

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 17th August, 2016

The House met at 2.30 p.m.

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

PRAYERS

PETITIONS

WRONGFUL DISMISSAL OF MR. NESBON KIBARA MBAABU FROM KDF

Hon. M'uthari: I, the undersigned, on behalf of the family of Mr. Nesbon Kibara Mbaabu, a military officer and a Kenyan citizen, draw the attention of the House to the following:-

THAT, Article 236 of the Constitution provides for protection of public officers from victimisation, discrimination and removal from office or subjection to disciplinary action without due process of law. Further, Article 50(2) of the Constitution recognises the right of every accused person to a fair hearing and trial in a court of law.

THAT, Mr. Nesbon Kibara Mbaabu, a Non-Commissioned Officer (NCO) has been in the military for 19 years.

THAT, Mr. Nesbon Kibara Mbaabu, while on deployment to the Nairobi Show Ground for the International Trade Fair, deserted duty and went to his home in Kayole without obtaining official permission from his supervisors and stayed there for an extended period.

THAT, while at home, the Petitioner exhibited abnormal behaviour and upon realisation that Mr. Mbaabu had stayed home beyond the normal military leave days, his family consequently surrendered him to the military police headquarters.

THAT, the Petitioner was locked up in a guardroom, where he continued to exhibit abnormal behaviour, which prompted the military police to refer him to the Defence Forces Memorial Hospital for thorough medical checkup, where he was diagnosed with paranoid schizophrenia.

THAT, on 13th July, 2015, the Chief Justice, upon request by the Department of Defence appointed a Judge, one Hon. (Ms.) Theresa Murigi to preside over a Court Martial to try Mr. Mbaabu where he was subsequently charged for desertion, contrary to Sections 74(1)(a), 74(2)(e) and 74(3)(b) of the KDF Act.

THAT, one, Mr. Muthoka Wambua, who appeared for Mr. Mbaabu argued that he was mentally unfit to stand trial based on oral and written medical reports by the head of the Psychiatric Department at Memorial Hospital, Col. (Dr.) J.M. Ndegwa whose report confirmed that he was suffering from schizophrenia and was thus unfit for trial.

THAT, although the court ruled and approved the transfer of Mr. Mbaabu to Mathare Mental Hospital on 3rd December 2015, this has not taken place since medical personnel

handling his case declined to sign the handover letter leading to his prolonged detention at the military cell. This is contrary to Kenya Defence Forces Act which outlines that a service member can only be held in custody for a maximum of 42 days.

THAT, three months later, Mr. Mbaabu was transferred to the 12th Engineers Battalion guardrooms, Thika Barracks for another detention and upon determination of his case, he was dismissed from the Kenya Defence Forces on the basis of his health status without any compensation and in violation of his right to equal protection under law.

THAT, efforts to have the matter addressed by the Kenya Defence Forces have been futile and unsatisfactory.

THAT, the matter presented in this Petition is not pending before any tribunal or court of law.

Therefore, your humble Petitioner prays that the National Assembly through the Departmental Committee on Defence and Foreign Relations;

- (i) inquires into the matter in its entirety including the prolonged detention at the military cell and wrongful dismissal with a view to address the Petitioner's plight;
 - (ii) intervenes so that the officer is transferred to Mathare Mental Hospital; and
 - (iii) makes any other order or direction that it deems fit in the circumstances of the case.
- And your Petitioner will ever pray.

Hon. Speaker: Hon. Members, allow Hon. Aramat, the Member for Narok East to also present his petition. Thereafter, I will allow comments on both of those petitions. So, as you make your comments, you will be stating or indicating which petition it is that you will be commenting on. Hon. Aramat.

ALLEGED HARASSMENT OF MOI NDABI SETTLEMENT SCHEME ALLOTEES

Hon. Aramat: I, the undersigned, on behalf of the allottees of the Moi Ndabi Settlement Scheme in Naivasha Constituency draw the attention of the House to the following:-

THAT, following the 1992 clashes at Enoosupukia, the national Government allocated Moi Ndabi Settlement Scheme to evictees of Enoosupukia Forest through a Presidential directive in 1994.

THAT, years later the resettled families were informed that they were required to pay some amount of money to the Ministry of Land's Adjudication and Settlement Department, and were directed to await issuance of allotment letters from the Director of Settlement and Adjudication.

THAT, the then District Lands Settlement Officer in Naivasha informed the Petitioners that the Moi Ndabi Settlement Scheme land had been repossessed by the Government and allocated to other individuals.

THAT, later, the settlers discovered that the repossession allegation was utterly false, and that several unscrupulous officers in the Lands Adjudication and Settlement Office had in fact grabbed the parcels of land and reallocated them to other people to whom they issued fake title deeds in a bid to change land ownership at the settlement scheme.

THAT, the lands officers and brokers have resulted to harassing the settlers through the Administration Police from Kongoni Police Station and the area chief by demolishing the Petitioners' structures in a bid to intimidate them.

THAT, this has caused the displaced settlers who mainly constitute of over 300 members of the Maasai Community untold anguish, suffering and agony.

THAT, the issues in respect of which this Petition is made are not pending before any court of law, constitutional or statutory body.

Therefore, your humble Petitioners pray that the National Assembly, through the Departmental Committee on Lands:-

- i. investigates the matter so as to guarantee justice for the displaced settlers by having the Moi Ndabi Settlement Scheme reverted to the rightful owners of the land.
- ii. causes the Commissioner for Lands and Lands Adjudication and Settlement Office in Naivasha to halt any transfers on the Moi Ndabi Settlement Scheme until the conclusion of the investigation sought herein.
- iii. compels the Commissioner of Police particularly the Kongoni Police Station and Moi Ndabi chief's office to desist from harassing and intimidating settlers at the scheme; and
- iv. makes any other order and/or direction that it deems fit in the circumstances of the case.

And your Petitioners will ever pray.

Hon. Speaker: I supposed it ended with "Your Petitioners will forever pray". That Petition is referred to the Departmental Committee on Lands whereas the one by Hon. M'eruaki is referred to the Departmental Committee on Defence and Foreign Relations. You have forwarded it wrongly. Defence is not combined with Administration. Just check what you have written. The matter you have raised touches on the Department of Defence and Foreign Relations Committee.

Allow me to recognise pupils and students who are seated in Speaker's Gallery. They are:- Masikonde Primary School, Narok North Constituency, Narok County; Makunguru Primary School, Mbeere North Constituency, Embu County and Our Lady of Mercy Ibara Primary School; Borabu Constituency, Nyamira County. In the Public Gallery, we have Chepkoibei Primary School, Keiyo South Constituency, Elgeyo-Marakwet County; Sony Sugar Primary School, Awendo Constituency, Migori County; Chepkorniswo Primary School, Pokot South Constituency, West Pokot County and Bar Sauri Primary School, Gem Constituency, Siaya County. They are all welcome to observe proceedings in the National Assembly.

Hon. Member for Igembe Central, Hon. Cyprian Iringo.

Hon. Kubai Iringo: Thank you, Hon. Speaker. I want to comment on the Petition on the dismissal of an officer from the Defence Forces. There should be a framework on how somebody is disciplined and dismissed from work which should take due course, not just taking disciplinary action and dismissing a person. This is because they suffer psychologically and the family members also suffer. Maybe, he is the breadwinner of his family and extended family. The trauma of losing a job is so much knowing that getting a job in Kenya is very difficult and the person can become sick because of this.

I support that this Petition should be looked into seriously. I have a case in my constituency where an Administration Police lady officer was dismissed by her boss because she requested for permission to go and see her sick mother. The in-charge told her to bring her uniform and she was dismissed. I have been trying to get her back to the force again and it is very difficult. The arbitrary dismissal of people is not good and should be looked into seriously.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Members, let me just request that you make comments. I will not allow comments going beyond 30 minutes, so do not make a lot of submissions because there is nobody taking note of them.

Hon. Richard Onyonka.

Hon. Onyonka: Asante sana Mhe. Spika kwa kunipatia nafasi hii kulizungumzia hili lalamiko ambalo limeletwa kwa Bunge hili kuhusu afisa ambaye alikuwa anafanya kazi kwa jeshi la Kenya.

Mimi kama mwanakamati wa Kamati ya Ulinzi na Mswala ya Nje, ningefurahia kama ungemwambia mwenyekiti wetu amwalike Mkuu wa Majeshi ya Kenya na wahusika wake ili walete ushahidi na tujadiliane mambo kuhusu haki za Bwana Mbaabu aliyedhulumiwa.

Namshukuru Mbunge wa Igembe Kaskazini kwa kufanya kazi nzuri ya kumtetea ndugu wetu na kuleta haya mambo kwa Bunge hili.

Kwa kweli, wanajeshi na polisi wa Kenya wana shida na lazima tujaribu kuzitatua. Namunga mkono Mhe. wa Igembe Kaskazini na natarajia kwamba itawezekana hivi karibuni kujadiliana hili jambo. Najua si hili tu. Kuna dhuluma nyingi sana ambazo wafanyikazi wa Serikali hupitia na pia ukiukaji wa haki zao za kibinadamu.

Hon. Speaker: Hon. Ali Rasso.

Hon. Dido: Thank you, Hon. Speaker. I rise to comment on the Petition by Hon. M'ruaki on the dismissal from the military of Mr. Nesbon Kibara. The military is an institution that is governed by regulations.

What the Hon. Member has presented clearly shows an individual who did not desert work but was sick and stayed away. If the military found he was unsuitable to work as a service man, then due diligence should have been done so that a medical check-up would have been done to establish if he was ill and unfit for further military service.

In the fullness of time as a Committee, we will establish if he was unfairly incarcerated

Hon. Speaker: Hon. David Ochieng.

Hon. Ochieng: Thank you, Hon. Speaker. I want to also support Hon. M'ruaki's Petition. In May this year, we had a report from the media that a certain soldier who had participated in the *Linda Nchi* Operation in Somalia was dismissed because of a mental condition. The same month, we were told that another soldier was also dismissed even after five doctors concurred that he was suffering from mental problems. This is not the first Petition that has been brought by a Member on the matter of military personnel. I hope that the Committee concerned can delve deep into this matter and see how best this country can take care of its soldiers, especially those who were affected by the kind of thing that happened this year in El Adde.

Soldiers require post-war treatment, care and even rehabilitation. Their families also need to be taken care of. I hope that the Committee concerned will not only treat this case individually, but help this House with proper and valid recommendations on how best we can handle those kinds of situations. This is not the first time this kind of a matter has been raised.

Hon. Speaker: Hon. Florence Kajuju. Hon. Members, I am trying as much as possible not to make the Petition look like a village affair. It is very difficult sometimes because of the way Members place their interventions. Sometimes, you have to excuse the Chair, and appreciate that this is the National Assembly of the Republic of Kenya. If you appear very knowledgeable about village matters, allow other Kenyans to also ventilate.

Hon. (Ms.) Kajuju: Thank you, Hon. Speaker.

Hon. Speaker: Proceed on the village matter.

(Laughter)

Hon. (Ms.) Kajuju: I stand to support the Petition by my brother Hon. M'eruaki and state that this is not just a county affair, but a national issue. This is because---

(Hon. A.B. Duale interjected)

Protect me from the Leader of the Majority Party. We know his strengths, but we also know his weaknesses. Let him allow me to proceed.

Hon. A.B. Duale: On a point of order, Hon. Speaker.

Hon. Speaker: There is nothing out of order. She claims to have some knowledge. The Leader of the Majority Party, you will explain that bit.

(Laughter)

Hon. (Ms.) Kajuju: There is something known as the SWOT principle. That is where you look at strengths, weakness, opportunities and threats. That is what I am saying in simple terms. This is a Petition that deserves to be looked at and a lot of sympathy expressed to our soldiers. When there is an issue of this magnitude that affects a soldier, and most importantly on sickness, then there is no reason why that particular soldier was being mistreated in that manner.

I know generally that the way trials are conducted in the Kenya Defence Forces is not the best in as far as the principle of natural justice, the rule of law and anything that appertains to justice is concerned.

It is important that Hon. M'eruaki has brought this Petition so that any other soldier who is undergoing that kind of suffering can know that they can get relief from this House. I pray that the Departmental Committee on Defence and Foreign Relations looks at it and ensures that justice is done to that brother and voter of mine.

Hon. Speaker: Member for Mavoko.

Hon. King'ola: Thank you, Hon. Speaker. Will I be in order to request for your indulgence to adjourn this House because I am at pains even to contribute?

Hon. Speaker: You are out of order. You cannot rise to claim that the House adjourns; for what reason? This is a time for comments on the Petitions. If you have nothing else to say, just remain seated.

Hon. King'ola: Allow me, Hon. Speaker.

Hon. Speaker: Not now. You cannot use this chance for that purpose. Member for Narok West!

Hon. ole Ntutu: Thank you, Hon. Speaker, for giving me this opportunity to support the Petition that has been brought by my brother from Narok East, Hon. Aramat, on the issue of Moi Ndabi Settlement Scheme. We would like to ask the Departmental Committee on Lands to look at this issue because the Maasai community has been living on this land since time immemorial. It looks like some people have been going around getting title deeds. Those people have been disturbed for a long time. They have gone to all offices in the Ministry of Lands. It seems to me that nobody is bothered to look into their affair. Therefore, we want to ask the Committee to look into this issue because it will bring problems. Particularly, the Committee should stop the police from harassing the community that is living there. For the last two years, the police have been

harassing the Maasai community. We want to ask them to stop that harassment until the National Land Commission (NLC) looks into this issue. We have evidence that some people here in Nairobi want to steal the land from the local people. This is an issue that, if not looked into, will bring a lot of clashes. The issue is becoming a real problem.

Thank you.

Hon. Speaker: The Member for Bondo.

Hon. Ogolla: Thank you, Hon. Speaker. I want to comment very quickly on Hon. Aramat's Petition. In as much as we have in the records that the resettlement arrangements were complete, definitely the framework that we use for settlement is still going to be problematic from one time to another. While we are talking about resettlement, a number of issues are going to call for re-resettlement – a second or third generation resettlement arrangements – because of the generic way in which we conducted some of the resettlements. Immediately people were moved from their lands and settled elsewhere, some parcels of land were left, which definitely were to be resettled or used for different purposes. So, from time to time, these are things that are going to recur. It is important that the Committee looks into this matter as they look at the issue from Narok East.

