

PARLIAMENT OF KENYA
THE NATIONAL ASSEMBLY

THE HANSARD

Wednesday, 12th August 2020

The House met at 10.00 a.m.

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

PRAYERS

Hon. Deputy Speaker: Hon. Members, I have confirmed that we have the required quorum when we combine the numbers we have in the Chambers and other holding grounds. Therefore, business will begin.

PETITIONS

Hon. Deputy Speaker: Under this order, we have two Members who want to present two petitions. We will start with the Member for Malava, Hon. Malulu Injendi.

UNFAIR LABOUR RELATIONS BY WEST KENYA SUGAR COMPANY

Hon. Moses Injendi (Malava, JP): Thank you, Hon. Deputy Speaker. This is Public Petition No.20 of 2020.

I, the undersigned on behalf of officials of Kenya Union of Sugar Plantation and Allied Workers, Kabras Branch draw the attention of the House to the following:

THAT, Article 41 of the Constitution provides that every person has the right to fair labour practices, which include the right to fair remuneration, the right to reasonable working conditions, the right to form, join or participate in the activities and programmes of a trade union and to go on strike;

THAT, in spite of the above stated constitutional safeguards, West Kenya Sugar Company, one of the leading sugar companies in the country, has been subjecting its employees to unfair labour practices;

THAT, since the change of ownership of the company in 2007, the company has refused to employ its workers on permanent terms as required and has, instead, been using casualisation and contracts to frustrate and exploit workers;

THAT, the company has been violating workers' rights, disregarding employment laws, paying workers poorly and executing discriminatory terms of employment;

THAT, even-though West Kenya Sugar Company has been expanding rapidly as evidenced by the building of cane weighbridges in various parts of the region and building of other milling units like Olepito in Busia and Naitiri in Bungoma, the company is allegedly intimidating permanent employees using threats of retrenchment;

THAT, in violation of the worker's right to join and participate in activities of trade unions, the company has been frustrating union officials and workers who join unions and terminating their employment for joining and participating in trade union activities;

THAT, the company has illegally and un-procedurally terminated services of about 800 contract and casual workers in spite of having served the company for many years without following the due process of the law or respecting the rights of employees;

THAT, the affected workers who have been renewing their contracts annually have suffered loss of benefits, disruption of livelihoods and are unable to service bank and co-operative loans guaranteed by the company whose repayment period is up to six year terms;

THAT, further, the employer has terminated these employees' services without due respect to the Government directives that employees should not lose jobs during this Covid-19 period, since this will occasion serious economic consequences on communities and families;

THAT, further, the company has gone ahead to outsource and engage over 200 foreign and non-local employees to perform simple jobs that are ordinarily expected to be performed by local residents;

THAT, the company has been violating the law relating to employment of foreign employees because most of those working in the company allegedly do not have genuine work permits but are, instead, hiding under the KUSHWAHA contractors as they take over jobs from citizens;

THAT, engagement of foreigners has further escalated racial discrimination between Africans and Asians doing the same job as foreigners are highly paid and Africans in the same job scale are poorly paid and exploited;

THAT, efforts made by the Petitioners to have the management of West Kenya Sugar Company address the plight of employees have been unsuccessful;

THAT, the matters raised in this Petition are not pending in any court of law, constitutional or other legal body.

THEREFORE, your humble Petitioners pray that the National Assembly, through the Departmental Committee on Labour and Social Welfare:

- 1) Recommends that the management of West Kenya Sugar Company unreservedly grants to all employees, including union officials, the inalienable right to form, join or participate in the activities and programmes of a trade union as enshrined in Article 41 of the Constitution and as pronounced in court through case Nos.110/2013, 388/2018 and 258/2018;
- 2) Causes the company to honour and implement the Collective Bargaining Agreement (CBA) of 2017 for all its employees without any discrimination whatsoever, including payment of salary arrears as from 1st May 2017;
- 3) Recommends that the Management of West Kenya Sugar Company Limited forthwith revokes unfair termination of employment of over 800 contract and casual employees and varies their terms of employment from contract to permanent on account of having served for many years on contract terms; and,
- 4) Inquires into the circumstances under which over 200 foreigners who do not have authentic work permits have been unprocedurally outsourced to perform non-expatriate work that would ordinarily be done by locals and recommends annulment of their engagement;
- 5) Makes any other appropriate recommendations it deems fit in addressing the circumstances raised in this Petition.

And your humble Petitioners will ever pray.

Hon. Deputy Speaker: I will only give two Members a chance to make any further comments on this one. First is Hon. Jomo Washiali.

Hon. Benjamin Washiali (Mumias East, JP): Thank you, Hon. Deputy Speaker, for giving me this opportunity. Quickly, I would like to take this opportunity to thank Hon. Malulu Injendi for bringing this Petition.

As I heard Hon. Malulu go through the issues that are in West Kenya, I was wondering what, as a country, we are doing about the Sugar Taskforce Report. Has the Report been implemented? We keep on spending money to bring out reports that we eventually do not implement. Therefore, as I thank Hon. Malulu, I really pray that the Departmental Committee on Labour and Social Welfare will actually do proper fact-finding because there are even other issues about sugar harvesting that Hon. Malulu has not mentioned. However, my biggest question that I want to raise in this House is about the taskforce report that was received by His Excellency the President just the other day. I am sure if this taskforce report is implemented, most of the problems in the sugar sub-sector will be handled better.

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Next is Hon. Wafula Wamunyinyi.

Hon. Wafula Wamunyinyi (Kanduyi, FORD-K): Thank you, Hon. Deputy Speaker. I also congratulate Hon. Injendi for bringing this petition on behalf of the workers of the sugar millers in western Kenya.

Joining a union is a right. In this era, you find some employer or organisation denying workers their right. That should not be allowed. In the sugar industry, we are headed towards privatisation, which has turned into leasing. But it is still privatisation. If that is the route, there must be organisations that will work for the interest of farmers, workers, stakeholders and so on. It is, therefore, fair that they should be allowed to form their union and enjoy their right.

I also agree with Hon. Washiali. The sugar taskforce report cannot be implemented in totality without a framework and the framework which we are pursuing in this House through the Sugar Bill... Hon. Washiali, I think you are a Member of this Departmental Committee on Agriculture and Livestock. You and the Chair of the Committee, please, ensure that the report we have been waiting for, now for more than a year, is released to the House so that we can pursue legislation in form of the Sugar Bill. That way, we will cause a framework that will help reform the sugar industry. I thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Hon. Wangwe.

Hon. Emmanuel Wangwe (Navakholo, JP): Thank you, Hon. Deputy Speaker. Allow me to appreciate the Member of Parliament for Malava, Hon. Malulu Injendi, for raising the concerns on the plight of employees at West Kenya.

Kenya is a sovereign state. We got Independence and we are governed by our own self. Therefore, for someone to purport to impose foreigners on us is something which is not allowed in this era. Therefore, I really stand with Hon. Malulu. When it comes to petitions directed at the Departmental Committee on Labour and Social Welfare and the relevant CS, Hon. Malulu, I will stand with you.

I also echo the sentiments of the Member of Parliament for Mumias East that the sugar taskforce report needs to be put to use. The only way most of the recommendations in the taskforce report, which I had a benefit of seeing while being given to the President, shall be implemented is through a Bill. We know the Bill is sponsored by the Member of Parliament for Kanduyi. So, let the Chair of the Departmental Committee on Agriculture and Livestock, where I was the deputy

before, push the Sugar Bill to come to the Floor so that we discuss it as a House. We will own it and make sure that the recommendations by the taskforce, which are very good, are implemented for the benefit of farmers, employees and other stakeholders.

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: We will go to the next one though Hon. Wangwe, what you stated is not a factual position in terms of you being the deputy. I was trying to look at my documents here and they do not indicate you were. We only had a Vice-Chair and I think that must have been you. The deputy is reserved for very specific seats.

Let us go to the next Petition by the Member for Wajir East, Hon. Rashid Amin. You can do it from where you are seated, Hon. Amin.

PAYMENT OF SALARY ARREARS TO POSTAL CORPORATION OF KENYA STAFF

Hon. Rashid Kassim (Wajir East, WDM-K): Hon. Deputy Speaker, I present a Petition regarding the payment of salary arrears for staff of the Postal Corporation of Kenya.

I, the undersigned, on behalf of the employees of the Postal Corporation of Kenya, draw the attention of the House to the following:

THAT, Article 41 of the Constitution provides that every person has the right to fair labour practices;

THAT, the Postal Corporation of Kenya, a commercial State enterprise operating under the Postal Corporation of Kenya Act, 1998, is mandated to provide postal and financial services under the Universal Service Obligation;

THAT, over the past five years, the Corporation has consistently posted a deficit in an increasing trend which led to financial challenges making it difficult to settle staff salary arrears;

THAT, the COVID-19 pandemic has aggravated the situation with minimal postal activities;

THAT, the Corporation is undergoing a serious financial crunch and consequently has not paid salaries to its employees since March 2020;

THAT, efforts made by the Petitioners to have the Corporation address their plight have been unsuccessful;

THAT, the issues presented in this Petition are not pending before any court of law, constitutional or legal body;

THEREFORE, your humble Petitioners pray that the National Assembly, through the Departmental Committee on Communication Information and Innovation:

- (i) Investigates the matter with the view to resolve the issues relating to delay in payment of salaries to the staff of the Postal Corporation of Kenya.
- (ii) Pursuant to what the Employee Act recommends, the Cabinet Secretary (CS) responsible for ICT initiate a process of rescuing the Postal Corporation of Kenya from its current financial crisis.
- (iii) Make any other appropriate recommendation that it deems fit in addressing the circumstances raised in this Petition. And your humble Petitioners will ever pray.

I thank you.

Hon. Deputy Speaker: I will give two Members a chance. We will start with Hon. Robert Mbui.

Hon. Robert Mbui (Kathiani, WDM – K): Thank you, Hon. Deputy Speaker, for giving me this opportunity.

I would like to support the Petition by my Member. He is from the Wiper Democratic Movement of Kenya (WDM-K). That is because it is important that, at this very hard time, peoples' salaries be paid. But as the Committee looks at that Petition, it is important to note that, first and foremost, the system of Postal Corporation of Kenya — the issue of postage of letters and documents — is being overtaken by technological changes, the fear of biological warfare and things like Coronavirus.

So, Hon. Deputy Speaker, that Corporation needs to start adjusting itself and moving on, so that we do not have these problems of, the technology has moved the nation forward and they are still operating at an archaic time. So, I support that the workers be paid, but the Corporation needs to start changing its style.

I thank you.

Hon. Deputy Speaker: Hon. David ole Sankok, you have the Floor.

Hon. David ole Sankok (Nominated, JP): Thank you very much, Hon. Deputy Speaker.

I support the Petition because I know that salaries are normally a bribe to make you forget your ambition and make other people achieve their ambitions. It is even worse when that bribe is not paid on time because those people will go hungry. So, the Committee should speed up because this is an emergency. They should try, as much as possible, to resolve this issue within the shortest time possible. I concur with Hon. Robert Mbuyi by saying that the Corporation should now change tact because we are in a digital environment. Those physical stamps and so on are not supposed to be here especially when we have the Jubilee administration, which is a digital Government.

I thank you.

Hon. Deputy Speaker: Very well. I am trying to see how we could summarise. There was a Member from the Departmental Committee on Communication, Information and Innovation who would want to say something. Where is he? Yes, let us have him take on that briefly and then that should be the end.

Hon. Godfrey Osotsi (Nominated, ANC): Thank you, Hon. Deputy Speaker, for giving me this opportunity.

I sit in the Departmental Committee on Communication, Information and Innovation and I am well aware of the challenges at the Postal Corporation of Kenya. As you are aware, Postal Corporation of Kenya has become a victim of technology. Since we started having internet, email and those kinds of things, it has been very difficult for the corporation to continue with its traditional business. But it is also important that the management of Postal Corporation of Kenya look into other ways of sustaining themselves.

Hon. Deputy Speaker, the national Government needs to be very proactive in trying to seek solutions at Postal Corporation of Kenya. For instance, the only moment where Postal Corporation...

Hon. Deputy Speaker: What I am trying to avoid is you looking like you are trying to answer to the Petition. I thought you are actually contributing to it and giving some additional information. That is because much as this matter has some semblance of issues ICT, it will not be referred to that Committee. It will be referred to a different Committee, which is Labour. So, I expected you to be giving sort of supplementary issues that you would want responded to, together with that of Hon. Rashid Kassim.

Hon. Godfrey Osotsi (Nominated, ANC): Very well, Hon. Deputy Speaker.

In addition to that, one of the things that need to be looked at is ways in which the Postal Corporation of Kenya can be helped to stay afloat, so that the staff is not rendered irrelevant. One of the ways that I was suggesting is that, the Postal Corporation of Kenya, through statutes or

policy, was made a national logistics company. We know that in 2017, that is the only time that they made money and were able to pay salaries because they were given the contract to supply all election materials of the Independent Electoral and Boundaries Commission (IEBC). We are seeing the national Government using private companies to do logistics. So, this would be an opportunity for the same Government to help those employees not to lose their jobs.

I thank you.

Hon. Deputy Speaker: Looking at it, the Member seemed to be interested in his Petition going to the Departmental Committee on Communication, Information and Innovation. I would have convinced you to allow it to go to the Departmental Committee on Labour and Social Welfare. I do not know how the Departmental Committee on Communication, Information and Innovation comes in. I am just trying to think loud. I can see even the Member, himself, had that interest.

