

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Thursday, 30<sup>th</sup> April, 2015

The House met at 9.30 a.m.

*[The Deputy Speaker (Hon (Dr.) Laboso) in the Chair]*

### PRAYERS

### QUORUM

**Hon. Deputy Speaker:** Can the Division Bell continue ringing?

*(The Division Bell was rung)*

Order, Members! We can now proceed with our business. Hon. M'eruaki and the hon. ranking Member, Hon. Angwenyi, settle down, please.

Hon. Members, we can now begin our business.

### BILL

*Third Reading*

THE PUBLIC PROCUREMENT AND ASSET DISPOSAL BILL

*(Question put and agreed to)*

*(The Bill was accordingly read the Third Time and passed)*

**Hon. Deputy Speaker:** Order, hon. Members! As we proceed to the Committee of the whole House, I wish to announce that we will be deferring the first Order, which is the Retirement Benefits (Deputy President and Designated State Officers) Bill (National Assembly Bill No. 38 of 2013) to this afternoon and we will, therefore, be proceeding with the second one, which is the Alcoholic Drinks Control (Amendment) Bill (National Assembly Bill No. 14 of 2014).

### COMMITTEE OF THE WHOLE HOUSE

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*(Order for Committee read)*

*[The Deputy Speaker (Hon. (Dr.) Laboso) left the Chair]*

IN THE COMMITTEE

*[The Temporary Deputy Chairman (Hon. Cheboi) took the Chair]*

THE ALCOHOLIC DRINKS CONTROL (AMENDMENT) BILL

**The Temporary Deputy Chairman** (Hon. Cheboi): Order, hon. Members! We are now in the Committee of the whole House in which we will be dealing with the Alcoholic Drinks Control (Amendment) Bill (National Assembly Bill No. 14 of 2014), as you have been informed by the substantive Deputy Speaker. I want to confirm whether Hon. Ichung'wah is here. Yes, I see he is here. We can proceed. There is no amendment to this one.

*(Clause 2 agreed to)*

*Clause 4*

**Hon. Ichung'wah:** Hon. Temporary Deputy Chairman. I beg to move:-

THAT, Clause 4 of the Bill be amended by renumbering the proposed provision as subsection (1) and inserting a new subsection (2) as follows-

(2) Notwithstanding the provision of any other law, the Cabinet Secretary responsible for the National Treasury shall grant remission of excise duty at ninety per centum with respect to beer made from sorghum, millet or cassava grown in Kenya, if that licensed manufacturer-

(a) manufactures beer that has at least seventy five per centum content of sorghum, millet, or cassava, excluding sugar; and,

(b) packs the beer in a pasteurised container of at least thirty litres or such other container and quantity as the Cabinet Secretary may approve.

The reason for this amendment is basically to try and help the industry and more so our sorghum, millet and cassava farmers. You remember that sometime back a Petition was filed in this House by Hon. M'ruaki on behalf of sorghum farmers in Meru and Tharaka-Nithi counties. We have also had Petitions from farmers who are doing millet farming in parts of Ukambani, Kericho and Bomet counties. This amendment will not only encourage the production of beer but also farmers will grow these food crops as an alternative to all the other staple foods.

I, therefore, beg the House to support and if you allow, Hon. M'ruaki wanted to say something on the same amendment.

**The Temporary Deputy Chairman** (Hon. Cheboi): Well, let me propose the Question then give Hon. M'ruaki a short while.

*(Question of the amendment proposed)*

Yes, hon. Member for Igembe North Constituency.

**Hon. M'uthari:** Thank you, hon. Temporary Deputy Chairman. I also rise to support this amendment. It is in line with the---

**The Temporary Deputy Chairman** (Hon. Cheboi): Now, let us be clear. Are you supporting the amendment or you--- You are supporting the amendment?

**Hon. M'uthari:** Yes.

**The Temporary Deputy Chairman** (Hon. Cheboi): There was something which I did not get clearly. Proceed.

**Hon. M'uthari:** I am supporting this amendment, hon. Temporary Deputy Chairman, because it will be very useful to the Kenyan farmers. It is farmers in arid and semi-arid areas (ASALs) who grow these crops. Putting this in law, it will protect them. Taxing these products from sorghum and millet last year but one had a negative impact on our Kenyan farmers, transporters and manufacturers. So many people were affected by that. If the house passes this Bill, we will support the production of these crops and their products. This is not only for the advantage of the brewers but it will also be a great advantage to our farmers. It will improve food security. You have realised that our economy is going down because agricultural productivity is going down.

**The Temporary Deputy Chairman** (Hon. Cheboi): Hon. M'uthari, I have given you a leeway because I did not want you to go back to the Petition; you have already brought it up. You have supported it and you have given a good reason. I will give an opportunity to the hon. Member for Mathira, Hon. Kinyua.

**Hon. Kinyua:** Thank you, hon. Temporary Deputy Chairman. From the outset, I wish to say that I support this amendment. I also want to thank the hon. Member for Kikuyu for being proactive in dealing with the issue of alcoholism, which has really affected our region, central Kenya. If you look at alcohol in terms of what we call illicit brews, you will notice that they have been manufactured using laboratory chemicals in the past. The amendment is bringing in agricultural products. It means we are going to improve agriculture and also have healthy alcoholic drinks.

Thank you, hon. Temporary Deputy Chairman.

**The Temporary Deputy Chairman** (Hon. Cheboi): Hon. Members, I will give a chance to all hon. Members who have put in requests; they are six. In return, I expect them to be brief and straight to the point in debate.

Hon. Mulu, Member for Kitui Central.

**Hon. Mulu:** Thank you, hon. Temporary Deputy Chairman. I also want to support and thank Hon. Ichung'wah for this amendment. You remember, the other time we had to stop debate on this Bill because it had not come to the Budget and Appropriations Committee but now, it has come to the Budget and Appropriations Committee. To me, this Bill is very important because it is going to help our farmers who are in arid and semi-arid areas, more so through what we call contracting farming to grow things like sorghum, millet and cassava; this is very good for our people, especially in Kitui County.

I support.

**The Temporary Deputy Chairman** (Hon. Cheboi): Very well. I am giving chances to all the hon. Members here because there is no other amendment. This is the only amendment and that will be it.

Hon. Pukose.

**Hon. (Dr.) Pukose:** Thank you, hon. Temporary Deputy Chairman, for giving me this opportunity. First and foremost, I want to support this amendment because after consulting with Hon. Ichung'wah, he told me there is no Excise Duty on *busaa*, which is made from maize. Therefore, I thought that took care of my worries. My complaint would have been against those who prepare alcohol from maize, especially my people in Trans Nzoia County. Therefore, if there is no Excise Duty on that, it should be imposed even on this one, because *busaa* is made from millet, sorghum and other components.

I want to support this amendment.

**The Temporary Deputy Chairman** (Hon. Cheboi): Hon. Wangamati.

**Hon. Wangamati:** Thank you, hon. Temporary Deputy Chairman, for giving me this opportunity. I rise to support this amendment by saying all that I can say about it. Millet, sorghum and other crops are grown in every part of this country. It is wonderful for the hon. Member of Parliament from Kikuyu to bring up this amendment; it will make this country get a lot of money to develop this nation.

**The Temporary Deputy Chairman** (Hon. Cheboi): Okay. Hon. Wangamati, I have given you leeway because you are a very senior citizen.

**Hon. Wangamati:** Thank you, hon. Temporary Deputy Chairman,

**The Temporary Deputy Chairman** (Hon. Cheboi): At this point, we just want to contribute briefly. I will give a chance to the hon. Member for Gilgil.

**Hon. Ndiritu:** Thank you, hon. Temporary Deputy Chairman. I rise to support this amendment. I want to only emphasize---

**The Temporary Deputy Chairman** (Hon. Cheboi): Order, hon. Members! I said we would give only six members chances; there are other members who have now made requests, but I am not so sure if we will have time for them. I see quite some interest now, but we are finalizing on the Bill; you have to be brief and straight to the point. Proceed, Member for Gilgil.

**Hon. Ndiritu:** I have always said that you cannot stop people from drinking alcohol. What we found out from chiefs is that they carry a cane but cannot stop people from drinking. We want to encourage these healthy brews and create a ready market for these indigenous crops. We want our farmers to have a ready market. Once we encourage its drinking and make this drink affordable, more people will take it and, therefore, there will be demand for millet, sorghum and other crops; in turn, we will make our farmers rich.

Thank you, hon. Temporary Deputy Chairman. I Support.

**The Temporary Deputy Chairman** (Hon. Cheboi): Yes, hon. Member for Sigowet/Soin.

**Hon. Kemei:** Thank you, hon. Temporary Deputy Chairman. I support the amendment. It promotes agriculture in the marginal areas of our country. Secondly, it promotes the growth of alternative food crops in our country.

Thank you, hon. Temporary Deputy Chairman, I support.

**The Temporary Deputy Chairman** (Hon. Cheboi): Hon. Cyprian Iringo.

**Hon. Kubai Iringo:** Thank you, hon. Temporary Deputy Chairman. I also stand to support the amendment by Hon. Ichung'wah. This will go a long way in promoting agriculture in our country. Kenyans are farmers; unfortunately, we do not get a market for our food crops. This will open the market for the same and it will diversify the agricultural industry.

Thank you, hon. Temporary Deputy Chairman.

**The Temporary Deputy Chairman** (Hon. Cheboi): Hon. Member for Belgut.

**Hon. Erick Keter:** Thank you, hon. Temporary Deputy Chairman for giving me this opportunity to air my views on this amendment. From the outset, I want to say that I support the amendment because it provides a solution for some of the problems we have. This country basically survives on farm produce, which we produce. It is on this basis that we encourage our farmers to intensify the growing of farm produce, which at the end will make our country better economically.

I support and urge all the other hon. Members to support it.

**The Temporary Deputy Chairman** (Hon. Cheboi): That marks the end of the six, but I will give one last chance to the hon. Member for Suba.

**Hon. Ng'ongo:** Thank you, hon. Temporary Deputy Chairman for respecting party hierarchy. You know, you have been longing for the *Mama na baba*.

**The Temporary Deputy Chairman** (Hon. Cheboi): That is out of order, Hon. Mbadi. Proceed.

**Hon. Ng'ongo:** Thank you, hon. Temporary Deputy Chairman for giving me this opportunity. I just want to say that sorghum, millet and even cassava are some of the tough crops which can easily be grown even in semi-arid areas. I think a move to promote farming of the same is welcome. I want to thank Hon. Ichung'wah.

Finally, his amendment to the clause will also ensure that the cheap drinks that are packed in plastic containers are discouraged.

Hon. Ichung'wah, this is a good legislation and you were actually elected to Parliament to help your people; if you see a problem in your area, you need to help. Actually, I was advising him to try to build so many churches including even *mabati* churches in his constituency to discourage alcohol consumption.

**The Temporary Deputy Chairman** (Hon. Cheboi): Hon. Mbadi, that is irrelevant. What do churches have to do with sorghum?

**Hon. Ng'ongo:** Hon. Temporary Deputy Chairman, you know if you have so many churches, alcohol consumption will reduce.

**The Temporary Deputy Chairman** (Hon. Cheboi): Hon. Members, I think I have given quite a number of hon. Members chances. This is not normal during the Committee of the whole House stage since we only give two members at most, but on this we have had at least eight members. For those who have not had an opportunity, you will have an opportunity on other Bills.

*(Question, that the words to be  
inserted be inserted, put and agreed to)*

*(Clause 4 as amended agreed to)*

*(Clause I agreed to)*

*(Title agreed to)*

**The Temporary Deputy Chairman** (Hon. Cheboi): That marks the end of that particular Bill and I thank the hon. Members.

Let us have the Mover moving for reporting.

**Hon. Ichung'wah:** Hon. Temporary Deputy Chairman, I beg to move that the Committee doth report to the House its consideration of the Alcoholic Drinks Control (Amendment) Bill, (National Assembly Bill No. 14 of 2014) and its approval thereof with amendments.

*(Question proposed)*

*(Question put and agreed to)*

*(The House resumed)*

*[The Deputy Speaker (Dr. Laboso) in the Chair]*

### **REPORT, CONSIDERATION OF REPORT AND THIRD READING**

#### **THE ALCOHOLIC DRINKS CONTROL (AMENDMENT) BILL**

**Hon. Cheboi:** Hon. Deputy Speaker, I beg to report that the Committee of the whole House has considered the Alcoholic Drinks Control (Amendment) Bill, (National Assembly Bill No. 14 of 2014) and approved the same with amendments.

**Hon. Ichung'wah:** Hon. Deputy Speaker, I beg to move that the House doth agree with the Committee in the said Report.

I also request Hon. (Dr.) Pukose to second the Motion for agreement with the Report of the Committee of the whole House.

**Hon. (Dr.) Pukose** seconded.

*(Question proposed)*

*(Question put and agreed to)*

**Hon. Ichung'wah:** Hon. Deputy Speaker, I wish to profoundly thank all the Members who have contributed to this Bill.

**Hon. Deputy Speaker:** Order, Member! Move the Third Reading first.

**Hon. Ichung'wah:** I am Sorry, Hon. Deputy Speaker.

Hon. Deputy Speaker, I beg to move that the Alcoholic Drinks Control (Amendment) Bill, (National Assembly Bill No. 14 of 2014) be now read the Third Time.

**Hon. Speaker:** Can you, please, request somebody to second.

**Hon. Ichung'wah:** I request Hon. (Dr) Pukose to second.

**Hon. (Dr.) Pukose:** Hon. Temporary Deputy Speaker, I second.

*(Question proposed)*

**Hon. Deputy Speaker:** Hon. Odanga, do you want to contribute to this or make a last comment?

**Hon. Odanga:** Hon. Deputy Speaker, I want to start by thanking Hon. Kimani Ichung'wah for this very important Bill that has been before us. I want to support it because it addresses issues that are very pertinent to us, more so the last part where we have indigenous crops that our people have been known to grow for a long time. From history, the growing of crops such as sorghum, cassava and millet was very important economic activity of our people. I am very sure that this will go a long way in helping our people in terms of economic participation and also to come up with industrial growth.