Thank you, Hon. Speaker.

Hon. Speaker: The Member for Samburu North, Hon. Lentoimaga.

Hon. Lentoimaga: Thank you very much, Hon. Speaker, for giving me this opportunity. I rise to support the Petition by Hon. M'eruaki on the issue of the Kenya Defence Forces. I really admire the disciplined forces but, sometimes, I am surprised at the way they treat the servicemen. Just like what Hon. M'eruaki has said, I had a similar case. I raised an issue about a serviceman who had deserted service on very valid reasons five months ago. I am the one who brought him back. Instead of being treated leniently and allowed to present his case, he was put in custody where he is up to now. He is being denied basic entitlements like salary and food. I had to hire a lawyer to defend him. The Committee needs to look at the current Act and see how it can be amended to be favourable and humane to the servicemen. Otherwise, there are many of them suffering, especially when they desert service.

Thank you.

Hon. Speaker: The Member for Kikuyu.

Hon. Ichung'wah: Thank you, Hon. Speaker. I rise to support the Petition by Hon. M'eruaki on the military serviceman. I would appeal to the Committee to make sure that there is fairness in that process.

However, my concern is more on the Petition on the Moi Ndabi Scheme in Naivasha, which is bordering Narok. I take great exception to what the Member for Narok West, Hon. Patrick Ntutu, has said. That, indeed, there are people in Nairobi purporting to own that land. I want to state to the Committee which will be in charge of this Petition that, indeed, there is a problem in Moi Ndabi, Maela and other land settlement schemes, including Utheri wa Lari and Nyakinyua in Naivasha.

We are elected to this House to represent constituencies and not communities. I represent a constituency that is named after a community, but I cannot rise to speak for and on behalf of Kikuyus. I have heard on two instances the two Members speak about the Maasai community, forgetting that those settlement schemes brought in other communities. I am particularly keen on those settlement schemes, especially those near Naivasha because there are very many people from Kiambu County who have bought land there. They formed land-buying companies to buy land in all those settlement schemes, including Moi Ndabi. Therefore, this is not a matter to do

with the Maasai community. It is a matter to do with justice and the right to own land and property in any part of this country. We cannot have it that one community moves into land for which people hold genuine titles, grazes on the land and then claims ownership of the same land. This has been perpetuated by the recent forays into that area by the Geothermal Development Company (GDC) in exploration of geothermal energy and the extension of the Standard Gauge Railway (SGR) project into that area.

I want to plead with the Committee, even as it looks into the issues, not to belittle the matter to be a matter of Maasais grazing on other people's lands. I take great exception to the request that the police desist from harassing people there. The police are placed in Moi Ndabi, Utheri wa Lari and Nyakinyua to protect life and property. We have seen the Maasai community ambush farmers in their farmland in Utheri wa Lari and Nyakinyua in the same area. Therefore, the Committee should make sure that the police are allowed to do their work in line with the law to protect life and property. We cannot allow Members to purport to speak on behalf of a community when the community is also infringing on the rights of other communities to own land in a particular area. I, therefore, beseech the Committee to look at the issue holistically and, maybe, involve the Departmental Committee on Administration and National Security that is led by Hon. Kamama. That is because it is a matter that touches on both land and security.

Hon. Speaker, I thank you.

Hon. Speaker: I think very soon we will be reviewing the need for comments because if it takes this dimension then--- These are not just comments. In any event, regardless of how passionate you may feel about something, this is a Petition and it is directed to a Committee. So, it is before the Committee that you need to appear and prosecute whatever arguments you may have - for or against the Petition. The Petition stands committed to the Committee. Let the Committee go and deal with it.

Next Order!

PAPERS LAID

Hon. Kato: Hon. Speaker, I beg to lay the following Papers on the Table of the House:-
The Office of the Controller of Budget, County Revenue Baseline Study of 2015.
Annual Report on Financial Statement in respect of the following institutions for the year ending 2014/2015:-

- (a) Kenya Dairy Board.
- (b) Kenyatta National Hospital.
- (c) Kenya Ferry Services Limited.

Thank you, Hon. Speaker.

Hon. Speaker: Very well. Next Order!

(Loud consultations)

Hon. Speaker: Are there other Papers to be laid? Are you the Chairperson of the Committee on Regional Integration? You see, when you bring your Reports late, you run the risk of not being captured on the Order Paper. Nevertheless, I remember having approved your Report, Hon. Kajuju.

Hon. (Ms.) Kajuju: It appears today I woke up on the right side of the bed, as we say in our community.

Hon. Speaker, I beg to lay the following Paper on the Table of the House:-

The Report of the Select Committee on Regional Integration on a benchmarking visit to the Economic Community of West African States (ECOWAS).

Hon. Speaker: Leader of the Majority Party, Hon. Duale, are you giving any Notices of Motion?

Hon. A.B. Duale: No, Hon. Speaker.

Hon. Speaker: Next Order.

STATEMENTS

EXTENSION OF PERIOD FOR JOINT PARLIAMENTARY SELECT COMMITTEE ON IEBC

Hon. Speaker: Leader of the Majority Party.

Hon. A.B. Duale: Hon. Speaker, in accordance with the provisions of Standing Order No.1 of the National Assembly Standing Orders, as read together with Paragraph 9(7) and (8) of the House of Parliament Joint Sitting Rules, I seek your indulgence and that of this House to allow the Joint Parliamentary Select Committee on the matters relating to Independent Electoral and Boundaries Commission (IEBC) an additional period of two days from yesterday, 16th August, 2016 so as to enable the Joint Committee time to conclude and table its report in the National Assembly tomorrow afternoon, Thursday 18th August, 2016. This request is made following consultations between the leadership of both sides of the House with the Co-Chairpersons of the Select Committee.

(Loud consultations)

Hon. Speaker: Hon. Members, including those ones from Mandera County--- Member for Mandera West, Eng. Mahamud, it is out of order for you to stand on the gangway. Just invite the Member you want to consult with to some place and then consult.

Well, I do not want to be invited into clan decisions. The Chairperson, Departmental Committee on Health.

Hon. (Ms.) R.K. Nyamai: Hon. Speaker, I rise to present the pending business before the Departmental Committee on Health.

Hon. Speaker: Sorry! Just a minute.

(Hon. Speaker consulted with the Clerk-at-the-Table)

Leader of the Majority Party, did you move a Motion.

Hon. A.B. Duale: Hon. Speaker, I did not move a Motion. I beg to repeat if you allow me.

Hon. A.B. Duale: Hon. Speaker, in accordance with the provisions of Standing Order No.1 of the National Assembly Standing Orders, as read together with Paragraph 9(7) and (8) of the House of Parliament Joint Sitting Rules, I seek your indulgence and that of this House to allow the Joint Parliamentary Select Committee on the matters relating to the Independent Electoral and Boundaries Commission (IEBC) an additional period of two days from yesterday 16th August, 2016, to enable the Joint Committee time to conclude and table its Report in the National Assembly tomorrow afternoon, Thursday 18th August, 2016.

This request is made following consultations between the leadership of both sides and the Co-Chairpersons of the Select Committee.

Hon. Speaker: Hon. Nyenze.

Hon. Nyenze: Hon. Speaker, I rise to second. We had a meeting. We were briefed and because we wanted the Joint Select Committee to finalize and do consultations with the principals, we opted to seek that extension so that the Report can be tabled tomorrow afternoon.

I beg to second.

(Several Hon. Members walked into the Chamber)

Hon. Speaker: Members who have difficulties sitting, could you just stand somewhere? Member for Lamu, do you have a problem with sitting? Just sit. It is better that way.

(Question proposed)

(Question put and agreed to)

Hon. Speaker: Hon. Duale and Hon. Nyenze, take it upon yourselves, with the leave of the House, to ensure that the Report by that Committee is tabled. More importantly, even as the Report is tabled, it must also comply. I must say this because I am unlikely to approve things which are unconstitutional and more specifically, which go against Article 95(5)(b) of the Constitution. It states exclusively that the constitutional oversight responsibility of State organs is vested in the National Assembly of the Republic. This is just to draw the attention of the leadership to that particular fact so that we do not get something that is going to cause unnecessary acrimony in the House.

Next Order!

PROCEDURAL MOTION

REDUCTION OF PUBLICATION PERIOD OF A BILL

Hon. Speaker: The Chair of the National Government Constituencies Development Fund Select Committee, Hon. Lessonet.

Hon. Lessonet: Hon. Speaker, I beg to move the following Procedural Motion:-

THAT, pursuant to the provisions of Standing Order 120, this House resolves to reduce the publication period of the National Government Constituencies Development Fund (Amendment) Bill (National Assembly Bill No. 35 of 2016) from 14 to six days.

Hon. Speaker, this will enable us promptly disburse the funds for this Financial Year 2016/2017. I would request my colleagues to support this Procedural Motion so that, by next week, we shall have given constituencies their ceilings for this financial year.

As I move this Motion, allow me to inform Members of those constituencies which had not received their funds in total for the last Financial Year 2015/2016 that the CDF Board in the month of July, and partly this month, has been handling administrative issues of disbursement between them and the Central Bank of Kenya. They are moving from a manual system previously called G- Pay, to an internet based system where they are able to disburse funds from

their office. As I say that, the money is with the CDF Board in the Central Bank of Kenya (CBK) account. Concerning the administrative issues like installing the system and the networking, as I am talking now, the CBK team is conducting a training session at the CDF Board on how to disburse on that system.

As we are talking now, the disbursement is happening to those constituencies which had not received the allocation in full for the Financial Year 2015/2016. After today, disbursement shall be very prompt and more efficient than in the past because of that new system.

I truly appreciate the pain constituencies have gone through in waiting for funds because there have been no funds disbursed the whole of July and even half of this August. I really want to appreciate the anxiousness, the anxiety and the pain constituencies have gone through in waiting for the final disbursements for the Financial Year 2015/2016.

With those remarks, allow me to invite Hon. Iringo to second this Motion.

Thank you.

Hon. Speaker: Member for Igembe Central.

Hon. Kubai Iringo: Thank you, Hon. Speaker. I stand to second the Procedural Motion to reduce the dates on this important Bill. That money is long overdue. We have been waiting for that money for a long time. Being on the homestretch, we need that money as fast as possible. I do not see why Members should oppose this Procedural Motion because it will enable us to move fast and get this money to our constituencies and complete the development projects which have been there.

I second.

(Question proposed)

Hon. Speaker: Leader of the Majority Party.

Hon. A.B. Duale: Thank you, Hon. Speaker. The Chair of the Committee decided not to give me a chance to second that Motion because he knows the reasons very well. This Chairman has failed this House.

(Applause)

Let us call a spade a spade. In the Financial Year 2015/2016 CDF allocations, 50 per cent has not been given to Members, including my own constituency. He can come here and tell us about the CBK and training people. Training people on what? CDF is the only institution where a CEO acts for 10 years. There must be a problem with that CEO. No wonder he is acting for a long period.

Members have been coming to my office. I even called the Governor of CBK and the Accountant-General three weeks ago, and they told me the money for Members will be in the accounts by this week on Monday. The Chairman cannot just come here and tell us about training. Training people about what? The country must be told whether the CDF Board banked with Chase Bank. We must be told. There is a possibility that CDF Board banked our money with Chase Bank and they have no money for us and they cannot face the National Treasury.

This Chairman is the bridge between us and the Executive. He comes here today, when we are expecting him to tell us that the monies are in our accounts, he is talking about training by the CBK officials. This country uses a system called the Integrated Financial Management Information System (IFMIS). As part of the leadership, we are much disappointed because the

allocations for the Financial Year 2016/2017 have not been tabled. Children are at home. We have a Bill here but, up to now, it is the first time I am seeing that two or three months after the Budget was read, we do not know what allocation has been given to every constituency. We just came back from a court case. When we go to our constituencies, we are asked questions.

Hon. Speaker: Hon. Duale, are you opposed to the Motion or you are responding to something?

Hon. A.B. Duale: Hon. Speaker, as I support this Procedural Motion, on behalf of my colleagues, it is important I say all these issues. I am sure it will help the Chairman, Hon. Lessonet, to put his house in order. This Bill must come very fast so that we pass it. This allocation must be shared across the board - 100 per cent not even the 90 or 10 per cent we are seeing.

Hon. Speaker: What you needed to have done is to have educated the Chairman of the Select Committee on what goes into a Procedural Motion. Rather than give reasons why he wants to reduce the publication period, he went on to explain things which have landed him in hot soup. Hon. Lessonet, that is not what you should have said. Nevertheless, hon. Members, do I put the Question?

Hon. Members: Yes.

Hon. Speaker: Let us not go into those other details.

(Question put and agreed to)

Even as you have it, Hon. Lessonet, you have your lessons. More importantly, do as you would to facilitate every constituency to operate smoothly as expected.

Next Order!

BILLS

First Reading

THE NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND (AMENDMENT) BILL

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

Hon. Speaker: The Members for Mvita, Seme and Matungulu, if you could just take your seats, this would be very fast.

Second Reading

THE CIVIL AVIATION (AMENDMENT) BILL

(Hon. A.B. Duale on 11.8.2016)

(Debate concluded on 16.8.2016)

Hon. Deputy Speaker: Please settle down, Members. Debate on this Bill had been concluded and what was left is for the Question to be put, which I proceed to do.

(Question put and agreed to)

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

Next Order!

BILL

Second Reading

THE KENYA REGIMENT (TERRITORIAL FORCE) (REPEAL) BILL

(Hon. A.B. Duale on 16.8.2016)

(Debate concluded on 16.8.2016)

(Hon. Wekesa consulted loudly)

Hon. Speaker: Member for Saboti, pay attention to what is going on. Again, what remains here is for me to put the Question.

(Question put and agreed to)

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

Hon. Speaker: Before we go to the next Order, the business of reporting by the Departmental Committee on Health is ordered to be in the Order Paper tomorrow afternoon. It can actually happen in the morning. Let it be on the Order Paper in the morning at 9.30 a.m.

It is fair for Members to be reminded that following the Procedural Motion you passed last week, there will be morning sittings on Thursday 18th and Thursday 25th of August before you proceed on recess. So, there will be a morning sitting tomorrow Thursday 18th starting at 9.30 a.m. and again on Thursday 25th starting at the same time. You passed the Motion. Those of you who might not have been present, like the Member for Mwingi Central who appears to be surprised by the Motion it was passed by the House last week.