Let me refer the first one, by Hon. Moses Injendi, to the Departmental Committee on Labour and Social Welfare. Then on this second one, if you are convinced, I think it should also go there. Yeah, so, both of them go to the Departmental Committee on Labour and Social Welfare because this is an issue of unpaid salaries. The ICT is actually an issue of competition. Even the Departmental Committee on Communication, Information and Innovation would not be helping you. It would actually be propagating for that competition because they will be happy to entrench digital platforms and so forth. So, those two are referred to the Departmental Committee on Labour and Social Welfare.

We will move on to the next Order.

PAPER LAID

Hon. Deputy Speaker: On this one, we have the Chairperson of the Constituencies Development Select Committee.

(Hon. Wafula Wamunyinyi spoke off record)

No, you will have to wait for that there, Hon. Wafula Wamunyinyi. We are discouraging Members from being pastoralists in the House. Those who have chairs, stick to the areas you are. We will only accord those Members who are outside the Chamber the dispatch box.

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

I beg to lay the following Paper on the Table of the House, today, 12th August 2020, morning Sitting:

A Report of the Select Committee on Constituencies Development on its consideration of the County Wards Equitable Development Bill (Senate Bill No. 34 of 2018).

I thank you.

Hon. Deputy Speaker: Very well. Then we will move on to the next Order.

QUESTION BY PRIVATE NOTICE

Hon. Deputy Speaker: On this particular one, we have both Questions by Private Notice, Ordinary Questions and Statements. So, we will start with the Questions by Private Notice.

Hon. Members, you may note that there is also another Question that is coming as a supplementary Question. So, we will give that opportunity. Let us start with the Member for Limuru, Hon. Peter Mwathi. Hon. Peter Mwathi, what number is your seat?

(Hon. Peter Mwathi spoke off record)

Question No.017/2020

RECOVERY OF STOLEN LIVESTOCK IN MIRITHU SUB-LOCATION

Hon. Peter Mwathi (Limuru, JP): Thank you, Hon. Deputy Speaker. I rise to ask Question No.017 of 2020. It is a Question by Private Notice.

- (i) Could the Cabinet Secretary give a progress report regarding the recovery of livestock stolen by raiders who have attacked Mirithu Sub-location, Ndeiya Location in Limuru Constituency on two occasions in the recent past, where one Charles Makimi Karanja, aged 28 years, was killed, several people injured, and livestock stolen?
- (ii) Could the Cabinet Secretary also give the progress report on the arrest and prosecution of the killers of the said Charles Makimi Karanja?
- (iii) Given the prevalence of similar raids in Limuru Constituency in the recent past, what measures are in place to avert looming clashes that may result from the growing tension between communities living along the border of Kajiado and Kiambu counties?
- (iv) Could the Cabinet Secretary detail the long-term solutions being put in place to stop such raids?

Hon. Deputy Speaker: I will allow you to read the Supplementary Question on behalf of the Member for Kikuyu. Before we move on from your Question, just for clarity and to be sure that we are talking about the same individual, is Charles Makimi 25 or 28? In the Order Paper, he is said to be 25 years old.

Hon. Peter Mwathi (Limuru, JP): Hon. Deputy Speaker, it was a typo. The young man is 28 years old.

Hon. Deputy Speaker: It is good that it reflects the correct age of 28 years. You could also read the Supplementary Question by the Member for Kikuyu because it is on the same subject matter.

SUPPLEMENTARY QUESTION

MEASURES TO END CATTLE RUSTLING ALONG THE KIAMBU-KAJIADO BORDER

Hon. Peter Mwathi (Limuru, JP): Thank you, Hon. Deputy Speaker. Pursuant to the provisions of Standing Order No.42 (b) (4), the Member for Kikuyu has asked me to read the Supplementary Question with your approval and that of the Speaker:

- (i) What measures has the Ministry put in place to ensure that the rustling incidents are brought to an abrupt end, that there is no further loss of life or injury to the residents of Kikuyu who reside along the border and tensions are eased along the border of Kiambu and Kajiado counties?

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- (ii) Aware that Gatune Police Post in Kikuyu is situated along the border and has over 45 acres of vacant land, and there being no police post or anti-stock theft camp along the vast border from Ewaso Kedong to Kibiko, will the Ministry consider setting up a livestock theft police unit at Gatune Police Post?
- (iii) What measures is the Ministry taking to compensate the people who have lost their livestock and/or were injured in the rustling incidents?

Hon. Deputy Speaker: Very well. Just for the information of Members, you notice that the two Questions are very closely related but on the other hand, have specifics. A Supplementary Question was approved so that the Member for Kikuyu would not ask a different question and they can be answered together. I do not know if the Chair of the Departmental Committee on Administration and National Security is in the House. They will all be referred to that particular Committee and will be answered together.

We now go to the Ordinary Questions. The first one is by the Member for Embakasi Central, Benjamin G. Mwangi, occasionally known as a Major. You did not place your card in the intervention slot. Members, you should press the intervention button. It will be easier for us to get you.

ORDINARY QUESTIONS

Question No.152/2020

LACK OF YOUTH FUND OFFICERS IN EMBAKASI CENTRAL CONSTITUENCY

Hon. Benjamin Mwangi (Embakasi Central, JP): Thank you, Hon. Deputy Speaker. I would like to ask Question No.152 of 2020 to the Cabinet Secretary for Information, Communication and Technology:

- (i) Could the Cabinet Secretary explain why Embakasi Central Constituency does not have a Youth Fund Officer, but shares an officer with four other constituencies in Nairobi County thus hampering efficient delivery of services to the youth when applying for youth funds?
- (ii) Could the Cabinet Secretary provide details of Youth Fund officers in Nairobi County and their current stations?
- (iii) What measures is the Ministry putting in place to ensure that a Youth Fund officer is posted to serve the large population of youth in Embakasi Central Constituency?
- (iv) Why there is a low uptake of youth funds in Nairobi County and yet, the majority of our youths are unemployed?
- (v) Could the Cabinet Secretary provide the current status of youth funds disbursement in Embakasi Central Constituency?

Hon. Deputy Speaker: Very well. That will be replied to before the Departmental Committee on Communication, Information and Innovation.

Next is the Member for Isiolo South, Hon. Abdi Koropu Tepo. I had asked Members who have Questions to press the intervention button.

Question No.154/2020

WHEREABOUTS OF INDIVIDUALS ARRESTED IN ISIOLO SOUTH CONSTITUENCY

Hon. Abdi Tepo (Isiolo South, KPP): Thank you, Hon. Deputy Speaker. I wish to ask Question No.154 of 2020 to the Cabinet Secretary for the Interior and Coordination of National Government:

- (i) Could the Cabinet Secretary explain the circumstances that led to the arrest of Messrs. Muhamud Roba Golole of ID No.25963909 and Ali Wario Guyo of ID No.25779171 both from Kulamawe area in Isiolo South Constituency, Isiolo County, apprehended by persons believed to be security personnel along Luthuli Avenue in Nairobi City County on 20th February 2019?
- (ii) Could the Cabinet Secretary explain the whereabouts of those two persons whose missing persons' report was recorded at Shauri Moyo Police Station, Nairobi vide Occurrence Book Number OB/22/2/19?

Hon. Deputy Speaker: That will be replied to before the Departmental Committee on Administration and National Security.

Next is the Member for Uriri, Hon. Nyamita Mark. Let us go to the next one. Let us have the Member for Sigowet/Soin, Hon. Koros.

Question No.159/2020

CHARGING OF EXORBITANT EXAMINATION FEES BY PHOTC

Hon. Kipsengeret Koros (Sigowet/Soin, Independent): Thank you, Hon. Deputy Speaker. I rise to ask Question 159/2020 to the Cabinet Secretary for Health:

- (i) Could the Cabinet Secretary explain why the Public Health Officers and Technicians Council (PHOTC), a public body mandated to oversee the training, registration and licensing of public health professionals, charges its graduates exorbitant test fees of Kshs15,000 for diploma holders and Kshs20,000 for degree holders, compared with other equivalent health professional councils which charge relatively lower fees for registration and licensing?
- (ii) Is there a standard guide or curriculum for teaching of environmental and/or public health programmes in Kenya, as developed by the Council, a function which falls within its prime mandate?
- (iii) Why has this Council been charging training institutions extremely high fees in the guise of conducting inspections to establish standards for teaching and/or offering environmental and/or public health programmes and yet, it is fully funded by the Exchequer?

Hon. Deputy Speaker: That will be replied to before the Departmental Committee on Health, which incidentally you also serve.

Let us go to the Member for Lurambi, Hon. Titus Khamala. Is he in the House? Press the intervention slot again.

Question No. 160/2020

MEASURES TO ADDRESS THE PLIGHT OF STREET FAMILIES IN COVID-19 PANDEMIC ERA

Hon. Titus Khamala (Lurambi, ANC): Thank you, Hon. Deputy Speaker. I rise to ask Question No. 160/2020 to the Cabinet Secretary (CS) for Health:

- (i) Are there plans by the Ministry to trace street families with pre-existing health conditions and diseases such as diabetes, hypertension, chronic heart diseases, asthma, cystic fibrosis, cancer, arthritis, alzheimer, epilepsy, Human Immunodeficiency Virus and Acquired Immunodeficiency Syndrome (HIV/AIDS), mood disorders (bipolar, cyclothymic and depression), amongst other conditions, particularly towards the fight against Covid-19 pandemic?
- (ii) Has the Ministry provided adequate handwashing points or stations, sanitation booths and masks to street families to curb the spread of the virus amongst those families?
- (iii) What feeding and other welfare programmes has the Government put in place for the well-being and sustenance of those families?

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: This Question will be replied to before the Departmental Committee on Health. The last Question is by the Member for Kitutu Chache North who is also the grandfather of the House. His other name is Hon. Jimmy Nuru Angwenyi.

Question No. 173/2020

RESTORATION OF LAND PARCEL TO MS. AKUNGA

Hon. Jimmy Angwenyi (Kitutu Chache North, JP): Thank you, Hon. Deputy Speaker. I rise to ask Question No. 173/2020 to the Director of Public Prosecutions (DPP):

- (i) Could the DPP provide an update on the progress made so far in investigations into the alleged dispossession of land parcel Number West Kitutu/Mwamonari/38 from Ms. Patricia Kerubo Akunga that was lodged by Ms. Akunga on 16th February 2016?
- (ii) Have all the arrests that were ordered by the DPP on 30th May 2018 with regard to alleged forgery of transfer documents regarding the said parcel of land been effected?
- (iii) Within which timelines shall the investigations be completed, so as to accord justice and land restoration to Ms. Akunga who holds the grant of letters of administration intestate in view of the fact that the irregular and illegal dispossession has left her and her family desolate and impoverished?

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: That Question is for written reply by the DPP. The Question by Hon. Nyamita is deferred to another sitting.

Question 157/2020

HUMAN-WILDLIFE CONFLICT IN URIRI CONSTITUENCY

- (i) What steps is the Ministry of Tourism and Wildlife taking to end the human-wildlife conflict, particularly involving hyena attacks in West Kanyamkago Location, North Kanyamkago Location and parts of Central Kanyamkago Location, and invasions by hippopotamuses along the banks of River Kuja in Uriri Constituency, which are causing untold suffering to the residents through attacks on residents and livestock, and destruction of crops thus putting the lives of those residents at risk and negatively affecting their main source of livelihood?
- (ii) (Are there plans by the Ministry to compensate farmers whose livestock have been killed and crops destroyed by the said wildlife?)

(Question deferred)

So, we will now go to Statements, Hon. Members. We will start with the Chairperson of the Departmental Committee on Labour and Social Welfare. Where is the Chair, Hon. Mwathi?

STATEMENTS

DISBURSEMENT OF FUNDS FROM THE CASH TRANSFER PROGRAMME

Hon. Peter Mwathi (Limuru, JP): Thank you, Hon. Deputy Speaker. The following Statement was sought by Hon. Paul Katana, Member of Parliament for Kaloleni Constituency, pursuant to Standing Order No. 44(2)(c). This is in regard to disbursement of funds from the Cash Transfer Programme in response to the Covid-19 pandemic.

(Loud consultations)

Following a request for the Statement by Hon. Paul Katana on the above subject matter, my Committee received a response from the CS for Labour and Social Protection. In this request, the Member identified two issues regarding disbursement of funds from the Cash Transfer Programme as a response to the Covid-19 Pandemic. One, what is the status of disbursement of funds to the beneficiaries across the country and who are the beneficiaries in each county? We confirmed that the Ministry was allocated Kshs10 billion for the purpose of cushioning the elderly citizens, orphans and other vulnerable members of the society from the effects....

Hon. Deputy Speaker: Order! Who are these Members? Is that the Member for Gilgil? Order! Let us give an opportunity to Hon. Mwathi to do what he is doing. Proceed, Hon. Mwathi.

Hon. Peter Mwathi (Limuru, JP): Thank you, Hon. Deputy Speaker. Let me say that again. We confirmed that the Ministry was allocated Kshs10 billion for the purpose of cushioning the elderly citizens, orphans and other vulnerable members of the society from the effects of Covid-19 Pandemic. The funds were made available during the second Supplementary Budget in the 2019/2020 Financial Year that was appropriated in March 2020.

Given that this was already at the fourth quarter of the Financial Year and in order to ensure that the deserving citizens were quickly identified, the Ministry of Labour and Social Protection

worked closely with the Ministry of Interior and Coordination of National Government and Ministry of Health multi-agency teams both at the headquarters and field levels, leveraging on the institutional arrangements of Ministry of Interior and Coordination of National Government through Regional Commissioners, County Commissioners, Deputy County Commissioners up to chiefs and *Nyumba Kumi* cluster heads. The inclusion of Ministry of Health, through their community health volunteers, was to ensure that the various Ministry of Health guidelines and protocols were adhered to, so that the would-be beneficiaries would not be exposed to Covid-19 effects during identification.