**Hon. Deputy Speaker:** The last comment by Hon. Patrick Makau.

**Hon. King'ola:** Hon. Deputy Speaker, in view of the effects of alcohol in this country, I stand to support this Motion. It could not have come at a better time than now, when Kenyan youths are involved in alcoholism. We also saw the President appoint a young man to the National Authority for Campaign Against Alcohol and Drug Abuse (NACADA). I am sure the Alcoholic Drinks Control (Amendment) Bill and these amendments brought by Hon. Ichung'wah are going to help this country fight alcoholism.

**Hon. Murungi:** Hon. Deputy Speaker, I want to congratulate Hon. Ichung'wah because these three crops; sorghum, millet and cassava, are generally grown in Agro Ecological Zone III. Most parts in this country have this type of climatic condition. So, people in these areas will benefit largely because of this.

I want to remind him again that he forgot to include sugarcane. We had negotiated to include sugarcane, because where he comes from and where I come from there is beer known as *Muratina*, which is made from sugarcane before it is processed. Later on, we will think of adding sugarcane to this Bill.

**Hon. Kisang:** Hon. Deputy Speaker, I rise to support the Bill that was brought by *mhe*. Ichung'wah primarily because where I come from, Marakwet West, we have some arid area along Kerio Valley, where most of the farmers grow finger millet, sorghum and millet. This is what we have lived on for a long time. So, this will change these crops from being subsistence crops to being cash crops; we will sell them to beer brewing firms, and farmers will greatly benefit. I support that we pass this Bill pretty fast.

**Hon. (Ms.) Gathecha:** Hon. Deputy Speaker, I rise to support this Bill that was brought by Hon. Ichung'wah. I come from a county where there is alcoholism that has ruined majority of the youth. Youth consume alcohol that has been laced with chemicals and because of this, we have so many cases of people going blind and others dying as a result of consuming alcohol. This is some sort of genocide of our youth, especially within central region of Kenya. It appears that much of the commercial or traditional activity there is alcohol consumption.

If you walk on the streets you will find young men lying on the streets because they have nothing else to do. All they do is to consume alcohol during the day and night.

They do not work and are not engaged in any activities that are productive. So, this particular amendment will definitely ensure that *busaa* and other beers sold actually add vitamin to the human body. Beer made from sorghum, millet and cassava grown in Kenya will be excluded from that Excise Duty. I support Hon. Ichung'wah. He knows what we go through in our county.

Truly, those who sell alcohol that is made from those products ought to be executed simply because they are denying the youth of this country an opportunity to become productive. That liquor is only sold in central Kenya. Why is that allowed to continue to happen? Why is it that it continues to kill the young men of this country, who could end up being very productive members of the society?

**Hon. Deputy Speaker:** Hon. Member, I have indulged you long enough. This is the Third Reading.

Yes, hon. Mbadi.

**Hon. Ng'ongo:** Hon. Deputy Speaker, I hope the constituents of Kikuyu are watching their Member of the National Assembly do something that is very positive in their lives. It is high time the electorate of this country knew the parameters within which they should elect their Member of the National Assembly. They should look at their needs and specific challenges and come up with legislation that helps their constituents.

In conclusion, laws will just remain wishes unless those in authority implement them. The challenge we have had in this country is that we produce good laws, but the administration that is charged with the responsibility of implementing the same does not do so. At the time they should, they take bribes and fail to implement them.

Finally, as we go into the Budget-making cycle, NACADA needs to be given more resources, so that they can devolve their activities. We should not only see NACADA when Mututho visits an area. Mututho is just one person and he cannot go all over the country.

I support this Bill.

**Hon. Chea:** Thank you, hon. Deputy Speaker for this opportunity. I also rise to support the Bill.

It is important that regulations are in place for the control of alcoholic drinks. Most important is the fact that this Bill seeks to promote farmers. I want to mention the issue of crops like the cassava crop. Down at the Coast, cassava is grown but there is no market for it. The enactment of this law will create a market for cassava and other crops.

I support the Bill.

**Hon. J.K. Bett:** Thank you, hon. Deputy Speaker. I rise to support the amendment by Hon. Ichung'wah particularly to part (a) where it says that the content of alcohol shall be at least 75 per cent. These three crops are very nutritious and have high energy content. They will go a long way in showing us that most of us who will take---

**Hon. Serem:** On a point of order, hon. Deputy Speaker.

**Hon. Deputy Speaker:** What is your point of order, Hon. Serem? Do you have a card? Go to the Dispatch Box.

**Hon. Serem:** On a point of order, hon. Deputy Speaker. It seems there is a lot of concurrence on the same. Can we call upon the Mover to reply?



**Hon. Deputy Speaker:** I was just going to do it after one more person. Allow Hon. James to finish and then I will call one more person.

**Hon. J.K. Bett:** Thank you, hon. Deputy Speaker. The three crops mentioned here have high energy content. Consumption of alcohol henceforth will go a long way in strengthening and giving more energy to consumers. It means that sorghum, millet and cassava growing areas will have a wider market and, therefore, increase income for the growers.

I support the Bill.

**Hon. Onyura:** Thank you, hon. Deputy Speaker. I also rise to support this Bill. I particularly support the issue of awareness, civic education and making sure that those who partake of this have the necessary information. Even as we promote the traditional brews, we need to be sure that they are of a good quality and high standard, so that those who consume them are not harmed in any way.

I support the Bill.

**Hon. Eric Keter:** Thank you, hon. Deputy Speaker, for giving me this opportunity to extend my support to this Bill. These are common products which we should encourage our farmers to grow. It is advisable that we sensitise our farmers to know how useful these food crops are. When you compare ordinary maize with millet and sorghum, millet has a higher content in terms of food. I would like to thank the Member for bringing this Bill.

However, my concern is marketing. We can encourage farmers to grow all these crops, but if we are not going to get a market for the products locally and abroad, they will not be helpful. We should also have officers going round to sensitise farmers.

I support the Bill.

**Hon. Deputy Speaker:** Thank you, hon. Members. We are unable to put the Question as we do not have sufficient numbers. It shall be done when this Order is next on the Order Paper.

Next Order.

## MOTION

### ADOPTION OF SPECIAL PIC REPORT ON PROCUREMENT PROCESS BY KPC

**Hon. Keynan:** Hon. Deputy Speaker, I beg to move:-

THAT, this House adopts the Special Report of the Public Investments Committee on the Procurement Process of the Kenya Pipeline Company Ltd Line 1 Capacity Enhancement Project (Mombasa – Nairobi Pipeline), laid on the Table of the House on Tuesday, 10<sup>th</sup> February, 2015.

The Kenya Pipeline Company (KPC) is a State corporation established on 6<sup>th</sup> September, 1973 under the Companies Act, Cap. 486 of the Laws of Kenya. The main objective of setting up this company was to provide an efficient, reliable, safe and cost effective means of transporting petroleum products from the Port of Mombasa to the hinterland, eventually to the other parts of East Africa, and now to parts of North and Central Africa. In pursuit of this objective, the company constructed a pipeline network,

storage and loading facilities for transportation, storage and distribution of petroleum products to facilitate the realisation of this particular objective. The company's mandates are:-

- (i) to build a pipeline for the conveyance of petroleum or petroleum products from Nairobi to Mombasa. Right now, the mandate has been expanded to other parts of East Africa.
- (ii) to own, manage or operate such pipelines and any other pipelines and associated auxiliary facilities.
- (iii) to market, process, treat and deal in petroleum products and other products and goods, and also to provide transport, distributive facilities, outlets and services to connected areas.

This particular Line 1, the Mombasa-Nairobi Petroleum Pipeline, was first commissioned in 1978. It covers a distance of 450 kilometres. The lifespan of this particular line was 25 years. Therefore, from 1978, the lifespan ended in 2003. The idea of modernising this has been on paper for quite some time, but it did not happen. The lifespan ended 12 years ago and since then, things have not been very good. Once a facility goes beyond the lifespan, you can appreciate the risk and other challenges that are associated with that. It is because of this, that the modernisation of this particular facility is one of the flagship projects under the Vision 2030.

Sadly, Vision 2030 is a beautiful document clearly spelled out to realise the proper industrialisation and economic growth of this country, but that has been reduced just to any other paper. This country has a very rich history of producing beautiful documents, coming up with brilliant ideas and shelving them when they are supposed to be implemented. If truly we would have implemented our development, socio-economic and political plans along the lines of Vision 2030, this country would have industrialized, and we would have seen a different Kenya. Simply because those who are entrusted with this sleep on the job, the objectives of the Vision 2030 as spelled out are implemented in piecemeal. This might not help us realise what we intended to achieve within a decade. It is because of this, that this particular facility is coming late by 12 years after the lifespan of the particular project. It took a bit of time to realize this for some reasons; some were purely business factors, some were purely administrative, managerial and some were as a result of institutional weaknesses. But finally, it has taken off and we hope and pray that it is going to be implemented to its logical conclusion.

The pipeline became a health hazard, and those of you who live along the belt from Mombasa all the way to Eldoret and Kitale and other parts know the kind of hazard it is. One reason behind it was what happened in that famous Mukuru-Sinai fire tragedy, where so many Kenyans lost their lives by being burnt alive. We have not had the privilege of going through the report of that fire incident, but from what we have gathered, this misfortune was attributed to one of the hazards associated with the usage of a facility whose lifespan expired 12 years ago. The KPC is one of the critical institutions that are mandated to oversee this key sector.

Hon. Deputy Speaker, right now we are geared up and God loves this country. There are serious discoveries in Wajir, Turkana, Garissa, Mandera and Lamu. The way things are going now, there is going to be a very serious demographic change; areas that have hitherto been considered as arid and inhabitable might become the heaven of the

Republic of Kenya. This is why in areas like Turkana, Wajir, Marsabit, Samburu, Lamu and other coastal areas of the Republic of Kenya there are so many land speculators, not because of any other reason, but people have realized that very soon the economic fortunes in these regions are going to change; once that change comes I can see a lot of movement. I can see my young brother, hon. Kimani Ichung'wah is trying to reflect on how he is going to be one of the groups that will be actually gearing to move to those parts of Kenya. I am sure of this because where he comes from, that trend is in people's blood.

Therefore, as we do this, do we have the capacity? Are we prepared? Kenya Pipeline Company plays a key and fundamental role in economic management of this country. The only oil facility that used to do refinery in Mombasa is closed, because of poor management and failed investment. There is something that I always say, I do not know whether is by design. In any privatisation that this country has undertaken, I am yet to see any success. The only refinery that we have had and which used to provide a very important storage facility, and which used to provide also very important refinery facilities for KPC is dysfunctional. That means the planners, designers and executors of some of our key national objectives are not doing what they are tasked to do. The tendering process of this was challenged. In October, 2011 KPC advertised for tenders for consultancy to carry out detailed engineering design to prepare for a tender process and supervision of implementation of the same.

Hon. Deputy Speaker, from 2011 until late last year, KPC was engaged in the tendering for this particular process. There were serious challenges, which I am going to unleash towards the end of this presentation. The consultant designed a replacement of the pipeline that was constructed so many years ago and commissioned in 1978 just to create an avenue that was to optimize the use of the existing facility while the global demand of petroleum products--- The consultant carried out a technical and financial evaluation to determine optimum size, considering the demand for petroleum products. There is one thing that all planners and designers of some of these mega projects in Kenya must always have in mind; this country is not just a country like any other. It is the economic hub of the entire region. Therefore we should not only plan for a facility from Mombasa to the hinterland. Those are some of the colonial pronouncements; things have changed. We are living in a global village and at a time where when you plan, you must also plan for wealth.

As you plan in your village, you must also have in mind an aspect of globalization. Our thinking must change and this is why I want to agree that the design was good, and it took into account some of the realities of today. Therefore, on 16<sup>th</sup> January, 2013, KPC advertised for this particular project in the *Daily Nation* and there were so many bidders; this was again done on 1<sup>st</sup> March, 2013 and the entire process continued pursuant to Section 81 of the Public Procurement and Disposal Act. There were quite a number of bidders and we must admit there were challenges in the tendering process. There were so many serious issues that were raised by other competitors against the final winner.

There were so many issues that were raised. The issue went to the Public Procurement Tribunal. Eventually, it went to a review court and there were issues that were canvassed. Our prayer is that, next time, when such critical projects are envisaged

every aspect of the particular process must be transparent, open, fair and must be consistent with the objective of the particular entity, taking into account the generous provisions in the Constitution that was promulgated 2010.

The Constitution has clearly created a paradigm shift in the way we run State affairs. Therefore, openness, transparency and accountability must remain core objectives of any public entity. That is the only way we can continue to get the confidence of the taxpayers and continue to enjoy their continued funding. The replacement of the old pipeline that was commissioned in 1978 with this new pipeline was supposed to meet the following objective:-

One is to help meet the projected demand for petroleum products in Kenya and in the eastern region up to 2044. I thought they would say for 100 years, but now they have planned for another 30 years. I hope that those who will be there at that time--- I know some of us are still very young and will be there to see the final phase of this particular project. You can see there is already a change. In 1978, we were planning for Mombasa to the hinterland. Thirty three years down the line, we are planning right now from Mombasa to the hinterland and to the entire East Africa. Maybe, in the year 2044, we will be planning from Mombasa to the hinterland of East Africa, Cairo and to Cape Town. These are the realities if truly we have to project ourselves as the economic hub of this region, or as a premier nation. I always say that this country is--- We have not tasted the premierness of the Republic of Kenya. We have just been reduced to a complaining lot. We must realize that this is a critical republic not only in East Africa, or the horn of Africa or South of Sahara, but in the entire world.

It is for each of us, in whatever we do to stand to be counted, promote and protect the image of this country in whatever we do. This is why when we initiate such a critical project that will traverse boundaries, it is only fair that we have in mind the image of the Republic of Kenya, and the image of the users in the region, because it is not a Kenyan project alone; it becomes a regional project.

This is how the envisaged process becomes critical to how the end use is going to be; perception plays a critical role, whether it is individual or interactions occur. If a mega project like this is marred with challenges at the initial stage, or conception stage, even the end users will have doubts. These doubts must not be allowed. The only way to ensure that doubts will not be there is to allow openness, the rule of law, transparency and accountability to be core in the implementation of such project.