Next Order!

MOTIONS

ADOPTION OF THE PUBLIC ACCOUNTS COMMITTEE REPORT FOR 2013/2014

THAT, this House adopts the Report of the Public Accounts Committee on the Government of Kenya Accounts (Volume I and Volume II) for the year 2013/2014, laid on the Table of the House on Wednesday, June 22, 2016.

(Hon. (Eng.) Gumbo) on 10.8.2016)

(Resumption of Debate interrupted on 16.8.2016)

Hon. Speaker: Hon. Members, the 14th Member who was contributing to this Report, Hon. Joyce Emanikor Akai, Member for Turkana, has a balance of eight minutes. Do you wish to take advantage of your eight minutes? Proceed.

Hon. (Ms.) Emanikor: Thank you, Hon. Speaker for giving me this chance. I rise to support the adoption of the Report of the Public Accounts Committee on the Government of Kenya Accounts for the year 2013/2014. I want to start from where I left yesterday.

This Report reveals a lot of malpractices and misappropriation of public funds. There are issues like wastage of money, unsupported expenses, pending bills amounting to over Kshs17 billion, mismanagement of imprest and unaccounted for or unrecovered salary advances. Those are some of the discrepancies that this Report is showing. We are wondering how the Ministry of Sports, Culture and Arts cannot account for imprest running up to Kshs135 million, when our athletes are hustling in foreign land with no support.

In the Ministry of Education, Science and Technology---

(Several Hon. Members withdrew from the Chamber)

Hon. Speaker: Order, Hon. Member! Those of you who are withdrawing from the Chamber, please, do so quietly so that the Member for Turkana can be heard. I know it is exactly one hour since you sat and there may be those who are through with the sitting.

Hon. (Ms.) Emanikor: Thank you, Hon. Speaker. The Report indicates that the Ministry of Education, Research and Technology has pending bills to the tune of Kshs17 billion. I wonder how those bills can be accounted for when teachers are perennially on strike for salary increases. How do you account for small discrepancies that could have been dealt with internally? This is reflected in the Report.

Worst of all is the unaccountability for donor-funded projects. One of them is GoK/UNICEF Education for Young People Programme where, out of a total of Kshs213 million expenditure, 96 per cent is not supported by any documents and, hence, it is really difficult to know the propriety of the total amount. The Government of Kenya Water and Sanitation Programme (GoK/WSP) Programme which provides food assistance to schools in Arid and Semi-Arid Lands (ASALs) and for disadvantaged urban children, millions of shillings are not accounted for by the education officers. Exaggeration of enrolment in schools is part of the wastage of money. The school feeding programme vote-head is indicated in the Report as having been used by officers to attend the Head Teachers' Conference in Mombasa, instead of using the respective directorate vote-heads.

Over Kshs297 million for the sanitary towels programme was paid to suppliers, but there were no returns from the education officers. This is very disastrous and unacceptable. For goodness sake, we are talking about children. We know the commitment and vision of the Jubilee Government on education. They have reduced examination fees, increased capitation, increased free primary school funds and have increased the Higher Education Loans Board

funds. Those are some of the commitments that the Jubilee Government has put in place. The monies are being misappropriated by public officers who are employed by the same Government. We are just wondering whether this is not jeopardising or sabotaging the efforts of the Jubilee Government to provide Kenyans with what they promised in the manifesto in education, energy, social protection, devolution, health and many other big projects that the Government is putting in place.

With those few remarks, I wish to support the adoption of the Report.

Hon. Speaker: Hon. Maina Kamanda. Members have just put in their cards and disappeared! Hon. David Ochieng.

Hon. Ochieng: Thank you, Hon. Speaker. I rise to support the Report of the Public Accounts Committee on Government Accounts for the Year 2013/2014. I thank the Chairman, Hon. Gumbo, for doing a good job especially under the pressures we have gone through in the last few years, especially with issues to do with the Office of the Auditor-General and his work. To do this kind of Report takes time and requires a lot of dedication.

I have read this Report. I want to start from where they have started. This time, the Government has Kshs66 billion not supported and yet not spent. I ask Hon. Gumbo to give us further details because I did not see much of the details in this Report in terms of expenditures and why we allow ministries to spend money without providing support. It will also be good to know whether this expenditure was actually approved by Parliament.

At a time when this country is barely struggling to keep children in school, to have medicine in hospitals and a huge wage Bill, we are having money being spent helter-skelter without us knowing where the money is going. As we look at these accounts, one of the things I have noted here is the incapacity or inability of the Kenya Revenue Authority to seal loopholes of corruption. If money is collected, the way we should do it---

Under the coalition Government and the Kibaki Government, we saw our revenue go up by two-fold or three-fold because the Kenya Revenue Authority (KRA), then under Mr. Waweru, was doing so well, sealing loopholes and collecting money that was due. We did not see so much corruption going on at KRA. But now, what is going on at KRA can only be described as a tragedy to the country. There is something called IFMIS. It has become the scapegoat for every mal-administration and malpractice in terms of financial management in this country. All of it is blamed on IFMIS. IFMIS is a system that was introduced to help mainstream and streamline the way Government monies are approved and spent. It is becoming increasingly clear to us every day that IFMIS has failed tremendously. I request the Cabinet Secretary for the National Treasury that if IFMIS is not working, and if it is not the system we need to streamline resource management in this country, then we better move on to a system that will help this country save in resources, save time in Government transactions and, above all, avoid loopholes. IFMIS was supposed to weed out corruption. In the Eurobond, National Youth Service (NYS) and Anglo-leasing scandals, we used IFMIS to effect the payments. Why use IFMIS if it cannot be used to detect corruption, malpractices and pilferage of public resources? IFMIS, in my opinion, has failed and the use of the same must be re-checked to ensure that the original purpose for installing IFMIS is met.

The coordination and implementation of Government expenditure is very important. We are now in our fourth year. No one knows how this Government is structured. No one knows how Uhuru Kenyatta's Government works. No one today knows what the functions and role of the Ministry of Industrialisation are, who is in charge of trade negotiations, who is in charge of the East African Community (EAC) affairs and who is in charge of economic affairs. No one can

tell you who the President's economic advisors in this country are. How do you ensure that Government projects are implemented in a coordinated manner when no one knows who advises the President on health matters? No one knows who advises the President on serious economic issues. We are now waiting for the President to sign the Bill we passed last week on interest rates. No one knows who advises the President on monetary matters. Under the coalition Government, we knew there was something called the National Economic and Social Council (NESC). We knew the experts working in there. Right now, you cannot tell who advises the President on issues of devolution. It is difficult to understand how the President and his Government hope to implement the projects that he is setting up without proper advisory and proper Government structures.

Pending before this House is a question I asked about the Ministry of Public Service and Youth Affairs. I asked about the relationship between the Cabinet Secretaries and the Head of Public Service. There is a very big anomaly in this country. We have an office created by the Constitution called the Office of the Secretary to the Cabinet. It used to be held by a gentleman called Mr. Kimemia. Since he left, we have not had a substantive Secretary to the Cabinet for more than one year. Who is coordinating Cabinet work? How do we expect to have Government projects well coordinated when we do not have a person that the Constitution requires to do so employed? Since we rejected Madam Juma, we have not had another name brought before this House for approval.

The Office of the Auditor-General is very important. We recently saw that for that Office to work well, it must be well-resourced, kept independent and has to be allowed to work independently. This Parliament, in my opinion, will go down as one Parliament that tried in a very big way to emasculate the position and the Office of the Auditor-General. It has not done well. There was a Bill that was prepared by the Treasury without the Auditor-General being consulted. We hope that it can still work and do its job right. We must learn to strengthen institutions. This afternoon, we just approved a two-day extension to the life of a Committee that was not necessary. We need to work and respect our institutions. If there are Committees in this Parliament that can work, we will allow them to work. If we have institutions of Government, be it the offices of the Controller of Budget, Auditor-General, Attorney-General or the Director of Public Prosecutions (DPP), we must endeavour to strengthen them.

The reason we set up commissions under the new Constitution is so that they share power with the Executive. For a long time, we have tried to weaken them, emasculate them and not allow them to work the way they should. This Parliament should work hard towards ensuring that the independent offices, including that of the Auditor-General, are strengthened, well-funded and well-resourced to enable them to give us good reports. At the end of the day, our job of oversight can only be made better by good, well-researched and well-resourced reports by the Auditor-General.

Going forward, if you look at what we have been given under the Ministry of Education, Science and Technology, we are being told that head-teachers in high schools and primary schools declare numbers that they do not have because of capitation. They say that they have 500 children and yet they have 250. Monies are going towards that direction and yet, we cannot easily afford to keep our children in high school. All these Members will tell you that we spend so much of the National Government Constituencies Development Fund (NGCDF) money on bursaries. Why can we not make free secondary education truly free? Avoid the pilferage we have seen in this report. Avoid the thievery and corruption that goes on in that Ministry and

ensure that if we have half a million students in high schools, all of them are fully paid for so that they can remain in school.

Finally, the Report that we have been given by Hon. Gumbo and the Committee is a good place to start from. The monies spent only work well for this country if we all hold together as a country, are cohesive, united and give every Kenyan an equal opportunity to work hard if they want to, so as to have a better living in this country.

I support this Report. I hope that going forward, the politicians in this country - in both coalitions - can sell policies and stop balkanising this country through tribal alliances and formations that do not add value, but only add money to the pockets of politicians and not building what we need in the country as one country, one nation.

Hon. Speaker: Before we proceed, allow me to recognise pupils from the following institutions in the Speaker's Gallery:- Moi University Chepkoilel Primary School from Moiben Constituency in Uasin Gishu County; St. Andrews Kangwa Boys Primary School from Borabu Constituency in Nyamira County, ably represented by Hon. Ben Momanyi; Kaimosi Friends Primary School from Hamisi Constituency in Vihiga County and Dr. Steury Memorial Primary School from Bomet Central Constituency, Bomet County.

They are welcome to observe the proceedings in the National Assembly. Let us have Hon. Gikaria.

Hon. Gikaria: Thank you, Hon. Speaker for giving me the opportunity to air my comments regarding the Report which has been tabled in the House. The Committee has done a very good job. We want to thank the new Chair, Mr. Gumbo, for the good work that he has done. At the same time, the Committee now needs to give us direction with regard to most of the things. Where there are shortcomings, the Committee can propose some amendments to either the Public Finance Management (PFM) Act or whichever Act so that we can be compliant with the law.

One issue is the definition of who is an Accounting Officer. These are issues that have been raised in the past. Recently, when we approved and passed an amendment to the Public Procurement and Asset Disposal Act, there was some confusion which arose as to who the person in charge of procurement is. This is where we lose most of our monies. Initially, we used to have the procurement and evaluation committees. This has now been left to a single individual, who is the Chief Executive Officer (CEO), and it brings a lot of issues regarding who is supposed to be held accountable when questions are raised regarding particular issues.

I think it is important for us to consider the time the Report is tabled, debated and approved. This is an important Report because distribution of revenue between the national Government and the county governments depend on the latest audited accounts. When Hon. Ababu Namwamba was the Chairman of the Public Accounts Committee (PAC), he used to complain about the delay in tabling of the reports. We should know that once the audited reports have been approved, they will be used to share revenue.

I want to thank the Government because 15 per cent of the last audited revenue is now allocated to the counties. The percentage that is allocated to counties has been increased. As I was saying earlier, we need to know the Accounting Officer in the counties. We have seen a lot of drama in the Senate where a governor is summoned to answer financial queries about his county, but he says that he is not the Accounting Officer but somebody else is. The Committee should identify the Accounting Officers in the counties.

There is also non-compliance of the accounting standards. If we do not comply with set standards in terms of auditing and reporting a financial position of a certain entity, we will never

understand queries of wastages raised. It has always been alleged that the Auditor-General requires enough money and it is true so that he can undertake his responsibility effectively. They should note that compliance of the international accounting standards is paramount. The Committee notes that most of those State departments have not been complying with the recognised international standards, and we will be losing a lot of money in terms of misappropriation of funds. Sometimes, it is deliberate that they do not include some footnotes on the financial reporting at the end of the year.

It has been alleged at the county level that they do not have the capacity to perform the accounting work in a better way. In my county, the Governor claimed that all the personnel that used to handle the IFMIS were withdrawn by Government and sent back to the National Treasury. That left Nakuru County with no human personnel to operate that system. The Constitution gives the national Government a responsibility to do capacity building to the counties. We should note that if we allow counties to be managed by unqualified people, then we will lose a lot of money. I know counties are trying to attract professionals.

The Committee raised challenges within the IFMIS. It is a financial system that has been used for quite some time and we should look at how we can improve it. There has always been a claim that the system is not working in tandem with the expectations. It has happened in Parliament in the last one-and-a-half-months and nothing has been going on because the IFMIS has been shut down. It is a primitive way of looking at it. It must be looked at how best it can be improved so that it can be used on a day to day basis.

The Committee also noted the delayed Exchequer releases. A few minutes ago, Hon. Lessonet, the Chair of the Constituencies Development Fund (CDF) Committee had an issue and claimed that they have not received any money from the National Treasury. The National Treasury should abide by the timelines to release funds either to the counties or respective Government Ministries on time so that people can do proper planning. If you release an Exchequer late, then it will be difficult for people to accomplish what they wanted to do.

It is unfortunate that most of the time, the Auditor-General's Report is not qualified in the sense that whenever there are missing documents, he reports that there is misappropriation. His Report needs to be qualified because, at times, you might put across a statement, but fail to clean it up. The Auditor-General should be able to exhaustively handle a query.

On poor implementation of Government projects, that has been done particularly because of funding---

Hon. Speaker: Your time is up. Hon. Makali Mulu.

Hon. Mulu: Thank you, Hon. Speaker. I want to thank PAC for the detailed Report it has presented to this House. In the past, these Reports have experienced very long delays. We are only two years in terms of backlog and the Committee can now fast-track the implementation. It will be good for us to get timely reports of Government accounts from the previous year. I am saying this because our Constitution and Public Finance Management (PFM) Act provide that it is only audited reports approved by this House that can be used to determine the amount of money to be allocated to counties, and the amount to remain with the national Government.