The Ministry of Labour and Social Protection via the county and sub county officers together with the constituencies' social assistance committees, other agencies and stakeholders were critical in enhancing the credibility of their identification process. The multi-agency teams were guided by the following criteria:

- (i) Households with high poverty index and where the head or breadwinner is disabled;
- (ii) Households with high poverty index and where the head or breadwinner is widowed;
- (iii) Households with high poverty index and where the head or breadwinner is a minor -that is orphans or child-led households;
- (iv) Households with high poverty index and where the head or breadwinner is suffering from pre-existing medical condition, for example HIV and Cancer;
- (v) Households with high poverty index and where the head or breadwinner is mentally unsound and/or vulnerable;
- (vi) Households which are not benefitting from other Government support programmes; and,
- (vii) Majorly selected from urban informal settlements that are hard hit by Coronavirus pandemic.

The identification exercise was divided into three faces namely:

Phase 1 targeted those in the initial four lockdown counties: Nairobi, Mombasa, Kwale and Kilifi. A total of 85,300 people were reached.

Phase 2 targeted a further 17 counties: Nakuru, Kirinyaga, Meru, Kakamega, Embu, Kiambu, Nyeri, Uasin Gishu, Kisumu, Murang'a, Kajiado, Kisii, Machakos, Mandera, Tharaka Nithi, Nyamira and Migori. At the moment, a total of 180,800 households were identified into the Programme with additions from the upscale which is phase 3;

Phase 3 has scaled up the Programme to 26 remaining counties: Baringo, Bomet, Bungoma, Busia, Elgeyo Marakwet, Garissa, Homa Bay, Isiolo, Kericho, Kitui, Laikipia, Lamu, Makueni, Marsabit, Nandi, Narok, Nyandarua, Samburu, Siaya, Taita Taveta, Tana River, Trans Nzoia, Turkana, Vihiga, Wajir and West Pokot.

Hon. Deputy Speaker, under this phase, the programme seeks to introduce an additional 400,000 new households into the programme. Currently, 75,858 of the intended 400,000 new households have already been targeted into the programme. The programme aims at reaching a total population of 669,000 households across all the 290 constituencies in the 47 counties in Kenya. The current payroll figure stands at 341,958 households. Targeting is still ongoing for the remaining balance of 327,042 households into the programme, who will be paid up to the first week of October 2020.

On disbursement of funds, the State Department for Interior and Coordination of National Government has a contract with Safaricom for MPESA platform where up to Ksh1,000 is transacted free of charges in their platform. Leveraging on this, the multi-agency team, with the

concurrence of the National Treasury, agreed that funds will be channeled through the State Department for Interior to the identified beneficiaries. For this purpose, the State Department for Social Protection made three fund transfers and Authority to Incur Expenditure (AIEs) totaling to Kshs10 billion as follows: Phase One, a transfer of Kshs1.3 billion; Phase Two, a transfer of Kshs2.4 billion and Phase Three, a transfer of Kshs5.64 billion.

The Covid-19 Response Fund Programme is being implemented by a multi-agency team which aims to cover all the 290 constituencies in the 47 counties. Enrolment and targeting of Phase Three is still on-going in the remaining 26 counties. A detailed analysis of statistical data on coverage and beneficiary distribution per county is being worked on and will be ready once the registration of Phase Three beneficiaries is complete.

The second issue was what are the modes or channels of disbursement to vulnerable persons. The money is disbursed to the enrolled beneficiaries through Safaricom MPESA system via beneficiaries registered mobile number captured during registration. Beneficiaries are paid a weekly stipend of Ksh1,000 by the State Department of Interior and Coordination of National Government. It is projected that this payment shall continue until the first week of October 2020.

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Thank you very much for that detailed Statement. Because of how detailed it is, I do not see a lot of Members interested in making comments.

Let me give a chance to Hon. Dennitah Ghati.

Hon. (Ms.) Dennitah Ghati (Nominated, ODM): Hon. Deputy Speaker, thank you for giving me this opportunity. I also thank the Chair of the Committee for the elaborate undertaking.

Cash transfer, especially in this period of Covid-19, is an issue that has a lot of mistrust, especially from our counties. I speak on behalf of Migori County. I listened to the Chair. Hon. Mwachhi, basically saying that my county of Migori is in Phase Two. One of the criteria he mentioned is for the money to go to the breadwinners of households that have persons with disabilities. I just came from Migori County. On behalf of the persons with disabilities in this country, I can authoritatively state that the criterion that looks at breadwinners of households with persons with disabilities was not seriously considered. As a Member representing persons with disabilities, I would wish the Chair of the Committee, moving forward, to elaborate how many of the breadwinners of households with persons with disabilities got the funds. The criterion of using the Ministry of Interior and Coordination of National Government that trickles down to the County Commissioners, chiefs and *Nyumba Kumi* elders.... From my experience, on behalf of persons with disabilities, chiefs, deputy county commissioners and county commissioners do not understand well persons with disabilities. That is why we, members of the National Council for Persons with Disabilities, propose that the county commissioner and the Ministry of Interior and Coordination of National Government, because that is the line that has been followed, should not just use the chiefs. They must use the offices of the National Council for Persons with Disabilities in the counties to identify the people with disabilities who are in the villages. They should not leave it to the chiefs. From experience, chiefs do not understand persons with disabilities.

I want the Chair of the Departmental Committee on Labour and Social Welfare, as we move forward – I will raise this as a parliamentary Question – to bring a breakdown of households that are headed by persons with disabilities that received the cash from the Cash Transfer Programme. They are not there. They have not received the money.

Hon. Deputy Speaker: Hon. Dennitah, you have actually debated.

Hon. (Ms.) Dennitah Ghati (Nominated, ODM): It is a good presentation. It is only that persons with disabilities do not feel the effect of the Covid-19 funding.

Hon. Deputy Speaker: Thank you.

(An Hon. Member consulted with Hon. Amos Kimunya)

Who is this Member who is not keeping social distancing? That must be the Member for I cannot see him well, but it is the Member with a black face mask. I cannot note him but whoever it is, please, keep distance from the Leader of the Majority Party. You must protect the Leader of the Majority Party, by all means.

Now, let us go to the last Member on this matter, the Member for Gilgil.

Hon. (Ms.) Martha Wangari (Gilgil, JP): Thank you, Hon. Deputy Speaker. I also rise to thank the Chair for that very comprehensive Statement.

The issue of cash transfer, as it is called, has a lot of issues especially during this pandemic season. For one, the list of the elderly and orphaned or vulnerable children to receive the money has not been updated for the last two or three years. We have talked about cleaning up the list. In my constituency, I have many people, including elderly persons who are over 70 years, who do not receive the money from the Government. Why? For the last three years, they have not been registered. We have people who have died and replacements have not been done. It is not timely. People die and have not been replaced and others have attained 70 years but have not been registered. Every day, we talk about these issues in the constituencies.

The Chair, therefore, needs to explain or table in the House when the list was last updated, why it is not done periodically and consistently and, more importantly, the issue of people going to queue to get their money especially in my constituency. You can know when the elderly are going to pick their money. They queue the whole day yet they do not get it. The MPESA money transfer needs to be done properly so that they do not need to travel all the way from Kongasis to town to receive the money. They spend Kshs1,000 and they do not eat only for them to get Kshs4,000 to go home with. It needs to be done very well.

On the issue of persons with disabilities, to support Hon. Dennitah Ghati, we have children and caregivers who have children with disabilities. I have families in my constituency somewhere called Karunga and Chokereria. The mother has three disabled children. She cannot go to work or go to get the money to feed those children. If you consider that you will only give the homesteads that are led by a person with disability, where do you leave these other ones? How do they take care of these persons with disabilities? How do they take care of these children? That criteria must be challenged. It should actually be focused on not only the breadwinners, but even the children and the caregivers of people with disabilities. That will make more sense.

Thank you, Hon. Temporary Deputy Speaker.

Hon. Deputy Speaker: Okay. Well, I hope the Chair of the Departmental Committee on Labour and Social Welfare has noted all those issues. The issues of persons with disabilities and timely disbursement and any changes when they occur, including death.

Members, I think that should be enough. I can see there is quite a lot of interest in this. Top here is Hon. Wamalwa. Where is he?

Hon. (Dr.) Chris Wamalwa (Kiminini, FORD-K): First and foremost, I really want to thank the Chairman.

Hon. Deputy Speaker: Let us be brief, (Dr.) Wamalwa, so that we give a chance to others.

Hon. (Dr.) Chris Wamalwa (Kiminini, FORD-K): That is true. I do not have much to say. Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: I even suspect that your voice is not very clear today having seen what you were doing during the weekend.

Proceed.

(Laughter)

Hon. (Dr.) Chris Wamalwa (Kimini, FORD-K): During the weekend, as the Luhya nation, we are undergoing the circumcision ceremony. So, I was busy at home with my people.

This issue of cash transfers is very important. The Committee should look at the issues of timely disbursement. We should change the methodology of disbursement. When you go to other jurisdictions, for example, in the United States of America (USA) where they give money, it is different. On this issue of cash transfers, we should use the M-Pesa. The M-Pesa has stood the test of the time. This is the best timing. This is so that elderly people and even people with disabilities do not have to travel for 20, 40 or 100 kilometres. It does not make sense that one spends Ksh2,000 on transport to go and get Ksh3,000. We should look for a framework. Maybe they can partner with Safaricom or Airtel for this disbursement so that it is convenient for the villages as much as possible.

Otherwise, it is a good initiative and we appreciate.

I thank you.

Hon. Deputy Speaker: Hon. Masara. By the way, Hon. Members, you are asked to keep social distance and use your masks even at home because it has direct effect on your coming back here. So, even as you do whatever you are doing, Hon. Wamalwa, if you have to be the one leading and being the soloist, you must be as far as possible from the rest of the community.

Proceed, Hon. Masara.

Hon. Peter Masara (Suna West, Independent): Thank you, Hon. Deputy Speaker, for giving me this opportunity to add my voice to the ongoing debate.

First, I want to appreciate the Chairman for the comprehensive Report he has given this House, though I have a concerns: One, the criteria used to identify these people who benefit from these cash transfers. Two, I have to add my voice on whatever Hon. Dennitah Ghati has just mentioned. There are a lot of people living with disabilities in my constituency. Actually, I have the figures. They have their own association. Out of those over 676, only 14 are benefitting. That means over 600 are not benefitting. The people concerned need to scale up means and ways of identifying these people.

As well, there is the issue of timely disbursement. There are families who rely squarely on these cash transfers. At times they go for three to four months without this money. These families are really suffering during such a time. I am proposing that, in future, maybe committees should be established within sub-counties to be monitoring and updating the national committee on the same.

Above all, is the issue of registration.

Hon. Deputy Speaker: Hon. Iringo, very briefly, so that we can give other Members a chance.

Hon. Kubai Iringo (Igembe Central, JP): Thank you, Hon. Deputy Speaker. I do not want to repeat what my colleagues have said because whatever points they have raised are very pertinent.

Let me emphasise the fact that despite the fact that this Fund is quite welcome and really assists our vulnerable people in the community, the mode of identifying these people is very

wanting. Those officers who are supposed to do it, as many have said, are not competent. We have a problem whereby there are people who are now almost 90 years old but have never been captured in the data. There are others who are already dead but their money comes in. The staff which the ministry uses to censor these people is so limited that it cannot cope with the volume of what is happening on the ground. The mode of enrolment should be changed. We need a committee which needs to be sitting and looking at each and every constituency and its needs... If we leave it to the people at the Office of the President (OP), we shall be having funds, but they will never get to the right people.

Hon. Deputy Speaker: Okay. Hon. Limo. I do not think you are ready on this one. You only placed your card. Were you?

Hon. Joseph Limo (Kipkelion East, JP): No.

Hon. Deputy Speaker: This was a different one. So, I will finish with the Leader of the Minority Party.

Hon. John Mbadi (Suba South, ODM): Hon. Deputy Speaker, I was just sharing with Hon. Nyikal about when he was in charge of this programme. I remember I forced them to move the amounts from Ksh1,500 to Ksh2,000 through a Motion.

The intention of this cash transfer was very noble, but there is a challenge in the way it is being implemented, which we should deal with. I have this suggestion to make to the Chair of the Committee. The committees exist and there are constituency committees. It is only that they are being ignored by the Executive in terms of implementation. Could you please work with the Ministry to make sure these committees are not ignored?

Finally, I do not think it is too difficult, even if we were to do away with paperwork. It is possible that, as people oversee these funds and people's representatives, you could get email addresses for each Member of Parliament so that the Ministry gives updates, any time; say 2,000 or 1,000 members in your constituency receive the money. I should have that information to know whether these people really exist and whether they are the people who deserve. It may not be difficult for an MP to know whether the members being given these cash transfers are able or not. We will be doing it as an oversight function. The Executive can implement. They can do what they want. They can pay after every three months, but give that information to us as people's representatives.

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Hon. (Dr.) Lemein. Members, the next item is also very interesting. So, I will give chance to more Members in the next round.

Hon. Korei ole Lemein (Narok South, JP): Thank you, Hon. Deputy Speaker. I totally concur with the Leader of the Minority Party. Cash transfer for the vulnerable people was a very noble idea.

I want to speak on behalf of my constituency. One of the biggest challenges is that we have very many old people. They are 70 years old and above. Whenever we go round the constituency, we get a lot of concerns from the same people that they can never be captured whenever they visit the Office of the County Commissioner for registration. Year in, year out, these people are left vulnerable. I think the best way is what the Leader of the Minority Party just said – that there should be committees at the constituency level. The committees will be working with the rest of the departments, at least, for these people to be captured for them to benefit from these cash transfers.

Hon. Deputy Speaker: Okay. We will go to the next one which is by the Chairperson of the National Government Constituencies Development Fund (NG-CDF).

