order Paper, but it is not properly framed. I had sought your indulgence to ask that Question next week, with your permission.

Hon. Speaker: That was communicated and I acceded to your request. The Question will be placed on the Order Paper next week.

(Question deferred)

The next Question is by the Member for Lamu County, Captain Ruweida.

Question No.012/2020

DEVELOPMENT OF AN AIR STRIP IN LAMU COUNTY

Hon. (Ms.) Ruweida Obo (Lamu CWR, JP): Thank you, Hon. Speaker. I would like to ask Question No.012/2020 to the Cabinet Secretary for Transport, Infrastructure, Housing and Urban Development:

(i) What plans has the Ministry put in place to develop an airstrip on Pate Island in Lamu County to serve the over 20,000 residents in cases of emergencies as well as security agencies?

(ii) What measures has the Ministry put in place to ensure that Manda Airport runway lights are installed to make it operational at night?

Hon. Speaker: The Question is to be responded to before the Departmental Committee on Transport, Public Works, Housing and Urban Development. The third Question is by the Member for Baringo Central, Joshua Kandie.

Question No.013/2020

CRITERIA OF PROMOTION OF TEACHERS IN THE COUNTRY

Hon. Joshua Kandie (Baringo Central, MCCP): Thank you, Hon. Speaker. I beg to ask Question No.013/2020 to the Teachers Service Commission (TSC):

(i) Could the Teachers Service Commission explain the criteria used to promote 3,400 head teachers in the entire country in 2019?

(ii) Could the Commission also state the number of teachers who were promoted in Baringo Central Sub-County during the same period?

(iii) What measures has the Commission put in place to ensure a fair and transparent process of promotion of teachers in the country?

(iv) What criterion was used to distribute the promoted head teachers to schools countrywide?

Hon. Speaker: The Question is for written reply. So, it should be forwarded to the TSC that should, within not less than two weeks, provide the written answer. The Clerk's Office should facilitate that.

Next in that Order is the status of Questions. Hon. Wamunyinyi wants to make some inquiries and update the House.

Hon. Wafula Wamunyinyi (Kanduyi, FORD-K): Thank you, Hon. Speaker. Yesterday, I requested the Clerk's Office to provide all the information relating to Questions. I have received the same though there seems to be some discrepancy between what I have and what the Leader of the Majority Party has. I have requested to be allowed a little more time until next week then we bring a comprehensive report.

Hon. Speaker: Did you say that you were given the same reports?

Hon. Wafula Wamunyinyi (Kanduyi, FORD-K): No, I received a slightly different report with a higher number of Questions, but not the same as the Leader of the Majority Party. I have requested to go deeper to the root of the matter and then we can present a comprehensive report to the House next week, possibly on Wednesday or Thursday.

Hon. Speaker: The Leader of the Majority Party spoke of 122. What you have received is 104.

Hon. Wafula Wamunyinyi (Kanduyi, FORD-K): It has gone up to 104. I have not reached where the Leader of the Majority Party is. Allow me to bring a comprehensive report next week.

Hon. Speaker: Very well. Can we say Tuesday or Wednesday?

Hon. Wafula Wamunyinyi (Kanduyi, FORD-K): Wednesday or Thursday, Hon. Speaker.

Hon. Speaker: Wednesday.

Hon. Wafula Wamunyinyi (Kanduyi, FORD-K): Thank you, Hon. Speaker.

Hon. Speaker: Hon. Members, before we proceed, allow me to recognise the following students and pupils who are in the Public Gallery. They are from Yathene Boys High School, Tigania West Constituency, Meru County and Kigio Primary School, Gatanga Constituency, Murang'a County. They are all welcome to observe the proceedings in the House this afternoon.

Let us have the Chair of the Departmental Committee on Finance and National Planning. I am told you want to give an update. Hon. Limo, you are to give an update.

Hon. Joseph Limo (Kipkelion East, JP): Hon. Speaker, pursuant to Standing Order No.42 (f), I wish to communicate to this House that the Departmental Committee on Finance and National Planning received a total of 23 Questions for consideration during the Third Session. The status of the Questions is as follows.

Out of the 23 Questions committed to the Committee, 15 were satisfactorily responded to before the Committee while written responses were provided for five Questions. In addition, one Question was dropped due to an unavailability of the Member who asked the Question while two were not responded to. We have recommended that the two Questions be taken back to the Member concerned to consider if they are still relevant and bring them back, so that we can consider them.

Otherwise, I wish to thank the Members of the Committee which has been very active in bringing several Bills to the House. Despite the fact that they were really fighting for time, they were able to give time to the Questions. I assure the House that this Committee will continue to do its work in a very organised and focused manner to ensure that the people of this country get value for money.

Hon. Speaker: Very well. You should table that document, so that it forms part of the record. I am also informed that the Chair of the Departmental Committee on Sports, Tourism and Culture, Hon. Munyaka, has an update.

Hon. (Dr.) Victor Munyaka (Machakos Town, JP): Thank you very much, Hon. Speaker. Pursuant to the provisions of Standing Order No.42 (f), I wish to report as follows.

In the Third Session, the Departmental Committee on Sports, Tourism and Culture received three Questions. The first Question was asked by Hon. (Dr.) James Kipkosgei Murgor concerning Kamarin Stadium and the state of development of other stadia.

I am happy to report that we invited the Cabinet Secretary, Ministry of Sports, Culture and Heritage and we got a satisfactory answer, especially on the progress and reasons why the stadia had stalled. The Ministry was waiting for more funds to complete the stadia.

We got two more Questions from Hon. Prof. Jacqueline Oduol, which were directed to the Department on Culture and Heritage, all of which were answered to our satisfaction. I would, therefore, wish to table our report to these responses.

Thank you, Hon. Speaker.

(Hon. (Dr.) Victor Munyaka laid the document on the Table)

Hon. Speaker: Hon. Kareke Mbiuki, Chair of the Departmental Committee on Environment and Natural Resources.

Hon. Kareke Mbiuki (Maara, JP): Thank you, Hon. Speaker. During the Third Session, the Departmental Committee of Environment and Natural Resources received 34 Questions for consideration pursuant to Standing Order 42(a). The Committee received satisfactory responses

to 26 Questions from the various CSs in the ministries under its purview. Seven Questions were deferred due to unavailability of the relevant CSs to address them. One Question, which was touching on irrigation was referred to the Departmental Committee of Agriculture and Livestock.

Hon. Speaker, allow me to note that as the Departmental Committee on Environment and Natural Resources, we observed that issues of human-wildlife conflict raised many Questions due to its impact on the ground. During our interaction with the Ministry of Tourism and Wildlife, it was agreed that in order to fast-track the issues of compensation to human-wildlife conflict victims, upon scrutiny by the relevant compensation committee, the Ministry will adapt 30:30:40 ratio to reach as many affected people as possible.

Additionally, Hon. Speaker, the Committee experienced delays in responding to some Questions due to the unavailability of the CSs to address them. However, upon your communication on allowing the Chief Administrative Secretaries (CASs) or Principal Secretaries (PSs) to present signed responses by the CSs to committees, it greatly improved the turnaround time for responding to the Questions. The Committee further noted that Questions present opportunities for resolving issues affecting Kenyans in a faster way. There is, therefore, need to encourage the Members to seek redress through this medium in the Fourth Session.

Thank you, Hon. Speaker. I wish to table the report.

(Hon. Kareke Mbiuki laid the document on the Table)

Hon. Speaker: We are taking note of the various Chairs who have given progress reports. So, those who have not given progress reports of the number of Questions that were submitted and those that got inadequate answers, prepare to update the House next week.

Within the same segment, Hon. (Dr.) Tecla Tum, Member for Nandi County.

STATUS OF KENYAN CITIZENS IN WUHAN CITY, CHINA

Hon. (Dr.) Tecla Tum (Nandi (CWR), JP): Hon. Speaker, I beg to ask the Cabinet Secretary in the Ministry of Foreign Affairs and International Trade the following Question:

(i) Is the CS aware that more than 90 Kenyan students are currently stranded in Wuhan City, China, where authorities have confirmed that there is an emerging and rapidly evolving outbreak of Corona Virus, known as COVID-19? Tens of thousands of people have been infected, with the death toll passing over 1,000 in China.

(ii) Is the CS aware that the students are panic-stricken as a majority of them are facing mental breakdowns due to the escalating situation? The students claim that since the city is under lockdown, the availability of basic supplies have drastically reduced and are rare to find. A special case in point are two pregnant women from Kenya.

(iii) Could the CS explain whether the Government has made arrangements to ensure that the said students are evacuated from Wuhan City, China, especially considering that the students have stated that they are willing to undergo the 14 days of strict quarantine? Other Governments have been busy evacuating their citizens. Could the CS confirm when they will proceed to evacuate the stranded students in the Wuhan City, since the situation is getting unbearable?

Thank you, Hon. Speaker.

Hon. Speaker: Sorry. Which CS are you addressing?

Hon. (Dr.) Tecla Tum (Nandi CWR, JP): The CS, Ministry of Foreign Affairs and International Trade.

Hon. Speaker: Very well. Who is the Chairman of the Departmental Committee on Defence and Foreign Relations? Is it Hon. Katoo ole Metito? They are in Mombasa with the Committee.

I had also received a similar request from the Member for Molo, Hon. Kuria Kimani. Is it the same subject? How is yours?

STATUS OF EVACUATION PLANS FOR
KENYAN CITIZENS IN WUHAN CITY

Hon. Kuria Kimani (Molo, JP): Thank you, Hon. Speaker. I rise pursuant to Standing Order 44(2)(c). I wish to request for a statement from the Chairman of the Departmental Committee on Defence and Foreign Affairs regarding the safety of Kenyans living, working, and studying in Wuhan City, Hubei Province, Peoples Republic of China affected by the Corona Virus.

Hon. Speaker, it is the constitutional duty of every Government to protect her citizens within the country and abroad at whatever cost. This House has continuously apportioned money to our foreign missions to enable them to handle the welfare of our citizens living in other parts of the world. While we truly empathise and stand in solidarity with our friendly nation, the Peoples Republic of China, with 1,092 fatal cases and more than 68,000 confirmed infections, it is imperative to note that every single Kenyan life matters. The recent days have seen various countries including the United States of America (USA), Nepal, Israel, Hong Kong, France and Canada evacuate their citizens from the affected hot spots, especially Wuhan City, while Kenyans are locked up in isolation.

Hon. Speaker, it is against this background that I seek a statement from the Chairperson of the Departmental Committee on Defence and Foreign Relations to address the following:

- (i) What is the exact number of Kenyans living, working and studying in Wuhan City?
- (ii) What steps has the Government of Kenya taken to evacuate the said Kenyans in the affected areas, in particular Wuhan City?

It is more or less the same, but worded differently, but it would be good if it is answered at the same time.

Hon. Speaker: Well, both requests will be forwarded to the Committee on Defence and Foreign Relations through the Office of the Leader of Majority Party. It will be communicated.

Next is the Leader of Majority Party.

BUSINESS FOR THE FOURTH SESSION

Hon. Aden Duale (Garissa Township, JP): Hon. Speaker, pursuant to the provisions of Standing Order 44(2)(a), I rise to give the following statements on behalf of the House Business Committee, which met this past Tuesday at the rise of the House to prioritise the business for consideration. It is important for Members to note that this is the first part of the session and it is normally very busy because of the budget cycle, which has already begun. With the departmental committee currently considering the 2020 Budget Policy Statement (BPS), we also expect the Division of Revenue Bill 2020 to be introduced in the National Assembly by 10th March 2020. In

addition, several committees are currently in the process of vetting nominees for a number of public officers. The Budget Estimates for the national Government for the Financial Year 2020/2021 ought to be tabled by 30th April 2020. The Finance Bill 2020/2021 also ought to be tabled and introduced by 30th April 2020 and passed, in addition to the Appropriations Bill, by 30th June 2020. That tells you how busy this first part of the Session is.

On Tuesday next week, we will consider, in the Committee of the whole House, the Representation of Special Interest Groups Laws (Amendment) Bill (National Assembly Bill No.52 of 2019). We shall also continue with the Second Reading of the following Bills:

(i) The County Roads, Walkways and Parking Bays Bill (Senate Bill No.18 of 2018).

(ii) The Preservation of Human Dignity and Enforcement of Economic and Social Rights Bill (Senate Bill No.27 of 2018).

(iii) The Care and Protection of Older Members of the Society Bill (Senate Bill No.17 of 2018).

(iv) The Parliamentary Pensions (Amendment) Bill (No.3) (National Assembly Bill No.57 of 2019).

(v) The Impeachment Procedure Bill (Senate Bill No.15 of 2018).

(vi) The County Outdoor Advertising Control Bill (Senate Bill No.19 of 2018).

Through you, Hon. Speaker, and I am sure my colleagues in the House Business Committee will agree with me, we urge all Chairs of relevant committees to expedite consideration of Bills pending before them and table reports to enable Members to acquaint themselves with the contents of the Bills before the House debates them. The HBC has prioritised the following reports for debate next week:

(i) The Report of the Special Funds Accounts Committee on Audited Financial Statements for Agricultural Settlement Trustee Fund, the Universal Service Fund and the Water Sector Trust Fund.

(ii) The Report of the Departmental Committee on Agriculture and Livestock on Inquiry into the Challenges facing the Coffee Research Institute.

(iii) The Report of the Departmental Committee on Defence and Foreign Relations on the Agreement between Kenya and Italy on the Luigi-Broglio Malindi Space Centre.

(iv) The Report of the Special Funds Accounts Committee on the Audited Financial Statements for the Uwezo Fund and the Women Enterprise Fund.

(v) The Report of the Departmental Committee on Justice and Legal Affairs on the Annual Reports on the State of the Judiciary.

The HBC will convene on Tuesday, 25th February 2020 at the rise of the House to consider business for the coming week. Now, I have the opportunity to lay this Statement on the Table of the House.

(Hon. Jared Okelo stood along the gangway)

Hon. Speaker: Hon. Members, before we go to the next Order, I had indicated that there was further Communication. Maybe, the Member for Nyando can take his seat because the Communication is long. The elderly who are making their way into the Chamber, take your seats.

COMMUNICATION FROM THE CHAIR

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CONFLICT OF MANDATE BETWEEN DEPARTMENTAL COMMITTEES

Hon. Members, this Communication relates to conflict of mandate between two departmental committees on the subject of irrigation. I wish to report to the House that my office is in receipt of a letter from the Chairperson of the Departmental Committee on Environment and Natural Resources dated February 18th, 2020. In the letter, the Hon. Member for Maara Constituency seeks guidance of the Speaker on the appropriate Committee mandated to consider items relating to “Irrigation” in the Budget Policy Statement for the financial year 2020/2021 in light of the reorganisation of the National Government as outlined by the H. E. the President in Executive Order No. 6 of 2019 and related matters.

Hon. Members, in his letter the Chairperson notes that, as per the provisions of the National Assembly Standing Orders, the Second Schedule lists “irrigation” as a subject falling within the mandate of the Departmental Committee on Agriculture and Livestock. Conversely, as per Executive Order No. 6 of 2019 the State Department of Irrigation was merged with the State Department of Water and Sanitation in the Ministry of Water, Sanitation and Irrigation. Currently, the Standing Orders mandate the Departmental Committee on Environment and Natural Resources to handle all matters relating to the subject of “water resource management”. This, on close inspection, reveals a conflict between the mandates of the two Committees on the subject of “irrigation”. The issues raised by the Hon. Chairperson are very material and merits my considered guidance.

Honourable Members, the immediate question that arise in the prevailing circumstances relates to which Committee, between the Departmental Committee on Environment & Natural Resources and the Departmental Committee on Agriculture & Livestock, ought to exercise the delegated functions of Departmental Committee as contemplated in the Standing Orders in respect of the Irrigation aspects. This includes the exercise of the functions falling under the following provisions of the Standing Orders-

- (a) Standing Order 45 (*vetting of appointments by Committees*)
- (b) Standing Order 114 (*pre-publication security of proposed legislation*)
- (c) Standing Order 127 (*committal of Bills to Committees and public participation*)
- (d) Standing Order 216(5) (*functions of Departmental Committees*)
- (e) Standing Order 227 (*Committal of Petitions*)
- (f) Standing Order 232(5) (*Committal of the Budget Policy Statement to Departmental Committees*); and,
- (g) Standing Order 235(4) (*Presentation of Budget Estimates and Committal to Committees*), amongst others.

Hon. Members, in seeking clarity on this matter, the following further issues arise-

- (a) Is the establishment of Departmental Committees of the House based on the structure of the National Government in terms of Ministries/Departments?
- (b) Since August 2019 was not the first time reorganisation of the Structure of Government took place, what has been the practice of the House with regard to this issue?
- (c) Is there a difference between the August 2019 reorganisation and the previous ones?
- (d) Is it prudent for officials of a State Department under a Ministry whose oversight is assigned to a particular Departmental Committee to also be appearing before another Departmental Committee?
- (e) More so, should the House require a Ministry with one Vote and one Accounting Officer to be splitting its representation and responses regarding the annual Budget related items between the Departmental Committees, merely on account of disparity in the subject

mandates of two or more Committees? What should be the prudent situation in this case and what should follow if the particular Ministry has more than one Vote and more than one Accounting Officer?