The second objective of the replacement was to ensure a sustained, reliable and efficient supply and distribution of refined products in line with the region's growing demand up to 2024. We have been unlucky, for example, even in instances where the price of crude oil has substantially reduced in the international oil market; we are yet to reap the benefits of the same here in Kenya. Are we at the mercy of cartels in the oil sector? Are we paying for the inefficiencies of some of the organisations that are tasked with this critical role? The poverty level amongst Kenyans is so high. The leadership, including that of hon. Members of this august House, must participate in the alleviation of poverty of Kenyans. This is the only way Kenyans can appreciate. Remember, I always say in Article 1 of the Constitution, representation is equated to sovereignty, which is the embodiment of the making of the Republic of Kenya, or any other independent entity. When your role is equated to sovereignty you must always stand firm

and ensure that whatever you do is consistent with the promotion and protection of that sovereign republic; this is what hon. Members must always strive to achieve.

Hon. Deputy Speaker, the other objective of this was to reduce the price of fuel for both domestic use and export market; quite often there are losses occasioned by leakages in burst old pipelines. We have seen this and we have had so many incidents where Kenyans who have been scrambling to get a litre of oil spilled by burst pipes, especially in the Rift Valley and Western Province, have suffered serious injuries. As a result of this, this modernization must also take into account bursting of pipes.

The other objective of this project is to reduce the number of tankers on our roads, and thereby reduce road damage and environmental pollution. This is a critical thing. We use tankers to transport oil, which is an old-fashioned mode of transportation; it is an outdated method, and is not consistent with the management of the old sector in a developing republic like Kenya. This is something that we ought to have done away with two or three decades ago; but it is still in use. We are damaging our roads and creating serious environmental challenges. Therefore, if this project is properly implemented, the many tankers that we see sometimes causing serious traffic jams in Eldoret, Trans-Nzoia, Kisumu, Athi River and Mombasa, will be something of the past. This is one of the objectives and that is why I want to ask the implementers of this project to apply due diligence and ensure that this project is completed. There should be no room for failure. This is because we have all seen the kind of traffic jams we have on our roads.

Over the last one month, Nairobi has almost been reduced to a ghost town. There is traffic jam from 5.00 a.m. to past midnight. This is as a result of - I do not know whether I can call it an improper use of our roads; it is because of poor planning. This is one way of decongesting our roads. Therefore, this project must be implemented as intended.

The final objective is to provide petroleum transporters with the least cost option of transporting petroleum products. It also enhances the culture of doing business. If you are a business person in the petroleum sector, why should you be running after tankers? Tankers break down because of poor roads and other challenges on roads. You ought to load your products at Kilindini Harbour and wait for the final product in Kisumu, Trans-Nzoia, Eldoret or Wajir. The next phase of this project should also include an extension of the pipeline to the emerging regions that will produce oil like Wajir, Lamu, Garissa, Samburu and Turkana. These regions must be considered in planning. We do not want to be passengers in the economic management of this country, or be reduced to mere cattle herders. The die is cast.

Things have changed. Very soon our regions will be the economic hub of the Republic of Kenya. This is something that we must acknowledge, appreciate and be prepared to foresee how we are going to relate to changed circumstances.

The following are some of the key observations that the Committee came up with. This project is strategic to Kenya, the port of Mombasa, the hinterland and the entire region. This project is coming at a time when we are in the process of implementing the Standard Gauge Railway (SGR). Combined with the SGR and if the pipeline is properly implemented, then very soon--- I want to urge His Excellency the President not to allow crooks and cartels to take advantage of this developmental objective. This transcends politics. These are not political projects; the SGR and the pipeline are critical national projects. If properly implemented, they are not something that Jubilee alone will be very

proud of; they are something that is clearly envisaged under Vision 2030, and every Kenyan or citizen of East Africa, will be very proud of them. It is because of this that the strategic importance of this project must be taken into account.

Hon. Deputy Speaker, equally, there were challenges. I want to say this and I want the management of KPC to hear this: There are serious institutional challenges with the design, the tender process and award. However minor these challenges are, they must not be allowed to be repeated in any future major project. It is only through that, that we can ensure that such a critical entity like KPC enjoys the confidence of the taxpayers. The administrative challenges came before the Public Procurement and Administrative Review Board. The issues came first before a constitutional court. These issues must be addressed by the management of the KPC.

Hon. Deputy Speaker, the Committee made the following recommendations:

The KPC should implement the process of enhancement and extension of the petroleum products facilities to other deserving regions that are not currently covered by the pipeline. We should not wait for 2044 because that is such a long time to come. What we have asked them to do--- This is a good one. Can they start planning for extensions to other deserving regions, so that these services are extended to every part of the Republic of Kenya? That is one critical recommendation. Kenya should also ensure that the pipeline capacity enhancement is constructed in accordance with the required engineering standards, design specifications and PIP price, which ensures that projects meet intended, projected capacity and desired needs.

There are certain tendencies in Kenya and we must call a spade a spade. When it comes to real implementation, we allow individuals to take advantage of the taxpayers' money. This must not be allowed. The KPC must not allow this; it must ensure that this project is implemented to the letter. We are saying that there is room for change. This is a critical national project, and it must be implemented.

Finally, there is a tendency that you conceive an idea, design a project, implement it and then you award a tender with one objective of making a kill out of it. This is why the culture of variations must not be allowed in some of these critical projects.

Before I call my able Deputy Chairman, Hon. Kimani Ichung'wah, to second, there is one thing that I want to urge the Government to do. We have the State Law Office, which is clearly recognised under our Constitution. Of late, there has been a tendency to completely sideline this office, particularly the mandate of the Attorney-General of the Republic of Kenya in the implementation of some of the key Government projects. What many Government organizations have done is that whenever they need legal advice, they look for their lawyer friends, yet constitutionally it is the Attorney-General who is required to offer legal opinion on key projects.

Hon. Deputy Speaker, I urge the management of Kenya pipeline to ensure that, in future, such mega projects get a legal opinion of the Attorney-General of the Republic of Kenya. We expect that the company that has been awarded this tender, Zakhem International Construction Company Limited - It is the same company that did the other facility that was commissioned in 1978. Therefore, they have a bit of institutional memory in as far as this is concerned, although times have changed. I want to ask the management of Zakhem International Construction Company Limited to live up to the expectations of the people

of Kenya, and ensure that they implement this project according to the way it was conceived and designed.

I want to thank hon. Members and invite Hon. Kimani Ichung'wah, the Vice Chairperson, to second.

**Hon. Ichung'wah:** Thank you, hon. Deputy Speaker. I rise to second this Motion. The Chairperson has exhaustively covered most of the issues that are in the Report. I beseech Members to support this Motion and the Report prepared by the Public Investments Committee (PIC).

One of our core responsibilities in PIC is to ensure we safeguard public investments and ensure that the Kenyan taxpayer gets value for taxes that are invested in all public institutions.

In view of PIC mandate, we considered all the issues that have been raised by people regarding this project on the enhancement of Line I. As Members, we noticed from the Report that the issues that were raised were thoroughly canvassed through the Public Procurement Review Board (PPRB) and decisions were made by the same PPRB. One of the bidders actually went to the High Court. Issues were canvassed and judgment was given. Members will notice that in the Report there is an appendix of those judgments by both the PPRB and the High Court. As a Committee, we are confident that the procurement process was in line with the law, having been reviewed by the PPRB and by our own High Court. We are very confident that, indeed, the management of KPC did follow the law to the letter in the procurement process.

The other thing we considered as a Committee is whether it was necessary to enhance the capacity of this Line. Kenyans will realize that this Line was done in 1978 - it is worth noting that this was only a year after I was born and I am old enough now. So, you can imagine how old that pipeline is. The lifespan of that pipeline was supposed to be about 25 years. To date, the pipeline has served this country for 37 years. This also gives credence to the company that constructed that Line in the first place, Zakhem International Company Limited, which has been awarded the contract again.

There have been many issues which are not new to us in this country. One instance was the recent fire at Sinai in the *Mukuru kwa Njenga* slums, where so many people lost their lives. We know of regular leakages and pipe-bursts that are a health and safety hazard to Kenyans. There is a testimony that we need to replace this Line. We are now looking at a pipeline that is going to meet the demands of the oil industry up to 2044. We are looking at 30 years lifespan of this new line and it will meet the demands of the petroleum industry. This is something that we need to commend the KPC for.

There will be tremendous benefits to our economy not just in this country, but also to our neighbouring countries; Burundi, Rwanda and Uganda who are all our good neighbours and who largely depend on the movement of petroleum products, especially the refined ones. The enhancement of the capacity of this Line will also ensure that the transportation cost of petroleum products to our own country's hinterland and our neighbouring countries will come down. There is usually a difference of about Kshs4 to Kshs7 between the price of unleaded petroleum at the port of Mombasa and, maybe Eldoret, Kisumu and Malaba. This price differential is largely attributed to the cost of transportation of petroleum products. With the enhancement, we will be able to move more refined products upcountry, and to our neighbouring countries at a lower cost. The

Chairman has said that this country will benefit from transportation using the pipeline as opposed to using trucks that have actually taken over all our national highways right from Mombasa to Nairobi through Uhuru Highway and my constituency, Kikuyu.

We are experiencing these challenges with the opening up of the Southern Bypass in my own constituency in Kikuyu Town. It is actually a safety concern to my constituents that trucks carrying fuel are moving at very high speed along this new highway. They are negotiating dangerously to join the Southern Bypass at a place called Gitaru. I must call upon the Ministry of Transport and Infrastructure to relook at the design of the Southern Bypass at the place where it joins Waiyaki Way or rather the A104 Highway. This is because we are now using this road with all these fuel tankers moving at very dangerous speeds while carrying dangerous products. It reminds us of the concerns that Kenyans have. We have seen fuel tankers overturning and in the process causing accidents and killing people. Remember the Muchongoi incident in Molo where a tanker exploded and killed almost 100 people.

**Hon. Serem:** Sachangwan fire tragedy!

**Hon. Ichungwah:** Thank you, hon. Serem for reminding me that name. It was the Sachangwan fire tragedy. The enhancement of this pipeline will ensure that such tragedies never occur in the future of this country. Therefore, I want to beseech Members to support this Motion and Report. As it has been pointed out, it has become almost an everyday habit that whenever there is such a huge project all manner of petitions are brought to Parliament or the PPRB. Some of them are on very flimsy grounds. In a big way, we are stifling the growth of this economy with so many petitions for review of public procurement. I want to believe that with the Public Procurement and Asset Disposal (Amendment) Act, which we passed this morning, some of these challenges will be a thing of the past. I ask the Members to support this Report.

Finally, I am aware that part of the management of Kenya Pipeline Company (KPC) has been asked to step aside on issues regarding procurement of this project. One of the key recommendations that we have made on this project is: Considering it is a Kshs44 billion project, the company which has been awarded this tender ought to expedite the construction and enhancement of this pipeline with no variation. This is because the issue of variation of contracts – some are justified while others are not - has been an avenue for corruption in this country. We want to beseech the engineers, management of KPC and Zakhem, which has been awarded this contract, to ensure that they expedite the construction of this new pipeline with no variations as we have recommended. This is because they must have done due diligence and ensured that they had captured all that ought to have been captured in terms of the cost of this project. I, therefore, support this Motion.

*(Question proposed)*

**Hon. Deputy Speaker:** Hon. Serem.

**Hon. Serem:** I rise to support this Motion, which has been moved by our Chairman. I am a Member of this Committee. I have actually looked at this Report at length and I support it with the following observations:



One, as we support the construction of Line 1, I feel that we should look into the issue of storage. This country utilizes fuel and so whenever there is shortage, prices move up instantly. It is because we have no reserves that can cushion the markets whenever there are shortages in the world market. As we support this Report, we are also recommending that KPC should actually observe specifications in terms of design and the engineering. We do not need a substandard line to be constructed for us. We expect a line that will last for more than 25 years. We have a line that has lasted 37 years, yet it was supposed to have lasted only 25 years. This is actually putting Kenyans in danger, and someone must have slept on the job. We do not want a situation of this nature happening in future.

The other issue is the transportation of fuel across the country. There are so many accidents along the Nairobi-Eldoret Highway. This issue of transportation of fuel using our roads is reducing the life span of our roads. This is because the very heavy tankers tend to overload. Therefore, the best thing to do is actually to have the pipeline extended to all our major cities. What we have at the moment only serves between Mombasa, Nairobi and Kisumu. We also have some other major cities in this country that actually require this pipeline. As we recommend this project, we expect that KPC will make sure that variations are taken care of, so that we do not have a situation where we have a variation that enriches a few individuals. There are those people who deliberately seek variations. In the event that we have a variation of only 5 per cent, we will be talking of billions of shillings, which are going to be consumed by an individual.

The Vice-Chairperson also has mentioned the issue of litigation in this country. Although we are not preventing Kenyans from going to court, this country is actually spending a lot of money because of errors that actually come up. Individuals know that when an aspect is left out it will result in a court case. So, guys that actually come up with the specifications should be held responsible in any event that some aspects are left out to give room for somebody to rush to court, so that they can make more money. Litigation comes because of poor management. They omit issues and leak out information to an opponent or competitor, so that now the competitor has a reason to go to court.

I participated almost 90 per cent in the writing of this Report. I realize that the designers actually have a very good reason for us to have another Line. This is part of the Vision 2030 projects that are supposed to spur the growth of the economy of this country. We require this pipeline like yesterday. If all the aspects are kept constant, we will have a wonderful pipeline that will serve this country for a long time. I support the Motion. Thank you, hon. Temporary Deputy Speaker.

**Hon. Deputy Speaker:** Hon. Nelson Gaichuhie.

**Hon. Gaichuhie:** Thank you, hon. Deputy Speaker. I rise to support this Report of the Public Investments Committee on Kenya Pipeline Company. I want to say that it is high time we started the construction of the new pipeline, because the one that already exists is almost obsolete. I am happy that we did a procurement law that will stop the kind of acts that have resulted in delay in the construction of the pipeline. I am happy they have followed the due process and the courts have agreed with them.

I also want to note that even when we were discussing the Report on the defunct Kenya Posts and Telecommunication Corporation, we said that the Attorney-General had

always been bypassed. I am hoping that all contracts and Government matters, which have legal implications, will pass through the Attorney-General. State corporations should stop using private lawyers, who at times delay very many projects. Kenya is endowed and we are now exploring oil.