I notice that you had another one. We have really taken a lot of time on that one. I do not know whether you can summarise this in less than three minutes. It is a fairly straightforward one, the one on the recruitment of the CEO of the Youth Enterprise Fund (YEF). I am sure that is something you can do. I will not allow any Member to ask any question on this.

So, proceed, briefly.

Hon. Peter Mwathi (Limuru, JP): Hon. Deputy Speaker, it is not very short. It is quite comprehensive.

Hon. Deputy Speaker: Hon. Mwathi, just summarise it and the Members can pick your reply.

RECRUITMENT OF CHIEF EXECUTIVE OFFICER
AT THE YOUTH ENTERPRISE DEVELOPMENT FUND

Hon. Peter Mwathi (Limuru, JP): Hon. Deputy Speaker, I wish to respond to the request for Statement by Hon. Joash Nyamoko, MP for North Mugirango, regarding the recruitment of the Chief Executive Officer at the Youth Enterprise Development Fund (YEDF). In his request, the Member identified five issues which he wanted addressed. My Committee has since received a response from the State Department for Youth Affairs on the five issues raised as follows:

Issue Number 1: Whether the Board considered the CEO's performance evaluation with a view to renew his contract or reappointment as provided for in the Executive Order No. 7 - Mwongozo, relevant Government circulars on CEO's reappointment and the Fund's Human Resource Policy and Procedures Manual.

Mr. Moriasi was employed as YEDF Chief Executive Officer on 1st November 2016. His contract ended on 31st October 2019, and was renewed for six months ending 30th April, 2020. Mr. Moriasi's performance scores were as follows:

Financial Year 2016/2017	-	86%
Financial Year 2017/2018	-	89.51%
Financial Year 2018/2019	-	No evaluation

Mr. Moriasi did not avail any minutes to help the Board determine why the previous Board did not renew his contract. In addition to this, since the inception of the current Board, there has been a full 10 sets of minutes of meetings that have not been kept in record in the Fund's office and this exposes the Board to having their decisions challenged as the minutes are the main record of Board's deliberations and resolutions.

There were rampant complaints by the youth on inaccessibility of YEDF services and on delayed loan processing. There was underperformance noted in the Fund's core mandate of lending during the period Mr. Moriasi was CEO as follows:

First, there was failure to meet loan disbursement targets as noted below.

Financial Year	Target (Kshs. millions)	Achievement (Kshs. millions)	Percentage
2016/2017	914.5	352.7	38%
2017/2018	842.6	549.2	65.2%
2018/2019	816	323.1	39.6
2019/2020	846.1	473.3	55.9

Second, there was exclusion of many parts of the country from the Fund's services. Many parts of the country were excluded from the Fund's services as follows:

Financial Year	Number of constituencies not financed	Number of constituencies receiving less than Kshs1 million	Annex
2017/2018	34	94	I
2018/2019	57	133	II
2019/2020	51	120	III

Issue Number 2: Whether the extension of the CEO's contract for a period of six months after successfully serving his first term was legally justifiable.

The current Board was appointed on 16th October 2020, just two weeks to the expiry of the contract of Mr. Moriasi. The Board had at its disposal two options over this matter: To renew the CEO's term for another three years, or decline to renew the CEO's contract and appoint another officer. However, the Board did not adequately inform us on any of these decisions. During its 70th full Board meeting held on 31st October 2019, the same day Mr. Moriasi's contract was ending, the Board resolved that the CEO's contract be extended for a further period of six months effective 1st November 2019, to allow the Board time to review his performance prior to determination of reappointment.

Issue Number 3: Whether there existed possible conflicts of interest among the Board Chairperson and members during voting in the matter of contract renewal/reappointment for Mr. Moriasi.

There was no conflict of interest other than him as the Chief Executive Officer, who declared interest on Agenda No. 11 as the same was on his re-appointment.

Issue Number 4: Whether the Board blatantly ignored advice from the Inspectorate of State Corporations and National Treasury on procedure for reappointment of public entity CEOs.

The representative of the Inspectorate of State Corporations and the representative of the PS, National Treasury were both at all meetings where the renewal of the contract of Mr. Josiah Moriasi Arabu was discussed. In addition to this, the opinions of both members were sought during the meetings and recorded extensively within the minutes.

Issue Number 5: Whether the current Board complied with the Youth Enterprise Development Fund Order No. LN 63 of 2007 and relevant Government circulars/guidelines regarding appointments of board chairpersons and independent members and whether it is competent to make objective resolutions regarding Moriasi's request for reappointment.

Hon. Deputy Speaker, Legal Order No. 63 of 2007 provides the Board's composition as contained in the Statement. Pursuant to those provisions, we have noted that the current Board complies with these provisions and is therefore competent to make objective resolutions regarding Moriasi's request for reappointment.

Hon. Deputy Speaker, that marks the end of our Statement.

(Hon. Peter Mwathi laid the document on the Table)

Hon. Deputy Speaker: Thank you. I could only allow Hon. Joash Nyamoko to comment because he is the one who requested for the Statement. If he is not in, we will proceed to issuance of Statements. The previous two were responses to Statements. The first one will be by the Chairman, NG-CDF. Is he in? Is he ready? He was in a few minutes ago. He could do it in the afternoon.

Hon. Chair, on this one for *Kazi Mtaani*, are you prepared? You can do a brief response. Hon. Mwathi, you seem to have quite a handful this morning. The Statement by the Chairperson, NG-CDF will be issued in the afternoon.

Hon. (Prof.) Jacqueline Oduol (Nominated, ODM): On a point of order, Hon. Deputy Speaker.

Hon. Deputy Speaker: What is your point of order? Is that Hon. Dennitah? Sorry, I can see it is you Prof.

Hon. (Prof.) Jacqueline Oduol (Nominated, ODM): Hon. Deputy Speaker, I want to state that it would be in order that when a Member requests for a Statement, they are informed when it is responded to. I had an unfortunate experience of my Statement being responded to when I was outside the Chamber attending to another business and only caught the tail-end of it. So, is it in order for a Member not to be informed when they request for a Statement and the responses are scheduled on the Order Paper, so that they prepare to be in the Chamber?

Hon. Deputy Speaker: There are two issues on that. One, Members should be informed. Two, and most importantly, they should track statement requests they make. That is easy because if they ask from the offices that are concerned, they will be told when their Statements will be responded to. That is a genuine concern. It is something that needs to be addressed one way or the other. Members are encouraged to be keen with whatever they request and ask from the House.

In future, we will probably be asking if Members are in the House despite the fact that once a Statement has been requested, it becomes the property of the House. If a Member is not in, their Statement will be deferred. That is a possible option. It will disadvantage Members, but it is better to make sure that they are here to pursue their requests for Statements or Questions.

Hon. Mwathi.

Hon. Peter Mwathi (Limuru, JP): Thank you, Hon. Deputy Speaker. In respect to the issue of informing Members, I can confirm to the House that we had informed Hon. Joash Nyamoko. It was only fair that we read the Statement in his absence. We cannot hold business because a Member has chosen not to come to the House.

I beg your indulgence to allow me to read the Statement on *Kazi Mtaani* in the afternoon.

Hon. Deputy Speaker: I have to confirm whether that is possible. The afternoon session could easily be packed. Let us put it to another sitting and check if there will be an opportunity in the afternoon sitting, so that you can do it. That makes sense.

Hon. Peter Mwathi (Limuru, JP): Hon. Deputy Speaker, it is important for Members. There are so many questions regarding *Kazi Mtaani*. I was waiting for a few more details that are coming.

Hon. Deputy Speaker: Afternoon it is.

Hon. Peter Mwathi (Limuru, JP): Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: What is it, Hon. Tiren? What is your point of order?

POINTS OF ORDER**WAY FORWARD FOR COMMITTEE ON AGRICULTURE AND
LIVESTOCK ON CROPS (TEA INDUSTRY) REGULATIONS, 2020**

Hon. Silas Tiren (Moiben, JP): Thank you, Hon. Deputy Speaker. I am seeking your direction on the Crops (Tea Industry) Regulations, 2020. The Cabinet Secretary for Agriculture, Livestock, Fisheries and Cooperatives, in consultation with the Agriculture and Food Authority and county Governments, made the Crops (Tea Industry) Regulations, 2020. The regulations were made pursuant to Section 40 of the Crops Act. The published regulations have been submitted to the Committee on Delegated Legislation. Although the Statutory Instruments Act does not expressly provide that a parent committee should also scrutinise the regulations, the regulations correlate to the current Tea Bill that the Committee is considering. The Committee was not given any opportunity before and after publication of the regulations yet they are related to the Tea Bill. I, therefore, seek your direction on the matter.

Hon. Deputy Speaker: What are the issues?

Hon. Silas Tiren (Moiben, JP): Hon. Deputy Speaker, the issues are about the Committee on Delegated Legislation as clearly stated in my Statement. I am seeking your direction on the matter as to whether we should be given an opportunity or not as the Departmental Committee on Agriculture and Livestock.

Hon. Deputy Speaker: I am not quite clear on that. What is it Hon. Wamalwa?

Hon. (Dr.) Chris Wamalwa (Kimini, FORD-K): Thank you for the opportunity, Hon. Deputy Speaker. On what my Chair has said, ordinarily, regulations operationalise an Act of Parliament. On this matter, we are talking about regulations concerning tea. The Cabinet Secretary went ahead to gazette the regulations. The Kenya Tea Development Agency (KTDA) went to court and I think the regulations were suspended. What the Chair of the Departmental Committee on Agriculture and Livestock is requesting is for the parent committee to have a look at the regulations. Last time, he rose on the Floor of the House and the Speaker gave him ago ahead for the Committee to look into the matter on the Tea Bill, which is a Senate Bill. The issues that are being tackled under the Tea Bill are the same things in the regulations. So, the Chair is humbly requesting that, through your intervention, you provide direction, so that the parent committee can have a look at the Tea Regulations now that it has been seized of the Tea Bill. That is what he is seeking.

Hon. Deputy Speaker: Let us have Hon. Mbui, then I will come to this side and thereafter make a decision on it. The Leader of the Majority Party, do you want to have a take on that? Well, now that the Leader of the Majority Party has stood...

Hon. (Dr.) Chris Wamalwa (Kimini, FORD-K): He can wait.

Hon. Deputy Speaker: No! He cannot wait. You are the ones who keep passing procedures at the beginning of every Session that the leaders of the Majority and Minority parties will always have the first take. So, we will have the Leader of the Majority Party then Hon. Mbui.

Hon. Amos Kimunya (Kipipiri, JP): Thank you, Hon. Deputy Speaker. On the concern by the Chair of the Departmental Committee on Agriculture and Livestock, in terms of sequencing the regulations; my understanding is that the regulations that have been drafted are based on the existing Act. The Tea Bill has not been passed. The Ministry cannot wait until this House either passes it or not to make regulations. Business must continue. The regulations are rightfully before the Committee on Delegated Legislation and the Tea Bill is rightfully before this House. We cannot

tell when legislation on the Tea Bill will be concluded. Let us process the two separately, and when the Tea Bill eventually becomes an Act of Parliament, the regulations will be updated to be in line with the new Act. For now, let us proceed. In any case, the Departmental Committee on Agriculture and Livestock is at liberty to attend the sessions of the Committee on Delegated Legislation when they will be reviewing the regulations and give their input.

Hon. Deputy Speaker: Hon. Mbui.

Hon. Robert Mbui (Kathiani, WDM-K): Thank you, Hon. Deputy Speaker. You know the regulations have already been published. That in effect means that they are operational. I sit in the Committee on Delegated Legislation and – with your permission – we will be having meetings next week to talk to certain stakeholders that are raising concerns about the same regulations. However, what the Leader of the Majority Party has said is the right thing. One of the stakeholders that we should also be listening to is the Departmental Committee on Agriculture and Livestock. They can access the regulations and see how they affect what they are currently doing before the House, so that by the time we meet the Cabinet Secretary, we also raise their concerns. Unfortunately, the only thing we have as a Committee is to either pass the regulations or stop them.

Hon. Deputy Speaker: Hon. Keynan.

Hon. Adan Keynan (Eldas, JP): Thank you, Hon. Deputy Speaker. I want to invoke Standing Order No.216. I heard what the Chairman has said and I find it completely unacceptable in the 12th Parliament. Departmental Committees are created pursuant to Standing Order No.216 and their functions are clear. Committees can invoke that Standing Order and interrogate anything about the line Ministries that they oversee. I, therefore, find it irrelevant for a Chair of a committee to come to the plenary and seek the indulgence of the Chair. He has the powers. If there is any jurisdictional conflict with a particular committee, he should seek a joint sitting with that particular committee. That is not an issue of the plenary. So, this does not require your intervention.

Hon. Deputy Speaker: Well, first of all Hon. Chair, Tiren has properly brought this issue to my attention. He is free to seek the intervention of the Speaker at any point. That is why I will probably agree with many Members who have spoken here. The issue is properly before the Committee on Delegated Legislation. However, nothing prevents the Departmental Committee on Agriculture and Livestock from contributing and interrogating the matter, not necessarily as a Committee, but bringing their input when matter is at the stage of interrogation by the Committee on Delegated Legislation.

So, I would request Hon. Tiren, since you seem to have strong interest in this particular matter, to pass on your Committee's views to the Committee on Delegated Legislation, either in writing or by appearing before the Committee yourself, so that we do not stop any process anywhere. I think that would be the better way for now because the matter is properly before that particular Committee.

Thank you. Let us go to the next Order please.

Hon. Jared Okelo (Nyando, ODM): On a point of order, Hon. Deputy Speaker.

Hon. Deputy Speaker: What is out of order, Hon. Jared Okelo?