Hon. Members, I will attempt to address these questions in a consolidated manner. From the onset, the oversight role of the House over the Executive through Committees must be clear and consistent.

The Standing Orders attempt to instill clarity and consistency by outlining the functions that may be discharged by Departmental Committees in their interaction with the Executive. You will note that the mandate of the Departmental Committees of the House is subject-based and does not necessarily mirror the structure of the Executive and whereas other Parliaments structure their sectoral committees in line with the structure of the Executive, the National Assembly has preferred a subject-based approach for oversight by its Committees. This approach, which is not unique to our Parliament but is replicated in various other jurisdictions, is informed by the fact that the structure of Executive is likely to change from time to time.

The Members who are coming in the Chamber can take their seats. Make your way into the Chamber quickly, please. Some of them were just coming to sign-in and walk out. Majority have just signed-in and walked out.

(Laughter)

If the intention was to appear and sign, then we can proceed with business. Further, as Hon. Members are aware, our current budgeting system is programme-based and budgetary allocations are guided by the nature of the activities performed within a programme. Consequently, basing the mandate of Committees on subject-matter certainly enhances the exercise of oversight by the House and ensures consistency.

Hon. Members, reorganisation of the structure of the Executive should not continuously necessitate a variation of the mandate of the Committees of the House. Indeed, during the 11th Parliament, the International Trade function was moved from the then Ministry of East African Community and Regional Development to the Ministry of Foreign Affairs. Despite the move to the Ministry of Foreign Affairs, the State Department for International Trade was still subject to oversight by the then Departmental Committee on Finance, Planning and Trade and not the Departmental Committee on Defence and Foreign Relations. Similarly, Hon. Members, you will recall that despite the reorganisation of the Ministry of Public Service, Youth and Gender, all matters relating to the Youth and Gender, including the vetting of its Principal Secretary, continue to be considered by the Departmental Committee on Labour and Social Welfare, as opposed to the Departmental Committee on Administration and National Security which exercises oversight over all other affairs of the Ministry.

Hon. Members, The experiences from the 11th Parliament would, ordinarily, apply to any reorganisation of the structure of the Executive. However, the concern raised by the Hon. Chairperson of the Committee on Departmental Committee on Environment and Natural Resources presents a slightly unique scenario.

Members will note that, before the reorganisation of the structure of the Executive in August 2019, the State Department for Irrigation was domiciled in the Ministry of Agriculture, Livestock, Fisheries and Irrigation with its own dedicated Principal Secretary. The Executive Order essentially merged the State Department for Irrigation with the State Department of Water and Sanitation in the new Ministry of Water, Sanitation and Irrigation under one Cabinet

Secretary and, most significantly, one Principal Secretary. This implies that, all accounting matters fall under one accounting officer.

Hon. Members, The question that this scenario poses with regard to oversight is the reporting line for this sole Principal Secretary in the new Ministry which is assigned functions that straddle the mandate of two Departmental Committees. At present, the Ministry of Water, Sanitation and Irrigation is assigned the functions of—

- (1) Water and Sewerage Infrastructure Development
- (2) Water Resource Management
- (3) Water Storage and Flood Control
- (4) Land Reclamation, and
- (5) Water Harvesting for irrigation.

Hon. Members, The Second Schedule to the Standing Orders outlines “Agriculture, livestock, irrigation, fisheries development, production and marketing” as the core mandate of the Agriculture and Livestock Committee. Conversely, the Schedule outlines “Matters relating to climate change, environment management and conservation, forestry, water resource management, wildlife, mining and natural resources, pollution and waste management” as the core mandate of the Environment and Natural Resources Committee.

This effectively makes the Ministry of Water, Sanitation and Irrigation answerable to the two Committees on the subjects of Irrigation, and Water and Sanitation, respectively. Ideally,

Hon. Members, this would not present a conflict of oversight. With two or more Principal Secretaries assigned to designated State Departments, each would report to the relevant Committee charged with its oversight seamlessly. However, with only one Principal Secretary assigned all these functions, a conflict arises as to which Committee he or she would be required to answer to for purposes of efficiency and consistency in oversight.

Hon. Members, A perusal of the Budget Policy Statement for the financial year 2020/2021 reveals that, with regard to the programmes of the Ministry, the programme of Irrigation and Land Reclamation and that of Water Harvesting and Storage are assigned to the Ministry’s single vote. This adds to the conundrum of the manner in which the Principal Secretary, as the Accounting Officer, would be required to make representations on the Ministry’s budget and other oversight matters before the two Committees of the House. Even though a split of the functions may be contemplated, requiring the Principal Secretary to continually “dove-tail” between the two Committees remains an untidy option as it exposes the officer to concurrent summons of the two Committees and may render the particular oversight function of the House to appear vague and inefficient.

Hon. Members, The Standing Orders contemplated a scenario where a conflict of oversight would occur and the need for a process to resolve such conflict. Standing Order 217 establishes the Liaison Committee and mandates it to, and I quote—

“ (f) determine, whenever necessary, the committee or committees to deliberate on any matter; and,

(g) give such advice relating to the work and mandate of select committees as it may consider necessary.”

In the present case, however, the ongoing consideration of the Budget Policy Statement is subject to timelines governed by the Constitution and the Standing Orders. The strict timelines necessitate an urgent resolution of the conflict highlighted by the Committee. It is with this in mind that, Hon. Members, I give the following guidance-

1. THAT, all subjects relating to “Irrigation” in the Budget Policy Statement for the financial year 2020/2021 shall henceforth be considered by the Departmental Committee on Environment and Natural Resources

2. THAT, the Departmental Committee on Environment and Natural Resources is similarly henceforth mandated to also consider all matters relating to the subject of “*irrigation*” in terms of the following provisions of the Standing Orders-

- (a) Standing Order 45 relating to committal of public appointments to Committees;
- (b) Standing Order 114(7) relating to prepublication scrutiny of proposed legislation;
- (c) Standing Order 227 relating to Committal of Bills to Committees and public participation;
- (d) Standing Order 216(5) relating to the general functions of a Departmental Committee in respect of investigations, inquiries and consideration of legislation;
- (e) Standing Order 227 relating to petitions committed to a Departmental Committee;
- (f) Standing Order 232(5) relating to Committal of the Budget Policy Statement to Departmental Committees); and
- (g) Standing Order 235(4) in respect of Presentation of Budget Estimates and Committal to Committees.

3. THAT, this guidance shall subsist so long as no substantive Department is assigned the “Irrigation” function with a separate Accounting Officer and separate votehead. In the event such an assignment is undertaken, it stands without question that the Department and its Accounting Officer would fall under the oversight mandate of the Agriculture and Livestock Committee.

Hon. Members, I have given this guidance noting the unique circumstances currently obtaining in the Ministry of Water, Sanitation and Irrigation which has only one Principal Secretary charged with functions straddling the oversight mandate of two Committees of the House.

The guidance is also premised on the notion that majority of the functions of the Ministry, and indeed, its planned programmes and budget, fall under the oversight mandate of the Committee on Environment and Natural Resources.

Thank you, Hon. Members.

Next Order!

(Applause)

PROCEDURAL MOTION

EXTENSION OF TIME FOR VETTING OF NOMINEES TO OFFICES OF CABINET AND PRINCIPAL SECRETARIES

Yes Hon. Junet, what is your point of order?

Hon. Junet Nuh (Suna East, ODM): Thank you, Hon. Speaker, for giving me this opportunity. There is a matter I want you to look at and maybe give a clarification on, now or later. Last year, around May, the Majority Whip, Hon. Washiali, the Chairman of the Departmental Committee on Finance and National Planning and I, travelled to New York to attend the UN High Level Political Forum. We were there for seven days. We discussed many things in preparation for the United Nations General Assembly (UNGA). We laid the foundation for the UNGA. We are serious people. I can see in the coming month there is another serious

conference coming up, namely, the Conference on the Status of Women (CSW). In the High Level Political Forum Conference we attended, and my colleagues are here to bear me witness, they said that the CSW is not only about women. It is about both genders.

(Applause)

Any delegation that is sent to attend the Conference must consist of both genders, namely, male and female. I came up with a write up that I am going to present to the House. We had a clerk who was taking notes and we will present the report. I was also with Hon. Kiarie and he was taking notes on behalf of Members of Parliament. We will table the report before a decision is made on the delegation that is supposed to go to the UN. This time we want fifty-fifty gender parity.

(Applause)

If ten women Members of Parliament are going, we must also have ten men Members of Parliament going. The male delegation can be led by the Leader of the Minority Party.

I am saying this because we did not know that it is supposed to be that way until we attended the High Level Political Forum. We discussed the matter extensively. We asked if the CSW was about women only and we were informed that it is about women, but it is supposed to be attended by both gender. We have a lot to contribute to the advancement of the women agenda. Women cannot live without men in this world. That is known. So, we have a lot to add to the welfare, wellbeing and advancement of the women agenda in this world. We want to play our important role to advance the agenda of women in this world. We have to be given a chance to play our role.

Hon. Speaker, with your permission, we can table the report. I request you to give a chance to my clerk, Hon. Kiarie, who was taking notes for us, to share with the House exactly what we were told in the High Level Political Forum. The meeting took place in the UN Headquarters. We were not meeting in a hotel. We were meeting inside the UN Headquarters.

Yesterday, I saw a delegation of women Members of Parliament preparing to go to the UN, but leaving me behind. I have to raise the matter here.

(Laughter)

Hon. Speaker, make a ruling that is favourable, so that I can go.

Hon. Speaker: Member for Nandi, Dr. Chebet Tum.

Hon. (Dr.) Tecla Tum (Nandi CWR, JP): Hon. Speaker, I am not of that view because when the Two Thirds Gender Bill was debated in the House, the men in the House refused to support us. So, we are going to discuss women issues and men should not go with us.

(Applause)

Hon. Speaker: Hon. Mbarire wants to say something.

Hon. (Ms.) Cecily Mbarire (Nominated, JP): Hon. Speaker. I agree with Hon. Junet that we should have Members from the opposite gender going to the CSW. But there is a catch and we need to be very honest with our male counterparts. In the 10th Parliament when we moved the

Anti-FGM Bill, we took Hon. Kapondi, from Mt. Elgon, to CSW to give his experience because he moved the Anti-FGM law and to show by example the support men give to women when they are in Parliament. I get concerned that Hon. Junet wants to go to CSW while he is in the frontline saying no to even the Two Thirds Gender Bill. We do not want to just carry a male delegation to the CSW. We want men who support through action the course of women in this country. We have also taken Hon. Kioni because he stands very strongly on matters of women in this House. Show us that you support us and we will carry all of you to New York.

Hon. Speaker: Leader of the Majority Party.

Hon. Aden Duale (Garissa Township, JP): Hon. Speaker, Hon. Cecily Mbarire should withdraw the phrase “show us”. It is not a very good phrase. It is unparliamentary. When you say, “show us”, then the next question is: “How do we show you”?

(Laughter)

From the outset, what Hon. Junet is saying is valid, but we must have a report. The House cannot act without one. Even if the meeting took place at the White House, unless a report is tabled, it would not be valid.

If Hon. Cecily Mbarire feels any Members, starting with Hon. Junet, which I doubt, are opposed to the two thirds gender rule, this is the opportunity to take such Members to New York to CSW and convince them. Do not take those who are already convinced. That means that Hon. Junet should be added to that list because of the two thirds gender rule.

I agree that the CSW is not a gender matter and it is not for women only. It is not a women’s affair. The women of Kenya and of the world require their male colleagues, either in the private sector, legislation and Government, to be convinced. I am sure they are going to discuss matters of women globally. It is better and decent that if there are ten Members of Parliament from the both Houses from Kenya leaving for the Conference, at least, four should be male, so that they can help them both during the discussion and even at other times.

(Loud consultations)

Hon. Speaker, a Muslim woman cannot go to Mecca without her husband, her son or her father. I am not saying that we should go that route. It is good to carry male companions for even security purposes now that we have a disorder in America and President Trump in office. It is good that out of the eight female legislators, we have two men leaders like Hon. Junet, Hon. Washiali and Mzee Angwenyi for advice.

Hon. Speaker, Hon. Junet should know that a Member of Parliament cannot be a clerk.

Hon. Speaker: Hon. Members, do we need to discuss this?

Hon. Jimmy Angwenyi (Kitutu Masaba North, JP): Can I say something, Hon. Speaker?

Hon. Speaker: Hon. Mbadi.

Hon. John Mbadi (Suba South, ODM): Thank you, Hon. Speaker. The issue that Hon. Junet raised is fundamental in the sense that when it comes to discussing gender issues, whether it is for men or women, we need to involve both genders. Even though I did not hear Hon. Cecily Mbarire mention me as one of the people who have been supportive of women issues, because I do, those who are seen not to be very supportive of women issues, like the Member for Budalangi, should be included in such a delegation, so that they can get more orientation and listen more. You convert those who need to be converted. So, I am not looking at those male

Members who are supportive of women alone, but even those who oppose. In fact, one of the reasons the two-thirds gender rule failed is because there are some men who have not come to terms with women leadership. That is why we had a problem here.

If most men understood why there was a need for the two-thirds gender rule, we would not have had issues with it. It is important that our female colleagues support more of these men who are opposed to the two-thirds gender rule and other women issues to be the ones to go for these trips, so that they can get more exposure. A lot of times it is about exposure. There are some people who still look at things from their village perspective.

I remember a friend who one time we were discussing something and the wife was seated there, and he asked her why she was talking after him and contradicting him. I asked why he was responding like that and he said his father could not allow something like that to happen. This person was still in the mind-set of his father, who was very old. We had that conversation 20 years ago and his father had died 15 years before that time. The person still believes that the way the father was reasoning is the way he should reason. Many are in this House. I have listened to Members reason here and you see serious village in them. Even some of us grew up in the villages, but we have allowed the village to come a little out of us so that we can remain a bit civilised, but many of us here have refused to accept that.

I ask Hon. Cecily because she appears to have a lot of power in this thing to make sure that, at least, five Members are male if there are 10 female Members. If they are 15, like I hear...

Hon. (Ms.) Cecily Mbarire (Nominated, JP): We are not 15.

Hon. John Mbadi (Suba South, ODM): At least, carry for me the Member for Budalangi at the bare minimum, so that you can give him some orientation.

Thank you.

Hon. Speaker: There are quite a number of other issues that make this no business. One, Hon. Junet has not even tabled any report. Among other things, he says that the person who was clerking was a Member of the delegation. It now becomes more complicated. When the person who was taking notes was also a Member of the delegation participating... At least, you should have brought a report from there. Let me give general administrative direction on this. This is a conference on the status of women. The direction it has taken in the last few years since we became two Houses is that there are some people who travel to attend that conference from the Senate and there are those who travel from this House. It is a matter that I would not want to be too deeply involved in. I have no role in knowing or even selecting which of the Members travel. We have given that responsibility to the local organisation called the Kenya Women Parliamentary Association (KEWOPA) and the committee that is directly involved in those matters being the Departmental Committee on Labour and Social Welfare. The Departmental Committee on Labour and Social Welfare gives us two names. The only requirement is that they should ensure that as many of them as possible attend because most of them do not seem to understand some of the issues. So they also need a lot of training by their colleagues for experience sharing, so that it is not one person who goes year-in-year-out.

Nominations are through KEWOPA and the Departmental Committee on Labour and Social Welfare. If Hon. Junet is in the Committee of Labour, then the Committee can also nominate him. If his name comes, I have no reason to disallow. The Committee can nominate Hon. Junet. I suspect by now that has already happened. The Committee also decided that they wanted only women Members of Parliament. In the Senate, there is a small off-shoot of KEWOPA called the Kenya Women Senators Association (KEWOSA) and also a Committee on Labour.

Hon. Junet Nuh (Suna East, ODM): We need KEMOPA.

Hon. Speaker: Kenyan Men? I agree with you that the status of women cannot just be a matter for only one gender. The status can be given by Hon. T.J. Kajwang'. He knows the status of women in Kenya. Even Hon. Jimmy Angwenyi knows the status of women in Kenya. Let us not discuss it until a report comes, if it ever comes. Let us go back to business.

PROCEDURAL MOTION

EXTENSION OF VETTING TIME FOR CS/PS NOMINEES

Hon. Aden Duale (Garissa Township, JP): Hon. Speaker, I beg to move the following Motion:

THAT, pursuant to the provisions of Section 13 of the Public Appointments (Parliamentary Approval) Act, 2011 relating to extension of period for consideration of nominees for appointment to a public office, this House resolves to extend the period for consideration of the following nominees submitted by H.E. the President for appointment to the offices of Cabinet and Principal Secretaries by a period of seven (7) days from 25th February, 2020 -

(i) Cabinet Secretaries for the Ministries of Health, Industrialisation, Trade and Enterprise Development; and,

(ii) Principal Secretaries for the State Departments for Trade, Vocational and Technical Training, Public Service, University Education and Research, Transport, and Physical Planning.