The KPC should construct that line very fast and endeavour to start construction of the LAPPSET oil pipeline, so that we have all our oil going to one refinery. As the previous speaker said, we need to have ample storage. We can construct lines, but we also need to have good storage facilities, so that we can store our oil and not have price hiking all the time when we have changes in supply. If we have enough storage, we will cushion prices and, at least, have a way of planning. With those very few remarks, I wish to support the Report of the Committee. Thank you, hon. Deputy Speaker.

**Hon. (Ms.) Chidzuga:** Shukrani Naibu Spika. Nasimama kuunga mkono Ripoti hii ambayo inasimamia umoja wa uti wa uchumi wa Kenya. Tutakapojenga huo mfereji wa kupitisha mafuta hiyo itakuwa ni njia moja ya kuokoa Wakenya kutokana na ajali nyingi ambazo zinatokana na magari ya kusafirisha mafuta.

Pia imeonekana wazi kwamba sharti tuweze kufuata mipangilio ya sheria kwa kuhusisha Mkuu wa Sheria katika mipango ya zabuni za Serikali na miradi tofauti tofauti. Tukifanya hivyo, miradi haitatugharimu sana.

Tutaweza kuepuka ule ufisadi mwingi ambao umeonekana ukiingilia miradi mikubwa, ambayo ni ya manufaa kwa nchi hii na kwa mwananchi kwa jumla.

Pia kuhusu huu mradi, ninaonelea kwamba tungeweza kuhamazishwa zaidi kuhusu faida ambazo zitatokana na huu mradi. Kwa mfano, tungeweza kusikia kwamba mradi huu utaweza kushukisha bei ya mafuta. Bei ya mafuta imetuumiza sana, hasa tukichukulia, kwa mfano, uwanja wa ndege. Kila wakati tunapoambiwa bei ya mafuta imeshuka, hakuna wakati tunaambiwa kuwa bei ya tikiti ya ndege imeshuka. Badala yake, inaongezeka mara dufu.

Kwa hivyo, katika mradi huu, tuzidi kuangazia vile ambavyo tutaweza kuweka mikakati ambayo itafanya bei ya mafuta iache kupanda kila mara. Hata inaposhuka katika soko ya ulimwengu, tubaki na ile bei ambayo sisi wenyewe tunaweza kuihimili na inaweza kumsaidia mwanchi wa kawaida. Pia, tuwe waangalifu tunapojenga huu mfereji. Je, huu mradi wetu ambao ndio mradi mkuu katika eneo letu la Pwani na unasimamia Kenya nzima ambao ni Kenya Refinery, ni vipi ambavyo tunaweza kuifufua Kenya Refinery ili iwe ndio chanzo cha kuwa na mahala pa kuweka mafuta yetu kuliko vile ilivyo wakati huu? Ule mradi mkuu wa refinery umekufa na watu wengi wameachishwa kazi.

Ninaunga mkono huu mradi wa pipeline uweze kuendeshwa kisheria.

**Hon. (Dr.) Pukose:** Thank you, hon. Deputy Speaker for allowing me to contribute to this Special Report of the Public Investments Committee. Hon. Keynan, the Chairman, has talked about serious challenges in design and procurement. He has also talked about administrative issues. These are serious issues that have bedeviled this company.

When you look at the recommendations at the end of the Report, they do not tie up with the serious issues that were raised. It is very important that when issues like these ones are raised, there is seriousness. When you talk of something being serious, we

expect to see the seriousness in what is attached. This Report was presented to the Public Procurement Authority and to the courts and the issues that he claims to be serious were addressed.

The Report recommends that the process should continue. Some of those who made complaints were even found to be briefcase companies, while some did not even tender for the contract. Instead, they claimed that they had put their case through the expression of interest. One of the biggest challenges in this country is procurement. This is where corruption cartels thrive best. The corruption cartels are members of what I call “AGIP”, meaning “any Government in power”. They always want to work with any Government in power. Those who are in power, please, deliver on what Kenyans expect.

When the Ethics and Anti-Corruption Commission Report appeared before this House, we supported it to send home the Commissioners. Some of those Commissioners had even suspended one of the officers. Today, we hear that, that officer is back in office performing his duties. We wonder how things still remain the same. Are we really serious in the fight against corruption? Are we really doing what should be done in this country? Or, these are part of the cartels that keep on just rotating. Officers will always come. Some of us have worked in the public offices. When you have these institutions, a senior person like a chairman or even a director has those who work below him or her in the secretariat. They will say that they have seen chairmen come and go. This is where the problem is. This is where we should be looking into, if we want to sort out the issue of corruption and put this country on the right direction.

It is embarrassing that the President has put down his foot and said that we want to fight corruption, yet that is not happening. You wonder whether the President is in charge of fighting corruption. He must put down his foot and seriously fight corruption. It should be seen that corruption is being fought in this country.

With those few remarks, I support.

**Hon. Nyenze:** Thank you hon. Deputy Speaker, for giving me a chance to contribute to the Report of the Public Investments Committee. I urge the House to adopt it. As the immediate speaker, Hon. (Dr.) Pukose, has said any big projects that several companies tender for end up in court because of procurement irregularities. Corruption starts at the procurement process. If that can be addressed, there will be fewer court cases.

The economy of Kenya has grown to be one of the largest in East and Central Africa, but the Line 1 Pipeline, which was designed 25 years ago, has a capacity of around 800 cubic metres per hour. It is aging and is subject to bursts. It is causing fires as it did in Sinai, which killed very many people. It is important for the country to build new pipelines to transport petroleum products to the hinterland from to the Coast, where it is stored. The line has lasted a long time. It now does not have the capacity to serve this economy that has grown tremendously to be the biggest economy in this region. It is a pipeline that the KPC has envisaged to take fuel products to the neighbouring countries. There is need for this pipeline, so that petroleum products can be distributed with ease and by a means that is not very expensive.

Our road infrastructure has suffered a lot of destruction from petrol tankers. That is not the most economic way to transport petroleum products. In economies that are growing at a rate of 5 per cent and above worldwide, transportation of fuel, or petroleum

products, is done through pipelines. They are efficient, reliable and cost effective. You transport these products in bulk to many regions at a record time, so long as you do not use the pipeline for a long time without repair.

Most countries in the world are benefiting from the low crude oil prices. The cost of crude oil has dropped globally and countries that have been strategic in their planning like China and others have storage facilities for fuel. They store enough during the good times when fuel and petroleum products are selling cheaply in the international markets. It is unfortunate that Kenya does not have adequate storage facilities. That is why we cannot take advantage of the low crude oil prices worldwide. I was surprised that even the cost of transport has not come down. People living in Rongai, Machakos, Thika, Ruiru, Kiambu and other places near Nairobi are not paying reduced fare despite the fact that the price of crude oil has fallen. I do not know whether this is as a result of collusion between the Government and the oil cartels, through taxation, or is as a result of overcharging of commuters by the transport companies.

The price of fuel should be below Kshs50 per litre. In other countries, the low cost of fuel is reflected on what the citizenry pay for related services. In Kenya, inflation has gone up to above 6 per cent. The cost of goods and services has not reduced. In some cases, the cost of transport has increased. Besides the collusion between industry players to exploit the Kenyan workers, our problem is worsened by lack of enough storage facilities to take advantage of the low fuel prices.

Hon. Deputy Speaker, the pipeline will help this country to grow. In fact, once we transport fuel at cheaper prices to where it is needed, this will affect so many things. This is because transport and all types of production – farm and industrial production – depend on petroleum. If that cost is reduced by building this pipeline, the cost of living of Kenyans should also reduce; Kenyans can pay less than what they pay at the moment.

The oil pipeline that was laid in 2003 was by Zakhem company. When it came to tendering for the project, Zakhem were among those who tendered. The company won the tender to build another pipeline. Considering that this company built a pipeline that has lasted longer than the short period it was expected to operate, I have confidence that they will do a good job, because they did a good job before. They have experience. We have seen that the existing pipeline has served us for a long time. Apart from the time when we had a fire in Nairobi's Sinai area when the pipeline burst, we have not had reasons to complain.

I support this PIC Report and I urge Members of the National Assembly to adopt it, so that the pipeline can be laid. It will reduce the cost of doing business and the pressure on our road infrastructure. It will also make the lives of Kenyans better.

With those few remarks, I support.

**Hon. Dawood:** Thank you, hon. Deputy Speaker. I support the Report by Public Investments Committee despite seeing that only 12 Members have signed it. Even the Vice-Chair of the Committee has not signed it, but since he has seconded it, I believe that everybody supports it.

The Report is quite specific on the recommendations regarding the public procurement rules. Apparently, there is a big variation between the highest and the lowest bidder. The lowest bidder quoted Kshs456 million whereas the highest bidder quoted Kshs796 million. That goes to say that the people in the Kenya Pipeline Corporation, probably, did

not put the right details regarding what people were to do with the pipeline. Besides that, we should get value for money for the Kshs45 to 46 billion, which will be there. Hopefully, going by what Zakhem have been given, if they are to do the job, there should be no variations for the project. The timeline within which they should do the pipeline should be exact.

Former President Kibaki launched the two pumps which were commissioned a couple of years back. The pumps were supposed to flow at more than 440 metric tonnes per hour. For two pumps, that would be over 800 metric tonnes per hour. Unfortunately, within a week after he commissioned them, the flow rate went down to less than 500 metric tonnes per hour. I wonder if the same will happen to the new pipeline, which will be done by Zakhem. Will we have the flow as it has been stated or will it be less? The Leader of the Minority Party mentioned that Zakhem built the first pipeline in 2003. I want to correct him that it was in 1973. It lasted for long and it is very true that Zakhem did a good job. We hope that in future, they will do a better job.

Talking about having a new pipeline, it would be good for it to reach all the regions of Kenya. As it is, it just goes to the western region, towards the East African countries. We would want it diverted towards the central Kenya region and proceed to Nanyuki, Isiolo and the north eastern region of Kenya as well. It should probably follow the LAPSSET route, so that at least we can get the benefit of the terminals.

Another baffling thing is that whereas the price of crude oil has gone down all over the world, the price of the same commodity in Kenya tends to go down much slower. On the other hand, when the value of the US Dollar goes up slightly on the world market, the price of the same currency goes very high in Kenya. It takes two to three months for the price of the US Dollar to go down in Kenya, whereas it takes less than a month to go up.

As we enhance the pipeline, we need to think about enhancing the capacity of the Kenya Oil Refinery plant in Mombasa. The Government has already taken over the facility from Essar of India. I believe we should enhance the way we refine our own fuel, which will cost us much cheaper. The companies which are blocking haulage at the port storage facilities have not been mentioned. We should have a case where people who bring their fuel in vessels are allowed to offload it. No company should be allowed to hold too much stock without distributing it. What happens is that companies buy stock and put it in the storage facilities. It is not pumped upstream and, therefore, the storage facilities get filled up. So, vessels docked at the port cannot offload, leading to accumulation of demurrage charges, which in turn lead to higher fuel prices. Therefore, that aspect should be looked into.

Regarding the Attorney-General's role, the Chairman has spoken about it. He has said that all contracts have to pass through that office. That is why we have problems with contracts like the Anglo-Leasing, which were passed earlier. Some did not go through the Attorney-General's office. Let us hope that this goes to the Attorney-General's office before it is signed. This should be despite even the Solicitor-General giving evidence to the Public Accounts Committee (PIC). It is very important that the Attorney-General is on top of everything, so that the country does not incur any expenses or defaults in the contract and then, at a later date, pay for things which we probably will not have gotten like the Anglo-Leasing contract.

With those few remarks, I support. We need to get that pipeline fast enough. It should go towards Meru because that is where most of the fuel is sold in the Eastern region.

**Hon. Deputy Speaker:** Hon. Anna Nyokabi.

**Hon. (Ms.) Gathecha:** Thank you, hon. Deputy Speaker. I rise to support this Motion on the adoption of the Report of PIC. Despite the many challenges that the award of the contract to Zakhem International Construction Limited had, we know that we have a long way to go in the procurement processes. The benefits far outweigh the demerits in terms of reduced costs in transportation of oil, ensuring that we spur the economic activities in this country and spread the wealth so that Kenyans as a whole are able to take advantage of the lowered oil prices.

Even as I support this Bill, it is important we start to set certain levels of control. We cannot allow people to set their own development standards. The same company installed that particular pipeline 37 years ago. Did they not know that there was maintenance that was supposed to take place? I know that it is not their responsibility. But it clearly shows that the management or those who have been put in place to take care of public assets and ensure that equity and justice is done to Kenyans have colluded and decided not to do what they are supposed to do. Instead of those that have been given positions ensuring that the whole country is able to receive fuel at a reduced price – and we know that global prices of oil have fallen - they are just there. When we take a closer look at the petrol stations within Kenya, there is true collusion to ensure that they continue gorging Kenyans. The excuse is that there is no capacity. We know the frustrations of those who do oil trading in this country. You can come in with a shipload of oil and because there are certain cartels that want to maintain their own space, they want to say that there is no capacity when we know that it is not true. All they want is the prices to go up and frustrate you to make sure that there is no competition.

Those things have to come to an end in this country. There must be transparency. Those who have been put in those particular positions to ensure that service delivery to Kenyans happens must make sure that it happens. They must be held accountable. It is important that we break those oil cartels in this country, ensure fair competition, open up the space to allow indigenous Kenyans and not foreigners to come in and control our markets, even as we support this Motion. It is absolutely not acceptable in this day and age that we have 11 million unemployed youth in this country. We know the petroleum sector has the capacity to create a significant number of jobs in this country. However, if we continue to maintain the status quo instead of ensuring that equity is carried out in this country, those things will not happen.

I support.

**Hon. Deputy Speaker:** Yes, Hon. Nicolas Gumbo. Is Hon. Gumbo in the House?

**Hon. Member:** No, he is not in.

**Hon. Deputy Speaker:** If not, then let us have Hon. Peter Kaluma.

**Hon. Kaluma:** Thank you, hon. Deputy Speaker. I stand to give a very cautious support to the Report of this Public Investments Committee (PIC). I do this because I have had to interact with Zakhem International Construction Limited in various arbitrations in my other life as a lawyer. I am worried when it is indicated in the Report that Zakhem International Construction Limited was awarded that tender despite having not presented a bid bond from a local bank. Zakhem International Construction Limited is

a company I know has been struggling over the past and I really doubt whether they have the capacity to execute that project. But I will give my guarded support. This is because the importance of that pipeline cannot be over-emphasized in terms of accidents that can be avoided, if we have it in place. It will reduce the cost of petroleum products.