Hon. Jared Okelo (Nyando, ODM): Hon. Deputy Speaker, whereas the Chair has said he is gathering more information on *Kazi Mtaani* and he has scheduled to give a comprehensive report this afternoon, I wanted to ask why Nyando Constituency has so far not been incorporated even though certain sub-counties within Kisumu County have been benefitting.

Secondly, Hon. Deputy Speaker...

Hon. Deputy Speaker: No, do not go to the second one. Just stop there. Since this matter will be coming up in the afternoon, why do you not prepare all your difficult and tough questions

for that particular session? At least you have stated one of the questions. I am sure the Chair has heard you and he will give you a proper response.

Hon. (Dr.) Otiende Amollo (Rarieda, ODM): On a point of order, Hon. Deputy Speaker.

Hon. Deputy Speaker: What is it, Hon. Otiende Amollo? That will be it, then we will go to the next Order, please.

INADEQUATE PARLIAMENTARY E-PLATFORM

Hon. (Dr.) Otiende Amollo (Rarieda, ODM): Thank you, Hon. Deputy Speaker. I rise on Standing Order 1 on a procedural matter. I only raise it now because it is related to what Hon. (Prof.) Oduol raised. I would like your guidance on this matter because it is very important.

Hon. Deputy Speaker: Let me understand you well. Are you talking of rising on Standing Order 1?

Hon. (Dr.) Otiende Amollo (Rarieda, ODM): Yes.

Hon. Deputy Speaker: Okay.

Hon. (Dr.) Otiende Amollo (Rarieda, ODM): Hon. Deputy Speaker, this relates to the notification of Members whenever a Question they have asked is to be responded to. The guidance so far was that the Chairs are encouraged to let those Members know. I wanted to invite you to give us guidance because there are some Questions which not only the Member who asked is interested in but many more Members would want to contribute to. The essence of this is that we are on e-platform. It is quite important that at least there is a notification in our e-platform when responses to Questions are due to be presented. I want to draw your attention, for example, to today's responses. There is only one that has been captured: the one relating to the CEO of the youth. All the others are not captured, so there is no way for any Member who is interested to know what response would come.

I would like to invite your attention and perhaps direction in terms of reorganising this e-platform. This is an e-platform where the resource materials do not include the Standing Orders of this House. I want to invite you to note that for some reason Standing Orders of the Senate are included. The first six items on the platform relate to the Senate. There are no Standing Orders of this House on the platform. The platform does not even have the Parliamentary Privileges and Immunities Act. In fact, the Constitution of Kenya is ranked ninth. It is unfortunate. When you come to the Motion Tracker, it reads nil. When you come to the Bill Tracker, it reads nil. So, we have a highly insufficient e-platform. I would like to invite your attention to direct the necessary departments so that we can have a meaningful platform. We should know how to track a Motion or Bill and what response is coming when. The Acts that are important to us should not only be included but they should be prioritised, starting with the Constitution. The Parliamentary Services Act that is on the platform is the 2000 one and yet we recently amended it.

That is my point of order, Hon. Deputy Speaker.

Hon. Deputy Speaker: I will ignore the fact that you stood on a wrong Standing Order. What you have raised is extremely pertinent. I instruct the Clerk's Office to pursue that matter. It is an extremely important matter. Probably we need it done as quickly as possible. Before we come back from recess, I think that should be a matter that should have been resolved. It is an extremely important matter.

Hon. King'ola, what is it? I thought that should have been the last one.

Hon. Patrick Makau (Mavoko, WDM-K): Thank you, Hon. Deputy Speaker. I will not quote any Standing Order. I cannot agree more with Hon. (Prof.) Oduol. Last week I sought a

statement from the Ministry of Health. I raised a very important point as to why the Cabinet Secretary cannot tell Kenyans how many negative pressure Intensive Care Unit (ICU) beds are available in this country. Lack of the same is the reason medical personnel in this country are losing life to COVID-19.

Hon. Deputy Speaker: I will interrupt you, Hon. Patrick Makau. You sought that statement last Wednesday. It cannot be that that is in line with what Hon. (Prof.) Oduol asked. What she asked is that Members must be notified. Yours has been referred to the Committee. Are you asking that you should be notified?

Hon. Patrick Makau (Mavoko, WDM-K): The Chair asked to be given one week. Today is Wednesday. We keep losing Kenyans, both patients in wards and medical personnel.

Hon. Deputy Speaker: Now I get you, Hon. Patrick. What you are saying is that this was a Question by Private Notice and it has not been answered. That is something we need to know, because the matter is extremely urgent. Of course, we know the difficulties we have now because of the circumstances that we are in. But you are perfectly right that this is a matter we had given a week and should have been answered by now. So, we will also ask the Chair what has happened. Where is the Chair or any member of the Departmental Committee on Health? The Leader of the Majority Party is requested to pursue the Departmental Committee on Health. This is an extremely important matter that should have been dispensed with.

Let us leave it there, Hon. Makau. I think that matter is sorted out now. Please, let us save on time. We can proceed to the next order.

BILLS

Second Reading

THE PARLIAMENTARY PENSIONS (AMENDMENT) (NO. 3) BILL

(Hon. Andrew Mwadime on 5.12.2020)

(Debate concluded on 5.2.2020)

Hon. Deputy Speaker: What remained of this Bill was for the Question to be put. I confirm the numbers are available, so I put the Question.

(Question put and agreed to)

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

First Readings

THE COUNTY TOURISM BILL

*(Order for First Reading read - Read the First Time and
ordered to be referred to the relevant Departmental Committee)*

THE CARE AND PROTECTION OF CHILD PARENTS BILL

(Order for First Reading read - Read the First Time and ordered to be referred to the relevant Departmental Committee)

MOTION

ADOPTION OF REPORT ON ALLEGED INVASION
OF LAND IN ROYSAMBU BY KENYA DEFENCE FORCES

Hon. Deputy Speaker: The Chairperson, Departmental Committee on Lands, if you are ready, kindly, proceed.

Hon. Rachael Nyamai (Kitui South, JP): Thank you, Hon. Deputy Speaker, I beg to move the following Motion:

THAT, this House adopts the Report of the Departmental Committee on Lands on its consideration of a Petition on the alleged invasion of LR 5875/2 in Roysambu Constituency by the Kenya Defence Forces, laid on the Table of the House on Thursday, 2nd July 2020.

I would like to thank the Departmental Committee on Lands for their dedication to the work that we do. I would also like to thank the Office of the Clerk for the work that they do in preparing us for writing the many Reports.

Hon. Deputy Speaker, the Petition regarding invasion and eviction of workers of the late Mayer Jacob Samuels from the ranch in Roysambu by KDF was conveyed to the House by Hon. Speaker, on behalf of the petitioners, on 22nd June 2019. In consideration of this Petition, the Committee held meetings with representatives of the petitioners, who were accompanied by Hon. Waihenya Ndirangu. We also had meetings with the Acting Chief Executive Officer of the National Land Commission; the Chief Administrative Secretary of the Ministry of Lands and Physical Planning; the Principal Secretary of the Ministry of Defence; the Chief Executive Officer of Uchumi Supermarket Limited; the Director of Legal Services, Kenya Commercial Bank(KCB) and the Director of Jewel Complex Limited. The Committee also received written submissions from the County Secretary, Nairobi County.

In their submissions, the petitioners informed the Committee that they used to work for the late Mayer Jacob Samuels, who owned the land in question, L.R.5875/2 situated in Roysambu Constituency. Mayer Jacob Samuels left the country and passed on in 1974. The petitioners also admitted that, thereafter, the late Mayer Jacob's two sons managed to come to the land and operated business. The brothers were, however, later on deported from the country after they declined to surrender the said land for compulsory acquisition by the KDF. The owners had made an offer of Kshs26 million for the land, while the military had offered Kshs3 million. This information is as per the petitioners.

The petitioners also informed the Committee that in 2003, the Government declined to renew the lease for the land and the two sons left the country, leaving the workers with no income. The workers then decided to start businesses on the said contested land. They started a garage and a yard for lorries. On 6th May 2004, the petitioners registered a company called Louisa Community Development Society, No. 446760, and requested the Government of Nairobi to allocate them the land.

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The National Land Commission, in a letter dated 10th March, 2016 informed the County Government of Nairobi that since the lease of this land had expired and was never renewed, the land had reverted back to the Government. Therefore, it was in order for the County Government of Nairobi to allocate it to the society. The petitioners tabled these correspondences to the Committee. The petitioners said they accepted the offer and paid for issuance of allotment letters through their trustees. They also paid a fee to amend the index map, valuation, and to facilitate subdivisions. To this end, the petitioners prayed that the National Assembly, through the Departmental Committee on Lands, ensures that the upholding of the petitioners' rights to occupy, reside and do business on land L.R.5875/2 in Roysambu Constituency is respected and expedite the issuance of leases.

During the considerations of this Petition, the Committee also found out that four other parties claimed ownership to the same land. I would kindly urge the House to kindly pay attention. The first one was KDF. The Principal Secretary of the Ministry of Defence informed the Committee that KDF lawfully owns and occupies the land to date. He put it that it is L.R. 5875/2 in Roysambu Constituency. The Principal Secretary told the Committee that the said land was compulsorily acquired from Mr. M.J. Jacobs by the Ministry of Defence through the then Commissioner of Lands vide Gazette Notices No.5151 and No.5152 of 1985.

The other institution that claimed the same land is Uchumi Supermarkets. The Committee engaged Mr. Mohamed Ahmed, the CEO of Uchumi Supermarkets Ltd, who said that Uchumi Supermarkets lawfully acquired land title L.R. 5875/2 in Roysambu Constituency through its subsidiary company, M/s Kasarani Mall Limited, from Solio Construction Company Limited in 2001 and paid Kshs85 million to M/s Solio Construction Company Limited. You can see the contradictions that the Departmental Committee on Lands was faced with.

The Director, Legal Services of KCB informed the Committee that the bank had entered into a sale agreement with M/s Kasarani Mall Limited for the sale of land L.R.5875/2 in Roysambu Constituency to the applicant financed by the bank. The said parcel of land was used as security for the transaction.

I would like to inform the House of the contradictions and the misuse of Government processes. At the same time, the Committee engaged M/s Jewel Complex Ltd, another interested party in this land. The Director of M/s Jewel Complex Limited informed the Committee that the company was an interested party as well in the matter and was in the process of purchasing this Land L.R.5875/2 in Roysambu Constituency and L.R. 23393 from Kasarani Mall.

I would like to draw the attention of the House to an amalgamation of two pieces of land this time round from Kasarani Mall; a subsidiary of Uchumi Supermarkets Ltd, having indicated to M/s Jewel Complex Limited that it owned both parcels of land on condition that the two parcels were amalgamated. I would like the House to take note of the contradictions, misuse of Government processes. At this point in time, there was an attempt to amalgamate a piece of land whose ownership was not in question with another one whose ownership was in question.

The Committee considered the Petition and all the submissions made to it and made observations, which I would like to read out to this House, on behalf of the Committee.

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

(The Temporary Deputy Speaker (Hon. Patrick Mariru) took the Chair)

Hon. Temporary Deputy Speaker, the Committee observed that the land in question, L.R.5875/2 in Roysambu Constituency, measures 17.16 Hectares and had a lease of 99 years which commenced on 1st November 1904 and expired on 1st November 2003, and it belonged to Mr. Samuels. The Committee also observed that whereas there exists evidence that the Government intended to compulsorily acquire L.R.5875/2 in Roysambu Constituency from Mr. Samuels as evidenced in Gazette Notices 51515 and 51552 of 1985, the acquisition process seems not to have been completed. We also note that there was an order for out of court negotiation between the Government and Mr. Jacob Samuels on the amount of compensation for the land – a process which as far as the Committee was informed and annexed in Annex 1, was never concluded.

There was contradictory information in the Ministry of Defence concerning the intention to acquire the said land. I would like to bring this to the attention of the House because it is what the Committee was faced with. Indeed, in a letter dated 26th January 1987, the Permanent Secretary of the Department of Defence informed the Commissioner of Lands that the military had carried out an inspection of the land and found it unsuitable for the intended purpose unless four additional parcels of land surrounding this plot were acquired to enhance its security as the plot was located in a residential area. On 10th April 1987, Major-General Munyao wrote to the Commissioner of Lands, vide letter Ref. No.DOD/CGS/49 LND, and asked the Commissioner of Lands to disregard the contents of the letter by the Permanent Secretary until the Ministry made further consultations on this issue based on the submissions of the National Land Commission and the military.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Chair, you will remember that the House resolved, I think on Tuesday 28th July, that when you are moving you shall have a maximum of 10 minutes. However, I will give you an additional two minutes so that then you are able to conclude.

Hon. (Ms.) Rachael Nyamai (Kitui South, JP): That is okay Hon. Temporary Deputy Speaker. I really appreciate that. This is a Report that is quite controversial and I wanted the House to understand. However, at the same time there are many other Members who are going to speak. I would like you to see the volume. However, I am going to take the two minutes you have given me and for that reason, where do I go?

Hon. Temporary Deputy Speaker I will go to conclusion. Therefore, in conclusion and in light of the observations I have just highlighted and others that other Members may highlight, the Committee therefore concluded that:

1. This is a matter of interest and the Ministry of Lands and Physical Planning in consultation with the National Land Commission and the Nairobi County Government does complete the process.
2. The Director of Criminal Investigations (DCI) does investigate the officers in the Ministry of Lands and Physical Planning who may have caused loss of public funds by effecting fraudulent transactions relating to LR Number 5875/2 and the Director of Public Prosecutions (DPP) does prosecute any person.

Hon. Temporary Deputy Speaker, we had an example of a Government officer who was used in doing the transactions coming to the Committee and saying she has never handled that transaction and her special identity number 14 was misused.