Debating a Report that is two years behind means that we have challenges in terms of sharing national revenue. As a House, we should help this country by pushing the Accounting Officers so that we can get recent Reports. We have tried in the last two years because this House has deliberately increased the allocation to the Auditor-General's Office to enable him increase the number of staff to ensure that audit work is carried out without delays. We have also, as a Budget Committee, tried to some extent, to push ministries to account for the money

that they have been allocated before more money is allocated to them. Since Parliament is working hard to assist the MDAs, it is important that these audit reports are presented on time so that the House approves them. That way, we will be assisting this country.

Hon. Speaker, the whole essence of the audit is basically to provide for what we call “value for money”. However, these days, people are also talking about social audit. This is a situation where we would like Kenyans wherever they are--- Any time we say that we have, for example, a Kshs2.2 trillion Budget the big question is: Are Kenyans, wherever they are feeling the effects of such a huge Budget? It could as well be that we say that we are developing, as a country, and yet the development is skewed to a level that only few Kenyans can associate themselves with the huge Budget. That is the question I ask myself every time I read these reports. The reports that come before us do not bring out the element of fair distribution of benefits to Kenyans wherever they are.

The other important thing I picked from Hon. (Eng.) Gumbo’s remarks is the issue of Accounting Officers. I always ask myself whether Accounting Officers know why they are called so. Yesterday, he revealed that when Accounting Officers are asked hard questions by the Members of the PAC, they resort to asking their departmental heads the same technical questions. When you are an Accounting Officer, it is expected that you should be on top of things.

In a situation where you have an Accounting Officer relying too much on his or her departmental heads, then there is a problem. It actually means that it is the departmental heads who are driving the ministries and not the Accounting Officers. I do not know if this is as a result of incompetence on the part of the Accounting Officer or could it be as a result of laxity where they are competent, but they do not have time to meet the expectations of their office?

This House needs to start putting these Accounting Officers to task and tell them: “You are the Accounting Officers and so you must be on top of things. You must be able to answer all our questions.” If they cannot do that then there is no other option other than paving the way so that other competent persons take over.

There is one good thing that we must appreciate in this Report. The Government could not account for Kshs300 billion. The money was either misappropriated or misdirected. Hon. (Eng.) Gumbo indicated that initially it was about Kshs66 billion but after interacting with the Accounting Officers, it was determined that what was not clearly accounted for is about Kshs24 billion. This means that we are on the right track in ensuring that the public gets value for money.

Even as we outline the challenges that Accounting Officers face, we also need to appreciate them and say that they are on the right track. We need to reduce the allocations considering the monies that are not properly accounted for. We should push this to a level where we can say, “The amount of money that is unaccounted for is almost zero.” We should not be talking about billions of shillings being misappropriated or misdirected. I will be a happy Kenyan if the figure reduces to, say, Kshs1 million or Kshs500,000.

I have said it many times in this House and I would like to repeat it, there is no good reason we should see in these reports that imprest was not accounted for. The Public Finance Management Act is clear that imprest must be accounted for within 48 hours. We know the officers who are given imprest; they have personal numbers. Here in Parliament what happens is that if, say, I go out of the country and come back without surrendering my imprest, the time I go to the bank I will find my salary deducted. I wonder why we cannot do this to the civil servants.

If you go to Europe and come back and you do not account for the imprest you were given, your salary should be deducted. You either produce documents or pay back the money. Personally, I do not accept this idea that people can fail to account for imprest unless people are using the imprest as interest free loans from the Government. One could get imprest and use it to finance one's expenditure then delay to surrender it. This is an area that the PAC needs to push the Accounting Officers to ensure that officers surrender their imprest. It is easy because the individuals are known.

Another thing that comes to my mind whenever I read this Report is the issue of our levels of honesty and integrity as a country. The Constitution is clear with regard to our national values. I always wonder whether these values are just on paper or if we really practise them. It is high time we started living these values. We need to see some of these values in Kenyans. As we move forward, the clearly stipulated national values in our Constitution need to be inculcated in the young minds of our young people. We should start living those values. That way, we will be helping the country.

It is also high time sanctions for misdirection or misappropriation of resources were made severe. If you misappropriate funds, it should be clear what sanctions you are supposed to face. People should be kept away from committing some of the omissions they have been committing. Some of the omissions are very obvious. Some Accounting Officers take Kenyans for a ride and continue misappropriating funds.

I am encouraged by findings and recommendations of this Report, but I think we need to do much more as Kenyans to ensure that public resources are prudently managed for the benefit of Kenyans and public good.

I thank you, Hon. Speaker.

Hon. Speaker: The Member for Ugunja, you have the Floor.

Hon. Wandayi: Thank you, Hon. Speaker for this opportunity so that I can also contribute to this Motion on the Report of the PAC on Government Accounts for the 2013/2014 Financial Year.

Hon. Speaker, I will largely associate myself with the sentiments already expressed by my colleagues. As I say so, it is instructive that we are actually debating the PAC Report on Government Accounts for the 2013/2014 Financial Year in August, 2016. I must thank the Committee and the Chairman for the good work they have done. However, something needs to be done if we are to be seen to be serious. If it is a matter of building the capacity in the Office of the Auditor-General, it has to be done. We should carry out these audits on time and submit the audit reports to the House to enable the PAC to also work on time. We should not end up doing what is actually referred to as "postmortem".

I have read this Report very keenly. One thing that is very interesting is that this Report is like any other report by the PAC on the Government accounts for any other year that we have read in the past. This Report catalogues a litany of misappropriations and embezzlement of funds. In fact, it outlines outright theft of public money. I am saying this because if we remove the actual dates of this Report and superimpose other dates, it would be the same thing. This Report talks about theft of public funds with impunity. There has been talk by most of my colleagues that there is a problem with the IFMIS and that, perhaps, the system has failed.

I beg to disagree with that notion. No system, be it financial or otherwise, is ever foolproof. The IFMIS is no exception. What is happening, like has happened in the past, is that people are manipulating the IFMIS so that they can siphon out funds from public coffers.

If you want to look at this Report in the right context, you must understand that it is about the 2013/2014 Financial Year, which was the financial year that the current administration came into office. This is the first financial year under the Jubilee Administration. As we critic this Report, we must not lose sight of the fact that it is about a financial year when most of the so-called “grand projects” of the Jubilee Administration were initiated. I want to give examples.

Hon. Speaker, you will recall that even the now infamous NYS scandal started way back in the 2013/2014 Financial Year. From the admission of none other than the Auditor-General himself, we are aware that this country lost a minimum of Kshs1.8 billion in that scandal alone. From where we sit, we believe a lot more was lost but the mere fact that there is an admission that they have lost a whopping Kshs1.8 billion in one scandal is a very serious indictment on ourselves as a country.

Hon. Speaker, you will also agree with me that this is the financial year when other white elephant projects were conceived and initiated. One of them is the infamous Galana/Kulalu Irrigation Project. That single project was meant to put a minimum of one million acres under irrigation but four years down the line, only 2,000 acres have been done. You do not need to be a rocket scientist to understand that it will take close to a quarter century for the one million acre target to be achieved. This is happening and yet money is being used every single day; money is being expended every day.

The other white elephant project that was conceived in the 2013/2014 Financial Year is the subsidised fertiliser project. Why am I saying so? For the first time in the history of this country, the Government entered into an open ended contract with some briefcase suppliers of fertilisers to supply the important agricultural input every year without fixing the prices. That was one clear avenue for siphoning public funds. You can go on and on.

Of late, we have heard about the Standard Gauge Railway (SGR) Project, which was also conceived around that time. The other day we were told that the SGR from Nairobi to Naivasha was not approved and yet we are aware that this project was launched by none other than the President and his Cabinet. We are now being told that, because some Maasai morans rioted and attacked the Chinese contractors undertaking the project around Naivasha, this phase of the project was not approved. What kind of Government can operate like this? Which contractor would put their tools on a project like the Nairobi-Naivasha SGR line without prior approval by the Government? You can go on and on and talk about the so-called 10,000 Kilometre Road Project that was supposed to have been done in five years.

As we speak, in the county I come from, no single inch of tarmac has been laid. I am sure, that is the case in many other counties or constituencies and yet money is continuously being spent under the guise of implementing these grandiose projects.

The kind of unprecedented theft we are witnessing in Government is happening both upstream and downstream. What do I mean by that? The theft is happening at the collection level of revenue at the Kenya Revenue Authority (KRA). It is also happening downstream at the expenditure level. This country is under siege. It is being bled to death under the watch of the Government. What we are basically doing here is a post mortem. We are doing what we call “an exercise in futility.” Four years down the line, we are talking about what was stolen in the 2013/2014 Financial Year. The stealing has continued unabated in the subsequent financial years. In fact, the magnitude of stealing has continued to increase every year. Only God knows what this country will be like 10 years down the line if nothing is done to change the current state of affairs.

Hon. Speaker, I end with a very heavy heart and say that unless, as the membership of this House, we stand up to be counted and say “no” and take appropriate measures to rein in this daylight robbery, this country will be taken to the dogs.

Hon. Speaker: Let me give this change to the Member for Seme.

Hon. (Dr.) Nyikal: Thank you, Hon. Speaker, for giving me the opportunity to contribute.

First of all, let me appreciate the work that has been done by the PAC. We are now only two years behind. This is unprecedented. Previously, we were many years behind. What comes out of this Report, which is what I want to comment on, is leaving out the details of the monies that are lost and so on. The most disheartening thing is that there are many systemic problems. If those systemic problems are not addressed in the manner that the Committee has indicated, then all the monies being catalogued will never get there. What is important is for the system to work.

Hon. Members have talked about the IFMIS. The purpose of that system is to improve financial management, not only in terms of financial accounting but also in procurement. I do not think it has been extended that far. So far, according to this Report, Kshs5.5 billion has been used.

According to this Report, the Accounting Officers have indicated that they have not found the IFMIS useful in terms of improving their financial management. It, therefore, follows that we have to look at this system seriously with a view to overhauling it because the Accounting Officers say that it is not useful. Hopefully, that case was unique to the 2013/2014 Financial Year and things have since changed. It has been said that as at that time, the certificate of the software was still with the supplier, which means that the Government did not have control over the system. This is the case and yet that is the system we have been using. We are now exporting it to the counties. We really have to look at it.

There has been the issue of delayed release of Exchequer Issues. We often get reports indicating that there is poor absorption of funds voted to ministries and other Government spending agencies. If there is no Exchequer Issue, or the release of Exchequer Issues is delayed, obviously there will be no absorption of funds. Therefore, we are also looking at the point and asking: How do we estimate or calculate the absorption rates of the various Government spending entities? This is because if we calculate absorption of funds using the itemised budgets, that will not work.

The actual issue is delayed release of Exchequer Issues. How much money went to the ministries, departments and agencies, so that work can be done? If money is not released in good time, projects will not be implemented on time. Worse still, if there is delay in releasing Exchequer Issues, it means that we will sign contracts with suppliers and contractors assuming that we have the money and have the projects started. Delays in release of Exchequer Issues mean lack of actual money to pay suppliers and contractors. Obviously, we are opening ourselves to serious litigation. We are aware that many times the Government has paid heavily after losing cases in court. Government entities start projects on the assumption that there is money but they eventually find that there is no money, or Exchequer Issues are delayed.

This Report indicates poor implementation of projects, starting with poor workmanship and delays in project implementation. The Committee has given us an example of the Kakamega-Webuye Road Project, where only 2.5 per cent of the work has been completed 34 months after it was started. That kind of delay is totally unnecessary. It starts with how we plan our projects. We need to know the role of the Public Works Department. This is because it supervises Government projects, particularly ongoing civil works. They should plan the projects

and procurements, prepare bid document and follow up their implementation up to completion, issue certificates of completion and payment. If they do not do that in time, obviously the work will delay. From experience, I know that there has been an impediment in the Public Works Department because they do not supervise projects properly. Therefore, there is poor workmanship and delays.

There is an issue that is coming up with devolution, which we should look into. National Government projects are supervised by the Department of Public Works all the way from Nairobi. If they are major national projects, that is fine. What about national projects which are being implemented at the county level, like in education, which is not a devolved function? There are also National Government Constituencies Development Fund (NGCDF) projects, which is a function of the national Government. This is the case and yet the public works officers who are at the counties are county officers. There is no clear arrangement on how national Government projects in the counties are to be supervised. Many Hon. Members are working with county officers and yet legally, those officers may not be held responsible for poor supervision. We need to look into this matter.

The Report talks about poor performance of Accounting Officers and their failure to convene entry and exit meetings for audit purposes. This is worrying and horrendous. That should not be accepted at all. How will the Accounting Officers know what is going on? There is also failure to respond to management letters. That is a perennial problem. There is also late submission of reports. Something related to this has also been indicated in this Report – failure of the internal audit function within the ministries. This is a terrible problem. You often find cases of misappropriation of funds, corruption and loss of public funds being reported in newspapers even before the Accounting Officers get to know about them and yet they have internal audit units. We should strengthen the internal audit departments. It is not acceptable that Accounting Officers are not made aware when things go wrong and yet they have internal audit departments. They should pick up such matters in advance so that such problems can be prevented. The internal audit units in the ministries need to be strengthened.

The Report talks about weak financial control by the National Treasury. If the National Treasury cannot manage the ministries, departments and agencies, how do we expect work to go on? The Report further goes on to state that we have overstated items in the Budgets. The Committee has given the example of the Ministry of Education, Science and Technology, where official records show a large number of students being enrolled for free primary education and day secondary education than the actual number that exists on the ground. This is failure on the part of the internal audit units. If the number of students is exaggerated, it means that only part of the money that goes to public schools is used for purposes of helping students. The rest goes to the ministry officials who are involved in this scam. It is totally unacceptable.

There is the issue of unsecured Government land. This is a big problem. Schools and hospitals are losing land to private developers because they are not secured. The land is claimed but the institutions do not have a way of proving ownership. These are things which should be looked into.

I end my contribution by saying that even though we have lost a lot of money, the most important thing is to look at our systems and make sure that they work.

With those few remarks, I support the Report and congratulate the Committee for the good work it has done.

Hon. Speaker: The Member for Emurua Dikirr, you are now present.

Hon. Kipyegon: Thank you, Hon. Speaker. I am sorry for the confusion that was created by my absence. I was doing some consultations somewhere within the precincts of Parliament. I also thank you for giving me the opportunity to contribute to this Motion.