However, there is a part of the Report which I beg to emphasise. That is the idea that the Office of the A-G needs to be involved from the beginning to the end when we are doing contract documents. It is a feature of our Government contracting which we have been missing. It is something for which –for those of us who are trained in arbitration or have been engaged in it– it is the one point through which we have a lot of corruption in Government.

In terms of construction arbitrations under the FIDIC (International Federation of Consulting Engineers) rules and the contract documents, there are two issues or matters for which our economy is usually looted by contractors. One is what they call variation of works, and I am happy that PIC has identified this and it is recommending that the bid prices ought not to change. What usually happens is that once the contractor starts executing projects, all sorts of variations and reasons for variations will be found. The cost of the works, of course, shoots to even more than three times the bid price. My hope is that this document will be going to Zakhem International Construction Limited so that we do not have those variations.

The second thing in arbitration through which the money in contract works is stolen is what we call suspension of works. Hon. Members, for quite some time next to Capitol Hill across National Hospital Insurance Fund (NHIF) Building, you saw a crane lying along the road doing no work. It is a situation where a contractor takes a contract, the works are suspended for some reasons and the contractors turn into an accountant instead of being the person implementing the works. People may take it for granted when you see a crane or some construction machinery lying somewhere but personnel rates are being calculated, the plant rates including those of that idling crane or machinery are being calculated day-in, day-out. Of course, those ones are ultimately paid under contract documentations.

I want to beg that we go with the recommendations of PIC. For once, not only for Kenya Pipeline Corporation but also for all our State corporations, let the Attorney General be involved in those things from the beginning to the end. This is because we now have a problem in the Departmental Committee on Justice and Legal Affairs in terms of settlement of judgment dates, arbitral awards and those other issues. Of course, we are, sometimes, put in a corner by Kenyans saying: “We have a judgment date but the Government is delaying it.” You reach a situation where, because of the poor contract documentation already done, you cannot safeguard Government money other than saying that those judgment dates should not be paid. So, I would beg that those recommendations be sent to the A-G because, ultimately, and in this contracting, the corporations have internal lawyers. The contracting parties will have their private lawyers.

But, ultimately, the responsibility of properly advising the Government and an undertaking obligation or duty for it lies with the Office of the Attorney-General. My prayer is that the documentation and the legal advice that needs to be given passes through the A-G. So, ultimately, when there are difficulties in terms of payments - or we

think that the recommendations of this Report were floated in terms of documentation in a manner that enables Zakhem Construction Limited get more than what the bid price is - we have somebody who is a State officer to fall for under Article 95(5) of the Constitution.

Lastly, Hon. Deputy Speaker, I am really concerned at the manner we run our State parastatals in this country. This is the enterprise wing - the business wing – of the Government. My idea of the management or the operations of State parastatals is that this is one sector of Government that the Government ought to have the best minds in. If people like Hon. Kobando were not in Government, they are the people I was imagining would be in parastatals.

Hon. Deputy Speaker, look at the appointments last made. From Homa Bay, we have appointments but when a person goes howling *Uhuru leta TV, leta TV* and then he is appointed and yet he is over 80 years, what is it that, that person can do in a parastatal to help the Government generate money? We are concerned when you see people being appointed to State parastatals simply because they were previously politicians or simply because they come from a family which has been associated with politics. I want to use this occasion to urge the Government that State parastatals are the Government's engine for business. Let us have the best of our minds there. Let us have the best people there and people who are above aboard in terms of knowledge and competence and other issues. Then we can deal with it.

I end by saying that I hope I will be in Parliament by the time the implementation of that particular project will come to an end. If there are issues to interrogate--- I am saying I am giving very cautious support. I know Zakhem quite well and they know me if they are watching. We have had issues with them about financial capacity and their ability to perform. But I also respect the Committee and I want to support them. But, as a Member of Parliament, I am going to remain very alert in my oversight duty. I hope the people of Homa Bay will give me the grace to return if that project cannot be completed before 2017, so that we can cross-check and be sure the bid price was actually kept.

Thank you, hon. Deputy Speaker.

*(Laughter)*

**Hon. Deputy Speaker:** Hon. Kaluma, you are not going to use this project to get yourself re-elected? Hon. Julius Melly.

**Hon. Melly:** Thank you, Hon. Deputy Speaker. I rise to support this Report on the following grounds: One, to construct the pipeline is very important for our economy and the economy of the region. Kenya is a regional hub when it comes to industrial and manufacturing sectors. Petroleum products are very essential and the delivery of those products to the intended users - the factories and the general usage in the country is very important. Zakhem International Construction Corporation Limited bided and constructed the first pipeline in 1973. It is a credit to them. That pipeline has been in existence for a period of over 36 years. It is actually a testimony of the good work that Zakhem has done in the last over 40 years. The management of the pipeline saw it good to award the same company and the information from the Review Board also upheld what was put forward by the management. I want to say that the construction of a pipeline and



especially the extension and renewing the whole system will ensure that petroleum products are delivered on time. There will be less spillage and wastage on the line. It will also ensure that our roads will not be destroyed by the heavy petroleum tankers. I want to thank the company and the initiators of this project because one of the serious road destroyers in this country are the oil tankers. It has cost a lot of lives through accidents. I remember a few days ago, the Nairobi County Government decided to divert most of those lorries from the Central Business District (CBD). That has saved time for many road users and reduced traffic jams. I want to say that if that particular pipeline is constructed on time - and given that such companies have international reputation, we expect it to be in use up to 2044. If that is done, then the rate at which our economy will grow will attain what we have been yearning for - the 2 digit growth.

I want to point out that if this particular Report is adopted, then our neighbours will benefit a lot, especially Uganda, Rwanda, Congo and even Southern Sudan. Those countries will get those products on time. In the near future, when our commercial production will have reached a good scale after drilling at *Ngamia 1* and connecting the pipeline to all the other areas, we are going to make sure that our economy will grow.

I want to point out that the other companies that bided for this; the Public Procurement Review Board (PPRB) found out that the tender awarded followed the law. The PPRB and the High Court judgment raised a number of issues and I think they were attended to and it was upheld. Finally, I want to say that our Government has made an intention that in the near future this economy has to move out from agriculture based to more of manufacturing and the only area that is going to assist and ensure that this is going to be attained, is the oil sector. We need to ensure that it is well taken care of, it well protected and we invest more in that particular sector.

With those few remarks, I support.

**Hon. Deputy Speaker:** Hon. Chris Wamalwa.

**Hon. Wakhungu:** Thank you, Hon. Deputy Speaker for giving me the opportunity to contribute to this. First and foremost, I want to thank the Chairman and the entire Committee of Public Investment Committee (PIC) for the work well done. Hon. Deputy Speaker, you will agree with me that PIC is one of the very active Committees that have contributed heavily. It has generated so many reports we have debated on the Floor of the House. And, as it says you give to Caesar what belongs to Caesar. Pipeline is very critical and we are told that the current pipeline has done about 37 years and that it has gone beyond its lifespan by 12 years. This tells you that whoever did it had done it to the specifications and it happened that Zakhem International is the same company that had built the initial one. We also want to thank them because for a company to come and do the work and go beyond means that the work that was done was of quality and that it was in line with the technical specifications that were there. I am also happy to learn that the same company has been awarded this line one pipeline. That means this company-and there is something called learning curve, it has that experience and expertise. It is one company you can trust with this issue of pipeline that they are going to do work.

We remember very well the Mukuru-Sinai fire where many people were burnt and others died. In this House, we passed the Victims Protection Act which requires the Government to establish a Fund to help such victims. As we speak, those people have not been compensated up to now. So, the challenge to my colleagues in the Committee on

Implementation is that they should tell us what happened. We passed this Bill by Hon. Millie. It is now the law for the establishment of the Victims Protection Fund. The victims of Garissa attack were only given Kshs100,000. It is important that the Government goes deep into this matter and implements the provisions of the Victims Protection Act so that in case of a calamity, victims are taken care of by the Fund.

There is also one important thing about procurement. We have a lot of corruption in procurement. I am happy to note that yesterday, when we were in the Committee of the Whole House, there was this issue of Kshs5billion. Any contract that is Kshs5billion and above, the Attorney-General must be involved. I am a member of the Public Investments Committee (PIC) and I have seen many contracts and tenders coming in and yet the Attorney-General, who is the legal advisor of the Government, is not involved. I am happy that the Public Procurement Bill will go through. I know it is going to the Senate. It is one of the Bills that have a constitutional time frame. It is, indeed, critical that any amount going beyond Kshs5billion, the Attorney-General must be involved. This is where we have shortcuts. For purposes of looking at the legal aspect and how the contracts are going to move, it will be very key to have professional advice of the Attorney-General.

With regard to Zakhem Company, and I hope they are listening, it is very critical that they should not do any variations. This contract went to the Public Procurement Review Board (PPRB). There were issues which were discussed there. So, my humble request of them is that as they implement this project, they must move with speed and clear this within the specific timeframe that they had given. We do not expect them to bring the variations afterwards because this is a new way of corruption which the contractors are very good at. They bring variations of the bids. In the long run, you find that the Government is spending so much money more than what the bid amount was. I want to call upon the honourable Members to support this Report so that the recommendations of the Committee can be implemented. I thank the Chairman and the Committee for the work well done. I support.

**Hon. Bowen:** Hon. Deputy Speaker, I want to support the Report of the Committee and congratulate the Chairman and the entire Committee for the good Report that they have brought before this House. Generally oil is very good for economic growth of our country. I am happy that we are even discovering oil in several parts of the country. We want to see the pipeline being linked to all other parts of the country which are producing oil or those which seem to be having oil deposits, including my own county of Elgeyo Marakwet. I wish the pipeline from Nakuru can also be diverted through the Kerio Valley where very soon, we are going to explore oil.

Hon. Wamalwa talked about what happened in the Mukuru slums where several people were burnt and killed by petroleum. It is very important that Kenya Pipeline Company (KPC) and the Government sensitize our people so that they can stay away from pipelines. If you go back to the same slums where we lost several people, you will still find people living there. Again, there is also need for the Energy Regulatory Commission (ERC) and even the KPC to check on adulterated fuel which is very rampant in so many petrol stations.

The Committee Report before the House is good. The company which was awarded the tender to do the new pipeline is also good. I am happy that it is the same

company which was awarded several years ago in the 1970s. I believe that the same company has a very good institutional memory and they are in a position---They still have the design works and the plans of those days. They know where to improve. We want to see them build a permanent line and within the stipulated timeline. With regard to the procurement part of it, we do not want to hear variations. The figures quoted by the company must complete the same work within the same period using the same amount quoted in the first instance. In procurement, this is where people hit. This is where people get their cuts. With the Kshs44billion, we do not expect variations. The Chief Executive Officer of the Kenya Pipeline Company has stepped aside. I do not know if it has anything to do with his work. I believe that he will still go there to clear his name if at all it is related to this. It draws us back to whether the tender was awarded properly.

Corruption is almost bringing this country to its knees and we need to be very careful. It is only in Kenya where thieves are celebrated. This is not a secret. Some of the thieves or those who are believed to be corrupt are now appointed to be the cabinet secretaries and ambassadors. If you are found to be corrupt and you are, say, a cabinet secretary, you are promoted to be an ambassador. So, we want to be very careful even with the appointments. I want to ask the President to be very careful on appointments. People who have failed before should not be given any chance.

*[The Deputy Speaker left the Chair]*

*[The Temporary Deputy Speaker (Hon. Kajwang') took the Chair]*

**The Temporary Deputy Speaker** (Hon. Kajwang'): Order, Hon. Bowen. You are the same people who vet and approve those people. If those people are thieves and corrupt as you say, how come the National Assembly approved the people who are appointed as cabinet secretaries? I am trying to follow your argument.

**Hon. Bowen:** Hon. Temporary Deputy Speaker, I stand guided. There is a list which was brought before this House. Those people are in the process of clearing their names. If any of them is found to be culpable of any impropriety---We have seen where even when this House rejects a name, he is promoted to be an ambassador in another field where they do not need to be vetted.

**The Temporary Deputy Speaker** (Hon. Kajwang'): The point I am making Hon. Bowen is that you should say things which are consistent. When members of public are following your debate, they should find it consistent with your role. If somebody is a thief and he is appointed an ambassador, the public will ask how the National Assembly approved the name of that person if, indeed, he was a thief. So, what it boils to is: Are you doing your duty as a Member of the National Assembly? That is the point that you need to work on. Proceed and finish.

**Hon. Bowen:** Hon. Temporary Deputy Speaker, when it comes to procurement, we need to make sure that before a company is awarded, due diligence is done. We need to find out the record of the companies so that we do not give jobs to companies which may not be up to the task.

Another point that I want to make is on the payback period on investment, given that we are investing huge amounts of money.

**The Temporary Deputy Speaker** (Hon. Kajwang'): Order! Just give me a minute to process a few things here. Member for Muhoroni, what is out of order?

**Hon. Oyoo:** On a point of order, hon. Temporary Deputy Speaker. I get pained. I am happy that you have addressed part of my concern. It would be very interesting for my good friend, Hon. Bowen Kangogo, to claim that thieves who have stolen and messed up Government installations elsewhere are recycled. For this to come from a Member of the ruling Coalition---

**The Temporary Deputy Speaker** (Hon. Kajwang'): Order, Member for Muhoroni! I did not hear the Member for Marakwet East to be saying that thieves are appointed. He said that some people who are appointed as cabinet secretaries or to ambassadorial positions may or may not be thieves. It is in that context that the Speaker put him to task as to his role as a Member of the National Assembly in approving those names.

I, therefore, reject your point of order. However, there was another one. Have you removed your card, Member for Belgut? What is your point of order?

**Hon. Eric Keter:** On a point of order, hon. Temporary Deputy Speaker. In fact, mine is more or less the same. The Member has talked about thieves without substantiation. Thieves in this country are punished. If somebody has been punished, then he is a thief. But there is no proof that whoever has been appointed an ambassador is a thief. Is he in order to say that thieves are appointed as ambassadors?

**The Temporary Deputy Speaker** (Hon. Kajwang'): That is a valid point of order, Member for Marakwet East. The Member is asking whether it is in order to refer to some people in the Cabinet as thieves. Give him a few more minutes.