Hon. Speaker, the House Business Committee, in its wisdom, in its meeting on 18th February 2020, resolved that this Motion be moved today. As Members are aware, this Message was sent to the House when we were on recess and the Speaker read it when we resumed. The 14-day period under the Act accorded to the House to vet these nominees expire on 25th February 2020 with the committees expected to table their reports before then. That means 25th will be on Tuesday. Notice of Motions must be given. The reports must be tabled. So, the earliest we can debate the reports of the various committees, including the one that the Speaker chairs, will be on Wednesday. The Act says that if we do not vet and approve within 14 days, they are deemed to have been approved. That is why we are asking for seven extra days from 25th, so that we can finish this matter by Wednesday or Thursday next week.

I had an experience over the long holiday with similar committees in the US Congress. We need to bring an amendment to the Public Appointments (Parliamentary Approval) Act and do two things. First, extend the 14 days to a month, so that Parliament can have enough time to vet individuals. Two, remove the story that if the House does not vet nominees by expiry of 14 days, they are deemed to have been approved. That does not augur well in a developed democracy. It beats the whole point of vetting.

If you have to vet and you are told that after 14 days, if you do not complete the vetting process it will be deemed to have been approved, then the whole essence and moral question behind vetting is lost. We now need to bring an amendment to extend the vetting process from 14 days to one month and also remove that "deemed". We can do that through the initiative of a Member of the Departmental Committee on Justice and Legal Affairs or through the Statute Law (Miscellaneous Amendments) Bill.

(Applause)

Hon. Speaker, since my colleagues from the other side are not here, let me ask Hon. Daniel Maanzo... You are not a Member of the House Business Committee.

(Hon. Daniel Maanzo spoke off record)

Hon. Makali Mulu is a Member of the House Business Committee. So, I ask him to second.

Hon. Speaker: Hon. Makali Mulu.

Hon. Makali Mulu (Kitui Central, WDM-K): Thank you, Hon. Speaker. I rise to second the Motion. The Leader of the Majority Party has put it very well. The requirement that you must approve within 14 days actually negates the whole process of vetting. So, since vetting is a requirement, we really need to provide for adequate time so that we are able to do the necessary ground check. We need to do a thorough job as Parliament. I second.

Hon. Speaker: I, therefore, propose the Question.

(Hon. Wilson Sossion walked along the gangway)

Hon. Wilson Sossion, you will ask Hon. T.J. Kajwang' to remind you about the procedure because I think you know it. Even the Member for Kitutu Chache South Constituency.

(Hon. Richard Onyonka walked along the aisle)

Even the Member for Kitutu Chache South Constituency!

(An Hon. Member spoke off record)

Hon. Speaker: Since he is the representative of the House in KEWOPA.

(Laughter)

(Question proposed)

Hon. Members: Put the Question.

Hon. Speaker: Do I put the Question?

Hon. Members: Yes.

(Question put and agreed to)

Hon. Speaker: Next Order!

BILL

Second Reading

THE TEA BILL (SENATE BILL NO.36 OF 2018)

(Hon. Emmanuel Wangwe on 19.2.2020 - Afternoon Session)

(Resumption of Debate interrupted on 19.2.2020 - Afternoon Session)

Hon. Speaker: Hon. Members, for your information, by the time the House rose yesterday, the Member for Gichugu Constituency, Hon. Gichimu Githinji, was contributing and he has a balance of three minutes. So, if Hon. Gichimu Githinji is in the House, he will make good use of his balance of time.

Proceed.

Hon. Gichimu Githinji (Gichugu, JP): Thank you, Hon. Speaker. I rise to further make my contribution in support of the Tea Bill.

Hon. Speaker, the board that is yet to be established by the Tea Bill should look into the following things that will improve the tea subsector:

First, the board should delink production, processing and marketing, so that marketing remains a different entity in the value chain. We have a lot of conflict of interest. Directors who normally oversee the processing are the same people who do marketing. So, when there is a problem, you find that they cannot vindicate themselves.

The other thing that the board needs to look at is to negotiate the power tariffs for the tea factories. Tea factories are industries. We have seen power tariffs being dropped or reduced for other industries. This is a public company and not a private company. Farmers also need to enjoy this power remits and power tariffs reduction.

The board should not entertain what we call “tea hawking” because this will lead to exploitation of the farmers and theft of tea leaves. Another thing that should be looked at is subsidised fertilisers just like it is happening in coffee and maize subsectors.

We also need to look into the taxes and levies that affect the tea industry. Taxes and levies that affect the tea industry are 42 in number. The Kenya Revenue Authority (KRA) is leading with eight taxes and the Agriculture and Food Authority (AFA) with about five levies.

Hon. Speaker, the company secretary of the Kenya Tea Development Agency (KTDA) should also not be the company secretary for the 54 factories that form KTDA. This will avoid conflict of interest. That way, company secretaries for the respective companies can guide the factories themselves.

As I end, I suggest that the directors of the KTDA should also not be directors of the subsidiaries of the KTDA. There is a lot of conflict of interest because they mostly trade with the same company that they represent. I rest my contribution there and I beg to support.

Hon. Speaker: Member for Runyenjes Constituency.

Hon. Eric Njiru (Runyenjes, JP): Thank you, Hon. Speaker, for the opportunity to contribute to this very important Bill.

From the onset, I would like to state that I represent a constituency that has many small-scale tea growers and has two tea factories that are doing very well and produce very good tea for local and international markets.

It is good that I confirm to you that I am also a small-scale tea farmer. The truth of the matter is that most of our farmers do not earn good returns from the so much work that they do.

So, I welcome this idea of establishing the Tea Board of Kenya that will oversee the operations of the tea subsector in our country.

If you talk to the many tea farmers in our country, especially the small-scale farmers who are around 700, they will tell you that there is a problem with the way leaders or directors are elected in our factories. There are many requirements that do not give an opportunity for the best people to be elected to be in charge of the operations of tea production in many factories. For instance, there are requirements which dictate that for you to qualify to be a director, you must have a certain kilogrammes of tea. You will find that some people are not lucky to have huge tracks of land. Therefore, they cannot produce as many kilograms as others. So, having a requirement that for you to stand for elections as the director you must have, for example, 5,000 kgs of tea, will not give everyone an equal chance. That includes those that are able to provide leadership that is so much needed in the tea sector.

As we support the establishment of the Tea Board of Kenya, it is good that we also note that our farmers would like a situation where one man has one vote as opposed to the current situation where some farmers have more stakes in the voting process that is not open. Currently, one farmer has an opportunity to vote in advance if he has more shares. This does not give other farmers an opportunity to vote for the leaders that they want. We would like a situation where one farmer has one vote as opposed to one farmer having many stakes that will generate leaders that are not needed to lead our factories.

I support the idea of establishing the Tea Board of Kenya. The tea farmers are one of the most taxed farmers in the county. We have as many as 36 forms of taxes and other charges that are pushed down to the farmer. The farmer is left without so much income. I support this idea and request that, the board that will be established should look into all these issues on taxes and regulations so that in the end, we can have our small-scale farmers getting more from what they do. The tea crop is not like any other ordinary crop. It takes a long time to mature. It takes up to 15 to 20 years to mature. So, farmers who have made a decision to go into tea farming need to be protected by the Government, so that they do not lose their land by farming a crop that is not giving them good returns.

With those remarks I support.

Thank you.

Hon. Speaker: Member for West Mugirango.

Hon. Vincent Kemosi (West Mugirango, FORD-K): Thank you, Hon Speaker for this opportunity to contribute to the Tea Bill. In Kenya today, tea is managed by the KTDA, which is a private entity that is managing 69 factories in 21 tea growing counties in the Republic of Kenya.

Tea growing is the greatest agricultural practice that earns this country huge sums of money. However, it is a fact that this sector has been mismanaged and farmers are crying. They do not get the correct output that they should get. As years go by, the tea sector is getting worse despite farmers trying to maintain it and increase their acreage of farming.

In the last two or three years, in Nyamira County, which is a tea growing area, more particularly West Mugirango where I come from, farmers were frustrated and most of them uprooted their tea crops. They said that they could do other agricultural activities like planting maize. This was necessitated by the poor earnings they got at the end of the year. They go to their lands to farm, but the money they get at the end of the year is unable to sustain what they have invested in their farms.

I am sure this matter can be resolved if we all put our heads together. I want to thank Senator Cheruiyot, who sponsored this Bill. Looking at it, I am confident that it will address some of the issues or problems that affect the tea sector in Kenya. Going by records, the major problem in the sector is the voting system that is being used in tea factories across the country. I propose that they have a system of one vote, one man, one shilling, against what we have now. For one to qualify to run as a member of a board of a tea factory, they must have a certain number of shares. Most farmers do not have enough land to plant tea to have more shares to run for the position of a member of a board at the factory level. However, they have the capacity to lead. So, if this is changed and the quarter system is avoided, I am sure we will get good leaders who will steer our tea factories ahead.

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

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

Hon. Temporary Deputy Speaker, there is also exploitation by tea brokers in Kenya. If you look at the brokers *vis-a-vis* the farmers, they are different. The brokers are smart and have money despite the fact that they do not go own tea plants. They only rely on what is called “the brokerage services” where they sell tea as middle men. I have looked at the Bill and the proposed Authority is important. The Authority will have various functions, among them to regulate development and promote the tea industry. That is key. It will also have the function of licensing tea dealers and processors. That will now be regulated. I am convinced that once we enact this Bill into law, we will have an Authority to scrutinise and vet people who operate in the tea sector. It will also license tea brokers who are currently not licensed. I hope it will also vet the tea brokers. Most of the problems arise from the tea brokers who market tea and huge sums of money go to them. I want to thank the Member who has brought this Bill and I support it.

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

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Thank you, Hon. Temporary Deputy Speaker, for this opportunity to contribute on this Bill. I must admit I do not come from a tea-growing area, but I know the enactment of this particular Bill will set a precedence that will have to be copied for other similar crops in the country. I would support, obviously, with a bit of care to caution us on some areas here and there. But before we get to that particular point, it is important to appreciate the importance of tea as a foreign exchange earner for this country. We must appreciate, from the onset, that tea is an important employer in this country, dotting all over the country and not restricted to one region alone. We must also admit where we come from, tea is an integral part of our culture. So, obviously anything to do with tea becomes an important aspect of discussion.

However, we must also appreciate that probably we started having trouble concerning tea much earlier. The enactment of the Crops Act (No.16 of 2013) found when we already had problems in the tea sector. Probably the enactment of the Agriculture and Food Authority Act (No.13 of 2013) could have literally magnified the problems that were affecting the tea sector. Nevertheless, there must have been a good reason why they repealed all the Acts, including the Tea Act (Cap.343), to come up with one or two Acts to consolidate all the activities in the agricultural sector. However, it is becoming apparent that AFA was given too much than it can handle. We created a behemoth that cannot manage all the aspects of the agricultural sector. It happened at a time when what we required more was a more focused approach or management

of the agricultural sector instead of creating a giant that did not have the teeth, the strength and the financial and human capacity to manage. We are aware that they created a Tea Directorate, just like they have created other directorates, but it would seem the directorate does not have the capacity and energy or wherewithal to manage the tea sector. On that score, therefore, it is probably important that we reconsider the particular aspects or issues that informed the collapsing of the various agencies to form one in 2013, because from experience, we have done badly. That is the truth of the matter.

As things stand now, wherever you interact with tea-growing areas, they have very many complaints from poor returns, lack of support and general sense of neglect. The Tea Directorate at AFA has not done any service to this country. However, we must appreciate that starting with this particular Bill, we set precedence. We open a Pandora's Box. The various crops under the First Schedule of the Crops Act are going to demand that we have separate Acts of Parliament or a separate legal framework to manage their affairs. As we legislate as Members of Parliament, whether in the National Assembly or in the Senate, we must put that in our minds. Coffee will require a separate Act of Parliament. Cotton, which is now a key anchor to the textile industry for the Big Four Agenda, will also require its own separate Act of Parliament. The question we must ask ourselves is whether the country is ready to go back to pre-2013, where each particular crop had its own development agency, its own board and the rest of the things. That is a question we must ask ourselves. Otherwise, we are entering into uncharted territory where we might have to relook at the agricultural policy as a whole.

I totally agree that KTDA has generally killed the tea sector in this country. One marketing agency cannot have eight or nine subsidiaries that do not seem to be clear in their mandates of helping the common *mwananchi* who is a tea farmer, who depends on the returns from tea to sustain himself or herself. It is, therefore, important that as we make this legislation, we might have to go back and look at Sections 3 and 4 of the AFA Act that lump all the functions of regulating production, processing and marketing in one organ. Looking at the particular Act, I must say it was a positive move, but the Bill as passed in the Senate seems to be fairly shallow. The most disappointing aspect of the Bill is that the farmer, whom we seek to protect, has nothing in this Bill in terms of positive measures to protect his interests. I hope and believe the Committee on Agriculture and Livestock will have a chance to consider this Bill and subject it to public participation, so that we can enrich it considerably. At the end, it is the farmer that we are most interested in. Tea factories have their own agencies, but the farmer has been left at the mercy of the brokers and KTDA. They have nowhere to turn to. We hope the Tea Board that is proposed will be given enough teeth and mandate and adequately resourced in terms of finance, human capacity and political goodwill, to enable it protect the interests of the farmers.

On our own, we are keenly watching the passage of this Bill. Once it is up and running, we, the cotton farmers, will also come and see what we can do, because the Fibre Directorate at AFA has done nothing for us as people who grow cotton, yet we are aware that the Government of Kenya has invested heavily in Rivatex. It is a shame that out of all the materials - and Rivatex currently operates at only 30 per cent of its capacity - only 10 per cent of the raw material is generated within the country. The 90 per cent has to be imported yet we have 24 counties in this country that have the capacity to produce enough cotton to run Rivatex and all other private textile industries. We, therefore, call upon AFA to take their mandate seriously. If they think the organisation is too big, it is important that the leadership of that organisation looks at pragmatic ways of ensuring that they deliver on their mandate.

With those few remarks, I support the Bill. But it requires major review and enrichment to make it useful to the affected persons. Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Oundo, I hear you saying that it is time to unbundle the AFA Act and go back to the individual Acts that governed different crops in this country.

We shall have contribution from Hon. Kimunya Muhinga, Member for Kipipiri.

Hon. Amos Kimunya (Kipipiri, JP): Thank you, Hon. Temporary Deputy Speaker. I hear the Members from areas that have tea as a predominant crop and I sympathise with the issues they have gone through and what the farmers are going through. But when I look at this Bill, I see nothing that will solve those problems. So, allow me to oppose the Bill. I am doing that because we may be using the wrong instrument to solve the problem of the farmer. I hear concerns about the role that KTDA plays in terms of sorting out or messing up with the farmers' issues. But this House cannot legislate against KTDA which is a private company. The most we can do is move the regulatory powers from AFA to an independent regulator, which is exactly what we had before 2012. There was a regulator for every crop and each of those regulators had a board of directors, an institution, a CEO and costs. All those costs were being passed to the farmer through cess, because they had to be maintained. If the cost was not to the farmer, it was to the Kenyan public.

In the wisdom of the then Government, all those were collapsed to create one AFA. In fact, it was even complete with livestock, but livestock was then removed because it was necessary for issues of livestock and crops to be separated. Therefore, if the Agricultural and Tea Department within the AFA has failed to regulate the tea sector, a tea board would carry the same inefficiencies as the department is doing. The regulator is the same; the composition and the members of the board is still the same. It is still the Principal Secretary (PS) for Agriculture who is in the AFA and who will also be in the Tea Board. Therefore, to solve the problem, we need to find a solution outside a Tea Bill. We need to look at a way of regulating and not only for tea, but even all the other crops.

When I listen to my dear friend, Hon. Oundo, he seems to suggest that since cotton is also having problems, then we should have Cotton Board of Kenya; coffee should also have Coffee Board of Kenya; Potatoes Board of Kenya, Cabbage Board of Kenya and Carrot Board of Kenya. We should have a board for every crop that has a problem; avocado board, quail board... We will end up with all those things and it will not end up well for this country. It does not enhance efficiency and actually creates a bloated situation where the only popular person will be the Cabinet Secretary (CS) for Agriculture because he can appoint all his friends into all those boards as it was happening before. And that is how they will all become inefficient.

Therefore, Hon. Temporary Deputy Speaker, when you now look at all these things, I would ask that, perhaps, the Committee on Agriculture and Livestock is not exactly providing the solutions that the farmer wants. We need to get better solutions for how we can enhance the issue of regulation, how KTDA can be brought to account so that it does not exploit farmers and how the carrot brokers can be brought to account to prevent them from exploiting farmers in Kinangop. We have been having the same problem with potatoes being sold in those large sacks.