The Motion deals with serious matters of accounting. I congratulate the Chair of the Committee for the serious work that he and his Committee Members are doing. One of the most tasking positions in the committees is that of the Chairs of the PAC and PIC, especially when it comes to matters that are supposed to be tabled in this House for debate regarding the operations of Government ministries and parastatals. I want to congratulate the PAC Chair for doing a good job, but we want him to ensure that audit reports are dealt with on a timely basis so that monitoring of Government expenditure can be done on current basis.

I noted a few major areas in this Report. There are very many areas which need serious scrutiny. There are a few areas I noted and it is very important for us to discuss them and find a way of dealing with them.

One major issue is poor coordination by the National Treasury. The National Treasury must be serious on matters of accounting. When coordination is poor, Government expenditures cannot be accounted for properly. This is a lacuna. It is an area where most corrupt people will find an opportunity to steal.

Another area I noted regards the Accounting Officers. Most of them are totally incompetent. The mode of their employment is not serious because in some instances people who are appointed Accounting Officers are not qualified for the job. In other instances, people are qualified for the job but they are incompetent or they have integrity issues. Many people who deal with accounting matters in the national Government and county governments use the opportunity to make money for themselves.

Most of the areas these Accounting Officers are meant to scrutinize are the ones where billions have been spent. Kenyans are not patriotic and the Accounting Officers who are supposed to scrutinize the accounts for particular ministries and departments have decided to 'eat' from there. As the saying goes 'every goat eats where the rope reaches'. Therefore, there is a very serious problem with the competence of Accounting Officers.

On the area of free primary and day secondary education, there are a lot of funds being misused. You can imagine we have always talked about free day secondary education, but students are still charged. This is the case and yet we give bursaries to those students studying in day schools. If the policy is that every student who is in a day secondary school must not pay anything, you wonder where the money parents and Members of Parliament pay go. The amount of money students pay is not accounted for nationally.

Free primary education funds which are sent to those schools are not seriously accounted for especially in areas where there is inflated enrollment. It has become a business for principals to inflate enrollment and nobody accounts for the money sent to those schools. In some schools you will find the real numbers are not correlating with the ones sent by the authorities. This particular area must be looked at seriously.

There is also lack of coordination between the PSs and the Accounting Officers. As we speak today, there is a constitutional office under Article 154 of the Constitution which has not been occupied and that is the Secretary to the Cabinet.

The last person I saw in that office was Prof. Kimemia. No one has occupied it since he left. I do not know whether there is no Kenyan who is qualified to be in that office. That is the person who is supposed to coordinate the Cabinet. I believe that is why there is no proper coordination between the Permanent Secretaries (PSs) and the Accounting Officers.

Another issue which my colleague raised is the issue of land. There is a lot of unaudited public land which is still not properly mapped. This is especially hospital, primary and secondary school land. Very many people have encroached on these parcels of land because they are not properly taken care of. This area needs to be accounted for so that it is secured from land grabbers. We know land in this country has been exaggerated to the level that it is becoming gold in Nairobi and most of the towns. The prices are very high and land grabbers cannot pass by an empty piece of land and look away. Public land must be secured so that we prevent land grabbers from encroaching it.

Most of the time, we are told not to dwell too much on security expenditure. I remember we had a meeting in Sudan as Members of PAC and PIC and the major challenge we had, especially with most African countries was that most governments do not want anybody, either the Auditor-General or PAC to look into the security expenditure. This is the case and yet this is where most of the money gets lost. We must have a law that ensures compulsory accounting for those expenditures in the security docket.

Hon. Speaker: There being no other person interested in contributing, I call upon the Mover to reply. In keeping with our rules, the Mover has a maximum of 30 minutes. This is in the Standing Orders because the Member for Emurua Dikirr is shocked.

Hon. (Eng.) Gumbo: Thank you, Hon. Speaker. I wish to thank all the Members who have contributed. As a patriotic Kenyan, let me join the rest of the nation in congratulating our athletes who are beating the world in Rio de Janeiro.

Early this morning, it was a great joy for all of us to witness young Faith Kipyegon defeat the indomitable Genzebe Dibaba to get our third gold medal.

Earlier on, Jemimah Sumgong set the face in the women's marathon; our first athlete in the Olympics. Of course, yesterday was the day for the king himself David Lekuta Rudisha. I am glad I am making this reply now because at 5.50 p.m. we are expecting to win gold in steeple chase. I want to be in front of a screen to witness history unfolding live.

I want to thank all the Members who have contributed to this Bill even as I observe with a bit of sadness that this House is almost empty at a time when we are debating the Report of PAC, which shows a lot of mismanagement of public resources.

Parliament exists to look after the resources on behalf of the people. I wish more Members could be in the House today so that the Question to this important Motion can be put.

Having said that let me thank all the Members who took time to contribute to this debate. They are my able Vice-Chair, the Member for Kipkelion West, Hon. Jackson Rop; Hon. Manson Nyamweya of South Mugirango; Hon. (Ms.) Sabina Chege of Muranga County; Hon. Manje of Kajiado North; Hon. Abdikadir Aden of Balambala; my good friend and thanks for his kind words about the Committee, Hon. (Dr.) Njogu Barua of Gichugu; Hon. Macharia of Molo; Hon. Lodepe Nakara of Turkana Central; Hon. Sakwa Bunyasi of Nambale; Hon. Regina Ndambuki, the verbal lady from Makueni County and Hon. Melly of Tinderet.

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

[The Temporary Deputy Speaker (Hon. (Ms.) Shebesh) took the Chair]

Others are Hon. Abdullswamad Nassir of Mvita; Hon. Joyce Emanikor Akai from Turkana County, Hon. David Ochieng' who is my friend from my county and the Member for Ugenya;

Hon. David Gikaria from Nakuru County; Hon. (Dr.) Makali Mulu of Kitui Central; Hon. Opiyo Wandayi of Ugunja in my County of Siaya; my great neighbour and friend, Hon. (Dr.) Nyikal of Seme and my great friend the Member for Emurua Dikirr, Hon. Johanna Kipyegon Ngeno, who has just made his contribution this afternoon.

Like I said yesterday, it is indeed an immense privilege for me to Chair the PAC at this point in time. These are privileges that only the Almighty God bestows upon us once in a very long time. Once again, may I use the Floor of this House to thank the Almighty God the creator of the universe and members of PAC who have given me this singular honour to Chair this Committee at this point in time.

Allow me to observe that the audit space has expanded considerably. In fact, other than the expansion of the audit space, with the advent of ICT, financial frauds have become more sophisticated. This, therefore, means that the need for special audits has become more of routine. Sometimes when people vilify the Office of the Auditor-General, they also need to understand our change in circumstance. Most of the theft that happens these days is not physical; rather it is driven on the back of ICT. We have seen that with what happened at the National Youth Service (NYS). We are seeing that with the question surrounding Eurobond. I think the best that this House can do for this country is not just to give the Office of the Auditor-General the financial resources that it needs, but also to give it the capacity and jealously guard the independence of that office so that it can get into these detailed audits on behalf of Parliament. The Auditor-General, if you look at the construct of the Constitution, is a consultant for Parliament. As a House, we have to look at this issue of capacitating the Office of the Auditor-General, both in terms of human resource and finances so that it can do its work properly.

I have just made a general remark on the IFMIS. Most people, perhaps, are not aware that this system has been with us for nearly 20 years. The intention of this system was to ensure prudent use of public funds in all sectors of the Government. That is why it is called 'integrated'. It is very disappointing that, despite the fact that large amounts of money have gone into this system, there is reason to believe that the IFMIS that we have in Kenya today is neither integrated nor can it manage anything. If you look at the scandals that happened at the NYS, you will find that it is very doubtful that a system which is supposed to track all financial dealings from the time of procurement to the time payment is made at the recipient's account could have failed so spectacularly to a point where people almost reverted to manual ways to detect the fraud.

As a House and as a Committee, we are going to call for an independent and detailed financial, technical and ICT audit of this IFMIS with a view to finding out whether Kenyans have got value for money and what the IFMIS system has done to improve financial management in the public sector. The concern is that this system has not been helpful in any way in enabling us to manage our financial systems accordingly.

During the course of these investigations, the other concern that arose is the tendency of the use of the court system to escape accountability. We had a meeting with what we called 'the Big Nine', which brought together the heads of the Executive, Parliament, Judiciary, the Director of Public Prosecutions (DPP), the Director of Criminal Investigation (DCI), the Controller of Budget and the Auditor-General. One of the sticking issues of the meeting was the habit by Accounting Officers and those involved in financial impropriety to use the court system to avoid accountability. This is a major weak link. We have to respect the principle of separation of powers, but to what end? Sometimes people who are clearly involved in gross mismanagement

of public resources go to the courts, get injunctions and the hands of other accountability institutions, Parliament being one of them, are tied and they cannot do much.

We plead with our court system, without in any way wanting to infringe on their independence, to understand the spectrum within which we work so that it does not become a fall-back point for people to try to escape accountability.

The other point is what Hon. Johanna Ngeno raised. If you look at this Report, you will realise that the moving theme in this Report is outright incompetence, outright apathy and outright hostility of Accounting Officers towards oversight Committees like PAC. The issue which keeps coming up is that sometimes we have to write to the Office of the Head of Public Service which, unfortunately, is not a constitutional office, to ask it to try and enforce appearance of Accounting Officers. There are lawyers in this House, and I stand to be guided. Can a non-constitutional office holder command authority over a constitutional officer holder? With my limited knowledge in law, I dare say I do not think it is possible. The Constitution is the supreme law. Quietly, some of these Accounting Officers tell us that we use the wrong channel to ask them to appear before the Committee because we are trying to make them answerable to people who are not constitutional office holders.

As a country, we need to look at what is required of the Secretary to the Cabinet. Of all the three arms of the Government, Parliament is the institution which is commanded to make sure that the Constitution is protected. That is a provision in our Constitution. One of our roles is to make sure that the Constitution is protected. I think it is wrong for this House to continue being quiet when a major constitutional office, like that of the Secretary to the Cabinet, still remains unoccupied more than one year later.

Yes, we rejected Madam Juma, which is our right to do so, but surely is there only one person who can hold that office? I am surprised that someone has not gone to court to question the communication of Cabinet decisions because the Constitution is very clear that it is only the Secretary to the Cabinet who can communicate Cabinet decisions. So, who then communicates Cabinet decisions? Who do the Principal Secretaries (PS) look up to as their boss? I doubt, with all due respect to the office held by Mr. Kinyua, that it would be right to expect senior constitutional office holders to answer to a non-constitutional office holder.

The other point that has come up is a standard practice the world over. Before this House is a Report of a benchmarking trip we went to China. People are accountable in China because if a ministry, department or state agency cannot prove that they have the capacity to absorb the allocations they have been given in a particular year that is taken into account in subsequent allocations.

We engaged the CS for National Treasury two days ago and we asked ourselves this question: If a Ministry has perennially been proving that its absorption capacity is only 70 per cent of what it is allocated, why can we not take that into account as being one of the key cogs in the budget-making process of this country? That would be important information in determining allocations for subsequent years. So, this House needs to engage the CS for National Treasury and ask this pertinent question: Why does the Treasury continue to fund ministries, departments and agencies which routinely, perennially, and sometimes with impunity, continue to flout public expenditure rules and regulations? This is because they are there. The culprit ministries are all over the place. This is important.

Hon. Temporary Deputy Speaker, I am a Kenyan and I believe in this country. I also love it. It is good for this House to appreciate those civil servants who go out of their way using very limited resources to make a difference in this country. As a Kenyan, I want it to go on record

that when the PAC visited Embu Prison, we found a Kenyan there; Senior Superintendent of Prisons, Mr. Charles Mutembei Gerrard. This is one man who has gone out of his way to use human waste, which we thought would be a nuisance, to generate biogas which has reduced the cost of wood fuel that is used at that station by nearly 30 per cent.

I wish the Leader of the Majority Party was here listening because I would request him, on behalf of the PAC, to intercede so that the President can commend this hardworking Kenyan. The fact that he has gone out of his way to reduce public expenditure at Embu Prison, shows that the man loves his job. We went out of our way as PAC and said that nothing stops us from engaging in responsible corporate social responsibility.

I want to report that as PAC, we are going to join the prisoners of Embu before the end of this year from our own private resources to celebrate with them, to recognize the good work and the commitment of the Officer-in-Charge, Senior Superintendent of Prisons, Charles Mutembei Gerrard, a true Kenyan who believes in this country. I hope one day someone will recognize that man and make him the Commissioner-General of Prisons Service in this country. He deserves it.

Hon. Temporary Deputy Speaker, as I conclude, this House will remain a talk show if the important recommendations that we keep on making year in, year out are not considered. It is not just this Committee.

My dear brother here sits in the PIC. I think their 20th Report is due for debate. They have made serious recommendations. In this Report, we have recommended that certain officers be barred from holding public office. We have also recommended that certain officers be surcharged in their personal capacity for misuse of public funds. We have also recommended, based on the evidence that was availed to us, that certain officers be subjected to detailed lifestyle audit. I am a public figure and I came from somewhere. If I am holding public office, why would I have a problem if somebody wants to know how suddenly, I the son of a peasant, appears to have more money than I have use for? It is only right that someone should come and question where that money is coming from. Fortunately for me, what I have is much less than the little that I made, therefore, I would be open to lifestyle audit anytime.

So, we would be failing, as a House, if we do not conclude not just this Report, but the reports of all the Committee of this House. This House will cease being a talking shop if we insist that the recommendations that we make are swiftly implemented so that those responsible for misuse of public funds are punished and people get to know that it is painful to misuse public funds.

Once again, I want to thank those Members who have contributed to this Motion and the Office of the Speaker. It is now my immense privilege to move and hope that this House will adopt this Report so that it can be implemented.

I thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Thank you, Chair of the PAC. We will not put the Question for obvious reasons.

(Putting of the Question deferred)

Let us move on to the next order.

ADOPTION OF PIC REPORT ON FINANCIAL MISMANAGEMENT
OF YOUTH ENTERPRISE DEVELOPMENT FUND

Hon. Keynan: Thank you, Hon. Temporary Deputy Speaker. I was just struggling to get my card and I am glad that you have enabled me to use the microphone.