3. The Ministry of Lands and Physical Planning does secure the title relating to LR Number 23393 with a view of ensuring that innocent Kenyans do not lose money through fraudulent transactions as evidenced by attempted amalgamation of LR number 5875 with 23393.

Hon. Temporary Deputy Speaker, I would like to thank you very much. I beg to move and request the Hon. Khatib Abdalla Mwashetani to second.

Thank you.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Mwashetani you have the Floor.

Hon. Khatib Mwashetani (Lungalunga, JP): Thank you, Hon. Temporary Deputy Speaker. I rise to support the Report on the consideration of the Petition of former workers of the late Mayer, Jacob Samuels regarding the invasion and eviction of the workers from the land in Roysambu Constituency by KDF.

First, let me start by appreciating the fact that this Petition was tabled by yourself and it was brought to the attention of the House through your office. Moreover, I appreciate the fact that last week you exempted it from the normal procedures as per the Standing Orders and allowed it to be debated today.

Hon. Temporary Deputy Speaker, in regard to this Petition, we were able to invite several stakeholders; the petitioners, the Attorney General, the Chief Executive Officer of National Land Commission, Chief Administrative Secretary (CAS), the Permanent Secretary, Ministry of Defence, Chief Executive Officer of Uchumi, Director, Legal Services of Kenya Commercial Bank and Director of Jewel Complex.

Hon. Temporary Deputy Speaker, we established that the officers who were in charge have been flouting the procedures which are supposed to be followed to the letter. We invited the petitioners and they came in numbers. They were elderly and they gave us their stories. There were heirs of the ones who had passed on who were the workers of Samuel Jacobs. In addition, as per what has been raised by the Chair, they had their prayers. On interrogating the relevant departments which were in charge of this issue, we had a meeting with the CAS who presented three files. These are the files which are basically dealing with the same LR number which is 5875 and that is the same land which is being claimed by the workers of Samuel Jacobs.

Hon. Temporary Deputy Speaker, of the three files which were presented by the CAS, one of them was the original one which was covering an acreage of 17.5 which was under the LR Number 5875/2. The second one was the same land but had a different file number that was transferred to a company called Solio. What we noticed while we were interrogating the CAS is that the person who was in charge of transfer or gave authority of transfer of this particular land on the second file that was brought to our table, denied and said that she did not sign any authority for it to be transferred. Looking at the registration of the company, it was done two months after the transfer of the land. This means that there was fraudulent activity that took place in the Ministry.

Hon. Temporary Deputy Speaker, the third file indicated that there was an amalgamation of the number 23393 of the land that belonged to Grace Independent Baptist Mission trustee. This was used by the Ministry officials to register the said parcel. These are activities which are going on in the Ministry and there is a lot we are supposed to talk about but due to time let me go to the conclusion.

Hon. Temporary Deputy Speaker, moving forward, the activities that are going on in the Ministry are not being done in accordance with the law and due process. The KDF is a Government agency which falls under the Executive arm. After listening to the petitioners, I think it is prudent enough for each one of us to follow the law.

In our conclusion, I support Madam Chair and I second the Report.

Thank you.

Hon. Opiyo Wandayi (Ugunja, ODM) (*Off- record*)

The Temporary Deputy Speaker (Hon. Patrick Mariru): Why do you not allow me to propose the Question first, assuming you are raising a point of order on what Hon. Mwashetani has said?

(Question proposed)

What is your point of order Hon. Wandayi?

Hon. Opiyo Wandayi (Ugunja, ODM): Hon. Temporary Deputy Speaker, you know we are living in difficult times and even the time we take on these kinds of Motions has kind of shortened. You know, I have listened very keenly to the comments by the Chair and Vice-Chair while moving and seconding the Motion of the Report. Perhaps, it would be advisable if you could guide so that the House gets to know. This is because the Petition was very clear. The Petition by the Member for Roysambu was very clear. It was on an alleged invasion of a specific parcel of land by the Kenya Defence Forces.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Wandayi...

Hon. Opiyo Wandayi (Ugunja, ODM): Hon. Temporary Deputy Speaker, just indulge me....

The Temporary Deputy Speaker (Hon. Patrick Mariru): Be very careful that you will not be debating. I am behind the scene but what is out of order?

Hon. Opiyo Wandayi (Ugunja, ODM): I do not want to debate now. I want to debate later. However, I just wanted to ask you to perhaps compel the Chair and the Vice-Chair to help the House understand what their finding was. I have read the Report keenly. Are they concluding that the Kenya Defence Forces (KDF) invaded that particular parcel of land in no uncertain terms other than going round in circles?

The Temporary Deputy Speaker (Hon. Patrick Mariru): Order, Hon. Wandayi. You know, there is a bit of mischief on your point of order because I can clearly tell that you are gravitating towards contributing to this.

Hon. Mwashetani, you will not get another chance because when a report is tabled in the House, it is expected that every Member gets access to it. That is why it is here. The Members are at liberty to discuss it. You can raise your issues during the discussion. Hon. Chairman said that there is a detailed report. It is assumed that the Members have read it. I know Hon. Member for Roysambu is present, but do you not want to hear from two Members and then I will give you a chance? You will certainly get a chance.

Let us start with the Member for Roysambu who has been ever patient here. Hon Ndirangu Waihenya, I wanted to give a chance to two Members, but then it is good you start. You have the Floor.

Hon. Isaac Ndirangu (Roysambu, JP): Thank you, Hon. Temporary Deputy Speaker. Perhaps for the benefit of our Public Accounts Committee (PAC) Chairman, I would request him to read the recommendations of the Report which indicated that the Committee on Lands recommends that the former workers in this farm be issued with title deeds and all the public utilities in the property for building schools and markets also be issued with the title deeds.

So, briefly, the dispute involving LR5875/2 revolves around Roysambu or the Royal Suburbs where Jewish settlers and soldiers of the Second World War were settled. In this particular case, one Jacob Samuels had a farm of 17 acres around Roysambu. He was involved in construction business and sisal processing. Around the 1970s and 80s, sisal processing businesses went low. So, he was unstable and unable to pay workers. However, he died along the way and his half-

brothers inherited the parcel of land, continued with the same business and same workers, but had a lot of arrears.

In 1986, the Government, through the Ministry of Lands, sought to acquire by compulsory acquisition this parcel of land, but the owners, Mishmael Jacobson, refused the offer because the Government was offering Kshs3.5 Million. He went to court and the court awarded him Kshs23 Million. It is recorded from all Government departments that until today, he has never been paid even the deposit of Kshs3.5 Million that is alleged to have been paid to the court and never found its way to his bank account. However, he later was either deported or killed, but the former workers continued staying on the land doing their businesses.

Hon. Temporary Deputy Speaker, the lease for this land expired in 2003 when the workers were still living there. In 2010, the Government having refused to renew the lease for the former owner, stayed expiry, and in 2010, by virtue of the new Constitution, the land was vested in the Nairobi County.

Therefore, these former employees who were also called squatters went to the county government and were allocated parcels of land. The County of Nairobi earmarked some land for building public facilities such as a school, a bus park and a market. They went ahead to issue allotment letters to these facilities and also to the former employees who paid for these allotments and were given receipts. When the KDF purported to have paid for this land, they also purported to have taken occupation of it. However, it is on record that they never took possession until last year in 2019 when they descended on the farm and evicted all the former workers. Therefore, we are asking: Who are the owners of this land? A company called Solio purported to have acquired the parcel of land.

Hon. Christopher Omulele (Luanda, ODM): On a point of order.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Order, Hon. Waihenya. What is your point of order, Hon. Omulele?

Hon. Christopher Omulele (Luanda, ODM): Thank you, Hon. Temporary Deputy Speaker. Hon. Waihenya is giving a very good background information, but is it in order for him to purport that the KDF pretended? Is it possible for the KDF to pretend?

The Temporary Deputy Speaker (Hon. Patrick Mariru): Yes, Hon. Waihenya. There you are.

Hon. Isaac Ndirangu (Roysambu, JP): Hon. Temporary Deputy Speaker, compulsory acquisition is never complete until full payment, prompt and in total, has been paid to the owners and all the other people with vested interest. That has never taken place and that is why we are saying that the KDF is only a ground being used by land grabbers to take away this parcel of land from the requisite people who should be the beneficiaries.

I am requesting this House to adopt this Report, so that we can get public utilities to build schools, markets, technical institutions and a bus terminal and for the remaining squatters to benefit from the land. I know the company that has been claiming ownership to this land got an allotment three months before it was incorporated. In law, no land can be vested in a company that is a non-entity.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Order Hon. Waihenya, you had five minutes, but because it is your constituency, I will add you one minute then you sum up.

Hon. Isaac Ndirangu (Roysambu, JP): Thank you. I am requesting that Members adopt this Report, so that our members can be issued with title deeds. They can also be helped with public utilities. We have already obtained Kshs200 Million from the World Bank to build a technical institution. The National Government Constituencies Development Fund (NG-CDF) has set aside

Kshs20 Million to construct a secondary school, so that we can have quick transmission of our pupils. We also need a market and a bus park. You all know that the Roysambu Round About is highly congested and densely populated. We need people to have a market, so that we can get rid of this Corona.

I am appealing to this House not to let KDF be used by grabbers to take away public land. As much as I support the KDF, it is wrong for them to be used by land grabbers to purport to have taken people's land.

I support.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Very well, Hon. Waihenya. I gave him a chance because the subject matter concerns his constituency. I know I should give the Leader of the Majority Party a chance, but I want to jump on to my left and give him a chance later. Let us have Hon. Oluoch Tom.

Hon. Anthony Oluoch (Mathare, ODM): Thank you, Hon. Temporary Deputy Speaker. I rise to support the Report of the Departmental Committee on Lands on consideration of the former workers of the property under reference. I want to highlight three salient points that are not in question. Please protect me from the loud consultations.

(Hon. Peter Mwathi and Hon. Isaac Ndirangu consulted loudly)

The Temporary Deputy Speaker (Hon. Patrick Mariru): Order, Hon. Mwathi! Let Hon. Waihenya listen to what Hon. Tom is saying.

Hon. Anthony Oluoch (Mathare, ODM): It is in Hon. Waihenya's interest to listen to my contribution. As I support this, there are three salient points that are not in question. The first is that the former owner of this property, Mr. M. J. Samuels had a lease of 99 years which expired in 2003. This is a fact in the Report. The second fact is that either through death, disappearance or abandonment, the former owner is said to have left the property unoccupied. Therefore, under the doctrine of what we call radical titling, such land when left unoccupied or unattended reverts and is owned by the national Government.

At the county level, and in this case Nairobi County, it was open for the county to give it as a lease to occupants. The third issue that is not in question is that there were some four or five hundred squatters who were former workers of the person named M. J. Samuels. These persons settled, worked and have been in continuous occupation of this property for a continuous period uninterrupted over 30 years. That is a fact that is also not disputed in the Report.

The most important point I want to raise is the issue which is the elephant in the House of compulsory acquisition. Under Section 8 of the Repealed Land Acquisitions Act, there is a provision and procedure that must be followed. That procedure is that compulsory acquisition must be followed by prompt and equal compensation. The court fixed this at a sum of Kshs2 million. There was a purported deposit in the Report of Kshs3 million by the KDF. That receipt and documentation purported to be receipts of payment are themselves questionable. The Report has fallen short of saying that these receipts were actually fraudulent.

The last point I wish to make is the issue of titles. This is a thorn, big question and problem in Nairobi including Mathare Constituency. The failure or inability to issue prompt titles causes uncertainty to land owners. This is the key issue behind land disputes because properties are issued with allotments and allocation to third and fourth parties.

Lastly, is the question that people who own land or have allotment are unable to secure loans and facilities with banks. So, I support the idea that titling ought to be prompt taking into

consideration that there never was handing over or passing over of this land. If you look at the records in the Ministry of Lands or the National Land Commission (NLC), this land become unoccupied 33 years after the KDF purports to have paid compensation.

You can see there is mischief from some shadow with figures hiding behind the purported allocation to the KDF while in real question it is these companies who won. That is why that Kshs3 million if you trace it, you will discover it never came from the KDF. It was paid by some shadowy companies. So, we must lift the veil like we say in law, lift the veil of the people purporting to want this compensation and you will find it is Uchumi and other people who are trying to get fraudulent land that should go to a Technical and Vocational Education and Training (TVET) institute.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Very well. The Leader of the Majority Party.

Hon. Amos Kimunya (Kipipiri, JP): Thank you, Hon. Temporary Deputy Speaker. I want to start by thanking the Committee for the patience they had based on the Report, as they were taken through this run around by the petitioners and others. Everyone using information they have to their advantage, is obviously purporting to mislead Parliament to sanitise some irregular allocations on the subject land.

I want to ask Members to avoid emotions on this matter and base it on facts. Fortunately, I know this land because I was the Minister for Lands between 2003 and 2006. This same matter came to my attention. So, beyond the Committee, I also know a little more about this matter. I have also received an advisory sent to the Speaker and copied to me from the Attorney-General of the Republic of Kenya as a response to the Committee's Report.

As Members debate this matter, emotional as we might get, let us remember that any transaction on this land will have to be based on the law. If it is illegal, it will go nowhere. It matters not what we say, but the transactions will have to be based on the law.

The thrust of the Attorney-General's advisory is based on the fact that in the 80s, and the dates are in the Report, the Government of Kenya compulsorily acquired this land for purposes of the Department of Defence, from the last registered owner Mr. Samuels using Cap 295, which is now being repealed. That acquisition process was notified, meetings took place to discuss the compensation, valuation was done and a cheque deposited because the seller of the land challenged the value of Kshs3 million.