However, the solution has only been provided by limiting the weight and the packaging, rather than creating a potatoes board. Therefore, I think given the cash and budget constraints we are having, you can even see in this Bill that there is no provision for support by the National Treasury. The Board will have to raise its money from farmers - the same farmers who claim that they have reduced income from the market. If that is the case, are we helping the farmers or

burdening them further by creating a bureaucracy that they will support and it is not guaranteed to do anything better than what is already being done by the department?

Hon. Temporary Deputy Speaker, I just wanted to flush out those issues because yes, we know there is a problem. We know there should be solutions. However, that solution - in my view - may not lie in moving one bureaucracy from a department and elevating it to a full-blown board. You will only multiply the cost by ten-fold and that cost has to be paid for by somebody. Therefore, let us sit down and look for a solution for the farmer and all the farmers across the board, but certainly not by creating another bureaucracy.

I am also worried by the proliferation of those boards - that is if we pass this Bill. It will open a Pandora's box for the agitation of a board for every crop. We will end up exactly where we were before we reformed. So, we cannot be doing reforms one time as a Parliament - which was passed in 2012 in the wisdom of this Parliament- and then all of a sudden, we then re-open and pass a whole new law that creates dysfunctional bodies when circumstances could be handled slightly differently.

Hon. Temporary Deputy Speaker, regardless of whether my views are taken by other Members on this, I also want to bring to the attention of the House to a provision within clause 22 of this Bill. It is something I have never seen in any other Bill. It says that this new Tea Board will prepare some annual estimates in their budget. However, very surprisingly, at clause 22(3), it says that:

“22(3): The annual estimates prepared by the board under subsection (2) shall be submitted to the Cabinet Secretary (CS) for tabling in Parliament.”

When did you ever see a parastatal having their accounts tabled in this House? You can now see the grand thinking of this new Tea Board; it is something at par with the Judiciary, with Parliament and the rest of the bodies so that their accounts will be tabled here - I do not even know. So, it is a poorly drafted Bill. It just cuts and copies what was there before but now, creates some other issues. I believe that the technical staff will help in editing to, at least, remove this provision which does not make any sense to anyone and which even if they are tabled here, what do we do with estimates of a parastatal? It is neither for us to approve nor finance. But it just shows you the thinking behind the drafting; that they were in a rush and some things were not done right. Therefore, I would suggest that Clause 22(3) is removed.

Obviously, Hon. Temporary Deputy Speaker, I sympathise with the farmers and the Members of Parliament in the tea-growing areas. But this problem is not unique to tea. It is unique to every crop in this country. It is the same problems we are having with milk farmers in Nyandarua having to pour their milk and dogs are running away when they see the cows coming in for milking because they know they will be forced to drink the milk. Therefore, it is a wider issue of reforms within the agriculture sector. Let us not do them from a micro-position – that is looking for small solutions surrounding each crop.

Let us look at the bigger picture of how to reform agriculture across Kenya. First of all, let us take note that agriculture is a devolved function and hence, what is each of the governors doing. I know the big entourage is moving around but what are they doing in their specific areas where crops are specific to certain areas to ensure farmers get their fair share of income and a reward for their labour through pricing, better marketing, value addition and all those things? However, creating Tea Board of Kenya will just complicate matters, obviously open up for all the other crops to agitate for the same and we are going to have a conflict with the Council of Governors (COG) and, at the end, the farmers will be no better. In fact, they will be worse off because they will have to pay for all those bodies through cess and all that.

Hon. Temporary Deputy Speaker, I rest my case and urge the Committee on Agriculture and Livestock to guide us on what else we need to do and not certainly creating new bodies.

Thank you.

The Temporary Deputy Speaker (Christopher Omulele): Very well, Hon. Amos Kimunya. Of course, you must be alive to the fact that this House has the mandate to make laws, amend laws, repeal laws and re-look at laws as many times as it desires. Therefore, this is a proposed act that is well within the mandate of this House.

Hon. Maanzo, you have the Floor.

Hon. Daniel Maanzo (Makueni, WDM-K): Thank you Hon. Temporary Deputy Speaker, for giving me an opportunity to comment on this important piece of legislation. I used to be in the Committee on Agriculture and Livestock in the last Parliament and at one time, there was a very big problem between KTDA and tea farmers in Meru and Hon. Kareke Mbiuki, Hon. Kathuri Murungi and the new Governor for Tharaka Nithi, Hon. Muthomi Njuki, took us to that region. We went to meet farmers for three or four days and they were willing to cut down all the tea bushes since they were of no more help to them. Parliament did its best in those circumstances to help the farmers, but the situation has not been solved up to this day.

Hon. Temporary Deputy Speaker, if you look at the proposed Section 31 of the transitional provisions, it is clear and it says:

“31: All rights, obligations and contracts which immediately before the coming into operation of this Act were vested in or imposed on the Agriculture Food Authority with respect to the tea sector shall by virtue of this section, be deemed to be the rights, obligations and contracts of the Authority as the case may be.”

And this particular section and the ones which follow on transition seem to be taking away from AFA, which is an Act of Parliament, which is not going to be repealed by this proposed Bill.

Hon. Temporary Deputy Speaker, this kind of precedence will open a Pandora's Box. Everyone will rush to have their own boards and this will kill the AFA.

We, therefore, need to look at what could be wrong with AFA. Is it overloaded? Is it about cartels or lack of proper supervision? In this Bill, I do not think the farmers' problems have been addressed. For that particular reason, who are we legislating for if we are not sorting out the farmers' problems? On that basis and unless we improve this Act during the Third Reading, this proposed Bill will fail as it does not address the farmer's plight at all. If we are to help the farmer, we need to bring the farmer on board. One way of doing this is by voting; one farmer one vote.

We must come up with a law which deals with agencies. The Kenya Tea Development Agency (KTDA) is already a legal body within the framework of legal provisions of the Company's Act. It still exists and you cannot wind it up unless its membership so decides; it cannot be through legislation.

Therefore, although there is a good move by the great Senator who proposed this law, we still have not solved the problem of the farmer. If we are not legislating for the farmer, we have not done much. For that reason, during the Third Reading, we have to come up with proposals led by the Departmental Committee on Agriculture and Livestock and any other Member from the tea growing area who understands the issues. This is so that we do not pass an Act which goes to the President for assent and comes back here with recommendations and deletions as has happened in the past because it contradicts and contravenes already existing Acts of Parliament.

Certain provisions like the one that has been read by Hon. Kimunya, among others, are contradictory to already existing laws. I am happy the Chair of the Departmental Committee on Agriculture and Livestock is here and I can see a number of Hon. Members. I believe you stand for the farmers and you will do something for the farmers when we come to the Third Reading. While I was in the Committee of Agriculture and Livestock, we visited the tea auctions in Mombasa. There is a lot of activity which involves tea business. We even have tasters, different qualities, prices and the tea is eventually auctioned.

At times, the auctioning process becomes very tricky even for the brokers and the farmers to make money out of tea, which is a very expensive crop to manage in terms of taking care of it to get the desired results. There are even labour issues involving tea and mechanisation issues. It means the moment we begin dealing with tea, let us deal with it in totality. Let us find out where the AFA Act has failed so that it can be amended and rectified. If not so, let us find out a universal way of sorting out this matter once and for all. However, if you go to the grassroots to the people and farmers, the story is very different from what this Tea Bill is proposing to cure. One reason we legislate is to deal with the mischief and cure the problem through that legislation for the people. If as a House we are not meeting that standard, we will be failing in our duty. However, if we could have more time and since it is the Hon. Members who will vote, they can improve on the Bill and bring more amendments.

In other provisions, we are creating a board, a new authority which will definitely need in its initial stages, a budget for the main budgetary provisions. It means at some point farmers will have to raise money for this board. In my opinion, we are now going back to what we were trying to avoid when AFA was created.

During that time, this House, and the Departmental Committee on Agriculture and Livestock in which I was a member was pushed by the Executive because a problem needed to be sorted out; part of which was to save - through reduced boards and a centralised system. I have had an opportunity to interact with AFA officials currently while dealing with coffee. They have a burden even by the coffee crop alone! When it comes to sugar and other crops, there is a serious challenge. So, we have not yet even scratched the surface of dealing with the crops in this country. I oppose this Bill as presented, unless we improve it in the Third Reading, put our minds together and come up with a better Bill.

I thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Maanzo, yesterday, I heard a Member say after the Session that, AFA means “mkulima afa”. The meaning of AFA is to kill/frustrate the farmers!

(Laughter)

Let us have Hon. Paul Mwirigi. You now have an opportunity.

Hon. John Paul Mwirigi (Igembe South, Independent): Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity to put my independent voice to this Bill.

First, I support this Bill. The Tea Board will assist tea farmers. I disagree with the issue of having all boards brought together to make AFA. AFA is not that sensitive to matters tea because they are over-burdened and dealing with many crops is not manageable.

However, this board will help channel farmers challenges. Most of my constituents are tea farmers. Last year, the bonus was poor. All farmers were crying because of the poor quality of the subsidised fertiliser which they normally receive.

Comparing the input with the output, the farmer has been operating at a loss. So, it is high time we strengthened this board which is being created so that it can have power. That is something that is currently creating the problem. Some of the Hon. Members are feeling that the board will not be powerful enough to counter KTDA.

The KTDA has established its own way of working, which is to the disadvantage of farmers. They should automate the auction done at Mombasa to show the bidder prices. That way, farmers will know the price of their produce. They will know how much a kilogramme of tea will cost in a certain month.

The Government should promote tea consumption because we should not rely on just exporting it. It should find a way of introducing a tea consumption day. An example is Sri Lanka. It produces a lot of tea but consumption is low. So, the Government should set aside a tea day whereby all Kenyans will be encouraged to consume their own produce.

At the same time, the manufacturing costs are high and this greatly disadvantages the farmers. Factories should be allowed to produce their own power and the Government should chip in. That way, the manufacturing costs will be lowered and farmers will enjoy better returns from their tea. Just like the Government gives funds for maize subsidies, it should also improvise a way of providing cash or fertiliser subsidies so that farmers can buy it at a lower price. This will greatly reduce production expenses. A farmer normally pays someone to pluck the tea, the one who takes it to the buying centre and the one who takes it to the factory. So, if the fertiliser is subsidised, the farmer will have more money for upkeep and to educate the children.

Agriculture is the backbone of our economy and it is high time the Government concentrated on it. A tea farmer expects to get bonus at the end of the year. Usually, this is a lot of money to cater for the children. The farmer usually knows the harvest will bring good returns. So, the Government should start an Equalisation Fund for tea farmers to enable them predict the bonus that they will get in a particular year.

Also, marketing of tea is another area where the Government is failing because factories have specific countries where they sell their tea. Some countries are politically unstable and the Government should source for new markets. This way, farmers will have alternative markets to sell their tea. The Government should ensure it eradicates cartels because they are messing up the farmers. If this is done, they will enjoy the earnings from their harvest.

I beg to support.

The Temporary Deputy Speaker (Hon. Christopher Omulele): I would like to urge Members to relax. Everybody who has keyed in will have an opportunity to speak. The next Member on my list is Hon. Kibiwott Melly, the Member for Tinderet.

Hon. Julius Melly (Tinderet, JP): Thank you, Hon. Temporary Deputy Speaker. I rise to support this Bill, but with amendments. This Bill is very timely because tea, just like the whole of the agricultural sector, is facing a lot of problems. In the 1960s, 1970s and 1980s, the tea sub-sector, coffee and sugar included, formed part of what was called the blue-chip industries in this country. It was then that most Kenyan families depended on tea, coffee, sugar-cane and even cotton.

This Bill is very timely because for it to be introduced here, the tea sub-sector as we speak, is facing serious problems. It needs a body to oversee it and ensure it is well regulated. The heydays of tea in the 1960s 1970s and 1980s were as a result of very good management and regulations by the Tea Board of Kenya. We remember those days with a lot of nostalgia. Those were the days when farmers were able to buy brand new cars and many workers in the tea factories would get good salaries. Also, businesses flourished in tea growing areas like Kericho,

Nandi, Limuru and Central Kenya. There were days when the foreign exchange relied very heavily on tea.

We need this Act because without it, the whole sector is being controlled by cartels who are now not taking quality into consideration. Cartels sell the tea and yet, they are not the growers. They even do not mind earning three times from the sale while the farmers earn paltry amounts and remain slaves. The farmer remains with nothing. He cannot even buy food or pay school fees. The farmer is supposed to only give labour with nothing to receive in return. So, when I look at this particular Bill, especially the establishment of the board...

Let us look at AFA. AFA came as a result of an organisational problem which the Ministry of Agriculture wanted to solve. It was on how to manage so many bodies and parastatals within the agricultural sector. However, in trying to solve that by bringing pyrethrum, tea, sugar, cotton and all the others under one body of AFA, they forgot to give the synergy and attention to the respective crops. As we speak today, coffee, tea, cotton and all the others are actually on their death-bed and we are talking about lack of employment in this country. We are talking of the economy not doing well. We are talking of trying to spur up growth and then we are not getting the right thing.

When you look at the tea sub-sector, KTDA grew from an Authority which was actually a government parastatal. It was taken over by farmers and lately, it has been taken over by cartels who will decide the prices of tea at their whims. Tea tasting is never scientific. It is just done by one officer or individual who is just told this tea tastes better and the other one does not taste good. This particular Act tries to make sure that the Kenya Tea Research Foundation is actually entrenched and actually made to work well so that the sector will now allow all the factories and farmers to play a role in marketing, arriving at the prices and even in the auctions. Today, we have tea farms in Nandi, Limuru and other parts of the country, but we do the auction in Mombasa. The farmer does not know the process. The farmer is not even aware how you arrived at that particular price.

If we are going to bring back the Tea Board of Kenya, first of all, it is going to regulate the many dependants on the route between the farm and the market. Secondly, it will also ensure that every factory that is within a growing zone is responsible for its sales. As we speak now, we have the East African auction in Mombasa where even our tea is blended with other foreign tea. When you do so, you even lose the quality because the cartel or the businessman does not care much about what the farmer will get. They care about themselves.

In the 70s and 80s, the founding fathers of the nation really had a foresight. I think we are to blame as leaders and even as the succeeding governments because they deliberately oversaw agriculture going down. I can cite a number of examples. Apart from that, AFA has a sugar directorate which removed sugar levy. It has a directorate which is supposed to oversee the importation of sugar by several sugar mills. They have flooded the market. I come from a sugar growing zone. I have seen very rich farmers and able individuals rendered very poor. It is as a result of the Ministry of Agriculture and the various government agencies failing to take up their role and to ensure that the farmer is protected. This Bill needs to be enhanced. It needs to be enhanced in such a way that when you read it together with the Crops Act, you will realise that each crop is given the necessary attention by the agency or board that oversees it. The various boards that oversee tea and even coffee, maize, wheat and all other crops have actually failed because of poor management. Right now, we are becoming a net importing country; a country that imports almost everything. This country relies a lot on importation. Even clothes are being imported and yet, we can have the cotton ginneries and mills to make clothes for our people.

So, I support the Bill. I am making amendments to it so that we can have a tea sector that is very prosperous and supportive of our citizens and nation, and spurring the growth of our economy. Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Melly, do you remember tea qualities of PF1, PF2, PF3 and PF4? Good. Next is Hon. Ngunjiri, the Member for Nyeri Town.

Hon. Ngunjiri Wambugu (Nyeri Town, JP): Thank you, Hon. Temporary Deputy Speaker. At the outset, I want to say that I have read this Bill and initially, I was torn between whether to support it or not. Before I take my position, I want to explain something.

I am a product of tea. I was educated through tea payments from when I was a very young person. I have picked tea myself. My dad still runs a small tea farm.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Just hold on, Hon. Ngunjiri. Hon. Edith Nyenze, I hope you are not leaving. You are next on my list. Just hold your peace for a few minutes.

Proceed, Hon. Wambugu.

Hon. Ngunjiri Wambugu (Nyeri Town, JP): Thank you, Hon. Temporary Deputy Speaker. I was saying that, as I read through this Bill, there is a thing that confuses me a bit when I think through the various aspects of it. For example, I read about how the board will be formed and how it will function. I keep asking myself who we are making this Tea Bill for. As a country, we get stuck a lot on what the country is doing, how the country is doing and how the sector is doing. I keep asking myself this: “Yes, the sector could be doing well! Yes, we could be the leading exporter of tea. Yes, our tea is one of the best in the world. But how is the farmer doing?” I think when all is said and done in this House, the person we need to be thinking about and worried about the most is the farmer.

I will support this Bill, but I will support it on condition that we make certain amendments to it. For example, when we come to discuss the formation of the board, I would like to see a farmer sit on that board with no other qualification, but the fact that he or she is a tea farmer. That is because if you are going to have a conversation about somebody’s crop, please have him on board. Please have him around the table. I have seen that one of the qualifications for being the chairman is that you have to have a master’s degree. I am asking myself how many tea farmers I know at this moment in time who can qualify for that. Why are we assuming that you need to have a master’s degree to discuss tea issues when some people have been growing this crop for decades and have done a good job? Why are we not thinking about those people? We are talking about liberalising the market but, again, I ask myself: “We are liberalising it for who?” We have talked about brokers and cartels. We keep talking about cartels until somebody once asked who cartels are. Cartels could be people who sit in this House.