**Hon. Bowen:** Hon. Temporary Deputy Speaker, a person who benefits from public resources unlawfully is called a thief in English. I said that it is only in Kenya where thieves are celebrated to some extent. I did not mention that there was a certain ambassador who is a thief.

**The Temporary Deputy Speaker** (Hon. Kajwang'): All right, Member for Marakwet East, I will allow you to finish because you have not referred to any particular person. Please, proceed and finish.

**Hon. Bowen:** Hon. Temporary Deputy Speaker, I am also concerned that the company which was awarded the bid bond security was from Nigeria, when we have local banks. It is allowed anyway. Hon. Wamalwa mentioned that there is need for the Attorney-General of Kenya to give legal advice when it comes to big investments like this. When tenders are awarded without legal advice from the Chief Legal Officer of the Government, it becomes questionable. We want all those processes to be transparent. We want the Government to be involved and be part of those investments.

With those many remarks, I support the Report.

**The Temporary Deputy Speaker** (Hon. Kajwang'): Member for Homa Bay, what is out of order?

**Hon. (Ms.) Nyasuna:** On a point of order, hon. Temporary Deputy Speaker. Hon. Kangongo has now finished, but I was wondering whether the Hon. Member for Belgut is in order to say that in this country thieves are punished yet we know that it is small thieves who are punished while big thieves are celebrated and rewarded.

**The Temporary Deputy Speaker** (Hon. Kajwang'): Member for Homa Bay, I am sure you must have been expressing your frustrations because, first, the Member for Marakwet East had finished his address and secondly, the Member for Belgut was on a point of order. So, you cannot rise on a point of order to claim that a Member is out of order. But, we have heard you.

Next on my queue list is the Member for Muhoroni.

**Hon. Oyoo:** Thank you very much, hon. Temporary Deputy Speaker. I rise to oppose this finding on the basis that while the concept of putting up this pipeline was in good spirit and meant to enhance development for this country, the bone of contention was on the procurement which was not done in good light.

I will soon raise a substantive Motion where I will give details of how this company could not have won the tender because it has serious queries internationally. It had done some shoddy jobs and was blacklisted in the international business community. There are even rumours that there are people in the Government who still believe in the past. They still believe in things called "orders from above". This tender may have been part of those Executive instructions or orders from above, so that several companies that deserved to win this tender, who could have done a better job and given us value for our money, were kept out because of this simple reason.

I intend to move a substantive Motion on this soon and so, I will not delve much into the matter. At this moment, I will remain reserved between supporting and not supporting because I believe that this company may not give us value for our money. It is not equal to the task. The idea was noble. His Excellency the President of the country means well. He wants to fast-track development, but I believe that in his bus, there are several pickpockets who are driving the bus backwards. I will raise all those in my intended substantive Motion.

I rest my case.

**Hon. Njuki:** Thank you, hon. Temporary Deputy Speaker. I had risen on a point of order although I wanted to contribute. I am on the queue. While you were engaging the Member for Igembe North, the contributor said that there is a rumour in this country that people---

**The Temporary Deputy Speaker** (Hon. Kajwang'): Igembe North? That must have been Marakwet East or something?

**Hon. Njuki:** No, it was the Member for Muhoroni. He said that there is a rumour in this country that there are people who take orders from above. You cannot talk about rumours in Parliament. He should substantiate what the rumour is all about. You cannot come here and prosecute rumours and say that there are people in this country who take orders from above. That is something that you should prosecute later.

**The Temporary Deputy Speaker** (Hon. Kajwang'): The Speaker did not hear that comment.

**Hon. Njuki:** Yes, hon. Temporary Deputy Speaker, you did not hear because another Member had engaged you, but that is what he said. The HANSARD can prove me right. I do not blame you for that.

From the onset, I support the Report by the Public Investments Committee. They have done a fantastic job as far as this issue is concerned considering that it had raised a lot of heat. There are companies that had even gone to court because almost every

company in Kenya nowadays wants to do big business. The Zakhem International Company got the tender because they qualified to do the job. Institutional memory shows that they already did a good job in 1973. I want to imagine that in 1973, the company did not have the technology that it has today. Of course, it has been evolving in terms of technology and we expect them to do a much better job.

Now that they have done a pipeline that has existed for 40 years, we expect them this time to do a pipeline that will exist for more than 100 years. This is because we have improved technology and the client has also evolved in terms of demand. We would not only like to have a pipeline that terminates in Nairobi, but in future, we would like to have a pipeline that terminates in Isiolo, so that the great Constituency of Chuka/Igambang'ombe can also have a pipeline passing through it.

Having said that, a pipeline is so critical for a country. At the moment, we are a country that is sitting on a time-bomb as far as the reliance on fuel that depends on road transport is concerned. Today we do not have a functional oil refinery. So, all the oil that is being used in the country comes from overseas. It is ferried by tankers up to Mombasa where we do not have enough storage capacity. Therefore, most of it has to be transported by road to Nairobi and other parts of the country because the pipeline is now dilapidated. You can imagine what would happen if by any chance we had a breakdown in road communication somewhere maybe because of a gridlock. It would mean that the reserves we normally hold in this country for two weeks--- We would grind to a crisis and yet we are a country that loves automobiles from the private cars to the public transport sector. We are so much into using our vehicles. We would be grounded. Therefore, a reliable pipeline is what would be a long-term solution.

Look at what is happening in terms of wastage. The business people in the oil industry complain so much. I am in the Departmental Committee on Energy, Communication and Information and I know the kind of complaints we get. They complain that they lose a lot of fuel between Mombasa and Nairobi because the road transport system provides a very fertile ground for dishonest Kenyans who normally siphon fuel from the tankers. Therefore, those business people do not get value for their money. Those are people who contribute to the economy of this country.

If you look at the queues we normally have at toll stations and even where we have bridges on Mombasa road, most of the accidents are caused by those oil tankers. We have seen so many tankers overturned and Kenyans want to get a bit of fuel. They do not even learn from the experience of Sachang'wan. Therefore, this is a problem we can get rid of if we have a reliable pipeline system that can deliver quality fuel to Nairobi and beyond. Of course, we cannot forget that our good neighbours Uganda and Rwanda also rely on this pipeline or fuel from Kenya to run their economies. We now have a new baby, South Sudan, who also relies on this pipeline. It is an onus on us to make sure that we have a good transportation system for the fuel so that we can not only grow our economy but also grow the neighbour's economies. This is because when you are surrounded by neighbours who are capable then your life is made easier.

In terms of refinery, it is important to note that currently the refinery that we had, which had controversies and its report came to this House, is not functioning any more. It would do a lot of justice to this country if we could have a functional oil refinery, especially now that we are discovering fuel in Northern Kenya so that we can bring in

crude oil instead of bringing in finished product because finished product is more expensive. We can refine our own fuel and make it cheaper so that we benefit from the low fuel prices that are currently prevailing in this country.

With those few remarks, hon. Temporary Deputy Speaker, I would like to support and give opportunity to other Members who would like to contribute. Thank you.

**The Temporary Deputy Speaker** (Hon. Kajwang'): As you contribute, look at the Recommendations in the Report so that your contributions are relevant to the Recommendations that are before us. Otherwise, you will turn this plenary into another committee which is discussing generally issues surrounding the pipeline. There are specific Recommendations that the Committee proposes. They are not more than five. So, your contributions should be how to lead the House in accepting or disagreeing with those proposals.

Member for Suna East.

**Hon. Nuh:** Thank you, hon. Temporary Deputy Speaker, for giving me an opportunity to contribute to this Motion. I stand to oppose this Motion to adopt the Report of the Committee. This is one of the best committees we have in this Parliament. They have presented many Reports that have helped this country. I must first of all congratulate the Committee for doing a good job. However, on this one, they have not gone down to properly look at the matters in real perspective.

The amount involved in this tender is huge. We are discussing a contract of Kshs43 billion. The speed at which this tender was processed raises questions. This tender took basically one and a half years. It was advertised in January 2013 and by June 2014 it was done. We are aware of contracts in this country worth Kshs10 or Kshs5 billion that have taken three to five years to be processed. The speed at which this tender was done raises a lot of alarm. Is it setting a precedent for this country that we need to go this way in processing tenders of Kshs43 billion in one and a half years or is there something else that we are not seeing in this tender?

Number two, I expected the Report to have detailed information about Zakhem International Construction Company that has been awarded this tender. The fact that they are the ones who constructed the first pipeline 36 years ago is not a qualification. We have other companies that did good jobs 40 or 30 years ago but today they cannot perform jobs of Kshs10 million because their abilities and capacities have gone down. So, for us to celebrate that this is the company that constructed the first pipeline 36 years ago is not something worth celebrating because they may have gone down because 36 years is a long period of time.

This is a Lebanese company. We have to look at the economies of the countries that we are doing business with. Lebanon is not an economically big country. For us to give a tender of Kshs43 billion to a Lebanese company when we have economies that are bigger than it in terms of capacity is also an issue that raises an alarm. This is because Lebanon is a country that is almost in turmoil. It is a country at war. It has a lot of problems. It does not have good governance. For us to issue a strategic tender like the one for constructing the pipeline of this country to a Lebanese company tells us a lot in this country. It tells us that we are not looking at the domes of doing business in the world. Lebanon does not fall in any place among the countries that are performing well economically in the world. To give a contract of this magnitude to a Lebanese company--

- We have been complaining all along about giving tenders to Chinese companies, but at least China is the second biggest economy in the world. You can say that they have the economic capacity to perform any tender of any magnitude. If we go to Lebanon, I think the next line we are going to is Nigeria, Senegal and Ghana. We now are coming down to places where we are better off---

**Hon. Keynan:** On a point of order, hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Kajwang'): Yes, Member for Eldas.

**Hon. Keynan:** Hon. Temporary Deputy Speaker, I rise under Standing Order No. 107. I really respect the Member for Suna East. However, the Report before the House is not about Lebanon as a country. Therefore, we must be very careful not to use the Floor of this House to discuss an independent country without a substantive Motion before the House.

**The Temporary Deputy Speaker** (Hon. Kajwang'): Is he discussing the country?

**Hon. Keynan:** Hon. Temporary Deputy Speaker, the contract is not to Lebanon. Lebanon appears nowhere. The contract is to a company called Zakhem International Construction Company. Nowhere in this Report has the Committee discussed anything to do with Lebanon. The only thing that we know is that this is an international company. Therefore, is it in order for the Hon. Junet to knowingly mislead the House and suck in the name of an independent country called Lebanon when this Report does not in any way discuss Lebanon as an independent entity?

**The Temporary Deputy Speaker** (Hon. Kajwang'): I thought I heard the Member to be describing this company as a Lebanese company. Would it be unparliamentary to describe a company as Lebanese?

**Hon. Keynan:** Hon. Temporary Deputy Speaker, what is unparliamentary is that he talked about Lebanon as a country ravaged by civil war and in crisis. Let us be very careful. We have the Vienna Convention.

**The Temporary Deputy Speaker** (Hon. Kajwang'): I think that bit of it is a legitimate concern.

**Hon. Nuh:** No, hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Kajwang'): Just a minute.

*(Hon. Keynan spoke off the record)*

No he cannot. I have appreciated your point of order, Chairman of the Public Investments Committee (PIC).

Member for Suna East, it is un-parliamentary to adversely refer to a country, a mission or any other entity which has a sovereign entity, without moving a substantive Motion; much less than you can refer to a Member of Parliament or the Executive without moving a substantive Motion. That is in the Standing Orders. So, that bit is something you need to respond to.

**Hon. Nuh:** Hon. Temporary Deputy Speaker, what I am trying to explain is that companies are domiciled in certain countries. Zakhem International is a Lebanese company.

**The Temporary Deputy Speaker** (Hon. Kajwang'): Is that your way of substantiating?



**Hon. Nuh:** Yes. Zakhem International is a Lebanese company; General Electric is an American company; China Wu Yi is a Chinese company. So, a company cannot run away from its mother country.

**The Temporary Deputy Speaker** (Hon. Kajwang’): So that you understand where we are, Member for Suna East, there are two issues: I have ruled that it is not out of order for you to refer to a company as Lebanese company; it is a proper description and proper critique and analysis of your thought process. However, singling out a sovereign country and describing it as a country in turmoil is, in itself, a matter which needs a special Motion. So, forget about the first one of describing Zakhem International a Lebanese company and address yourself to the reference you made to that country, describing it as a country in turmoil, without moving a substantive Motion. That is what we are dealing with.

**Hon. Nuh:** Hon. Temporary Deputy Speaker, I may use a word other than ‘turmoil’. When a country has problems with governance---

**The Temporary Deputy Speaker** (Hon. Kajwang’): Is there a substantive Motion or is there not a substantive Motion?

**Hon. Nuh:** Hon. Temporary Deputy Speaker, would you need a substantive Motion to describe a country that has problems? Somalia is in crisis; she has problems.

**The Temporary Deputy Speaker** (Hon. Kajwang’): Order! Order, hon. Junet! This will land you in trouble, if you are not careful. Our Standing Orders do not deny you from saying what you want to say about any other sovereign country. You can say that they are in trouble; they are a failed state and anything else. However, our Standing Orders say that when you decide to do so, you have to move a substantive Motion. So, the question is: Is there a substantive Motion, by which you are able to refer to that country as a country in turmoil? That is the only issue we are dealing with.

**Hon. Nuh:** Hon. Temporary Deputy Speaker, I withdraw the words “Lebanon is in turmoil” but I can say that Zakhem International is a Lebanese company.

**The Temporary Deputy Speaker** (Hon. Kajwang’): What is the point of arguing when you are against the Standing Orders? Can you not just withdraw and move on, before I punish you?

**Hon. Nuh:** Hon. Temporary Deputy Speaker, I have withdrawn.

**The Temporary Deputy Speaker** (Hon. Kajwang’): No, you have not. I have not heard you put it on the HANSARD as withdrawing.

**Hon. Nuh:** Hon. Temporary Deputy Speaker, I withdraw the words “Lebanon is in turmoil” but Zakhem International is a Lebanese company. That is the point I was driving at. So, I do not expect a Lebanese company to have the capacity of handling a contract of Kshs43 billion. That is the point I am trying to make. I was describing the economy of Lebanon. A company that comes from Lebanon may not have the capacity to handle a contract of Kshs43 billion.