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

THAT, this House adopts the Report of the Public Investments Committee on the Inquiry into Allegations of Fraud and Financial Mismanagement at the Youth Enterprise Development Fund, laid on the Table of the House on Wednesday, 4th May, 2016.

Hon. Temporary Deputy Speaker, the PIC is one of the Select Committees established pursuant to Standing Order No.206 and is responsible for the working of public investments. The mandate of the PIC includes:-

- (i) examining reports on accounts of public investments, that is, parastatals, State corporations and other quasi-government agencies;
- (ii) examine reports, if any, of the Auditor-General on public investments; and,
- (iii) examining, in the context of autonomy and efficiency, public investments and determining whether the affairs of the public investments are being managed in accordance with sound business principles and prudent commercial practice.

On the background of the Youth Enterprise Development Fund (YEDF) and the inquiry into allegations of fraud and financial mismanagement, I would like to highlight the main components of the YEDF.

The YEDF is a State corporation established through Legal Notice No.63 of 2007 as revised in 2012 by the Government of Kenya as an initiative to address the high unemployment rate among Kenyan youths. If you look at our population growth rate and our demography, you will realise that the youth occupy a critical--- The youth of the Republic of Kenya are not properly provided for with facilities or opportunities to enable them to grow as responsible citizens. This Fund was established with the following purpose in mind:-

- (i) to provide funding and business development services to the youth enterprise;
- (ii) to provide incentives to commercial banks through appropriate risks and mitigation instruments to enable them increase lending and financial services to youth enterprise;
- (iii) provide loans to existing microfinance institutions, registered Non-Governmental Organizations (NGOs) involved in microfinancing and Savings and Credit Cooperative Organization (SACCOs) for on lending to youth enterprise;
- (iv) attract and facilitate investments in micro, small and medium enterprise oriented commercial infrastructure such as business or industrial parks markets or business incubators that will benefit the youth enterprise;
- (v) support youth oriented micro, small and medium enterprises to develop linkages with large enterprises;
- (vi) facilitate market products and services of youth-owned enterprises involved in domestic and international markets; and,
- (vii) facilitate employment of youth in international labour markets.

The main beneficiaries are the youth aged between 18 and 30 who are in business or want to be entrepreneurs. Therefore, the Fund is meant to address inadequate technical skills, lack of financial capital, lack of labour market information and lack of labour demand.

The YEDF management appeared before the Committee in September, 2015 to adduce evidence on examination of accounts of several financial years dating from 2000 to 2014.

During this exercise, the Committee observed with concern that the Auditor-General has raised several audit queries relating to financial mismanagement and misappropriation of funds at the Fund. Hardly three months later, the Committee received information on financial mismanagement of approximately Kshs180 million from Call Deposit Account that the Fund held with Chase Bank.

Pursuant to Standing Order 206(c), the Committee commenced its inquiry into the allegations of fraud and financial mismanagement of approximately Kshs180 million at the YEDF. The Committee concluded inquiry between December, 2015 and April, 2016 after which it tabled the Report on 4th May, 2016. The Committee held several meetings. We interacted with about 19 witnesses. Before I go into the details of what we have observed and what we are going to recommend, one of the things that we have observed, and this is one thing that must be cured as a matter of urgency, if we have to develop as a nation, is to be sensitive to the needs of our youth.

The framers of this critical investment had a noble idea of addressing issues that are peculiar to our youth. Sadly, 10 years down the line, the YEDF is a shell that has lost direction and the purpose it was created for. It has become like any other omnibus Government enterprise. If you look at the history of this institution, from the time it was created to date, you will find that it has been riddled with controversies and challenges. The Government has been funding it and yet there is nothing tangible that has come out of this Fund other than claims of mismanagement and misappropriation of funds. In all these, what message are we sending to the youth because this programme was tailor-made to the youth aged between 18 and 35?

Once upon a time, I was in that age bracket, and many of us were in that age bracket. The scenario we have today in the management of this entity is something that, as a matter of urgency, the Government must be willing and prepared to address if we have to develop the talents and give opportunities to this critical sector of our population.

Sadly, this institution, for a number of years was being managed just like a private enterprise between two individuals; one was Acting Chief Executive Officer (CEO) and the other the Chairman. Both of them were least qualified to hold those two positions. You will note from the presentation that, indeed, these two individuals, one Catherine Namuye and the other Dominic Odhiambo had turned the YEDF into a personal enterprise that they managed in whichever way they felt prudent.

You will realise that Ms. Namuye in a letter dated 11th February, 2015, instructed Chase Bank to make payments to a company called "Quorum Limited." an amount of Kshs115,710,000 for alleged consultancy services that were never rendered. The Chairman of the Board without the knowledge of the other Board members decided to have the Acting CEO as the sole signatory. To have the Acting CEO as the only signatory to the Call Deposit Account was a prelude to this practice.

The Chairman, first of all, called for a board meeting but the real issues were not canvassed. Later on, he decided to selectively implement issues that were completely outside the Board minutes and made his favourite acting CEO as the sole signatory to a bank account held at Chase Bank. Where on earth does one person become the sole signatory to a Government-run agency? This was the first thing. Where was the Finance Manager? Where was the Company Secretary? Where were the other officials of this critical investment? By change of signatory, the Chairman whose misdeeds I will dwell on later on, gave Catherine Namuye unfettered access to that Call Deposit Account. This is what led to the fraudulent abuse of office by both the Acting CEO and the Chair.

We were told that the bank did not honour the first instruction since they contradicted the earlier instructions submitted to the bank by the Fund. Initially, the Board authorised Ms. Namuye and Judy Kimetto as signatories but because of that letter from the Chair, everything changed. When that happened, the Acting CEO immediately followed and wrote another letter to the bank and this is what she said:-

“Following the maturity of fixed deposit held with your bank, please take this as instructions to debit our account Kshs115,710,000 and make payments to our supplier Quorandum Limited for consultancy services rendered.”

Look at the chain. The Chairman makes the CEO the sole signatory, the CEO a few days later writes a letter to the bank where they have the Call Deposit Account instructing the bank to pay a fictitious company a big chunk of money. Few days later, the same Acting CEO again wrote another letter just to deplete the whole Call Deposit Account. This is what she said:-

“Following the maturity of fixed deposit held with your bank, please take this as instructions to debit our account with Kshs65,184,946 and make payments to our supplier Quorandum Limited. for consultancy services rendered.”

By these two letters, the entire Call Deposit Fixed Account of the YEDF was paid to one company called “Quorandum” which had not rendered any service to the YEDF.

Hon. Speaker, secondly, on 4th February, 2016, the now suspended Acting CEO, Catherine Namuye issued instructions to Chase Bank and transferred the entire YEDF account to roll over the funds in investment for another period of two months. Instead of recalling whatever was left, what remained from the Call Deposit Account amounting to Kshs400 million was rolled for over two months. Eventually, this was used again as operating expenses without the knowledge of the Board members and without the knowledge of the other staff that were directly in charge of that account.

Thirdly, vide letter dated 7th February, 2015, Mr. Bruce Odhiambo, the former Chairman instructed Chase Bank that in the absence of any other mandatory signatory---This is, again, the trend. Because of the actions of the Chairman, without the knowledge of the Board and other senior management, Catherine Namuye was given a free hand to manage this account and this is what led to the loss of hundreds of millions that legally belonged to the YEDF. The YEDF Board approved a change of Chase Bank limited, again, on 26th February, 2015 and did not make Catherine Namuye a sole signatory.

This is a story that if one has not followed, is not very easy to comprehend because this was a conspiracy between two people namely the Chair and his Acting CEO. The Chair and the Acting CEO called for a board meeting where they deliberated on issues but behind the Board and other management staff, instructions were issued contrary to what had been agreed in the board meeting. Later on, you will realise that because of the conspiracy between Ms. Namuye and Mr. Bruce Odhiambo, the YEDF lost a colossal amount of money that is almost difficult to recover today.

Hon. Temporary Deputy Speaker, on 11th February, 2015 and on 27th February, 2015, Ms. Catherine Namuye, the suspended CEO without the Board’s approval and without the involvement of the YEDF Finance Department instructed Chase Bank to pay Quorandum Limited. the entire amount. Shockingly, when we interacted with the Finance Manager and the Acting Finance Manager they were not in the picture at all on how this money was used. As a result of the actions of the suspended CEO, Ms. Catherine Namuye and Bruce Odhiambo, the Fund lost a whopping Kshs180,364,789 through this well-orchestrated and dubious non-existent consultancy service.

You can imagine that the YEDF is a critical institution. First of all, how did they end up getting surplus funds to deposit in that bank? What was even more shocking is that the National Treasury has over the years issued prudential guidelines to all Government-owned agencies to invest any surplus money in Government-owned banks. This particular transaction was contrary to the National Treasury Circular that required any Government investment or institution to seek the approval or guidance of the National Treasury on matters of how they will invest surplus money. This was done behind the back of the National Treasury officials. The only suspicious thing is that a Director from the National Treasury who normally sits on the Board, either by design or otherwise decided not to brief his Ministry on this suspicious transaction. Eventually, everybody was surprised when the entire money was paid to a company that never rendered any service; a company that we do not know whether it exists legally or a service another company had been contracted to render a few years earlier and the service was in place.

The suspended Acting CEO, Ms. Catherine Namuye occasioned the withdrawal of funds from the Fixed Deposit Account at Chase Bank to pay for goods and services while the Fund had an Operations Accounts held at Equity Bank and Kenya Commercial Bank. This is a sad state. Immediately we got involvement in this matter, we were told on the face that this issue was being investigated by the Directorate of Criminal Investigation (DCI) and the Ethics and Anti-Corruption Commission (EACC).

Later on, it is we, as the PIC who led the process. We were even telling them where the funds that were stolen from the YEDF were invested. Eventually, we realised that the police services - the DCI - was actually relying on our information to act. This is something we could not understand because they have the facilities and all the necessary investigating technology to do critical investigations, carry out forensic audit investigations and nab the culprits. This is one thing we found wanting; why critical agencies like the DCI and the EACC would wait until individuals who have participated in this conspiracy have made all the withdrawals from the account and say that they have a court order on an account that has no money. These are issues, as a Committee, we feel, like the Chair of PAC has alluded to, must be dealt with in accordance with the law.

For how long are we going to complain? We have agencies that we fund such as the Office of the Auditor-General, the EACC, the Inspectorate of State Corporations and the DCI. These agencies must always be around to protect taxpayers' money. In this particular case, this did not happen.

Sadly, as we report, we are only talking about how much has been lost and not how much has been recovered. By the time the DCI got a court order, the entire transaction was complete and over Kshs180 million was fraudulently moved out of the deposit account of the YEDF.

The alleged award of contract on ICT strategy and ERB system service to Quorum Limited. by the YEDF did not comply with the provisions of Article 227 of Constitution. There was no tender at all. The whole thing started on a cup of tea between the then Acting CEO and the alleged owner of Quorum Limited. Eventually, what was supposed to be a friendly business contact ended up being a fraudulent transaction that will be difficult to recover even if some of these individuals ended up in court or the Government decided to use other mechanisms in recovering these huge amounts of money today.

Further, Ms. Catherine Namuye did not present any evidence on her allegation that the Board was involved in the procurement process of the alleged consultancy services by Quorum Limited. Instead, there were many blame games. When we talked to the Acting CEO, she said that the Board approved the payments. The Chairman also said that the Board

approved the payments. But they were unable to present any evidence other than fictitious board minutes that the Committee, later on, was of the view that were not accurate. Later on, we made a conclusion that the whole thing was a conspiracy between the Chair and the Acting CEO.

Let me say again that the Acting CEO was acting once, then down the line it is alleged that she was confirmed. Three months down the line, we were again told that she was acting. These are some of the issues, as a Committee, we could not understand why the parent Ministry which has a representative and an alternate Board member did not act and allowed this critical organisation to have an Acting CEO for over two years and without a Company Secretary since the formation of the YEDF. These are issues we found wanting. Three other former CEO exited from the Fund in similar circumstances. Therefore, the question is, is the Ministry responsible for this critical public investment? Has the Ministry been part of the conspiracy? Or, was the Ministry unable to deal with the cartels in the Ministry? Were the officials of the Ministry actually beneficiaries of the proceeds from these fraudulent activities?

The responsibility of an Accounting Officer under the Constitution, under Article 68(1)(a) and (b) of the Public Finance Management (PFM) Act requires that resources ought to be utilised in a legal, authorised and effective way hence Ms. Namuye could not cry foul. When we pushed her, at one point she said that she had been victimised by the Board because the Board wanted certain business favours. Another time, she said that she had been pressurised by the Chair and another time she said that she had been pressurised by the Ministry officials. All these, we realised later on that she was trying to create excuses which unfortunately, in law, were not enough to remove her out of this fraudulent transaction.

Ms. Catherine Namuye the then Accounting Officer violated Section 7 to Section 72 of the PFM Act, 2012 by allowing Mr. Bruce Odhiambo unfettered use of Government facilities. You could see the conspiracy between the CEO and the Chair.

The Chairman was given all the privileges of an Accounting Officer or an executive chairman. This is a clear illustration that the then Chairman and Acting Chief Executive Officer (CEO) had issues that were of interest to them and eventually this led to the loss of hundreds of millions of shillings. Catherine Namuye, knowingly, engaged herself in improper conduct as defined in Section 74(4) of the Public Finance Management (PFM) Act, 2012 by making transactions that were unlawful and unauthorised. Therefore, as the CEO, she was obligated to comply with the provisions of the PFM Act, the Constitution and any other law as an Accounting Officer. This is not what she did.

There was already an Information and Communication Technology (ICT) strategy that was developed by the board. The sole responsibility rested with the Accounting Officer, Ms. Namuye, to report to the parent Ministry on the execution of some of these programmes. This did not happen. None of the alternate directors from the key Ministries had any information other than to say that this was an issue that was done behind their back.

We learned that there was a professional alternate director from the Treasury who had been representing the Principal Secretary (PS) of the National Treasury in this board for over seven years. This person had never reported some of these weird transactions either to the Ministry or to any other Government agency. The only conclusion was that the alternate director must have been part of the scam or he was silenced. Silencing can be done either through inducement or other means. The other conclusion would be that the fellow was so inept that he did not know some of his core functions.