Hon. Deputy Speaker, we need to go back to the fundamentals of agriculture. I have heard complaints of people saying: “If we do a Tea Bill, we will have to do a coffee and cotton Bill.” I have many coffee farmers in Nyeri Town. If that is what it is going to take to sort out agriculture and make the farmers make money, then let us do it. If the farmer is making money because we have a tea, cotton or coffee authority, then let us get it done. The reason we are here is to stand for the interests of the farmers. If we are not standing for the interests of the farmer, then we are part of the problem because we will be representing the interests of the brokers in between. Those cartels we talk about, whether the cartel is the exporter, factory, marketer, or processor, are taking money away from the farmer. The worst and unfortunate bit of it is that if the farmer did not exist, none of those people would exist. The only reason they exist is because

somebody made an independent decision. Nobody told my dad to plant tea. He made that decision himself. He looked for the seedling, took care of them, moved them to the farm, and has taken care of them for over 12 years. He has never been supported by the Government. But the minute he harvests his tea, we start telling him what is going to happen to that tea. We tell him he cannot mill or crush his tea. He cannot do things to that tea that he has produced. Then, you compare that farmer with the person who decided to plant maize, cotton, pyrethrum or flowers. Same independent decision. But we, as the Government, are not interfering with his business. Why do we feel this overbearing need to get involved in the lives of certain farmers who farm coffee or tea? Why do we not liberalise the market to the benefit of the farmer? Let us stop talking about a sector. A sector does not exist if the farmer does not exist.

Personally, Hon. Temporary Deputy Speaker, I support the Tea Bill because it is a Tea Bill. We need to change nearly everything else that is inside the Bill. We need to change how to form the Board, functions of the Board and how we incorporate. We need to move away from just thinking about an authority that thinks about how to invest money in itself. We should think about an authority that is thinking about how to put money in the pockets of the farmers in Nyeri or Kericho. If that is not what we are doing, as a House, we are failing the people who elected us here.

Hon. Temporary Deputy Speaker, if we are going to talk about agriculture, the person we need to talk about is the person who wakes up in the morning, goes to the farm and takes care of that farm product. Everybody else depends on that person to make money. Those who sell tea in Mombasa, would not do so if farmers were not growing tea. The reason why I support this Bill is because it gives us an opportunity to have a conversation. Also, we do not have another Bill before us to compare with. So, I support this Bill because it allows us to have a discussion about how we treat tea and coffee farmers. The same problem we are seeing in tea, is the same problem you will find in coffee, milk and horticulture.

Hon. Deputy Speaker, as we think about this Bill, let us create something that we can duplicate. There is no need of doing this thought process every time we have a problem with a farm product. If we can create a Bill that will put money in the hands and pockets of the tea farmers, I suspect the same process, Bill and thinking, is going to put money in the pockets of the sugar, dairy or beef farmers, for example. We need to expand our thinking as a House and not just get caught up in thinking about just this.

The problem I am seeing is that we are thinking about a sector, rather than about a farmer. We are not thinking about the guy who actually makes this sector work. In fact, I have heard many of my colleagues talk about how much money tea makes for the country. It is a good thing. But then I ask myself how much of that money actually comes back to the farmer. How much get stuck in taxes? Do we need to think about the tax regime that we put on tea? Do we need to encourage, as my brother Gitonga has said, people to take a lot more tea in the country?

The countries that have made money on their products do a lot of domestic consumption first. Do we need to stop thinking about producing tea for export and think about producing tea for sale locally? Do we need to allow the farmer to do whatever he wants to do with his tea the same way we need to allow the farmer to do whatever he needs to do with his coffee? I suggested that once but I was told: "No, we are going to reduce the value and the quality of our tea in international market." I tell myself that we sell flowers. The reason the people who sell flowers have to manage the quality of their flowers is based on what the market demands. Why do we not allow the farmer to do the same thing? So, I reluctantly support the Bill with the intention of bringing amendments when it comes to the Committee Stage.

I thank you.

Hon. Deputy Speaker (Hon. Christopher Omulele): Very well spoken, Hon. Ngunjiri Wambugu. I am sure you will be in the forefront of cleaning up this important Bill.

Hon. Edith Nyenze, you now have the opportunity.

Hon. (Ms.) Edith Nyenze (Kitui West, WDM-K): Thank you Hon. Deputy Speaker. Let me also contribute to this Bill from the Senate. I congratulate Sen. Aaron Cheruiyot for coming up with this Bill, which will help us benchmark with other farm products. If we come up with a good Act, then it will help us sort out the many problems that bedevil the agriculture sector, especially our farm produce.

Hon. Deputy Speaker, I come from a region where we do not grow tea, but, with the current climate change, if it continues the same way, with time, we will also be growing tea. That is if what we have is something to go by. We are good consumers of tea. Kenya is the biggest tea exporter in the world due to its premium black variety. Actually, in 2016 alone, we produced and supplied 27 percent of the total global tea sales. This was 15 percent and 8 percent more than the closest rivals who were India and China, respectively. Though China produced ten times as much tea as Kenya's total output and India nearly produces five times more volume than Kenya, we export more.

It is important to note that we do not have as many ranch plantations as there are in those large producers of the commodity. Around 90 percent of the tea produced in the country is produced in small scale farms. Yet, in the recent past, we have seen our farmers complaining because of lack of support from the Government in terms of subsidised fertiliser and marketing. Our farmers are facing numerous challenges, not only concerning the tea product, but also other issues, especially with the brokers. Our farmers take a very long time to produce whatever product they farm such as tea, coffee, maize and flowers. But within a week, brokers make a kill from what the farmers have sweated for, for a very long time. That is the reason why the Government should intervene and help farmers market their produce.

If we are exporting so much compared to other countries, this benefit should also be felt by the farmers instead of letting them suffer so much. The farmers are also highly taxed and yet, the cost of farming, as I have said, is very high. I expect the Government to intervene.

If this Bill becomes an Act of Parliament, it will be a point of reference. It will make the problems that are faced by the farmers to be addressed. This will help our country improve agriculture, since it is one of the key sources of revenue to our economy. The Government should be very much interested in making sure that our farmers are not only happy, but they also get something from their hard work. I support this Bill, provided that the farmers' issues are incorporated. They should also contribute to the Bill because they are the ones who know the problems they face. The establishment of the Tea Board of Kenya is very important. In the past, societies which deal with tea, coffee and other products made those farmers really go down because of poor leadership. As we come up with this Bill, it should be addressed.

Otherwise, I support the Bill, provided that the farmers' issues will be addressed. Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Gachagua Rigathi, Member for Mathira.

Hon. Rigathi Gachagua (Mathira, JP): Thank you, Hon. Temporary Deputy Speaker. I rise to support the Tea Bill 2018. I must say that this Bill could not have come at a better time. You know that when the various Boards that were looking after various crops were collapsed under AFA, there was no proper attention to this sub-sector.

The tea sub-sector is very important for the economy of this country and, more so, to the farmers. I would like to disagree with Hon. Kimunya who argued that tea is just like another crop like potatoes and carrots. They are also very important food crops. However, Hon. Kimunya may not know because he does not have tea in his constituency. However, as a former Minister for Finance, he knows the amount of foreign exchange the tea products earn this country. As such, it requires special attention. When all those products were put under one body, they were not given due attention. The regulatory objective of making sure things are done properly got compromised. The people at the Ministry who have the Tea Directorate do not have the teeth and muscle to rein in the cartels and KTDA. It is, therefore, very prudent that we create the Tea Board of Kenya to specifically deal with tea. One, as a major foreign exchange earner for this country and as a product that will help thousands of farmers across the country.

As a result of that lack of proper regulatory supervision, the cartels in KTDA have taken over the industry. They have overrun and exploited farmers to an extent that those who work so hard and toil everyday have become destitute or paupers in their country. They have become beggars. In this year's bonus, the farmers in Kagochi Tea Factory in my constituency got Kshs28. They are not even able to pay their bills. Ndima Tea Factory got Ksh32 only. This is because the people who have taken over the industry, because of lack of supervision, have become cartels and they are just exploiting farmers. Therefore, this Bill will create the Tea Board of Kenya which will come up with mechanisms and regulations to supervise the processors, dealers, marketers, agencies and brokers. We need a very strong regulator to focus on what needs to be done on a day-to-day basis, so that farmers can have money in their pockets. KTDA has become a rogue organisation because of lack of a supervisor. We need to rein in KTDA which has been involved with cartels and insider trading. Forty per cent of the tea is sold under the table without going through the auction. There is a deal between KTDA and the people who buy tea abroad. Our tea is the best in the world. It gets the best prices in the world and yet, the farmers get nothing because of that collusion. KTDA has left the work of marketing tea for the farmers and gone into other activities that have nothing to do with making sure that the farmers are okay. They have gone into generation of hydro power, insurance, real estate and banking. It is so sad that KTDA gets money from farmers. Instead of giving it to the farmers, they put it in their bank and then they lend it to them with an interest. This is theft and exploitation. These are some of the things that we believe that once we get a strong regulator, they will rein in and make sure that those things are going on properly.

We want agencies like KTDA. This was a public body which was illegally converted to a private company. They have been exploiting the farmer. Under this framework, we want KTDA to become a public body that will be audited by the Auditor-General and will be subjected to the laws that govern other public bodies. As it is now, they just do what they want and the farmer is the loser in all the instances. We have situations that we want the Tea Board of Kenya to look into, in terms of representation of the farmer. Today, we do not have one farmer one vote in KTDA. People are elected by the shares that they have. So, a few farmers who have a lot of tea control the industry to the detriment of the small-scale growers. This is something that we must rein in, so that things can be okay. We want those who have a lot of tea to open their factories. Small scale growers must be allowed to democratically elect people who will represent them in the Board.

We will propose amendments at the Committee of the whole House to really strengthen this Board to make sure that we have the dos and do nots. KTDA will be given the duty of marketing tea and nothing else. At that stage, we will also propose the Tea Board of Kenya to

have a marketing function which is similar to the Kenya Tourist Board where the Government can put in money, so that they can look for the best market possible for tea farmers. As it is, our farmers work so hard every day, but they have nothing to take home. This kills their morale to a point where in my place, farmers are uprooting tea. We told them not to do it now. With this proposed Bill, this House will come up with the necessary legislation to protect them. So, they should not uproot tea. They should be patient. We will put the proper legislative framework into place to protect them and to make sure that they get value for their money.

Once we are through with the Tea Board of Kenya, we also want to revert to the Coffee Board of Kenya. Those two crops are very important. They are major foreign exchange earners. They need to be dealt with exclusively as sub-sectors and given due attention.

With those very many remarks, I beg to support the Bill. Thank you.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Very well spoken, Member for Mathira. We shall have contribution from Hon. Wamuchomba, Member for Kiambu.

Hon. (Ms.) Gathoni Wamuchomba (Kiambu CWR, JP): Thank you very much, Hon. Temporary Deputy Speaker, for giving me this opportunity to contribute. Indeed, I have waited for a while because I felt that I have a duty to add my voice in the making of this Bill, so that our farmers can benefit from very hard-earned money that comes from tea.

This Bill is creating an avenue into the creation of the regulatory Tea Authority of Kenya. The word regulatory makes me feel like we are going around in circles because this is not the first time we are regulating cash crops.

Hon. Temporary Deputy Speaker, allow me to say that the Government is not known to be the best trader. Every cash crop that the Government puts its tentacles in, in the attempt to trade, that crops trade attracts changes and the changes affect the farmers. Look at coffee, pyrethrum, sugar, cotton and all the other cash crops which the Government has attempted to regulate their trade. The Government is not the champion when it comes to trade matters. Therefore, every time we come into this House in attempt to create boards, authorities, taskforces and such like frameworks to help the farmers improve their revenue and earnings, we always get it wrong.

I do not know why we assume that our farmers are illiterate to the extent that they cannot on their own trade in cash crops. Like Hon. Ngunjiri said, those farmers take their own initiative to go to their farms. They plant, they use their knowledge to farm and produce. Why do we assume that they do not have the knowledge to manage their own trade?

Now, when I look at this Bill, I am not so sure whether I want to support or oppose it. This is because, as I read it yesterday and I have tried to assimilate it today, this proposal is not answering questions that I would want answered on behalf of the farmers of Kiambu. Let us ask ourselves what issues make the farmer go home empty handed after rising up at 3 a.m. to go and pick tea in their farms, in sunshine and during rainfall.

In the past, the many authorities and the many boards that have been created have installed a lot of levies to the farmers. The Kenyan farmers, especially those involved in tea farming, have lost money to the Government agencies through marketing licenses, marketing agency fees, corporate taxes, market research levy, county government cess and many other deductions like advances for fertilisers and advances for farming inputs. When the farmers do their mathematics, they end up earning very little.

Therefore, as a lawmaker, we are proposing to have a new regulator away from AFA. Are we removing all those levies that have been deducted from farmers' income in the past? Are we

improving in the support of farming practices - what we call the good agricultural practices? Are we increasing our investments in terms of adding more agricultural extension officers to help farmers improve their quality of tea? What is this that we are doing?

Look at this regulatory tea authority that we are proposing. Are we going to improve efficiencies in the way we have been handling tea from the farm all the way to the factory and to the auction? Are we going to change the way we have been auctioning our tea? Are we going to provide the farmers with more information about how their tea is being auctioned? There are so many questions that I would want to be answered, as we debate this Tea Bill.

Therefore, as we seek to de-paralyse the tea industry in Kenya, I would suggest that as we make this Bill into law, we introduce those many amendments that are going to seek to answer the questions I have raised, on behalf of the farmers. But it is very sad for me to note that most of the farmers, especially those that come from Kiambu in areas like Gatundu, Gatundu North, Lari and Limuru, sometimes go hungry yet they have acres of tea growing in their farmers. This is because when they sell their teas from the buying centers, they wait for months to get their payment.

When they get their payments, they have lost a lot of money from the levies I mentioned. When they decide to take a shortcut and sell their tea at the farm - what we call the farm gate sales - they are seriously harassed by the authorities. Some of them are arrested while others sell their tea at a throw-away price because the brokers take advantage of them. At the end of the day, the farmers are languishing in poverty.

So, in my contribution today, I would suggest that, as we proceed in debating this Bill, we recommend that we have amendments that are going to assist us to answer those questions on behalf of the farmers. Otherwise, I am excited that finally the debate around tea has landed into this Honorable House. I am also excited because I know quite a number of Members, even those that do not come from tea growing areas, feel the pain of the tea farmer in Kenya and would want to see changes in the way we practice the farming, packaging, vending, selling and auctioning of tea in Kenya.

Otherwise, I do support the Bill because I know that, at the end of the day, with the very amendments suggested by Members, we are headed in the right direction.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Very well-spoken Hon. Wamuchomba. It is hoped that your excitement will lead to the production of a good child; a good Tea Bill that will be useful to the tea farmers in this country.

Hon. Mwangi Mburu, you may proceed.

Hon. Jonah Mwangi (Lari, JP): Thank you Hon. Temporary Deputy Speaker, for giving me this opportunity to contribute to this Bill. I am one of those people who come from constituencies which grow quality tea, but we are not earning enough money for many reasons. I do not want to lay all the blame on KTDA because, maybe, we have had a lot of issues with the management. But it is time we think pound-wise, instead of penny-wise. We have been thinking about the small things about KTDA and the small interests they put to run their affairs. Those percentages contribute up-to a maximum of 30 per cent while 70 per cent goes to the farmer.

My main concern and joy, is the creation of this Board. I want this Board to be created because of the roles that it will undertake. The main problem we have in this country is that tea is not a locally consumed product. We only consume 5 per cent of our tea in the country. About 95 per cent of the tea is marketed outside the country. Because 95 per cent of the tea is marketed outside, this is not a personal farmer affair. It should be a serious Government undertaking -

Government to Government marketing. The Kenya Tea Board's main role should be marketing our tea worldwide. In England, the white man says they have English tea while they do not produce tea. They import it from Brooke Bond Kenya, package it nicely and call it English Tea. But it comes from Kenya. When that tea is consumed in Europe, it is not Kenyan but English tea. China is the only country that produces, perhaps, ten times what Kenya produces. They market their tea as Chinese tea and it is now consumed worldwide. They have a benefit of having a very huge market in their country such that the market consumes their tea and fetch money for their farmers.

I want to support this Bill because of the creation of the Board. I insist that I am happy with the nomination of the board members, although I wish that more farmers are nominated to the Board - especially small-scale farmers rather than the plantation farmers. This is because it is the small-scale farmers who have a very huge need to negotiate. Big farmers like Brooke Bond or Finlay can market their tea outside the country as corporates. But small-scale farmers who are taken by KTDA as the umbrella need more representation in the Board.