Hon. Temporary Deputy Speaker, my time is almost over. You need to add me a little more time.

The other issue is that the engineers estimated that the pipeline will cost Kshs53 billion but Zakhem International was awarded the contract at Kshs43 billion. I hope that the difference of Kshs10 billion will not come up through variations, where the contract will be taken to Kshs53 billion as expected by the engineers of Kenya Pipeline.

The other issue that I wanted to note is that the Office of the Attorney General has come clear that they have not been consulted on this contract. This is a contract of Ksh53 billion. There are legal issues involved in---

**The Temporary Deputy Speaker** (Hon. Kajwang’): Hon. Nuh, you walked into murky waters and wasted a lot of your time trying to walk. Can I give you one minute to finish what you were saying? You have exactly one minute.

**Hon. Nuh:** Thank you very much, hon. Temporary Deputy Speaker. The Office of the Attorney-General has clearly said that they have not been consulted on this contract. This is a contract of Ksh43 billion. We expected the Attorney-General to give legal advice. We have seen many contracts on which the Office of the Attorney-General had given a clean bill of health, but which ended up being riddled in corruption but, for a fact, we needed a legal opinion from the Office of the Attorney-General for the sake of clarity. This is not a small contract. The intention of putting up a new pipeline is noble, and we have to support it. However, this should not be another case similar to the Standard Gauge Railway (SGR) project. It should not be the case that every contract we tender in this country should have problems related to tendering processes. We need to be very careful because the sum of money that we are investing in this contract is huge. As much as Zakhem International has been awarded the tender, I do think they have the capacity to undertake the project.

**The Temporary Deputy Speaker** (Hon. Kajwang’): Let us hear the Member for Kwanza but before you rise, the Member for Mbeere North is on intervention.

**Hon. Njagagua:** Thank you, hon. Temporary Deputy Speaker. I requested for the intervention at the point when hon. Junet was trying to argue with you, as the Chair. You rightfully told him to either withdraw or you would punish him.

On matters of international companies, I know that you know they can be registered in Kenya. In as much as they are incorporated in other jurisdictions, they can come to this country and be duly registered and become part of Kenyan companies. Could he clarify whether those two companies are registered in Kenya, so that we can further the debate from that premise?

**The Temporary Deputy Speaker** (Hon. Kajwang’): Why do you not wait until I recognise you, so that you can raise those issues as you contribute? That was a point of clarification.

**Hon. Njagagua:** Hon. Temporary Deputy Speaker, with a lot of respect, if you could give chance to the Chair to clarify that bit, so that I can make a very informed contribution to this debate.

*(Hon. Wanyonyi stood up in his place)*

**The Temporary Deputy Speaker** (Hon. Kajwang’): Member for Kwanza, just resume your seat. I can see you.

Departmental Committee Chair, I will allow hon. Njagagua’s request only if you can make the clarification in exactly one minute. Member for Homa Bay, is yours related to the issue at hand, so that we take it together?

**Hon. (Ms.) Nyasuna:** No, hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Kajwang’): Departmental Committee Chair, clarification has been sought as to whether M/s Zakhem International is registered locally.

**Hon. Keynan:** Thank you, hon. Temporary Deputy Speaker. I will take a minute. M/s Zakhem International did the same job in 1974, and the project was completed in---

**The Temporary Deputy Speaker** (Hon. Kajwang’): Departmental Committee Chair, do not worry about when the company did the work. Just worry about whether it is registered locally.

**Hon. Keynan:** Hon. Temporary Deputy Speaker, we are not trained in the same way. I would hate to argue with the Speaker, but allow me to build my case. I want to respond to what he said.

**The Temporary Deputy Speaker** (Hon. Kajwang’): No! You see, the Chair is trying to direct the debate.

**Hon. Keynan:** Hon. Temporary Deputy Speaker, allow me. If I stray, you have the right to intervene. Allow me to respond in the way I understand the issue. Eventually, I will conclude with what he wanted.

I was saying that M/s Zakhem International has its headquarters in Lebanon. It is also registered in Kenya. They undertook their first project for the Government of Kenya in 1974. The project was commissioned in 1978. It is an international company.

**The Temporary Deputy Speaker** (Hon. Kajwang’): Thank you very much. The clarification has been made.

Yes, Member for Homa Bay County.

**Hon. (Ms.) Nyasuna:** Hon. Temporary Deputy Speaker, I rise under Standing Order No.95. Given the number of contributions that have been made on this Report, and given that a lot of points have been made and hon. Members are now becoming repetitive, would I be in order to request that the Move be now called upon to reply?

**The Temporary Deputy Speaker** (Hon. Kajwang’): Before I handle that Motion, the Member for Kwanza was on his feet. It would be unfair for me to make a ruling on it before he finishes. Can you just finish, Member for Kwanza?

**Hon. F.K. Wanyonyi:** Thank you for the opportunity, hon. Temporary Deputy Speaker. I thought I was going to be cut short.

As a Kenyan, I agree with the Chair of PIC that the company that lay the current pipeline project 25 years ago did a very good job. The pipeline has lasted almost 12 years more than its expected lifespan. The company is experienced. Of course, there have been regular cases of the pipeline bursting, but I believe that the company did a good job. A lifespan of 12 years over and above the expected lifespan of the project is good enough for us to give credit to that company.

Secondly, the fact that the company belongs to a country makes it an international company. It can be in Uganda or anywhere else. You actually assess that company from its capacity to do the job and not necessarily basing the assessment on the country of origin. The company has done a good job. The only thing I want to pick from the recommendations of the Committee is that it should be mandatory for all the State Corporations to have a representative of the Attorney-General so that they can avoid those big problems we are having now. As far as I am concerned, all the State Corporations must have a representative from A-G’s Office. If there is an oversight on

the part of the Kenya Pipeline Company, then it is punishable. We have got the supervising unit in the Office of the President. It should ensure that all the parastatals have a representative from the A-G's Chamber.

That notwithstanding, the construction of the second line should speed up. This is because we have been having a lot of shortages of fuel in this country. For some of us who travel all the way from the other corner of the country, sometimes we drive into a petrol station only to find that there is no fuel. Normally it is because of the problems to do with the piping.

As it has been said, the company did very well and most of the pipes are good. However, 12 years is a long period and we need to have more storage so that we even assist the landlocked countries like Uganda, Rwanda and Burundi. We need to have storage facilities in Eldoret, Kisumu, and Nakuru. The storage facilities we have do not hold enough fuel. In times of farming in my area you find there is no fuel. We should be able to have more storage facilities built in those areas so that we have enough fuel and this will reduce the cost.

The transportation of fuel by road is very dangerous. Our newly constructed roads are depleted within four years. If we had in place an efficient pipeline then our roads would not wear out so fast. There are so many tankers on the road and those inconveniences other motorists. It takes one more than an hour trailing behind the tankers on our highways. This is dangerous. The Kenya Pipeline Company should award this company the tender so that it starts working on the second pipeline to replace the old one. With that, at least, we can have in place an efficient way of getting petroleum products upcountry and to neighboring States like Uganda, Rwanda, Southern Sudan and others.

The other thing that the Committee mentioned, and which I agree with, is that Kshs44 billion is a lot of money. A company with this kind of reputation, notwithstanding the fact that they have been having problems with their financial balance sheets, should not have any variation at the end of the day. Corruption may come in. Such a company could be handed the bids, but at the end of the day they run into problems again. The project then stalls. I just hope there will be no variation in terms of the pricing they gave. I know that Kshs44 billion is a massive amount. It is almost the whole economy of this country. We hope that they will be able to speed up the construction of the pipelines in order to save this country and reduce the cost of doing business in the country.

With those few remarks, I support and thank the PIC for having done a very good job. Let us move on and have this tender awarded to this company and move on. The fellows who are complaining are actually briefcase companies and that is typical behavior in this country. They are looking for business. Do not blame them. They are hustlers out there.

**The Temporary Deputy Speaker** (Hon. Kajwang'): Members, permit me to acknowledge students from Kangaita Primary School, Buuri Constituency who are seated in the Public Gallery. Have they left the gallery? Wherever they are, send them felicitations and commendations from the Speaker.

Member for Mukurweini, you are the next on the queue, but I can also see your intervention. Which one do I take? Are you on a point of order or you wanted to contribute?

**Hon. Kabando wa Kabando:** Hon. Temporary Deputy Speaker, give me an opportunity to contribute. I will take less than two minutes. I want to support and acknowledge that litigation and processes of questioning public tendering are quite in order.

**The Temporary Deputy Speaker (Hon. Kajwang’):** Hon. Member for Homa Bay County, if you are wondering why I am still holding your Motion it is because I feel the mood of the House. A few of you have contributed. They are about 18 as I count. I am trying to give enough justice to the Motion so that I get as many of you as possible to contribute.

Proceed hon. Kabando!

**Hon. Kabando wa Kabando:** Hon. Temporary Deputy Speaker, litigation and questioning public procurement is a legal process and it is accepted. It is important that we appreciate that competition particularly in a nascent democracy like ours, particularly in the area of business, will always raise certain issues both mainstream and sideshows. We should be careful not to criminalize or dismiss those processes.

However, I want to make two points. First, is to endorse the clarion call by those who have spoken before me. As we endorse those reports, we should as well be very emphatic that variations have been abused and have become the order of reaping off the public. Variations should be open to public scrutiny because this is where bureaucrats abuse their offices. This is where companies give a low bid only midway or even quarter way to engage in other activities that end up getting to bulging budgets and expenses of public resources without the due process.

Secondly, this country is in a very serious turning point. It is because we are implementing this Constitution which we cherish very much and, indeed, it is making so much difference despite the skepticism that may come from certain quarters. It is a new beginning for us and two years later we have not gone very far. There has been general sabotage of the institutions of State including Parliament, abuse of Judicial and Executive processes. We note actions by the Commander-In-Chief of the armed forces who has been trying to salvage the country or protecting the sovereignty of the nation. The idea of individuals, though given mandate to work with the State agencies, overruling certain decisions sends a very strong statement that we are not demystifying, but destroying the authority of institutions. Yes, it is true we need to criticize and question institutions. It is very important for a country to have confidence in its institutions. When, on a daily basis, we see Parliament being besmirched, irrespective of whether there are one or two individuals who may have gone astray, we have a collective institutional damage on the legislature. Again, it causes the general public to lose confidence in our mandate, integrity and legitimacy.

In public procurement, is it not a wonder, surprise and even shock that almost every major contract that is being processed, there is a court matter? This is to the extent that we are stalling very many projects when we ourselves have endorsed the Vision 2030 framework. All these issues that we are passing in Parliament are towards enhancing not just the capacities, but broadening the wealth creation formula for this country. For the litigations that are pending, I was shocked to hear a Member saying that this tender has taken one year. In fact, tenders should take three, four or five months. A tender should not take one or two years. Are we so incapacitated to view that this country is restless.

We need nearly a million jobs created just in the informal sector. We need to dismantle the old infrastructure in the water sector and pipeline in the soonest and swiftest way possible so that we can put on platform, the mechanism and infrastructure. Our ideas need to be put into practice so that we can jump-start this economy and we do not get stagnated in bureaucracies. Have you not received a report this morning hon. Speaker that the terrorism that took place in Garissa despite many denials was because some people received intelligence reports but did not act on it? It shows a stagnated bureaucracy where things need to be done quickly.

Finally, even as we complain that politicians are given a chance to work, I want to remind this House and the country that Madam Linda Chalker was recalled by the United Kingdom British Government in order to enrich their regime. Hillary Clinton the lead candidate in the Democratic Party and, indeed, John Kerry, the serving United States of America (USA) Secretary of State, were politicians and they competed. Therefore, we need not criminalize the political class. If you do a survey of this House, you will find that many of us have had a history in professionalism before coming here. This includes you hon. Temporary Deputy Speaker sitting there. You are a luminary in the legal profession. Other professionals are hon. Gladys Wanga and many others here. So, let us not criminalize politics. However, it is also important not to be so sycophantic and say things are very okay. If things are not very okay, it is good to be objective in criticism and praise where it is necessary.

That is why some of us last week stood firm and refused to endorse mob justice and clarion calls just because some people wanted to dismantle the Ethics and Anti-Corruption Commission (EACC). We do not just need to vote one way. Sometimes, it is important to stand in the middle. So, when you are making objective perceptions and observations even in Parliament or in our offices, it is not because we are condemning a certain sector or class. It is because we need to ventilate and vet intellectually in order to give a way that is positive.

I support this Report and I ask my colleagues to support the Executive objectively and to give criticism where it is necessary, so that the President can deliver for the nation. Those who are in Jubilee should not criminalize the leadership of CORD because you may find that CORD has solutions on certain issues that you may lack. CORD should not be so much blind to attack everything that is from Jubilee because we have a President in charge at a time when we have external threats. We must skirmish, crush and disperse the enemies of the Kenyan peace, tranquility and prosperity.

I thank you hon. Temporary Deputy Speaker. We are one nation and one country.

**The Temporary Deputy Speaker** (Hon. Kajwang): That is a very passionate approach. Member for Awendo? He used to be somewhere. Member for Changamwe, I recognize you because I know that you come from a constituency that is very interested in this subject.

**Hon. Shimbwa:** Thank you, hon. Temporary Deputy Speaker. I stand to support the Report and recommendations of Public Investments Committee (PIC) led by hon. Keynan. I have known this company for a long time. It is actually based in Changamwe and I have never had anything wrong that the company has done for all those years. I know they are actually professional and in Kenya, we have a history of suspicion. Anything that is done especially on the procurement side, it is thought that somebody

somewhere has actually “eaten” and it is in this regard where people normally go to court to stop a process just to make sure they also get a “cut” from the process.

We have seen cases even at the Kenya Ports Authority (KPA) during the time they were tendering for the process of handling cranes. Several people went to court and were challenging, but eventually nothing was found to be unprofessional and the award was actually given to the company that was proposed earlier on. In this regards, I would also recommend to the Government of Kenya, just like in other developed countries and economies, you find that facilities are normally given a time-span. After the time-span is over, whether the facility is bad or in improper condition, it is supposed to be given some renovation of some sort. By doing that, the country will save more money than when you leave a facility to rot as is the case with KPC at the moment.