The documents tabled by Quorum Limited and Chase Bank were forged. You could see different signatures, invoices and Local Purchase Orders (LPOs) all alluding to one particular

transaction. When we analysed these documents critically, we realised that these were all blatant attempts by Ms. Catherine Namuye and her business cohorts to change issues, so that she could project herself as a victim of a board conspiracy and this was not the case. Ms. Catherine Namuye was the architect of the whole fraudulent activity with her cohort, Mr. Mukuria Ngamau of Quorandum Limited.

Eventually, the Youth Enterprise Development Fund (YEDF) lost a whopping Kshs180 million plus. Once Mr. Mukuria Ngamau, who is the sole proprietor of Quorandum Limited got the cash, he immediately made several suspicious cash withdrawals from the Quorandum Limited accounts at Chase Bank and the Standard Chartered Bank. This money was transferred in the following manner: Immediately he got the money, Quorandum Limited bought a duplex apartment in Lavington Nairobi from Duchess Park Limited at a cost of Kshs48.5 million. These are the proceeds from this particular transaction. As a result of this, somebody got a complex apartment in some of these high cost areas in Lavington. He also made a payment of Kshs18 million to Great Lakes Limited. This is money he could not pay before, but when he got free money, he decided to clear some of his debts. He also paid Britcom International, a United Kingdom (UK) based company, a whopping Kshs9.24, purportedly for the purchase of an excavator.

Immediately he got the cash, he made a number of cash withdrawals. We could not ascertain the end receivers of these cash withdrawals. We ascertained that a complex apartment was bought. He cleared some of his outstanding debt. He also bought an excavator or grader and made payment to his spouse of about Kshs91,480. He also made payment for another undisclosed purpose. These were all through the bank transactions.

For the cash withdrawals, it was difficult to ascertain because millions of shillings were withdrawn at the counter. We could only speculate because he had a very important key player called Mr. Bruce Odhiambo and others whom we did not identify who were key beneficiaries. In fact, in one of the transactions as I later on learnt, Mr. Bruce Odhiambo received a huge chunk of the transaction through his bank account. When we asked him to explain, he could only say that he is not the Bruce Odhiambo who was mentioned. When the Bank appeared before the Committee, they said that this was the Bruce Odhiambo, the then Chair of the YEDF.

We thought that by now somebody would be in court or somebody should be in the process of recovering the assets so as to get back this money, but this has not happened. I hope somebody is waiting for the adoption of this Report. I hope the Ethics and Anti-Corruption Commission (EACC), the Criminal Investigation Department (CID) and the Inspectorate of State Corporations are all out there looking for this money because we fund them through the taxpayers' sweat. These individuals should pay back this money through whichever form.

Following the loss of this amount, the board of the Fund, in a special sitting held on 23rd October 2015, recommended the suspension of Ms. Catherine Namuye and the then Acting Finance Manager and appointed Mr. Emmanuel Odero. Sadly, Mr. Odero was not allowed to function properly because within a very short time, he was suspended simply because the beneficiaries of this youth transaction felt that he was likely to be an impediment in covering their weird financial transactions.

After we went through the entire process, we realised that the YEDF did not have any well-crafted policies to ward off such illegal transactions. It is like the board would just come up one morning, send of a particular officer through the chairman, create certain transactions the next day, take the money, then come back and engage at the Ministry.

You remember recently we have had challenges with the National Youth Service (NYS). We have two critical youth-related institutions in this country, namely, the NYS and the YEDF. In the last two years, these two institutions have been bedevilled with challenges related to financial misappropriation. Where will our youth resort to for financial, technological and other forms of assistances?

Another observation that we made in this investigation is that His Excellency the President, via Gazette Notice of 15th April 2016, in accordance with Section 7(3) of the State Corporations Act 446, revoked the appointment of Mr. Bruce Odhiambo. We want to appreciate the actions of His Excellency the President because immediately we were seized of this and realised that Mr. Bruce Odhiambo was an accomplice in this, we made an appeal to His Excellency the President.

For the first time, even before the conclusion of our Report, one Bruce Odhiambo was sacked as the Chairman of the YEDF and Ms. Catherine Namuye was sent on compulsory leave. This is supposed to be the way. You can imagine if the President would have waited for the tabling of this Report, debate and adoption of the Report, Bruce Odhiambo and his cohort, Catherine Namuye, would by now have fleeced the entire YEDF and it would be a shell.

Therefore, I want to accord our appreciation to His Excellency the President, through the Head of the Civil Service, for this timely action. I hope in future, other Government agencies emulate this whenever there is a suspicious issue, so that taxpayers' money is safeguarded.

In 2013, the Funds board recommended to the Principal Secretary (PS), State Department of Planning, Eng. Mangiti, who is also suspended, for the appointment of the substantive Chief Executive Officer. Why would an acting CEO manage a Government agency for over four years? This is suspicious. When somebody is acting, he is not independent. He cannot act judiciously because when you are acting, you fear that the acting privilege will either be removed or you will not be confirmed. The appointing authorities must be conscious of this issue. They should not allow acting CEOs to manage critical Government agencies because it is going to be a prelude to mismanagement and other financial malpractices.

A circular dated 18th July, 2007 by the former Head of Civil Service gave clear guidelines on how some of these organisations should be managed. That has completely been disregarded and we hope the current Head of Civil Service ensures that circulars which constitute some sources of law in Kenya are respected.

Before the launch of the Mwongozo Code of governance for State corporations, there was no single policy that provided a complete code. It has been flouted. It has not been implemented and adhered to. Therefore, it remains a paper in the shelves like many other papers that we have seen. Boards did not comply with it and I do not understand why a presidential circular is disregarded. A presidential directive constitutes one of the sources of law in our governance structure. We hope the Executive in charge of these particular organisations will reflect and take this into account, so that we are not just a country that generates beautiful papers and ideas and throws them to the shelves without proper adherence and implementation.

The Committee recommends the following:- That, the National Treasury constitutes a multi-Government agency team composed of responsible State departments and the Inspectorate of State Corporations to review corporate governance issues at the YEDF, performance of various projects since its inception and undertake a value for money audit of the Fund since inception. We realised that the framers or the founding fathers of this critical public investment had a noble idea, but it is not being implemented. We have serious underemployment and unemployment affecting our youth. We need to come up with policies that are tailor-made for the

benefit of our youth. Otherwise, we risk creating an uncertain future for our youth. This is one thing that no country will ever be prepared to engage in.

There is need to amend Sections 23, 24 and 44 of the Proceeds of Crime and Anti-Money Laundering Act of 2009 to give the Financial Reporting Centre (FRC) more powers to act on serious fraud related bank transactions. This institution just receives information. It just acts as a conveyor belt to other Government agencies. They should be allowed to act timelessly on any suspicious transactions and this is the only way to prevent fraudulent transactions.

The CS, Ministry of Public Service, Youth and Gender Affairs should expedite the appointment of a substantive CEO of the YEDF. I am told it still has an acting CEO. This should not continue.

There is need to amend Sections 23 and the 24 of the Proceeds of Crime and Anti-Money Laundering Act of 2009 to enable those who are in charge of tracking proceeds of crime especially in real estates to do so. After Mr. Mukuria got this free money, he immediately bought a luxurious apartment in Lavington. This organisation must be allowed to seize the properties. The Auditor-General should undertake a forensic audit of all the transactions of this Fund from inception so that the taxpayers can be guaranteed value for their money.

The Committee also recommends that the FRC and Assets Recovery Agency (ARA), the two key institutions established under the Proceeds of Crime and Anti-Money Laundering Act of 2005, should deal with matters of financial mismanagement timely and appropriately so that taxpayers get value for their money.

It was just two days after our recommendation that Chase Bank was placed under receivership. The Committee recommends that the Central Bank of Kenya (CBK) investigates Chase Bank for possible violation of the Banking Act Cap. 488, and ensure that it reports back to the National Assembly within two months on the adoption of this Report.

The Committee also recommends that the National Treasury enhances budgetary allocation to the Inspectorate of State Corporations. That institution is supposed to oversee all parastatals and other quasi-Government agencies, but it is not funded. It has been reduced to a toothless bulldog in discharging its functions because it does not have funds. The Budget of 363 quasi-Government agencies is almost twice the entire Budget of the Republic of Kenya. Without proper oversight, we are afraid to say that the taxpayers might be losing billions through these State-owned enterprises simply because they are not supervised. The National Treasury should allocate enough funds to support the Inspectorate of State Corporations.

The Chief of Staff and Head of Public Service should, as a matter of priority, ensure that the recommendation of the Presidential Taskforce on Parastatal Reforms on the merger of YEDF, Women Fund, Uwezo Fund, Micro and Small Enterprises Authority and the Kenya Industrial Estates (KIE) to create Biashara Kenya is implemented. This was a noble recommendation, but to date, it remains in the shelves. However relevant these institutions are to our economic well-being, they are being mismanaged by those who are in charge and currently, we have serious financial mismanagement, misappropriation of funds and lack of prudence in their day to day activities.

The Committee also recommends that there should be a minimum qualification for chairpersons and members appointed to serve in any board of any State enterprise. Mr. Bruce Odhiambo had no qualification whatsoever to be the chair of this critical organisation. This led to confusion because he did not have the educational or professional qualifications and what it takes to lead a critical youth oriented enterprise. By virtue of being appointed and being a close friend

of some senior people, he assumed that he could do anything as long as he benefits. This is what led to the near collapse of our once flourishing YEDF

The Committee made the following specific recommendations to various persons of interest:-

That, Ms. Catherine Namuye, a former Accounting Officer of the YED, should be investigated, charged and prosecuted for violating Section 27(2) of Public Procurement and Disposal Act (PPDA) of 2005. She failed to ensure that procurement procedures were followed and paying Quorandrum Limited for an ICT strategy that had been developed way back. Therefore, she should be charged.

Ms. Catherine Namuye should also be investigated, charged and prosecuted for violating the use of restricted tender. This did not arise. There was no tender at all.

Ms. Catherine Namuye should be investigated, charged and prosecuted for violating Section 72(1) of the Public Finance Management Act which requires that Accounting Officers of national Government entity be responsible for the management of the entities' assets and liabilities.

Again, Ms. Catherine Namuye failed to discharge her functions as an Accounting Officer in ensuring that the tax payers' money was protected. Therefore, she should also be investigated, charged and prosecuted for violating provisions of Section 68(1)(a)(b) of the PFM Act that stipulates that an Accounting Officer should ensure public resources are utilised in a legal, authorised and effective way to ensure that taxpayers get value for their money.

Ms. Catherine Namuye should be investigated, charged and prosecuted for violating Section 15 of the Public Officer Ethics Act that requires that an officer should take responsibility to take steps to ensure that the property that is entrusted under her authority is adequately protected and not misused.

Ms. Catherine Namuye should also be investigated, charged and prosecuted for various acts of omission and commission with the intention to defraud the Fund.

Ms. Catherine Namuye should also be investigated for her role in the cancellation of the YEDF anniversary event. Again, you realise that these people authorised for particular events to take place and after payment is made, they cancel the events and somebody gets payment for a service that has not been rendered. This is something that eventually made the YEDF to loss Kshs44,741,603 in one transaction for a service or function that was not rendered. They just organised an event and cancelled it in the last minute. The individuals were paid and eventually nobody talked about it. This was a common feature during the tenure of one Ms. Catherine Namuye and Mr. Bruce Odhiambo.

Ms. Catherine Namuye should be investigated, charged and prosecuted for forgery under the Penal Code of 1990 Cap. 63 of the Laws of Kenya. She tampered with the board minutes to suit her weird business transaction. Therefore, she should also be taken to court. If found culpable, she should be completely barred from holding a public office pursuant to the provisions of Article 75(3) as read with Article 80(c) of the Constitution that stipulates that a person who is dismissed for compromising any public or official interest in favour of personal interest shall be disqualified from holding any public office.

The other person of interest is Mr. Bruce Dominic Odhiambo. This person, I am sure you must have heard of him, is a joker. We even wonder how he ended up being the chair of the YEDF.

From our interaction with this particular person, he did not know that he was not the Accounting Officer and not an executive chairman. Whatever he did, to the best of his

recollection, he would say that “as a chairman, I was entitled to an executive car, as a chairman, I was entitled to this or that”. Literally, the guy did not know his core mandate was just to chair board meeting. Slowly, he turned himself to an Accounting Officer. This is what led to the serious financial mismanagement at the YEDF.

The Chairman, Mr. Bruce Odhiambo, should also be investigated, charged and prosecuted for violating the provisions of Section 15 of the Public Officer Ethics Act. He personally selected like-minded officers at the Enterprise. The board was not given all the enabling information during its meetings. Other officers were not allowed to even see some of those transactions. Eventually, the function of the YEDF was reduced to interaction between an acting CEO, Catherine Namuye, and this funny Chairman called Mr. Bruce Odhiambo. Mr. Bruce Odhiambo should also be charged with money laundering under Sections 3 and 4 of the Proceeds of Crime and Anti-Money Laundering Act of 2009.

The other person of interest is Mukuria Ngamau, director and shareholder of Quorum Limited. Mr. Mukuria Ngamau projected himself as an accomplished business person who was engaged or did clean business with a number of international organisations. One of the companies that he mentioned was Safaricom Kenya Limited. Shortly after our investigation, we realised that the only business that Mr. Mukuria Ngamau ever did was this fraudulent transaction with the YEDF. Therefore, he should be investigated, charged and prosecuted with conspiracy to defraud the public and be made to repay the entire amount.

Mr. Bruce Odhiambo should be investigated again, charged and prosecuted for the acquisition, possession or use of proceeds of crime. The lavish apartment that he acquired through the YEDF money should be repossessed because that belongs to the taxpayers.

Thirdly, Mr. Mukuria Ngamau should also be investigated, charged and prosecuted for violation of Section 27(4) of the Public Procurement and Asset Disposal Act of 2005. He purported to have participated in a tendering process which, after our investigation, we realised that he did not participate in.

Fourthly, we also recommend that Mr. Mukuria Ngamau be investigated, charged and prosecuted for giving false evidence under oath to the Committee contrary to Section 21 of the National Assembly Powers and Privileges Act. Even after he was subjected to an oath, Mr. Mukuria Ngamau continued to mislead the Committee. He was severally reminded that the information he was giving us was misleading, inaccurate and was meant to subvert the course of justice. Eventually, we realised whatever he gave lacked evidential value and eventually the Committee declared him a hostile witness.