We are talking about markets that have existed for our tea in Kenya like Pakistan, Egypt and small countries like Lebanon. Those countries are undergoing a financial crisis. Pakistan's currency to the Dollar has depreciated more than 100 per cent while Egypt has local wars. If we continuously depend on those countries, how do we expect to fetch more money for our tea? One role of the Kenya Tea Board is to present financial statements - the one that Hon. Kimunya opposed. Why? As Parliament, we give them a budget for marketing our tea because it should be a Government to Government affair. Then they can go to America and Europe so that we have more markets for our tea rather than the shrinking market we have for our quality tea, which is said to be the best in the world. But we do not have a wide market now. How do we expect to make money? Tea is not like potatoes or tomatoes that we can eat locally. If we have to market locally, I do not think the local companies can take even 10 per cent of our production. Currently, we consume 5 per cent of what we produce locally.

Licensing should be another role for the Board. After the Board was disbanded in 2012, for one to have a licence to be a processor or a dealer, one must have a minimum of 250 hectares to operate like a processor. Today, we have over 52 companies that have been registered as briefcase processors. What is the reason? Those crooks register companies but do not have even one tea tree in their farm. What happens after? Where do they get tea to process? They start the tea hawking problem. They come with pick-ups in my locality and start buying tea from local farmers who are registered under KTDA. Such farmers are not guaranteed a minimum price at the end of the year because they buy at Kshs20 when KTDA gives them an initial of Kshs16. But they will not be assured the bonus of Kshs30 or Kshs40 that KTDA will give them. How do we eliminate such crooks because we will have people stealing our tea from farmers? Tea pickers will pick tea and hide some of it down at the river so that when the pick-ups come, it collects for the black market. That is why I am saying that the Tea Board should be in place so that licensing of tea processors should only be limited to those people who can have their tea. So, even if they buy tea from small-scale farmers, they already have their initial tea to start a factory. Initially, it was 250 hectares. Maybe, they should even increase it up to about 300 hectares so that they can have a minimal show of what they have.

Let me talk about licensing of agents, factories and brokers. It has been in the interest of KTDA only to have their brokers who go and negotiate for the price during the auction. There is no one to regulate the brokers. That is why we should have the Board so that the minimum margins the brokers get are regulated by KTDA. Why? Because they represent a small-scale

farmer who needs to be assured of a minimum fetch of a price and assured of a minimum return for each kilogramme of tea he produces. If the Board is not there, how do you assure the farmer that there is a minimum return for the produce?

There is also the issue of KTDA keeping money for too long, and do not show the interest that the money gains. Sometimes, they explain that money does not come instantly and that they sell to markets that pay after three months or sell on credit and the creditors do not pay on time. We should have a regulator so that he ascertains the credit period that such markets are given. If we sell our tea to England, do we take three months to pay KTDA? Or is it a cartel that will exist and give them more time to gain a bigger margin for the tea? Those are the many questions that this Board should answer. It should come in as soon as possible. When it was in existence, tea farmers were fetching more money. I am a beneficiary of that Board because when it was there and Sicily Kariuki was the CEO of the Board, tea used to fetch a lot of money. The Nyayo Tea Zones were working and Government to Government trading was working. We had a specific budget. Why should we have a budget for the Tourism Board while tea fetches more money than tourism? Why should we have a budget for sports promotion while tea fetches more money than sports? It is the contribution to the country we are looking at. I do not agree with what Hon. Kimunya has said because we look at the contribution. If they want to form a board for potatoes and tomatoes, then they can come together and form a board called Horticultural Produce Board. If it is found that fruits like avocados and macadamia contribute big to the cake of the country, then we can create another board to take care of the fruits so that they can have a board to export to China. But for tea, because of the contribution it makes to the country, the Board should be in place. We should not kill the golden goose that lays the eggs. Tea is the golden goose and we are killing it. We killed coffee because we killed the Coffee Board of Kenya. We are killing tea because we killed the Kenya Tea Board. We are continuously killing the major industries that contribute to this country, leaving it to the hand of few plantations which are brokers and cartels.

With those remarks, I purely support the creation of the Kenya Tea Board. Thank you,

The Temporary Deputy Speaker (Hon. Christopher Omulele): Well spoken, Hon. Mburu. Hon. Okello Odoyo of Nyando has been asking what about the water melons. Nobody seems to be agitating for the formation of a board for water melons.

Hon. Mutai Kiplangat, the Member for Bureti, it is your opportunity now.

Hon. Japheth Mutai (Bureti, JP): Thank you, Hon. Temporary Deputy Speaker.

At the outset, I stand to support the Bill. It has come at the right time against the backdrop of farmers registering the lowest bonus in the last five years. In my constituency, the drop was 45 per cent, something that has been unseen and unheard of in the last five to seven years.

As it is now, tea is not performing well in the current international market as of last month. If nothing is done, what we had last year will be worse to what will happen this year. It was the wrong move to lump tea with other crops under Agriculture and Food Authority (AFA). Tea is the second highest earner of foreign income to this country. The first being foreign remittance by Kenyans living abroad. Second is tea and third is tourism. Yet, it is surprising that tourism is a full-fledged Ministry while tea is a Directorate under AFA. It does not add up! It does not make sense.

The elephant in the house as regards the problems bedeviling the tea industry is KTDA. KTDA has become a problem for tea farmers. First, KTDA is charged with marketing tea yet, the same KTDA is doing injustice when it comes to marketing tea for the farmers. When it

comes to licensing, the same KTDA is mandated to license tea brokers. But there seems to be a conflict of interest because most of the KTDA directors or the board members are the ones who are running those tea brokerage firms. Currently, we have 11 tea brokers in this country. Most of the KTDA senior employees and directors have interest in tea brokerage firms.

Secondly, the same KTDA charges farmers 2.5 per cent as management fee and yet, the same factories have to pay salaries to employees seconded by KTDA to their factories. Why is that the case? That ought to have been covered by the 2.5 per cent management fee being paid. But you will find that the same factory managers and accountants in respective factories across the country are paid by the same farmers. That is piling pressure and unnecessary financial obligations on the farmers. You will find that the same KTDA Company Secretary is the legal officer for respective factories. In whose interest are they catering for? KTDA as an agency is in business. Why would they be in charge of legal functions at the respective factories? This Bill is welcome. The creation of TBK will come and streamline all those problems. Issues of licensing will be taken away from KTDA and will be handled by the same TBK. Issues of marketing will also be taken away from KTDA and will be handled by the said TBK. As it stands now, we have Brand Kenya that is selling Kenya out there. What is wrong with having a body that is mandated to sell our produce of tea outside there or even within the country? KTDA is not doing that the way they are supposed to be doing.

Likewise, you will find that the same KTDA, as it stands now, has invested the proceeds from tea in other businesses which are outside the core business of tea. You will find *Majani* Insurance, Green Feather and Chai Warehouses. In all these, the core business of KTDA, which is tea, has been relegated to the back-seat. Farmers do not know where the profits go to. It is difficult to quantify exactly what each farmer is entitled within the KTDA. Profits made by KTDA do not trickle down to the farmers. The current farmer is left to the mercy of an institution which operates in secrecy under the veil of private company.

*[The Temporary Deputy Speaker
(Hon. Christopher Omulele) left the chair]*

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

It was a massive mistake to allow a private company to run the affairs of tea farmers in this country. The monopoly that KTDA has is unwarranted. You cannot have one entity that has pure monopoly to be processing tea from all the tea factories within the country. In the Bill, the TBK will have powers to license another outfit like KTDA to avoid one entity having monopoly over everything. It is the same monopoly that we need to get rid of. We are getting rid of monopoly in a structured way whereby licensed entities doing business do not do it the way they are currently structured.

It is very unfortunate that some Members in this Parliament feel that a crop like tea should be lumped together with potatoes and be treated in the same way potatoes are treated. This is a crop that is sustaining so many lives and generating a lot of foreign exchange for this country. Yet, you want to take it for granted and treat it the same way you treat other crops. It is known that the current Tea Directorate in AFA has completely failed. That is why farmers are in the predicament they are currently in. Since that has failed, it will be unwise of us to stand here and say we revisit AFA and try to find solutions and yet, we can find solutions through a creation

of a TBK to be managing and regulating the tea industry. Our friends yesterday alluded to the fact that the tea industry has been left to the mercies of many dodgy players within. The issue of research as raised by my colleague here from Ainamoi has been left out. It is unfunded. They lack funds. We are not progressing as an industry because we are not looking for best practices out there so that we can embrace them to ensure tea farmers get maximum returns for their produce. The Tea Research Foundation based in my county of Kericho has been left unfunded. It is nearly becoming moribund. The farmers are not enjoying the services and it is incumbent upon us to rise to the occasion and ensure that we fund Tea Research Foundation so as to ensure that they do research on best practices out there and that tea farmers enjoy the outcome of those institutions.

The current taxation imposed by the Government needs to be regulated. We expect dealers and processors to be exporting tea directly from the factories in future. It attracts a lot of taxation. It attracts VAT if you export tea directly from the factories. But it does not attract the same tax if the tea is sold through warehouses in Mombasa. Those are the areas that we need to address.

Finally, on the qualifications of a CEO. I would like to see the five years extended to 10 years so that we get the right person. It is not good to have a company secretary with seven years' experience and a CEO with five years' experience. Let us have a CEO of TBK having 10 years' experience and the company secretary...

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuyu): You have made your point. Let us have the Member for Nyando, Hon. Okelo.

Hon. Jared Okelo (Nyando, ODM): Hon. Temporary Deputy Speaker, I thank you very much. Whereas we universally appreciate tea as one of the country's best revenue earners besides coffee, sugar, rice, pyrethrum and others, the Bill before us does not capture the main salient issues that afflict tea farming in this country. Therefore, I will be quite apprehensive and slow to adopt this kind of Bill before this House. Before the enactment of AFA Act, there existed the Crops Act. The Crops Act which was abolished had several other crops that formed part of that bigger crop matter. I remember that when the AFA was being created in 2013, certain crops did not form part of it. I am not saying fish is a crop but I remember fish was left out of the AFA Act and that gave birth to the Kenya Fish Marketing Authority (KFMA). Barely five years down the line, we are once again back here agitating for recreation of the Kenya Tea Board that was abolished after 2013.

We are asking ourselves what the salient systemic weaknesses that have been seen in AFA are in order that we come up with this kind of a Bill. If we do so, we shall be, indeed, setting a very wrong precedent for this country. The following day, it will be the farmers of sisal, watermelon, onions, tomatoes and other vegetables and so on agitating for their own boards. Therefore, since we already have an existing body that looks into these issues, including tea – we have the Directorate of Tea within AFA – it is its weaknesses that we need to fortify. Those are the areas where we need to pay much credence and focus on instead of segregating these bodies and stratifying them to become much smaller.

Hon. Temporary Deputy Speaker, I am a bit hesitant to adopt this because I was reading the proposed Section 7 (1) about a chairperson appointed by the President. This is under the purview of farmers. Kenyans are quite apprehensive about anybody that owes its allegiance and becomes an appendage of the presidency.

We have had many organisations die because of the characteristic governance issues around them. We ask ourselves why private entities are doing much better than Government

bodies. Of course, Government bodies are known for three major things: mismanagement, squandering of public resources and they, within a short period of time, ground to a halt. If we have identified the systemic problems bedevilling them, those are the issues we need to address. However, having, again, the presidency having an overall supervisory role about a body that has been set up to assist farmers, according to Kenyans, it will be utterly unacceptable.

We have had many blame games directed towards KTDA. The KTDA is a private entity. Private entities are established with one common goal, which is making profits. They will go into any length to make that profit. Therefore, I do not understand why all the arsenals are directed towards KTDA. The Government can as well be as competitive as KTDA by strengthening the issues around AFA.

We are not going to blame a private entity that has done a lot of good to this country such as employing our youths and the common citizenry, which enable them to provide for their families. So, I do not understand how we are drawing a nexus between KTDA and AFA when it comes to these most important points.

Hon. Temporary Deputy Speaker, Section 13(1) proposes that the Chief Executive Officer (CEO) should be competitively recruited and appointed by the Board on such terms and conditions as the Board shall determine. We are all aware that the Salaries and Remuneration Commission (SRC) was established to look into the general welfare of every Government employee. Therefore, circumventing SRC or straddling their work so that we give that Board the autonomy to determine, does not sit well with our Constitution. That is why I said this is a Bill that has to be relooked into so that we do not commit illegalities even as we come up with ways and means of addressing the farmers' plight.

My proposal, at this point in time is that we step back and fortify the AFA Act, particularly, paying attention to those areas where we have issues. Let us expand participatory role of the farmer in the Tea Directorate because tea has been adequately recognised within the AFA Act. A directorate should be created solely to handle tea matters. That is where we need to pay our attention and not creating additional bodies that have the potential to create discord within the management of the tea industry.

Hon. Temporary Deputy Speaker, in light of the highlights I have given, I am hesitant and hence decline to offer or lend my support to this Bill.

Thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Hassan Hulufu.

Hon. Hassan Hulufu (Isiolo North, KPP): Thank you, Hon. Temporary Deputy Speaker, for the opportunity to contribute to this Bill.

Before I state my position on this particular Bill, I would like to highlight a few things. I appreciate that I do not come from a tea growing area but in terms of per-capita income, the region I come from could be leading in terms of consumption of tea. I also appreciate that tea is a leading foreign exchange earner for our country. Therefore, when tea farmers in our country complain about reducing earnings in terms of the tea bonuses they get, and the representatives of tea growers in this House complain about KTDA, I share their concern.

Hon. Temporary Deputy Speaker, when the various Acts regulating crops in this republic were repealed and consolidated into the Crops Act, there were good reasons. I took my time to go through the Crops Act. I appreciate that tea, as a key crop in this county, requires special attention. If the provisions of the Crops Act as well as those of the AFA Act are implemented well, it could actually provide a solution to the problem facing the tea subsector.

Looking at the proposed Bill, I do not think that without adequate funding, creation of the proposed authority will cure the ills affecting the tea sector at the moment. I have looked at the challenges that other crops are facing and realised that it is very easy to pick out AFA and blame it. However, if you look critically at the problem, it lies in poor funding of the Authority and the directorates which are supposed to address issues related to scheduled crops. Tea is one of the scheduled crops. Actually, it is number two on the list.

The Tea Directorate should be funded well so that it does not abdicate its responsibilities to KTDA because it is supposed to lead in supporting tea farmers in terms of promoting research on tea crop, facilitating market both internally and externally and so on. Much of the problems revolve around marketing, our farmers getting the right prices and also earning the right amount of money for the efforts that they put in. The perspective is failure by the Government to provide adequate funding for AFA and, therefore, by extension, to various directorates which are supposed to regulate the scheduled crops.

Therefore, with those facts, I will be hesitant to support this Bill in its current form. I will support what the earlier speaker said. We only need to look at how we can fortify the AFA Act and the Crops Act. We need to find ways of making the National Treasury appreciate the importance of tea. We could decide to give the Ministry of Agriculture adequate money so that the bulk of it goes towards the promotion of tea, coffee and other important crops. That should be the way to go.

With those few remarks, I do not support the Bill in its current form.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Obara Akinyi.

Hon. (Ms.) Eve Obara (Kabondo Kasipul, ODM): Thank you very much, Hon. Temporary Deputy Speaker for giving me this opportunity to support this Bill. In general, this is a progressive Bill taking into account the importance of the tea subsector in Kenya. The Bill will cure the problems caused by previous legislations on agriculture by providing a clear and specific legislation in respect to the tea subsector. It is instructive to note that the general legislation on agriculture also created problems in other subsectors, for instance, the sugar-cane subsector. The removal of the sugar levy and other related matters have continued to pose problems up to this moment.

As much as I am happy with the composition and the role of the board, I will propose an amendment, at a later stage, to delink the office of the Chief Executive Officer from that of the Corporation Secretary. That is in accordance with the best practice in corporate governance. I think that is an issue that comes out clearly in the *Mwongozo*. I will also propose another amendment to provide for a maximum penalty in accordance with the best practice in legislative drafting.

With those few remarks, I support.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Ndindi Nyoro.

Hon. Ndindi Nyoro (Kiharu, JP): Thank you very much, Hon. Temporary Deputy Speaker for the chance to contribute. I rise to support this Bill. I come from a region where tea is grown and many families educate their children with the proceeds from tea and coffee farming. It has been irresponsible of us as a county to give such a huge role to a private company in the name of KTDA. We left it to KTDA to look after the affairs of our tea farmers. Before I go to the issue on the creation of the Tea Board of Kenya, allow me to pinpoint a few challenges that I have heard farmers state in my interactions with them. I wish to expound on the same in terms of policy and how we can improve the income that directly goes to the pockets of our farmers.