The other aspect is about the hazards which are as a result of the pipeline getting worn out. The Government and the corporation should also take blame. This is because I know of a situation in my constituency Chagamwe where some oil is being siphoned from the source. I do not know if it is affecting Kenya Oil Refinery or the KPC, but it is actually being siphoned at National Housing Corporation (NHC) and the whole security machinery in Mombasa is aware of this. But there is no step being taken. People come to siphon oil at the NHC estate where thousands of people reside and nobody has ever been prosecuted. So, I would actually ask the Government and the Corporation to be on the look out to make sure that the safety of the people is maintained and preserved.

Zakhem is a company that is actually fit for this job and no wonder it emerged the winner. For that matter, those who missed this tender should wait for another opportunity and leave Zakhem to carry out the work so that we can enjoy the fruits. However, I also would like to lend my voice to the fact that no variations upward should actually be allowed. Although, this has not yet been entrenched in the Constitution, but it will be in our interest to make sure such a thing does not happen. This is one way in which people take advantage to get money from where they never sowed anything.

With those few remarks, I support the PIC Report. I recommend that Zakhem be given the award. Every time we give a tender to a multinational company, you hear of stories that the Attorney-General has not been consulted. This matter should come to an end. We should find a way to make sure that such things never arise again. It is mandatory for the Attorney-General to be consulted and I do not know why this is never enforced. The relevant body should make sure that it gives the Attorney-General his position to contribute before such an award is given.

Thank you for giving me this opportunity.

**The Temporary Deputy Speaker** (Hon. Kajwang’): Member for Bonchari, can you take just a few minutes, probably just five minutes to put up a few points that you have on this issue?

**Hon. Opore:** Hon. Temporary Deputy Speaker, first, the Committee did a commendable job on this report. That is mainly because road carnage is very high in the country because of the tankers and other heavy vehicles that use our roads. This should divert a lot of this traffic to our pipeline to deliver oil from Mombasa to Nairobi. That will increase efficiency in the delivery of the products to Nairobi and at the same time induce a reduction of prices of the petroleum products at our pump stations. That will have an effect on our economy in terms of growth.

Sometimes the tankers which delivery the products to Nairobi overturn and the spillovers become an attraction to the *wananchi* to go and collect. From experience, this has caused a lot of deaths. The cost of maintaining our roads will also go down. That is good result for our economy and our Budget. The KPC should be encouraged to extend the pipeline to other areas in the country, especially from Turkana to Nairobi or Mombasa. In effect, that is good development for our country. We should support that.

The recommendations by the Committee are good. I support the recommendation that there should be no variation at the end of the exercise because the cost already given is very high. More variations will be fleecing our country of important and scarce resources. Thank you for giving me this opportunity. I support the Committee's report and we should adopt it.

**The Temporary Deputy Speaker** (Hon. Kajwang'): Hon. Wanga has proposed that pursuant to the Standing Order No.95, the Mover now be called upon to reply.

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

Mover, we are trying to manage the process, so that we can step into the next business before we break. So, if you could kindly help us in the management of the business, take just very few minutes, seeing the clock as you see it now and knowing that at the end of the day, the Leader of the Majority wants to move an Adjournment Motion as provided by our Calendar. So, please, help us to manage this process.

**Hon. Keynan:** Hon. Temporary Deputy Speaker, before I respond, I want to donate, at least, one minute to hon. Joseph Kiuna.

**The Temporary Deputy Speaker** (Hon. Kajwang'): Unfortunately, when the House has resolved, you do not have the luxury of donating time.

**Hon. Keynan:** I agree. Sorry, that is a judgment problem. I want to take this opportunity first of all to appreciate the sentiments of the Members. Every time I participate in a debate, I always pick something especially when brilliant legislators like hon. Kabando wa Kabando contribute. I always use this as a learning experience. Therefore, it is good to have individuals like Kabando who are foresighted and see things from different perspectives.

The only thing that I want to bring to the attention of the Members is that this was an international tender. The reason that informs an international tender is that you allow anybody from around the globe to participate. Just for information, I want to read the names of the companies that participated and almost all of them were international companies. Therefore, Zakhem International is not new to Kenya. They were there in 1974 when I am not sure hon. Junet was born. This company has been around in Kenya even before the Member was born.

Hon. Junet alluded to a very important issue on the competence and the location of Zakhem International. I want to confirm that this company was operating in Kenya before hon. Junet was born. Therefore, this is something that he should appreciate.

**The Temporary Deputy Speaker** (Hon. Kajwang'): So that when this company has worked for 36 years, we can roughly work out the age of the Member for Suna East.



**Hon. Keynan:** Absolutely. He is lucky today to witness the continued existence and viability of a company that worked in Kenya even before I am not sure whether his mother was married then, but at least, I can confirm that he was not born at that particular time.

Having said this, it is also critical that---

**Hon. Nuh:** On a point of order, hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Kajwang<sup>3</sup>): Member for Suna East, do not rise on a point of order on some facts which can be corroborated. I am not recognising you. Member for Eldas, please, just finish very quickly.

**Hon. Keynan:** Hon. Temporary Deputy Speaker, there is something fundamental which Hon. Kabando has also said. Let us not criminalise the concept of doing clean business in Kenya. In Kenya, there are so many briefcase agencies that hover around waiting for a tendering process and eventually raise an issue not because they are not happy with the process, but they want to make something out of that process. We must continue to protect this country as a key investment destination. For us to do that, we must allow the international community or businessmen from anywhere in the world to come and invest in Kenya. That is the only way we can also allow foreign direct investments. Therefore, criminalisation of doing clean business should not be allowed. It is not allowed under the Constitution. It should also not be entertained by any entity operating in Kenya.

One particular issue that every Member has said is that we must allow the State Law Office to interrogate some of those key and mega contracts. That is the only way we can get value for money.

Hon. Temporary Deputy Speaker, I appreciate that you are also a person of immense legal experience and you appreciate that there are many opinions as there are lawyers. Therefore, the only opinion we can respect is the one that we have employed, namely, the State Law Office. That is the Attorney-General. Therefore, it is important that the Office of the Attorney-General is not reduced to be like any other office. It is a critical office under the Constitution and we must recognise it. Therefore, I want to urge the heads of some of those critical creatures, whether they are parastatals, State corporations or Ministries to benefit from the wisdom and the legal knowledge of the Office of the Attorney-General. Once they do that, they will always be guided legally.

I also appreciate that some of the entities here are completely independent from the Office of the Attorney-General, especially State corporations and parastatals that exist pursuant to the passage of particular laws by this House.

I want to conclude by saying that the Committee I head has close to 363 matters under investigation. We are trying to clear the backlog by disposing of as many matters as possible. The Nineteenth PIC Report, which touches on the state of 73 state corporations, is pending before the House. I urge the hon. Members to visit Room 8, get copies and go through some of the pertinent issues pertaining to some of the key public investments. It is a voluminous Report. If you read through it, you will appreciate what is going on in some of the key investments that you support through budgetary provisions.

Finally, I thank everybody for your patience, resilience and support. It is a very difficult job to produce a Report. I thank the PIC Members for their patience, support and

continued resilience. This is because it is a very difficult job for a Member of Parliament to be patient.

Hon. Temporary Deputy Speaker, you are a Member of the House Business Committee. We still have about nine pending Reports. We plead with the House Business Committee to fast-track them. Some of them touch on key investments like the oil refinery and investment in the Kenya Bureau of Standards. Had our Tassia Report been debated last year, some of the issues on Tassia Estate would not be a subject of investigation today.

A-Gain, I thank all the Members of this House for their continued support. I am sure that, as a Committee, we will not let you down.

Thank you, hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Kajwang'): Thank you. I order that the business appearing in the Order Paper as Order No.10 appears in the Order Paper of this afternoon for the purpose of taking a vote.

Next Order!

#### REPORT ON UNPAID PENSION DUES TO RETIRED TEACHERS

**The Temporary Deputy Speaker** (Hon. Kajwang'): Departmental Committee Chairperson, you must appreciate that we have tried to fast-track business in order to reach your Motion. It is because the Motion is very important. You have 30 minutes to move the Motion. You can make it short but do not overly compress it. You can take the few minutes that you have and use the balance later on.

So, please proceed.

**Hon. Melly:** Thank you, hon. Temporary Deputy Speaker, for your guidance. This Report was actually tabled on 15<sup>th</sup> April, 2015. It is the Report on the unpaid pension dues to retired teachers.

**The Temporary Deputy Speaker** (Hon. Kajwang'): Start by moving it formally and then you can go into the discussion.

**Hon. Melly:** Hon. Temporary Deputy Speaker, I beg to move the following Motion:-

THAT, this House adopts the Report of the Departmental Committee on Education, Research and Technology on the Unpaid Pension Dues to Retired Teachers (1997 group), laid on the Table of the House on Wednesday, 15th April, 2015.

Hon. Temporary Deputy Speaker, the issue of unpaid pension dues to retired teachers is a serious one in this country. It is an issue that has affected teachers who rendered their services diligently in this country. The Government and the Kenya National Union of Teachers signed an agreement in 1997, whereby the teachers were given salary awards as per Legal Notice No. 534 of 1997.

The award was to be implemented in five phases with effect from 1<sup>st</sup> July, 1997, as per the Teachers Service Commission Circular No. 13 of 24<sup>th</sup> November 1997.

I wish to inform hon. Members that during that particular time, the late Ambrose Adeya Adongo signed the agreement on behalf of the teachers. The agreement stipulated

that the first phase was to be paid by TSC in 1997 as agreed. However, four phases were not paid. The four phases ought to have been paid in 1998, 1999, 2000 and 2001.

The Minister, in Legislative Supplement No.62 of 24<sup>th</sup> September 2002, revoked the remuneration of the teachers' order of 1997. Actually, that went against the rule of natural justice because the Teachers Service Commission had actually agreed to pay.

On the 21<sup>st</sup> February, 2003, in a Legislative Supplement No. 10 and after renegotiation with the Kenya National Union of Teachers (KNUT), the Minister reinstated the Principal Order that is the one of 1997. He agreed, as per the renegotiations, to honour that agreement and implement it in ten years. The period of implementation reduced to six years commencing on 1<sup>st</sup> July, 2003 and finally five years due to improved performance of our economy. This was not fully implemented by 30<sup>th</sup> June, 2007. The retired teachers first of all petitioned Parliament on 23<sup>rd</sup> March, 2012 under the auspices of retired teachers who retired between 1997 and 2007. They were a total of 52,338 teachers and are beneficiaries of Legal Notice No. 534 of 1997. They also got a High Court ruling or decree under the High Court Case No. 65 (HCC No. 65) of 2006 and the Court of Appeal Case No. 300 (CAC No. 300) of 2009. I have attached this as an appendix on that particular Report. The teachers and the two institutions, that are Parliament and the High Court, granted that those teachers need to be given their dues. I want to show that our teachers and especially the retired teachers are really suffering. I note this because I have met those teachers as a member and Vice Chairman of the Departmental Committee on Education, Research and Technology. I have seen them; they are old, frail, some of them are sick and a majority of them have died.

A number of Members of Parliament have raised it to show that this is a very serious issue. I am urging Members to support that those teachers be paid. I just want to give you examples of a few Members who have really tried to assist those teachers be paid. On 23<sup>rd</sup> June, 2010, Hon. Danson Mungatana and Hon. Olago Oluoch raised the same issue in this House. On the 7<sup>th</sup> December, 2010, Hon. Silas Ruteere and Hon. James Maina Kamau did the same thing. They said that those teachers be paid. On 1<sup>st</sup> November, 2011, Hon. John Pesa, Hon. William Kabogo, Hon. John Baiya and Hon. Martha Karua also raised the same issue in this particular House. To show that this is a serious issue that this House needs to dispense with and come up with a very clear resolution that the retired teachers be paid, Hon. John Pesa, Hon. Bonny Khalwale who is now a Senator, Hon. Olago Oluoch, Hon. Martha Karua, Hon. Gitobu Imanyara and Hon. David Koech raised the same issues on payment of teachers on 22<sup>nd</sup> February, 2012.

I want to say this, that the issues that the teachers have had have been deliberated in Parliament severally. In this particular Report, I have annexed the HANSARD proceedings. The Tenth Parliament approved Kshs3.34 billion out of the Kshs16 billion that was required. However, the teachers were not paid since Treasury was waiting for the legal opinion from the Attorney-General (A-G). I want to report to this House that my Committee has met the current Treasury Cabinet Secretary (CS), the Controller of Budget (CoB), the Solicitor General (SG) and even A-G over the same issues. I point out that the CS of Treasury indicated to us that they are willing to set aside funds to ensure that those teachers are paid. It is only the legal opinion from the A-G, which I think, is holding this particular back issue.

On 6<sup>th</sup> December, 2012, the A-G wrote to the then Chairperson of the Departmental Committee on Education, Research and Technology who was Hon. David Koech informing him that he had resolved, as a custodian of the rule of law and ordered the A-G, who is the defender of public interest, to seek a judicial intervention as requested. He wrote to the Teachers Service Commission (TSC) seeking precise information and following the issues for the purposes of filing an appropriate application in court.

Hon. Temporary Deputy Speaker---

**The Temporary Deputy Speaker** (Hon. Kajwang’): Hon. Member for Tinderet, you are doing very well and you have covered the first part of your subject very well.

**Hon. Melly:** Yes.

**The Temporary Deputy Speaker** (Hon. Kajwang’): Is it the point in time you want to rest it so that you can take it another time?

**Hon. Melly:** Yes, if you will allow me, I will continue with it later.

**The Temporary Deputy Speaker** (Hon. Kajwang’): Thank you. Permit me to correct myself. You still have a balance of 53 minutes. If you so wish, when the House adjourns and when the matter is therefore put on the Order Paper, you will resume. When the matter comes back on the Order Paper please be there. The problem is, now that it will be a resumption of the debate, you must be present when the Order is called. Otherwise, you will forfeit your time.

**Hon. Melly:** I will be present because this is a very passionate issue to me.

**The Temporary Deputy Speaker** (Hon. Kajwang’): Thank you so much.

**Hon. Melly:** Thank you, hon. Temporary Deputy Speaker.

### ADJOURNMENT

**The Temporary Deputy Speaker** (Hon. Kajwang’): All right, hon. Members. The time being 1.00 p.m., this House stands adjourned until this afternoon at 2.30 p.m. It is so ordered.

House rose at 1.00 p.m.