For purposes of Members to understand land acquisition as it was then, the Government would identify land and issue a notice of acquisition for a certain purpose. They would call people to be told about the compensation. If there was disagreement, the Government would first pay what they had valued. Then, later, through tribunals or appeals, one would process any enhancements they wanted. In the meantime, once the Government had deposited the payments on what they thought the land was worth, a notice to take possession was issued. That was the finality of the acquisition. In terms of whether you were paid more or less, was a cash flow issue.

Hon. Isaac Ndirangu (Roysambu, JP): On a point of order, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Order, Hon. Leader of the Majority Party. What is it, Hon. Waihenya? What is out of order?

Hon. Isaac Ndirangu (Roysambu, JP): On a point of order, Hon. Temporary Deputy Speaker. Is the Leader of the Majority Party in order to mislead this House that land will vest in Government even if it has not paid for it 30 years after putting a notice of compulsory acquisition?

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Duale, there is a point of order we are prosecuting with the Leader of the Majority Party from Hon. Waihenya.

Hon. Amos Kimunya (Kipipiri, JP): Let me just clarify to Hon. Waihenya that, indeed, I have copies of the receipts the Government paid to the Commissioner of Lands. The Department of Defence is an appropriation. It was paid to the Commissioner of Lands. The Commissioner of Lands deposited the cheque in court. Because obviously there was a challenge on the amount, the amount was deposited in court. The court then forwarded the money to the advocates for the owner. The advocate for the owner has confirmed they received the money and it was deposited in their bank.

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

The Temporary Deputy Speaker (Hon. Patrick Mariru): What is out of order, Hon. Duale? Leader of the Majority Party, give me one minute.

Hon. Amos Kimunya (Kipipiri, JP): I do not even know what is in dispute because facts do not lie.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Order, Leader of the Majority Party. I think the question between Hon. Waihenya and the Leader of the Majority Party is actually a point of fact and a point of law and that is part of the discussion now. Hon. Duale, what is out of order?

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Speaker, I really urge you that we discuss this matter soberly. You should not entertain the many points of order by Hon. Ndirangu Waihenya. He is the petitioner. He should listen to us because for everybody who speaks, he wants to have a point of order. So, let us listen to the Leader of the Majority Party. Give all of us who read this Report an opportunity to contribute. Each one of us should read the Report and contribute.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Order! Hon. Waihenya, I am not going to give you a chance. Hon. Duale, Hon. Waihenya has every right to raise a point of order, but also Hon. Waihenya, we are not also going to allow you to do an interjection at every corner. Let us have that balance. Hon. Waihenya is also a Member here. Leader of the Majority Party, please proceed.

Hon. Amos Kimunya (Kipipiri, JP): Thank you, Hon. Temporary Deputy Speaker. I think the important thing for this House to appreciate is this House passed a law which was called Cap. 295, the Land Acquisition Act. It was in operation then until it was repealed in 2012 with the review of the land laws to align them with the new Constitution. That was the law and that law was used not just for the Roysambu land. It was used even to acquire all the lands on all these roads and bypasses. What I want to remind Members is that in the 1990s, there was a phenomena called the land grabbing mania in this country and people tried to identify every land that the Government had acquired yet the Government had not moved in. It was purported that it was vacant and empty and it was grabbed either by the squatters or using the squatters or in this case by Solio Construction which was then sold to Uchumi and Uchumi is now trying to sell it to somebody else.

However, all that is irrelevant because the issue is: Was the land alienated or un-alienated? In 1986 when the notice of taking possession was issued and filed within the file, the land became alienated to the Government of Kenya, which means it was not available for allocation to any other person without the concurrence of the DoD. There is a principle I believe the professor will tell us,

nemo dat quod non habet - you cannot give what you do not have. Once the land was sealed, that land belongs to the KDF. That was it.

The Temporary Deputy Speaker (Hon. Patrick Mariru): The Member for Kikuyu, why are you too agitated? What is out of order?

Hon. Amos Kimunya (Kipipiri, JP): As he gets his act together...

The Temporary Deputy Speaker (Hon. Patrick Mariru): Leader of the Majority Party, he is on the Floor. He is trying to get the microphone. What is out of order, Hon. Ichung'wah?

Hon. Kimani Ichung'wah (Kikuyu, JP): Hon. Temporary Deputy Speaker, thank you. You know the Leader of the Majority Party does not realise that I am not the one who gives myself the microphone. You have to do it from the clerk's desk. He is doing a good job trying to enumerate what happened, but I just wanted to benefit. If you read through the Committee's Report, you will notice, and he has gone to great length to explain how money was paid out, that after the death of the original owner, Mr. Samuels, even his children were deported from this country. We may want to benefit from the knowledge to know who these powerful people are who instigated the deportation of the sons of Mr. Jacob Mishmael and occasioned the allocation of this land to companies. I would also want the Leader of the Majority Party to tell us who the owners of Solio Construction Company are.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Order! Hon. Kimani Ichung'wah. Hon. Kimani Ichung'wah, you are also being mischievous. You are now going to a point of debate. I am sure the Leader of the Majority Party has noted your sentiments. Please, Leader of the Majority Party, if you could proceed.

Hon. Amos Kimunya (Kipipiri, JP): Hon. Temporary Deputy Speaker, the other issue that I would like to share with this House is that following the tabling or the conclusion of this Report...

(Hon. Kimani Ichung'wah consulted loudly)

If I could be protected from...

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Kimani Ichung'wah, how come you left your seat and walked all over? Let us have the Leader of the Majority Party have this time and space.

Hon. Amos Kimunya (Kipipiri, JP): Hon. Temporary Deputy Speaker, the fact I want to lay before this House is that following the conclusion of the Report by the Committee, Hon. Isaac Ndirangu did write to the Attorney-General and sought his opinion. The Attorney-General has responded to Hon. Isaac Ndirangu on all the matters and the conclusion is basically that that land is not available because it is alienated to the Kenya Defence Forces. So, any grand plans to invest public money by the World Bank or whoever, public funds cannot be invested in a land that is irregularly allocated. So, let us remove the emotions about the TVET institute and all that. The Attorney-General advised that they look for land elsewhere because that land is not available. That communication is here.

The other thing we want to ask ourselves is whether we want Parliament to be used by the alleged former workers. If you remember, we are talking of land that was acquired in the 1980s. The people who are alleging to be former workers were minors then. Even the Report says so. They were minors and hence they could not have been working. Some of them had not even been born, but they are now registered as owners of that land.

The other thing I just want to mention is that despite the many climaxes, you cannot give what you do not have. Until the title changes from the Department of Defence, the county

government, the national Government, Uchumi or all those claimants cannot claim entitlement to that land. That land belongs to the KDF.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Very well. Leader of the Majority Party, I had given you two minutes and they are gone.

(Hon. (Dr.) Amos Kimunya spoke off record)

Do you want to table something? I will add you a minute for purposes of just mentioning that, so that we can be fair to other Members. You had 10 minutes and you have taken your 10 minutes.

Hon. (Dr.) Amos Kimunya (Kipipiri, JP): Hon. Temporary Deputy Speaker, for the benefit of this House and generations to come, I would like to table the advisory from the Attorney-General, which contains full history of this land and all the documentations on the same.

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

The Temporary Deputy Speaker (Hon. Patrick Mariru): Very well. What is your point of order, Hon. Aden Duale?

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Speaker, you cannot introduce new evidence to a Committee Report that has been tabled and is under debate. You cannot. I have been here for too long. Hon. Amos Kimunya, that document is not admissible. The advisory opinion should have been submitted to the Committee. It is not part of the record. It is a foreign document because we do not have a copy of it.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Duale, I will speak to that in a minute. Let us have Hon. Otiende Amollo.

Hon. (Dr.) Otiende Amollo (Rarieda, ODM): Thank you, Hon. Temporary Deputy Speaker. I want to contribute to this Report. I have looked at it carefully. On the face of it, this Report presents another very delicate issue, namely land for public purposes, that is for use by the Kenya Defence Forces, versus vested interest in private land. While that is on the face of it, it appears that there is more that is not on the face of it and does not come out clearly in the Report other than by latent inference. As Hon. Waihenya and others have mentioned, it appears that there are others who are interested in this land other than the KDF. Unfortunately, that does not come out very clearly in the Report.

First, this was a 100-year lease that expired in 2003. When it expired in 2003, there is the principle of reversion. It reverted. The only question is: Does it revert to the county government or to the national Government? In 2003, there was no county government. At that time, there was the City Council of Nairobi which was under the Ministry of Local Government. That means that by law at that time, it reverted to the national Government. Let us be very clear before we debate this.

In addition to that, when the new Constitution came into effect in 2010, anything that had reverted through the city council needed to be reclaimed by the county government. It may be very difficult. However, what is important for purposes of the Constitution is that even if it reverted to the county government or to the national Government, by application of Article 62, neither of them would be able to administer it. It can only be administered by the National Land Commission. To that extent, part of the Report states that the county government had gone ahead and started the process of allocating the land. That process was wrong.

Having said that though, we must agree that once that land reverted, there can be no question of compulsory acquisition because you only compulsorily acquire what is held by

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somebody. You do not compulsorily acquire what has reverted to the national Government. Does that mean that those who find themselves in that land over the decades can be disregarded? The answer is no. Article 40(4) is very clear. Those who found themselves occupying land in good faith, even without title, are entitled to compensation. We must be very analytical with regards to this. Does it mean that because they find themselves in that land then they are entitled to it? That is where we need to analyse very carefully.

I have read the observations of the Committee. I have read the three conclusions. I have no problem with Conclusions Nos.2 and 3. However, we must interrogate Conclusion No.1 a little more carefully. If, indeed, it is true that the KDF genuinely want this land for its purposes, any parliamentary report must respect the Constitution and state that if it is to go to the KDF, then it must have the injunction that it cannot go to any other individual for any other purpose. It must be restricted to the public purpose. If that is so, those who occupy this land should be entitled to some compensation, on the face of it, even if we are to go by the court documents as presented by the Leader of the Majority Party. The court recommended compensation of Kshs23 million. The Report states that around 400 individuals occupy the land. Even if we take Kshs23 million and distribute it, that means that each family is entitled to Ksh57,500 at the bare minimum, that is, if you go to that direction. If after examining this Report it appears that the KDF is affront...

The Temporary Deputy Speaker (Hon. Patrick Mariru): Very well. I know that Hon. Aden Duale is a ranking Member, but let me start from that far end with Hon. Mwadime. You will get a chance to contribute.

Hon. Member: *Hakuna* gender, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Patrick Mariru): You shall get a chance to contribute.

Hon. Andrew Mwadime (Mwatate, ODM): Asante sana, Mhe. Naibu Spika wa Muda, kwa hii nafasi ambayo umenipatia.

Mwanzo kabisa, naunga mkono Kamati ya Ardhi maanake nimesoma Ripoti yake kwa uangalifu na undani kabisa. Kwa ukweli, hata mpita njia akisoma hii Ripoti, ataona kabisa kuna ulaghai mwingi sana ambao ulikuwa umeendelea, lakini Kamati ya Ardhi imefanya kazi nzuri. Watu wa Eneo Bunge la Roysambu wanaumizwa tu. Ukiangalia kwa sura, utaona ya kwamba yule mzungu, Bwana Samuels, aliyefariki, alikuwa anaendelea na shughuli vizuri kabisa na wananchi wa kule Roysambu. Alikuwa anawalipa vizuri lakini kwa bahati mbaya, alifariki. Alitoa maagizo kwamba waendeleo kukaa pale na wajaribu kujizatiti angalau wapate mlo wa siku. Baada ya wale ndugu zake kurejea, kwa bahati mbaya, walifurushwa. Sijui ni nani alifanya hivyo. Kwa ukweli, hata wale watu ambao wako kule ndani na shule wapatiwe *title deeds* zao.

Kwa ukweli, huu ni mfano mmoja tu. Mambo haya yamefanyika mahali kwingi Kenya. Hivi sasa, kule kwetu Taita Taveta Kaunti, tuna mashamba mazuri ambayo watu wanayakondolea macho na wengine wanayamezea mate. Sasa hivi, kuna simba mla nyama kwa jina la KDF. Wanazunguka huko wakitaka wapatiwe mahali pa kufanyia mazoezi lakini hao ni watu binafsi. Tunafaa tukemee masuala kama haya na tuyaongee waziwazi ili tusaide wananchi ndio wale simba wala nyama ambao wanajificha kwa KDF wapate aibu ya kufanya jambo kama hili.

Mhe. Naibu Spika wa Muda, asante. Nimechangia. Wacha nipatie wenzangu fursa pia waendeleo.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Before I go to my left side, let me give the opportunity to Hon. Aden Duale. Before then, there was an issue that was raised by the Leader of the Majority Party.

(Hon. Amos Kimunya consulted with another Member)

Order, Leader of the Majority Party! I am speaking to the issue that you raised earlier. You tabled a response from the Attorney-General. The position is that you cannot introduce anything new to a Committee that has already concluded its investigation. When the Committee was proceeding, there was a chance to do that. Having said that, any Member who wants to produce anything to support his or her argument, as long as it is admissible, it is okay. However, it shall not, in any way, be part of the Report of the Committee because that is already concluded and closed.

Introduction of any document should be done at the Committee level. That is the position. Hon. Duale.

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Speaker, this was a Petition.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Order, Hon. Aden Duale! What is your point of order, Hon. Makau?

Hon. Patrick Makau (Mavoko, WDM-K): Thank you, Hon. Temporary Deputy Speaker. In furtherance to what Members have alluded to on the Leader of the Majority Party introducing new evidence when the Committee has done its work...

The Temporary Deputy Speaker (Hon. Patrick Mariru): Order, Hon. Makau!