One of the elephants in the room is the marketing of our tea. When I mention tea, it is alongside coffee because I come from a region that grows both the two important crops. We have neglected marketing of our tea. We only market some specific types of tea. That calls for diversification of the tea that we sell out there even as we market it. Majority of people in this country, especially farmers and consumers, are only aware of what we call black tea or *chai*. In Kenya, when tea is mixed with milk, we call it “white tea”, but that is not what it should be referred to. We need to emphasise on diversification of tea. There is orthodox tea which will create another market for our tea, especially in Russia and the former Union of Soviet Socialist Republics (USSR). We should also diversify into green tea. Most of what I am enumerating, especially on green tea does not call for planting of new tea trees, but it calls for value addition in tea processing. The tea that we grow here can produce black tea and green tea. It is a matter of processing and levels of processing.

The KTDA has done a lot of injustice to the Kenyan farmer, especially through its unchecked powers. We have a private entity that has grossly diversified into unrelated businesses thus diverting the attention it should give to marketing and improvement of our tea subsector. It has gone to other unrelated sectors. There are no records of some of the entities that are owned by KTDA to show that their proceeds, profits and income get into the pockets of the farmers. KTDA has an insurance brokerage company, they are in real estate and they are also in financial services. They are all using last year’s financial reports of KTDA. I do not see any link of these subsidiary incomes getting into the pockets of our farmers.

I have listened to many Members speak and I marvel at the ignorance some of them have shown when it comes to the seriousness with which we should take our tea subsector. In yesteryears, one of the mandates of the Central Bank Governor, being the Chair of the Monetary Policy Committee (MPC), was to regulate the strength of our local currency. One of the places he would go to in strengthening our shilling used to be the Kenya Planters Cooperative Union (KPCU), the former marketer of our tea. If anything would go wrong with our tea production and export, it would impact other parameters in terms of the strength of our local currency.

Tea is our number two foreign exchange earner. It has been overtaken by our human capital that is working out there and bringing remittances from abroad. I am not standing here to say that our human capital is doing well; rather I am standing here to say that we have failed to grow our tea subsector and that is why it has moved two number two as a foreign exchange earner in our county. That calls for us to hold hands and see how we can support our tea subsector. One of the areas that we must look at, as we debate this Bill, is that of cash crops. What can we do to increase income from cash crops? I want to talk about two things, that is, the supply chain and the value chain. In many of the consumables, especially food, something called supply chain is very important, because that is what starts from a raw product heading to what we see on the shelves. And I am referencing what Hon. Kimunya was talking about in terms of other important crops like potatoes and other edible crops. But when you talk about cash crops, especially tea and coffee, something else called value chain overtakes supply chain. Value chain does not start from raw materials to shelves. It starts the other way round: from the consumer and coming back to where you can fetch the raw material, or going backwards.

One of the things we must do as a country is to create value for our cash crops. Why do I say so? If I am to talk about tea, Sri Lanka produces 60 per cent of the kind of tea that we produce in this country, but they earn more because of value addition. When you go to coffee, the most expensive coffee in the world is called *Kopi Luwak*, an iodination coffee whose one kilogramme can fetch up to Ksh120,000. I do not want to go into the details of how this *Kopi*

Luwak is produced. It is basically about taste and originality. When you are selling coffee out there, even we as Members of Parliament, there is a hotel you can go to and purchase a cup of coffee at Ksh20 while in another hotel you can purchase an equivalent cup of coffee, or tea for that matter, for over Ksh500. In between, there is nothing we can say about supply chain because those are coffees or teas, so to speak. But in terms of value addition, it is added when it comes to brewing and marketing. How do we market our tea or coffee? This is the reason why our two major cash crops are used to blend other lower qualities out there. Otherwise, we have a great chance of selling our AA coffee, for example, and marketing and selling our highly valued and high-grade tea if we come to a proportion of marketing the two commodities based on originality and in terms of taste. And taste is got from how we brew.

Lastly, as I support this Bill, I have heard other Members argue about AFA. There is no way you can...

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Because of the passion you are exhibiting, Hon. Ndindi, I will add you a minute to wind up.

Hon. Ndindi Nyoro (Kiharu, JP): Thank you very much, Hon. Temporary Deputy Speaker. I have heard other Members talk about AFA. There is no way as a farmer you can expect a dead and buried cow to give you milk, however much you feed it. AFA is a dead cow. The much we can do is to raise up another calf and feed it well to give us the desired results. Therefore, it is timely for us to constitute the Tea Board so that all the areas affecting our farmers can be looked at. I am in the process of drafting the Guaranteed Minimum Returns Bill. I have been given the go ahead by the Speaker—so that we create bare minimum prices for tea, coffee and milk for our farmers so that they can get value for their hard work.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Member for Karachuonyo, Hon. Adipo.

Hon. Adipo Okuome (Karachuonyo, ODM): Thank you, Hon. Temporary Deputy Speaker, for giving me the opportunity to contribute to this Bill that I support. I support the Bill which is going to promote tea farming. But in addition to that, I think we should not restrict ourselves to any particular sector of our agricultural activities.

It is important that we should remember that we have the sugar industry which is almost dying because we are not giving it much attention. Cotton is another very important sector that is dying. We should not allow these important agricultural activities to go down the drain, because this is why we have some problems with our foreign exchange. Cashewnuts and groundnuts also need attention. We need to diversify to cover all these areas because they are important for us.

I remember when I was still a young boy growing up and going to school, cotton was such an important crop that was contributing to our education. Our fees was being paid through cotton farming but now cotton is almost a forgotten issue. Soya bean is another crop for which we need to carry out some research and find out what is happening. Cotton is required in almost every country. If we could concentrate on it, we would be able to increase our income.

Ever since Kenya started its economy, agriculture was known to be the basis of our economy. We were called an agricultural country. Now I do not know whether we are still an agricultural country, because we import almost everything we need—even foodstuffs which are agriculture-based are being imported. So, my appeal is that we should expand and even have one authority that takes care of all agricultural activities, with various departments concentrating on each sector. This is necessary so that we can emphasise agricultural productivity in this country. I even see universities do not take agriculture as anything important. But it is important that

agriculture takes a fairly large percentage of our educational system, right from primary up to university level. If we do this, we will have cash crops to earn us foreign currency; we will also have enough food instead of importing, for example, maize. Why should we be dependent on imports for food as well as industrial materials? It is important we give a lot of weight to our agricultural activities so that Kenya can move from where we are to some place that will be more helpful to us in our economy.

Thank you, Hon. Temporary Deputy Speaker. I do support and emphasise we expand our agricultural activities.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. (Capt.) Ruweida.

Hon. (Ms.) Ruweida Obo (Lamu, JP): Asante, Mhe. Naibu Spika wa Muda kwa kunipatia nafasi ya kuchangia. Mimi naunga mkono hii bodi iweko. Watu labda watashangaa kwa nini nasimama hapa kuchangia mambo ya chai, lakini sisi ni wanyuaji chai Lamu, na wanaopanda ni Wakenya. Tunafaa kuwaunga wenzetu wapate kutengeneza chai nzuri. Sisi watu wa Lamu ndio tunaipika chai kushinda wao wanaoipanda. Na tunaipika vizuri. Kuna hoteli fulani Kenya inajulikana ukienda Lamu uinywe chai yake ni chai spesheli. Ukienda kama Mangroove Lamu uende Mwanaratha, msitoke Lamu bila kununua chai huko. Ni chai tamu. Chai spesheli. Ni chai ya kukumbukwa.

Pia ningependa watakaotekeleza mambo haya wakumbuke pia kuna mimea mingine sehemu zingine. Kwenye ukanda wa Pwani, mumea unaotuletea pesa ni mkorosho. Kwa hivyo mkorosho pia utengenezewe bodi yake. Kuna mkorosho wa kisasa aina ya *grafting*, ambao huzaa korosho nyingi. Tunataka wakulima wapewe mikorosho aina hiyo mingi ili wapate kuwa na korosho nyingi ili Kenya ipate kujitegemea vizuri. Pia, kuna shirika la Kenya National Cereals and Produce Board (KNCPB), ambalo tunalionna linafanya kazi vizuri katika sehemu zingine nchini. Tunataka pia wajue kwamba katika sehemu ya Mpeketoni tunapanda mahindi, na wakulima huvuna magunia ya kilo 90 zaidi ya 40,000. Tunataka shirika la NCPB lije kule lifanye kama linavyofanya kwingineko. Shirika hilo likinunua mahindi hayo litakuwa linawaondolea mzigo wakulima. Wakulima wa mahindi kule Mpeketoni wanalima kwa umaskini; hakuna msada wanaopata kutoka kwa Serikali. Kwa hivyo, shirika la NCPB lije kule ili wakulima wapate moyo wa kufanya bidii zaidi. Wakulima katika sehemu zingine, kama vile Basuba, watapata moyo wa kupanda mahindi kwa wingi ili tujitegemee Lamu. Kule Lamu kuna sehemu ambako wakulima wakipanda mahindi wanapata mazao mazuri. Watu wasifikirie kwamba Lamu ni upande wa samaki pekee, na upande wa mahindi watuwache nyuma.

Pia, kama nilivyotangulia kusema kwamba Lamu watu wanatujua kwa samaki, watu wakizungumzia chai pia sisi tuzungumzie samaki. Upande wetu wa Lamu tunaomba wajitokeze kwa zaidi, wanaohusika waje watusaidie manake watu kule ni watenda kazi, hakuna uvivu. Watu wanajitahidi. Wavuvi wamejitahidi wanawasomesha watoto wao kwa hizo hizo pesa za bahari, pesa za shida. Lakini kuna uvuvi wa kisasa. Serikali ije ipeane vifaa vya kisasa ili wavuvi wapate kwenda kwenye bahari kuu. Kwa saa wanang'ang'ana na bahari ya ndani. Tunaomba wavuvi wasaidiwe na vifaa kama vile vifaa vya GPS na vifaa vya kutafuta samaki, kwa lugha ya kimombo vikijulikana kama *fish finders*. Tunataka wapewe vifaa hivyo ili waweze kuleta samaki wengi. Samaki bado wana soko hadi sasa. Samaki wengine wanatoka China wanaletwa Kenya na sisi tunayo Bahari ya Hindi, ambako tunaweza kutoa samaki mpaka tukauze nje.

Pia, tunataka wavuvi wapewe vifaa mwafaka, sio kutumia tanga tu mtindo wa kizamani. Tunataka wapatiwe mashini ili wapate kwenda mbali zaidi kutafuta samaki wengi zaidi. Na zile sehemu zingine ambazo ziko Lamu, kama sehemu za Wito na Mpeketoni, wao pia wanaweza kufanya ukulima wa samaki. Wajengewe mabirika ya samaki. Na katika sehemu fulani za Bahari

Hindi kunaweza kukatengezwa birika za kisasa zinazofanywa ndani ya bahari ili watu wavue pweza, kaa, majongoo, na kadhalika. Hivi vyote ni vitu ambavyo vinaweza kuusaidia uchumi wa Kenya.

Nitakomea hapo kwa sasa bali tu naomba wakiangalia huku kwingine waangalie Lamu pia. Asante.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Kaptan Ruweida umeweza kuubadilisha Mswada ukawa wa Lamu na samaki ilhali tulikuwa kwenye chai. Lakini naelewa, ni ile hali ya kuwa na moyo wa kuwafanyia watu wako kazi.

Hon. Julius Mawathe.

Hon. Julius Mawathe (Embakasi South, WDM-K): Thank you, Hon. Temporary Deputy Speaker, for giving me an opportunity to contribute to this very important Bill. I rise to support because tea is a very crucial cash crop. It is the second source of foreign exchange for us as a country, only behind the people who reside outside Kenya – the Kenya remittances. As we support this Bill, and having heard you comment on my predecessor or my colleague who just spoke before me, there is also need to talk about diversifying away from tea and coffee to other cash crops. There are other cash crops besides tea that need to be supported. Currently, there are more people consuming avocados on a daily basis compared to people consuming tea. So, there is need for us to look into other angles and options as to how we can support our farmers, especially avocado farmers.

Currently, we even import fruits like pawpaw from our neighbours in Tanzania. We need to find a way to strengthen our cash crops to ensure that we do not end up having to import the likes of pawpaw and oranges from our neighbouring countries. Being a Nairobiian, there is need to support local cattle farmers from Nairobi and even others from my constituency in Embakasi South. We have youth who keep pigs. They are farmers and they also need to be empowered.

With those remarks, I support the Bill.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Sorry, Hon. Ngeno. I took you off erroneously. So, you can have the Floor. I am sorry about that.

Hon. Kipyegon Ngeno (Emurua Dikirr, KANU): Thank you, Hon. Temporary Deputy Speaker. First, I am grateful that this chance has at last come back to me. As you know, I do not come from tea growing areas. Actually, the soil in most parts of Emurua Dikirr cannot support tea growing. Of course, you know that people in most parts of Narok County do not plant tea other than the upper side of the Mau Forest and some parts of Kilgoris. However, people decided to run away from planting tea because of the problems facing people who already had tea bushes. Funny enough, my great-grandfather, Menya ole-Kisiara, was the first Kipsigis resident to sign an agreement with the Europeans, the settlers who came to Kenya. He donated over 10,000 hectares of land for these people to plant tea – the current Kericho Highlands, where they first planted tea in this country. From then onwards, people from the surrounding areas decided to plant trees. Unfortunately, the fact is that most of us, as Africans, do not know how to manage most of the affairs.

The management of tea bushes, including the ones that we planted privately, becomes a big issue. We normally presume that it is an opportunity for us to squander. When I was young, many of my agetates used to travel all the way to Kericho, Sotik and Bomet to pluck tea leaves. It was a good area of employment, just like teaching and other forms of employment in the country. Therefore, many of my friends used to pick tea leaves for payment. However, it eventually died down because nobody would employ them since the prices of tea and other benefits of tea went down tremendously. That led to loss of many opportunities for our people.

That is why I am very enthusiastic about this Bill. It will go a long way in helping resurrect the tea sector, which has been a source of income for our people living in Trans Mara and other parts of Narok. The purpose of this Bill is to resurrect a dead sector.

Hon. Temporary Deputy Speaker, this sector obviously never died naturally but was killed by us. It is unfortunate that we have to do laws every other time. We have laws in this country and I do not think it is laws that we need to resurrect such sectors. We only need to think and act so that we can do things which other people can do without laws. Remember agriculture is the backbone of our economy since time immemorial. It is like we are stuck there. People moved from agrarian systems to industrialisation and then communication. For us, we are still stuck in the agrarian system and it seems we will be stuck there for a long time. Now that we are stuck there, we are only hoping that the laws we are creating today will help manage those particular sectors, especially the tea subsector.

I had relatives in Kericho and I remember visiting them those days. During the time when bonus was being paid, you would not find men in their homes because they would have gone to pick their bonuses in Kericho. They stayed there, drank and spent even a whole week there. That was a time full of merry. In fact, at that time, students would never be found at home for lack of fees because their fathers had money. Nowadays, they are grappling with the same problems we who do not plant tea have. People from Kericho, Bomet and even Kiambu have problems similar to the ones people of Narok, who do not plant tea, have. We are actually running up and down to find ways of survival.

Hon. Temporary Deputy Speaker, those who are going to implement this law will have to take into serious consideration the fact that tea farmers have suffered for a long time. The major issue I have never understood about tea is that people who plant tea never benefit. Those who trade in tea normally benefit more than the people who plant it. I am talking about the people who auction the tea in Mombasa. Why can we not create laws that will ensure that we do value addition? Can we not sell our tea when it is already packaged? If we are going to continue exporting our products, let us do so in the form that does not require value addition. If we do that, we will get prices that will be of great benefit to the farmer. Those are the areas that we need to seriously look at. I hope the proponent of this particular Bill will go deeper and ensure that we build more tea factories.

Hon. Temporary Deputy Speaker, we have so many crops which are facing the same demise that tea has faced. There is coffee, maize and wheat. The cereals subsector is no more and we do not know what will become of us. We have resorted to rearing livestock, but that subsector is also dying. This country needs to ask itself many questions, especially Members. Sometimes we do not need to complain or blame the Executive. It is Members of this House who create laws that regulate the price of maize, tea or livestock. It is Members who pressurise the Executive to implement the laws which we make in this House. We do budget allocations to various departments. We leave this House having done the Budget and then go outside there to blame the Cabinet Secretaries (CSs). So, it is our responsibility to ensure that whenever we are doing budgets here, we put money to resurrect the sectors that will help our farmers earn money. Otherwise, we will keep blaming each other for no apparent reason.

The coconut crop at the Coast has been a very good farm produce, but nobody has assisted farmers to get money out of it. We remember places such as Mwea for rice production but not anymore. Mwea is no longer popular in terms of rice production.

Hon. Temporary Deputy Speaker, as much as we are proposing the creation of a tea board, let us go back and create... I want to challenge the Chair of the Departmental Committee

on Agriculture and Livestock, please let us relook at all the crops which used to give us money. Let us understand that we do not have oil, gold, diamond and other minerals in this country. The only diamond and gold we have in this country is the agricultural products: maize, tea, coffee, sugar-cane, coconut and rice. So, let us relook at those particular areas so that when we are doing budgets, as much as we have devolved the agriculture sector, we must also look at the upper side which was left with the national Government. We need to help the county governments because they are as useless as we can see.