Hon. Patrick Makau (Mavoko, WDM-K): Allow me one minute. I want to say something. The Leader of the Majority Party was the Minister for Lands in 2010.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Order, Hon. Makau!

Hon. Patrick Makau (Mavoko, WDM-K): You remember the infamous Syokimau demolition in 2010?

The Temporary Deputy Speaker (Hon. Patrick Mariru): Order, Hon. Makau!

Hon. Patrick Makau (Mavoko, WDM-K): He said that a title deed is like a tissue paper.

(Hon. Patrick Makau spoke off-record)

The Temporary Deputy Speaker (Hon. Patrick Mariru): Order, Hon. Makau! I have already ruled and settled the issue that you have raised. It is in line with what you are saying. So, please, do not bring it up again. When you get a chance to speak, speak on that point when the Leader of the Majority Party was once a Minister. You can speak on that. But on whether he can introduce new matters, that is settled and done. Hon. Duale.

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Speaker, first, I want to bring to the attention of the House - I want Members to listen because I read this Report. I want Members to know that what is before us was a Petition. We must start with what the prayers of the petitioners were.

Hon. Temporary Deputy Speaker, allow me to highlight the prayers of the petitioners. The first one was: Is it possible? I am trying to put the petitioners' prayers in line with Article 119 of the Constitution that allows Parliament to receive petitions but to act within its authority. The petitions we receive in this House must be in compliance with the powers given to us by the Constitution. So, what was the first prayer of the petitioners? It was: Is it possible for this House to uphold the petitioners' right to occupy, reside and do business and own LRNo.5875/2? In my honest opinion, this House does not have those powers. So, the answer is no.

Prayer No.2 was: Is it within the authority of this House to expedite the issuance of titles, leases for the approval of letters of allotment issued to members of Louisa Community Development Society? In my opinion, as a House, the answer is no.

The third prayer was: Is it possible for this House to preserve title deeds issued for public purpose? The answer, in line with Article 119 of the Constitution, is no. This House does not have those powers.

The fourth prayer was: Is it within the authority of this House to order compensation for the demolition on the petitioners' premises? The answer is no.

All these prayers fall within the purview of the court of law. We have lawyers in this House. A court of law could have issued what we call dilatory orders on the right of the petitioners to occupy land. The court could have issued what they call in law *mandamus* order to ensure the issuance of titles. The court could have issued conservatory orders to preserve the title deeds earlier issued and the court could have ordered damages for any person who may have occasioned loss of demolition. That is in line with Article 165 of the Constitution that establishes the High Court.

So, in line with Article 119 of the Constitution, this House cannot make a determination of the prayers sought by these petitioners. So, as Hon. Otiende Amollo said, I have no problem with recommendations No.2 and No.3, but recommendation No.1 is not implementable.

The Committee has not told us anything on who the owners of Solio Construction Company Limited are.

(An Hon. Member spoke off record)

They are known. They have not told us yet records are there. Who deported the sons of Mr. Samuels? When Mr. Samuels, the white man, died, his two sons were deported. There must be a deportation order attached to this Report. Which Minister of State for Internal Security then signed it? We must be told why they were deported or the reasons behind it. Which plane carried them? If you look at all these, the whole thing is a spider web.

(Hon. Kimani Ichung'wah spoke off record)

Hon. Temporary Deputy Speaker, protect me from the Member for Kikuyu Constituency. In fact, he should go and deal with the conflict between Kajiado and his constituency. He should not be here. He is my good friend.

(Laughter)

The right audience should have been the court and not the House. We should not be seen to be encroaching on the jurisdiction of the courts and we should not be seen as conferring on ourselves authority or powers the Constitution did not confer on us. Let us not behave like the Senate last night where the Speaker of the Senate, who has no powers, violated the calendar of his own House and said the House had adjourned.

Hon. Temporary Deputy Speaker, give me a few more minutes. What is also rather very obvious from this Report is that the petitioner is one convoluted and intertwined spider. There is the Solio Construction Company Limited. There is something more. Then, there is Uchumi.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Order, Hon. Waihenya. You know I have refused very many points of order. I have refused very many of them. What is it?

Hon. Isaac Ndirangu (Roysambu, JP): I want to inform the former Leader of the Majority Party.

The Temporary Deputy Speaker (Hon. Patrick Mariru): What is out of order, Hon. Waihenya?

Hon. Isaac Ndirangu (Roysambu, JP): The simple problem here is that the person who is grabbing this parcel of land through the Kenya Defence Forces is Uchumi Supermarket. They are actually doing it through a subsidiary called Kasarani Mall, which was incorporated. The company which they say was allocated this parcel of land was incorporated three months after the allotment.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Waihenya, you know I have been kind to give you a chance. You know you are giving him some information. It is actually a point of information to him. You did not ask whether he needed it. Nevertheless, I am sure he has heard, assuming it is correct.

Let us give Hon. Duale one minute to conclude his presentation.

Hon. Aden Duale (Garissa Township, JP): No, give me two minutes. Why do I say so? I have a lot of respect for Hon. Rachael Nyamai. She is one of the Chairs I respect. From the Report of the Committee, the owner of the land in question died. His two sons were deported, the lease under which he owned the land was allowed to expire and, upon expiry, a reversal to the County Government of Nairobi was done. The land was cleverly, cleverly allocated to the workers who used to work in the farm. Nothing can be as clear as that. This is pure fraud.

My final question is this: The land in question is currently under the occupation of the KDF. Even if we were to argue that public interest grounds stand, as a House, if public interest grounds stand, why could anyone want to evict the KDF? Let me even say what you say is true. Why do you want to evict the KDF? These are the people who protect our country. Why do you want to evict them? Does this House have the powers of the High Court to give orders to evict the KDF?

As I rest my case, it is notable that the declaration of right of property or determination of ownership of land can only be declared by the High Court and not a Committee of this House. To this end, the recommendation of the Committee cannot stand and it should be tantamount to clothing the Committee with the jurisdiction of the High Court under Article 165 of the Constitution.

On the last paragraph, I was for the idea that this Report be deferred. This Committee should go back. They should tell us who the owners of Solio are.

(Loud consultations)

They should tell us who was deported.

Otherwise, I oppose. This House must live within its mandate.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Let us get to my left. Hon. Mbui. I will come back this way. I will certainly come this way. So, be patient. Hon. Mbui.

Hon. Robert Mbui (Kathiani, WDM-K): Thank you, Hon. Temporary Deputy Speaker, for this opportunity.

The Temporary Deputy Speaker (Hon. Patrick Mariru): What is out of order? There seems to be quite a lot of points of order on this one.

Hon. Robert Mbui (Kathiani, WDM-K): Most of the points of order we have had are points of argument. Maybe we could hasten our debates and then they can all get opportunity.

The Temporary Deputy Speaker (Hon. Patrick Mariru): I will not allow. Hon. Okelo, what is your point of order? It shall not be a point of argument.

Hon. Jared Okelo (Nyando, ODM): I thank you, Hon. Temporary Deputy Speaker. We are all aware that land matters coming under discussion in a House such as this will inevitably invite emotions. So, the points that I want to bring to you, Hon. Temporary Deputy Speaker, are only two. One, even in a court of law, and we are privileged that you are a lawyer, there are cases that are varied.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Order, Hon. Okelo. I can tell your line of thought. You shall get an opportunity to speak to this. Let us have Hon. Mbui.

Hon. Robert Mbui (Kathiani, WDM-K): Thank you, Hon. Temporary Deputy Speaker. You can tell the emotions on this matter. The Member is still talking.

My contribution on this Report is as follows: First and foremost, we must understand that we are a capitalist nation and land is one of the factors of production. We must be careful when handling land matters, whether it is land disputes between individuals, businesses or between individuals and the Government. We must handle them soberly as the former Leader of the Majority Party has stated. After the promulgation of the new Constitution in 2010, we established the National Land Commission to deal with land issues, including historical injustices. A land court was also established so that land issues can be addressed properly. The Report of the Committee is more of fiction work. We have cases where the Registrar who is on record denies signing reports of companies allocated land three years before lease expiry, and companies allocated land even before they are formed. There are also several owners of this land, namely, the Solio firm, Uchumi, Kasarani Mall, KDF and workers of that land.

Listening to the previous speakers, it is clear that we need to address the recommendations of the Committee. It is quite in order for the Committee to recommend that the DCI investigates staff in the Ministry of Lands and if anyone acted contrary to the law, they are dealt with. It is important to protect the lives and livelihoods of Kenyans. We must improve the image of this country so as to give confidence to investors that their property can be taken care of.

I want to recommend that the Committee looks at the legality issues raised by Hon. Otiende Amollo. Who really owns this land? If the lease issued to this gentleman expired, why are they still arguing about it? We must deal with that issue of legality.

Finally, I want to talk about the issue of KDF invasion. The Report is about KDF invasion of private land, but we are talking about other players. We are talking about businesses and talking about individuals. What is KDF's stake in this? That is what I want to hear about. Has KDF invaded the land? Have they demolished any building and kicked out people or is it being used as a scapegoat? As the former Leader of the Majority Party has stated, the Committee must do further investigation.

Thank you, Hon. Temporary Deputy Speaker.

(Loud consultations)

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Jaldesa, you have the Floor.

Hon. (Ms.) Rehema Jaldesa (Isiolo CWR, JP): Thank you, Hon. Temporary Deputy Speaker. I beg to request that the Mover be called upon to reply.

Hon. Members: No.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Order, Hon. Members! Hon. Jaldesa, you are the next on my contribution list.

Hon. (Ms.) Rehema Jaldesa (Isiolo CWR, JP): Thank you, Hon. Temporary Deputy Speaker. I rise to support the Adoption of the Report by the Committee. Last year in September, I brought a similar Petition on behalf of the people of Burat Ward, Isiolo County, and to date, I have not received a conclusive report because the KDF is now a cartel in this House. I am saying this because of the pattern of speech by some Members defending the KDF.

I attended all the sittings when the Committee interrogated the different stakeholders. I was in the Committee meeting when the Acting CEO of the National Land Commission appeared to give her views regarding this issue.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Order, Hon. Jaldesa! Hon. Sankok, who do you want to inform?

(Hon. Sankok spoke off-record)

Hon. Jaldesa, would you be kind enough to be informed?

Hon. (Ms.) Rehema Jaldesa (Isiolo CWR, JP): Hon. Temporary Deputy Speaker, I was in the Committee's meeting when the Ministry of Lands came to...

The Temporary Deputy Speaker (Hon. Patrick Mariru): Order, Hon. Jaldesa! Hon. Sankok is seeking to inform you. Are you okay to receive the information?

Hon. (Ms.) Rehema Jaldesa (Isiolo CWR, JP): I am not okay, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Then proceed.

Hon. (Ms.) Rehema Jaldesa (Isiolo CWR, JP): Thank you, Hon. Temporary Deputy Speaker. I was in the Committee's meeting when the Ministry of Lands appeared before the Committee to give their views regarding this land. It is unfair for the former Leader of the Majority Party and other Members to mislead this House. They clearly showed that the workers of Mr. Jacob occupied that land even after the so-called 'lease' had expired. The communication is clear in the Report.

(An Hon. Member spoke off-record)

The Temporary Deputy Speaker (Hon. Patrick Mariru): Allow Hon. Jaldesa to conclude.

Hon. (Ms.) Rehema Jaldesa (Isiolo CWR, JP): Hon. Temporary Deputy Speaker, the KDF invaded the land and forcefully acquired it. Section 8 of the Land Acquisition Act 295 that is now repealed required that, where there was need for compulsory acquisition, the owners be compensated. That has not been done. In this case, one thing is clear. The KDF has become the biggest land grabbers in this country. In Isiolo County, which I represent, we have four camps and each camp is occupying over 2000 acres of land.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Order, Hon. Jaldesa! There is a point of order by the Leader of the Majority Party. We cannot dismiss a Member who insists on a point of order.

Hon. Amos Kimunya (Kipipiri, JP): Hon. Temporary Deputy Speaker, we are debating the Report of the Committee. Is Hon. Jaldesa in order to mislead the House that the Report says that no payment was made while in Paragraph 67 it notes that payment was made and

acknowledged by Jacob's Advocates in 1987? That is in the Report of the Committee, but the Member is purporting that no payment was made.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Very well, Leader of the Majority Party.

Hon. (Ms.) Rehema Jaldesa (Isiolo CWR, JP): Hon. Temporary Deputy Speaker, with all due respect, the Leader of the Majority Party is misleading the House. Nowhere in the Report is it indicated that payment was made to Mr. Jacob. That is clear in the Report. Please, allow me one minute because I was interrupted. Injustice anywhere is injustice everywhere. What is happening to the people...

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

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Aden Duale, what is out of order?

Hon. Members: Put the Question!

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Speaker, I request that you order that the words "KDF is a cartel" be expunged from the HANSARD. The KDF as established under Article 241(2) of the Constitution cannot be a cartel. We cannot refer to the KDF as a cartel. That cannot be on record.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Did the Member say that?

Hon. Aden Duale (Garissa Township, JP): Yes, Hon. Rehema said that and it should be expunged.

The Temporary Deputy Speaker (Hon. Patrick Mariru): If that was actually said, it cannot be. A Member can have issues with the KDF, but the KDF cannot be a cartel. It is not possible.

(Loud consultations)

Hon. Members, I do appreciate that you really wanted to speak to this matter. And I know it is a very important item. I would have loved to allow more Members to speak to it, but as you can tell, it is 1.00 p.m. I cannot put the Question now. The good news is that this matter will still find its way back in the Order Paper and Members will have opportunity to speak to it.

ADJOURNMENT

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Members, the time being 1.00 p.m., this House stands adjourned until this afternoon, Wednesday, 12th August 2020 at 2.30 p.m.

The House rose at 1.00 p.m.