Hon. Temporary Deputy Speaker, this is an issue which I have had in my mind for long. We are the ones who vet persons for the position of CS. When doing so, please, let us know exactly who these people are. Are they qualified for the positions we are vetting them for? Remember last time the CS for Agriculture was sacked because he asked the public to take photos of locusts. The one who came in his place is now telling us that the locusts have aged and are almost dying. However, the experts are telling us that the stage the locusts are in is the most dangerous. I really wonder where Uhuru Kenyatta collects all these useless CSs from and appoints them to tell us things which we do not even understand. How can a whole CS tell us that locusts are dying and yet they are finishing crops everywhere?

Hon. Temporary Deputy Speaker, when we are vetting, let us decline those people we know do not fit those positions. Who will kill us? It is the *raia* who elected us and it is us who are supposed to represent them. Let us vet the CSs...

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Let us have Hon. Kiai.

Hon. Anthony Kiai (Mukurweini, JP): Thank you, Hon. Temporary Deputy Speaker. I have really waited for this chance. I was here yesterday until 7:00 p.m. Today, I was almost being caught up again.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Members, let us stop twisting the tea issues into locusts and all manner of things.

Hon. Anthony Kiai (Mukurweini, JP): Hon. Temporary Deputy Speaker, I come from Mukurweini where, basically, we grow coffee. I have about 13 tea farmers in my place. I am happy to note that this Bill has finally found its way to Parliament. I am happy also to note that those who have been pushing for the Building Bridges Initiative (BBI) agenda to include coffee, tea and other crops have been here and have contributed.

We need to ensure that the debate about what will benefit our farmers is brought to Parliament and not done out there in the burials or by the roadside. The right place to do that is here in Parliament. Tea is one of the biggest foreign exchange earners in Kenya alongside diaspora remittances and tourism. When I look at the Bill, much as it is very shallow, it gives us a platform here in Parliament to address all the issues affecting the tea farmers in this country. Let us beef it up and ensure that all the critical matters that were raised by farmers across the country are considered at the Committee of the whole House.

What we did initially was to collapse all the cash crops legislation into the AFA. It has been in existence for some time. We note, with despair, that AFA has not delivered. This year some of them have raised concern over the need to have a Tea Act. I say we need to have a Coffee Act, Sugar Act, Pumpkin Act and Water Melon Act as long as it has commercial value and puts some money into pockets of Kenyan farmers.

Looking at the Act, it is a good piece of legislation despite the fact that it is very shallow. It can be beefed up. It is supposed to regulate, develop and promote the tea industry and anything related to it. Also, it sets up the Tea Board of Kenya which is mandated to ensure that growing,

processing and exporting of tea is well coordinated and regulated. But, with the final intention of ensuring that the farmer is well paid.

I remember when President Uhuru was in Mombasa, he bitterly complained about the cartels that are controlling the tea industry. Whereby the brokers end up getting about 70 per cent of the sale and the farmers end with the short-end of the stake which is about 30 per cent. This is something of national interest given that tea is an important crop of in this country.

Formulation of policies is also captured in the Act. We need to know how it will regulate the small-scale farmer against the multi-nationals in Kericho. Should it formulate policies that relate to small-scale farmers and multi-nationals with plantations in Kisii, Kericho and other areas? We need to come up with clear-cut issues on the guaranteed returns for this tea farmer. The reason why tea farmers are so poor is because the Government has not come up with a policy to guarantee returns to certain crops. This is the only way you can spur development and cultivation of serious crops like coffee and tea.

The other day I was in Morocco and saw their tea. I asked the consulate there how they get it and he said they import Kenyan tea in bulk and label the same as Moroccan tea and it fetches a lot of money. Now, we have a chance to come up with a policy to ensure that there is value addition right in Kenya all the way to where it is consumed by foreigners. This is because when tea is sold raw in bulk form, it does not benefit farmers. The ones who benefit are other people out there who do value addition and sell that tea as local tea.

There is Turkish tea and, in our supermarkets, you can find tea from other corners of the world like India and Sri Lanka. Why should we allow dumping of tea in Kenya that is grown elsewhere yet, we are said to produce the best quality tea in this side of the earth? My take is that we should insert in the Act issues to do with dumping of low-quality tea from other areas especially by unscrupulous businessmen who are out to make money. We need to protect our farmers.

Yesterday, one of our colleagues raised an issue of when a Kenyan delegation visited Turkey and wanted the Turkey Government to open up the market for Kenyan tea. The retort they got was that if this was done, they would destroy tea farming in Turkey. Why are we not putting in place similar measures here? We should ensure that those who bring something easily available in our country pay a premium custom for it to get into Kenya. This will be very unattractive in terms of business.

I also know that KTDA is a creation of non-tea farmers. Looking at the composition we need to ensure that the representation of the farmer is seen and election of directors is driven by the farmers. Otherwise, when the Board has so many people who are appointed by the Government then, Government is getting into the tea industry. This is not only to control but to formulate policies and export the same. Where do the farmers play a role? Does their role end up in producing tea and handing it over to the Government or any other agency and then lose control? No, it should not be that way.

When KTDA was formulated in those days it was meant to cater for the interests of the farmers but it turned out to be a cartel and the worst kind of decision made by farmers. It should be liberalised to ensure it serves the interests of the farmers. Ours being an agrarian economy, we should ensure that every other crop that has commercial or economic value in this country is supported. This will ensure implementation of the agenda four of our manufacturing and promoting agriculture. Otherwise, if we do not do this, we will end up being an import economy.

I support, thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Member for Kitutu Masaba, Hon. Shadrack Mose.

Hon. Shadrack Mose (Kitutu Masaba, JP): Thank you, Hon. Temporary Deputy Speaker, for giving me a chance to add my voice to this very critical Bill. From the outset, I support it. The production of tea in this country has been the mainstay of many communities. In my constituency of Kitutu Masaba, tea production has enabled many of my constituents to educate their children and supported all activities of value to them.

This Bill is critical for the single reason that it will regulate, develop and promote the tea industry. It will also help in coordination of individuals and organisations within the tea industry in this country. The net effect will be equitable access to benefits from the industry.

We have KTDA which is a private organisation that has had the monopoly of managing tea. If you look at KTDA as it is constituted, you will realise that the aspects of regulation and ensuring that the ordinary farmer gets the benefits that they deserve have actually continued to dwindle over a period of time. Why do I say this? KTDA has even now abdicated the responsibility of ensuring that it deals with the farmers and they get access to the benefits by more or less digressing. You will find that KTDA now is seriously in the financial and insurance industries and many other areas that if you look at the net benefits that it has to the farmers, it is very negligible. If you even look at the way they are conducting the election of directors at the local levels, they are based on what number of shares a farmer has. In many regions, it is sad to realise that maybe one farmer has so many shares and when it comes to the election of directors one individual dictates which directors should be elected, and at the end of the day farmers' interests are not taken into account.

I, therefore, find value in this Bill that we have before us. In my constituency I have factories like Nyankoba Tea Factory, Tombe Tea Factory, Sanganyi Tea Factory and Kiamokama Tea Factory. The amount of money they earned in bonuses was extremely low and the pricing of the tea was very high. Why would a farmer get Kshs14 or Kshs19 when our tea was selling at Kshs300 in the market? The reason for that is we do not have proper regulations in the tea industry.

It is, therefore, my take that once this Bill comes into effect, it will have the net effect of ensuring that there is proper regulation and administration and the Executive that will be charged with the responsibility of constituting the board will have that responsibility of ensuring that the farmer, who ultimately is the mainstay of this country, is protected.

In conclusion, I want to say that as legislators we need to ensure that the voter who votes for us is protected and the monopoly that is enjoyed by KTDA has to be seriously regulated. The body that we call AFA is not able to do this. So, if we pass this Bill, we will be able to have the Tea Board rein in the monopoly of KTDA.

With those remarks, I support the Bill.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Member for Gatanga, Hon. Nduati.

Hon. Joseph Nduati (Gatanga, JP): Thank you, Hon. Temporary Deputy Speaker, for giving me a chance to also make my contribution. I come from a tea growing area known as Gatanga but from what we are earning, we might forego that crop and start selling water because we are known to supply water to Nairobi, with my sister here.

Unless we address the cost of production, our farmers will continue getting nothing. One of the major problems we have with KTDA is the infrastructure which they develop on behalf of farmers, especially the tea factories. These buildings are built using very old styles. They are

very expensive. This is something which we will need to address in future. Maybe we require the Government to support them. We cannot continue building very expensive buildings and that cost is taken to the farmers.

The other important cost we need to look at are the roads. A few years before, the national Government used to maintain those roads but currently they are poorly maintained and we do not expect KTDA to be able to support the Government fully. It is too expensive to construct roads and as we blame KTDA, we will also request the national Government to do something. This is because as MPs here, the money we get from the Kenya Rural Roads Authority (KeRRA) is very little. You cannot even be able to do 10 kilometres and most of these companies are located in areas with very bad roads.

The other cost which we need to address is that of inputs, especially fertiliser which is too expensive. KTDA has a monopoly of sourcing for that fertiliser, transporting it from Mombasa and even distributing it to the farmers. In future we will need to find a way of doing this in a better way to encourage competition. We know there are cartels in Mombasa when it comes to transport. We are not able to get good prices because most of the directors are also engaged in transport and this is something which as a Government we need to investigate.

Comparing ourselves to our competitors, you will see that the cost of production in Kenya is too high compared to a country like Vietnam which is able to do it at about 75 per cent of our cost. The costs are also much lower in neighbouring countries like Rwanda, Tanzania and Uganda. This is because of basically having a monopoly. KTDA has been very unfair to our farmers since the Government moved out. Currently, the extension services which used to be provided by the national Government are no longer there. Our small-scale farmers are really suffering. There is no information. They are not getting adequately educated on modern farming methods. This is something I would like to request the Government to go back to. I do not think the county governments with the little money they are getting will be able to do this.

Because I have my sister here who also comes from a tea-growing area, I do not want to talk much. What I want to say is that we hope this Bill is going to address some of our challenges. I support it. Thank you, Hon. Temporary Deputy Speaker, for giving me a chance to contribute.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Let us have the Member for Mogotio, Hon. Kamuren. Just to let you Members know, time is running out but you do not need to be anxious because this will continue. If we do not have everybody contributing now, we will still continue next week.

Hon. Daniel Tuitoek (Mogotio, JP): Thank you, Hon. Temporary Deputy Speaker. I rise to support this Bill. Tea is a major crop in Kenya and we all know that it brings foreign income to this nation. Tea comes in various varieties. I know we are used to the black tea but there are other varieties like purple tea and other types which nowadays are being grown by various farmers.

Of late, this particular crop has not been giving returns to the farmers. The prices of tea nowadays are very low and cannot sustain farmers' livelihoods. Being a member of the Departmental Committee on Agriculture and Livestock, I was able to visit the tea growing areas and actually interacted with farmers. Their major cry is that their livelihoods cannot be sustained. When they pick the tea and they deliver to the factories, they are paid little for that particular month and they wait for what we call bonus or payment which comes later. Most of these bonuses are affected by international pricing which is also affected by international events. Most of tea is exported to Egypt, Pakistan and maybe Afghanistan and the other Middle East countries.

Most of our tea is exported to Egypt, Pakistan, Afghanistan, among other middle-eastern countries. Whenever there are conflicts in this region, as we all know there are a lot of conflicts which are going on in those particular regions, it affects the pricing and purchasing of our tea, which causes the bonuses to drop.

Hon. Deputy Speaker, in recent years, we re-organised the management of tea in this country. We vested AFA with the responsibility to manage crops like tea. We did away with the Tea Board of Kenya (TBK), which used to manage this industry. We have major players in the industry such as private farmers and companies as well as public farmers coordinated through KTDA. In recent years, the management of KTDA has been having serious issues. They overcharge the farmers through management and consultancy fees. The fees have reduced the livelihood of the farmers by way of receiving less for tea delivery. When we visited Konoin, Kericho, the farmers were not happy with KTDA. This Bill has tried to cure the representation problem; the way the directors are elected and the role they play in particular factories. We have several mother factories that have sister factories. Those directors tend to overwrap and benefit from managing the two factories. In this Bill, we are trying to cure the representation so that it can become more efficient.

Hon. Deputy Speaker, another aspect that this Bill is addressing is the issue of research in tea. As I said earlier, we have various varieties of tea. I know we mainly know of the black tea, but the other varieties are coming up. We have the green, purple, and all the tea which has been researched on in Kericho Research Tea Foundation. The foundation has been somehow private, but the Government has been trying to use it to come up with new varieties. We need to invest in this area. In this Bill, we have tried to vest TBK with the responsibility of investing more in research. We have given them power to see to it that they come up with different varieties which can attract more returns for the farmer. For example, we do not consume the green tea here but in a country like China, the tea is consumed in large quantities. Therefore, if we are able to export to China, although it also produces tea, probably the farmers will get more returns for their tea instead of what they get from black tea.

Hon. Deputy Speaker, in this Bill, we are saying that we should revive the TBK in order to coordinate the management in the country. The KTDA also needs to be restructured. The President directed that we look into the fees which are being charged by KTDA with a view to ensure that payments to farmers become better. In other words, the first payment, which is on delivery of green tea, should be better. Currently, tea costs Kshs16 per kilogramme. This should be improved to Kshs25 so that farmers can maintain a livelihood at the end of the month.

In conclusion, value addition is an area we need to address. We consume very little tea. We only consume 5 per cent of what we produce in this country. Most of it is for export but we need to encourage value addition on tea. We will see whether we can sell tea while it is already packaged, so that we can earn more and farmers can benefit.

With those few remarks, I support.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuyu): Member for Nyaribari Chache.

Hon. Richard Tong’i (Nyaribari Chache, JP): Thank you, Hon. Deputy Speaker, for the opportunity to speak to this Bill. I have waited for the last two days to have a chance to speak because this Bill is so close to my heart. I come from a tea growing area, which depends largely on income from tea proceeds. I know the anxiety back home, especially when they were paid the bonuses which were very poor. It is a major concern for all of us. When this Bill came to the Floor of the House, we said it is an opportune time to make some suggestions we think will make

a difference in terms of the way tea factories and processes are managed in Kenya to ensure that farmers get value for money.

Hon. Deputy Speaker, I am a product of tea benefits. My parents are peasant farmers. They grow tea bushes. Tea bushes were able to take us through school in my family of almost 10 people, from one mother. That was not a mean achievement. The fact that the same bushes cannot support even one child today is a clear indicator that things have gone from bad to worse. If they were able to support us those many years ago, there must be something which is not happening today which has made the earnings from tea to come down.

In my constituency, there are many factories. There is the Rianyamwamu Tea Factory which is a small factory that was started recently. For a long time, we have been paying for it. Since I was a child, there were deductions going towards rebuilding that factory. To date, some farmers are still paying for it. We do not know how much it costs the KTDA to construct a factory. We need to hold them to account for some of the things they do because they affect the farmers directly.

We need to also have a cap on how much money they use for operational expenses. KTDA cannot be given an open-ended cheque where they decide how much they will use to pay for operational expenses. They already have subsidiary companies which should be used to support the operational expenses. They have an insurance company, a brokerage firm and many other departments which should be earning them a lot of money to support and ensure that whatever money they get from tea sales are paid directly to the farmer. That was the original intention of having those subsidiary companies. It does not seem to be working that way. We need to help them to clean up their house, otherwise, it is time we restructured the KTDA and ensured that the farmer who was meant to gain from it is getting value for money.

We also need to come up with regional boards so that we leave the national board to come up with policies, research, new products and new seedlings which can give us better yields than what we have at the moment. If you do not have a department of research and development, the future is not guaranteed. All over the world, companies which have invested and succeeded over the years are those which have invested in research and development. We urge the KTDA to do exactly that.

As I wind up, we also want the Government to guarantee a minimum return on tea just like we want to do for other products. Countries which have succeeded are those which support the farmers. Kenya is an agricultural country. Our economy depends on agriculture. To ensure that farmers who are at the grassroots have money in their pockets, it is only fair that we guarantee them some income so that when a farmer delivers his tea, he or she knows for sure that on this one I have so much. They are, therefore, able to plan and budget for their families and provide for them.

I know my colleagues have a lot of interest in this. There are many things I would have said about tea because it is a very sensitive and emotive topic for all of us. It is changing people's lives back home. I want to be fair to my colleagues and donate a few minutes to them so that they can speak to this. I support the Bill with the amendment that we have regional boards which will be in charge of local issues and management of local factories because they understand them much more since they come from that region. We will then have the KTDA at the national level dealing with national issues, policies and research so that they come up with better seeds which will give us better yields for the good of the country. Our economy depends on it.

With that I support the Bill.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Unfortunately, Hon. Tong'i, you have no time whatsoever to donate to other Hon. Members. With that Hon. Members, our time is up. There is no need for worry. Debate on the Bill continues next week.

ADJOURNMENT

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Members, the time being 7. 00 p.m., this House stands adjourned until Tuesday, 25th February 2020, at 2.30 p.m.

The House rose at 7.00 p.m.