Fifthly, Mr. Mukuria Ngamau should be investigated, charged and prosecuted for acquisition, possession and use of proceeds of crime. After our analysis, we realised that through his well-choreographed transactions, other than the huge transactions he has had with YEDF, all his accounts were dormant. Therefore, our conclusion is that this is something he designed in order to defraud the taxpayer this huge amount and eventually got the entire transaction with the connivance of Mr. Bruce Odhiambo and Ms. Catherine Namuye.

Sixthly, Mr. Mukuria Ngamau should be investigated, charged and prosecuted for several suspicious cash withdrawals and cheques encashment. The bank should have been suspicious of an account that was opened, remained dormant and out of the blues, there was a huge transaction. You again realise that the same account witnessed serious cash withdrawals, but the bank does not even raise the issue. That led us to a conclusion that there must have been a conspiracy. There must be other individuals that did not appear before the Committee that were

part of this conspiracy. As a result of this, a number of things came to our minds that the way State enterprises and corporations are managed does not add value to the taxpayers.

Hon. Ichung'wah: Hon. Chairman, you have three minutes left.

Hon. Keynan: I doubt.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Keynan, please, speak through the Speaker. Ignore those who are making comments.

Hon. Keynan: Hon. Temporary Deputy Speaker, my Vice-Chairman is not used to sitting for very long hours. Today, he will have to bear with us because he knows that responsibilities come with challenges.

As we interrogated this, we realised that State enterprises are not properly managed in accordance with our laws. At times, their managements are reduced to interactions between the chairman, the board and the Chief Executive Officer (CEO). One unprecedented thing that we noted over the last three years is that a number of State enterprises have acting CEOs. When you are made an acting CEO, and whoever is supposed to confirm you is not sure of your trend in decision making, you become a victim.

One of the things we are recommending to the Government is that no State enterprise, institution or corporation should have an acting Chief Executive Officer for more than a month. This issue has been abused. Let the Government appoint substantive CEOs because there are qualified Kenyans who can discharge the functions of Accounting Officers in State corporations.

As I conclude, the YEDF, as it is right now, is a shell. We expect the National Treasury and the parent Ministry to move with speed and give Parliament a report that will either validate or enable Parliament to know whether the continued existence and funding of this Fund is in the interest of the taxpayers or not. Where I come from, activities of this youth based enterprise Fund are not felt on the ground. I represent one of the most rural constituencies in the Republic of Kenya. It is high time this organisation, which has been reduced to a cash cow for CEOs and the chairs of the board, translated into a serious organisation that will address the welfare of the many unemployment youth in this country.

I take this opportunity to thank the Members of the Committee for their time and patience. I also thank the Speaker, the Clerk and our secretariat, headed by Ms. Susan Maritim, and her colleagues, for the good work they have done. Before I invite my able Vice-Chair to second, I just want to say one thing. This House is not being fair to the taxpayers. If you look at the Order Paper, you will see Reports. The 20th Report of the PIC was tabled before the House on 3rd December 2015. These are audit reports that ought to be prioritised. I wonder what has gone wrong with the 11th Parliament. This is the same thing my colleague, the PAC Chairman, was complaining about. As a Member of the House Business Committee (HBC), I appeal to you that audit reports are not ordinary reports. They should be prioritised and dealt with as a matter of urgency because whatever we are doing right now is inconsistent with our own traditions and practices. Reports of the PAC and the PIC are not ordinary reports. They are critical audit reports. They should have been implemented by now. Therefore, through you, I ask the Chair and the Members of the HBC to prioritise these reports.

With those remarks, I beg to move and call upon my able Vice-Chair, Hon. Ichung'wah, to second the Motion.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Ichung'wah, the Vice-Chair of PIC.

Hon. Ichung'wah: Thank you, Hon. Temporary Deputy Speaker. I take this opportunity to thank the Chair for that very lengthy move of this Motion for the adoption of this Report.

From the outset, I do not want to run the risk of repeating myself in relation to all that has been said by my very good Chair, but I want to pick from where he has ended his very good submission.

The Chair of the PAC had the same concerns on prioritisation of audit reports from both PIC and PAC. This Report was tabled before this House on 4th May, 2016. Today is 17th August. It is almost three-and-a-half months ago. The moment these reports are tabled before the House, they become public documents and anybody can access them from the Table Office or even through the Fourth Estate, who are always within the precincts of Parliament. What that means is that we run a risk. This particular Report is a product of a special investigation. If the HBC has intent to assist this country in the fight against corruption, its Members would have known what things need to be prioritised. For instance, you will see recommendations to the Assets Recovery Unit, which has been urged to move with speed and recover some of the assets that may have been purchased through proceeds of crime from the money that was stolen from YEDF. You can be sure that within the three-and-a-half months that this Report was tabled, since it became a public document, there are transactions that may have taken place to hide many of the assets that have been targeted for recovery.

Therefore, it is important that this House supports the fight against corruption not just by word of mouth, but also by action. When we talk about adoption of an audit report, we should move with speed so that by the time a Report is tabled, the HBC expedites its prioritisation so that it is adopted to allow other State agencies to do what they ought to do. That does not exonerate other public institutions charged with investigation of crimes in the fight against corruption like the Ethics and Anti-Corruption Commission (EACC), the Office of the Director of Public Prosecutions (DPP) and the Director of Criminal Investigation (DCI), from taking action.

As the Chair ably said, throughout our investigations into this matter, there were certain things that were clearly criminal in nature. Somebody needed to sit in Committee Room 7, arrest people and charge them. I remember one particular morning when the former Chairman of the YEDF, Mr. Bruce Odhiambo, blatantly admitted in front of television cameras and everybody present, that he made a unilateral decision to alter board minutes and forge a document, which he sent to the bank to change the YEDF account signatories in order to facilitate the theft of Kshs108 million. Having said that, admitted it under oath and in front of television cameras, I wondered what the DCI has been waiting for. I do not know whether Bruce Odhiambo, Catherine Namuye and the others have been called by the DCI to even record statements leave alone being charged in a court of law.

The Chairman commends the President for having acted with speed. I remember we pleaded with the President to relinquish these people of their positions and it took him less than two weeks to fire Mr. Bruce Odhiambo as the Chair of YEDF. If the President is showing by action that he is committed to the fight against corruption, what are institutions like the DCI and EACC waiting for? Why have they not arrested these people and charged them in court? Some of these things do not even need to come to this House for people to take action. There is clearly no intent and goodwill to investigate and make sure that people pay for their crimes. That is why you will find people like Bruce Odhiambo blatantly telling a Committee of this House that he made a unilateral decision. Why? Because he knows he will be taken nowhere.

We have done a very good job to give Members the trail of how much money moved from whose account to whose account. As the Chair said and as we have put it in the Report, most of this money was used to purchase properties including apartments in Lavington. Part of

the money was advanced to people as loans. I do not know whether Quorandum Limited was in the business of advancing loans to people. I remember the Chair putting it very well that there might have been conspiracy between officers of Chase Bank Limited, Quorandum Limited, Mr. Bruce Odhiambo and Ms. Catherine Namuye.

On Page 11 of this Report, there is an audit trail of Kshs8.9 million showing movement of money to an officer by the name Ezekiel Owuor, who was a very senior manager at Chase Bank at the time these transactions were made. It does not take a neurosurgeon to construe the picture that Mr. Ezekiel Owuor was probably receiving the Kshs8.9 million as his cut for facilitating the theft. This was not corruption. It was outright theft. It was daylight unarmed robbery. They went scot-free. Today, this officer has moved from Chase Bank to head one of the most efficient insurance companies in this country. He is working with Cooperative Insurance Company (CIC). There was another director who was a key player in the scam, but I have forgotten his name, but the names are in the Report. This gentleman moved from Chase Bank to the Kenya Commercial Bank (KCB) as a very senior officer. The KCB banks for Government institutions like YEDF.

That brings me to my second concern, which has been articulated by the Chair. There are the National Treasury regulations on how Government agencies, parastatals and Ministries should invest their surplus funds. There is a trail of transactions involving public funds in billions of shillings at Chase Bank, Imperial Bank, Dubai Bank and many other banks which have collapsed in this country. If you go through the accounts of Imperial Bank and Chase Bank, which have collapsed, you will find a string of Government parastatals and agencies which have put huge deposits there. Some of them are in billions of shillings. Two weeks ago, His Excellency the President challenged officers from the Ministry of Transport and Infrastructure, Ministry of Housing and Urban Development and the Kenya Ports Authority (KPA) during the Infrastructure Summit at State House, Nairobi. The KPA has deposited billions of shillings in some of the collapsed banks. Nobody is keen on investigating the circumstances under which these parastatals and other Government agencies have invested public funds which should have been utilised to create jobs for the youth, from whom we are stealing through YEDF.

The other question is the commitment of our investigative agencies in terms of the turnaround time for investigations and prosecution. I mentioned that from the time this Report was tabled, we had a lot of time to investigate. I hope the investigative agencies will move with speed. They do not have to wait for this House to adopt the Report because there is clear evidence of outright theft of public funds. They should move with speed to make sure that this case serves as a very good example. About 60 per cent of our youth, from whom we have stolen Kshs108 million, in a recent survey said that it is okay to be corrupt in this country. This is because the corrupt are rewarded with jobs and nobody is jailed.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Thank you, Hon. Ichung'wah.

(Question proposed)

Member for Mvita!

Hon. Nassir: Ahsante sana, Mhe. Naibu Spika wa Muda. Mimi ni mmoja wa Wabunge wanachama wa Kamati ya Uwekezaji wa Umma (PIC). Kamati hii ina Wabunge 27 na maafisa sita. Kazi yetu ni kukagua ripoti za ukaguzi wa hazina za umma kuona iwapo hazina hizo zimewekwa kwa njia ya hekima na jinsi inavyohitajika. Leo tuko hapa kuzungumzia hazina ya YEDF. Jukumu la hazina hiyo ni kutoa mikopo kwa vijana ili waweze kuanzisha biashara na

kutoa wasia kwa mabenki ili tuwasaidie vijana kwa kuwapatia mikopo waweze kuweka akiba zao pamoja na mambo ya kujenga masoko.

Ripoti hii inaonyesha wazi kwamba Kshs180,000,000 zimepotea kiholela. Kamati hii ilidadisi mashahidi 19 kwa muda unaohitajika. Ni ombi letu kwamba Serikali iwachukulie hatua mwafaka wahuusika wote kwenye sakata hii. Mwenyekiti na Mkurugenzi Mkuu wa YEDF waliketi chini wakaamua kuchukua Kshs400 milioni kutoka kwa YEDF na kuziweka katika Chase Bank ili pesa hizo ziweze kuzaa riba badala ya kutumika kuwasaidia vijana wetu. Fedha hizo ziliibiwa taratibu tarehe mbalimbali, zikiwemo tarehe 11 Februari 2015, ambapo Kshs115,710,000 ziliibiwa, na tarehe 27 Aprili 2015, kiasi cha Kshs65,84,946 kiliibiwa.

Jambo la kushangaza ni kwamba Mwenyekiti wa Bodi ya YEDF aliandika barua kwa benki na kuishauri kwamba mtu mmoja pekee ndiye aliyeruhusiwa kuweka sahihi kuhusu hizo Kshs400 milioni. Jambo hili ni la kihistoria nchini Kenya. Haijawahi kutokea mtu mmoja akawa ni mwenye kupatiwa ruhusa ya kuweka sahihi peke yake anapotoa fedha za umma kutoka benki. Hata Waziri katika Hazina ya Taifa hana ruhusa ya kufanya jambo kama hilo. Hali hiyo ilisababisha pesa hizo kutolewa kutoka benki hiyo na kuhamishwa kwenye shirika ambalo halikufanyiwa ukaguzi wa aina yoyote kubaini iwapo linafaa kutoa huduma za tehama.

Kwa ruhusa yako, Mhe. Naibu Spika wa Muda, nataka kuwafahamisha Wabunge wenzangu kwamba “tehama” kwa lugha ya Kiingereza ni “*Information and Communication Technology (ICT)*”. Baada ya hapo, shirika hilo likawa na hakikisho tayari na kuagiza shirika la YEDF kulipa shirika moja mamilioni ya pesa. Waziri mwenye kuhusika na shirika hili alikuja kwa Kamati na akatoa ushahidi kwamba katika mwaka wa 2013, shirika hili liliweza kuweka mkataba na likawa na uhusiano na kampuni fulani na wakalipwa Kshs5.5 milioni peke yake.

Kwa hivyo, licha ya kuwa Shirika la Hazina ya Vijana lilikuwa na mkataba na shirika lingine la kupeana huduma za Tehama, walienda kinyume na sheria bila kuchagua, kukagua na kupitia majadiliano yoyote yanayohitajika na kupeana Kshs180 milioni. La kushangaza ni kuwa Benki ya Chase ilikubaliana na barua kutoka kwa mwenyekiti. Wakamkubalia kutoa pesa na sahihi ya mtu moja na kufanya atakavyo. Hili ni Jambo la kusitikisha.

Nikimalizia, Ripoti hii inaonyesha wazi vile pesa zilitumika. Tunaisihi Serikali ifanye inavyohitajika na mojawapo ni kushika zile raslimali. Katika Ripoti hii, tumefanyia Serikali udadisi na uchunguzi.

Wabunge 27 and makarani sita, tulihakikisha kwamba njia ambayo zile fedha zilitumika imejulikana. Majumba ya kifari yalinunuliwa katika mji huu wa Nairobi. Pesa zilivyoenda kwa wenye kuhusika na hongo zilitolewa na kutumika. Ni ombi letu kwamba Wakenya wahakikishe Serikali imefanya jukumu lake na tatizo la nchi limeishia kuwa si wizi tena. Tatizo ni kuwa watu wanaiba jinsi ya wezi wa mabavu bila kujali jambo lolote. Mtu anahisi kuwa akiweka sahihi na kutoa mamilioni kama yale, ataishi na hakuna jambo ambalo litafanyika. Ikiwa Serikali ina nia ya kuendesha maswala ya vijana, basi ni lazima hatua iweze kuchukuliwa kwa kila jambazi aliyeiba pesa hizi.

Kwa niamba ya Mwenyeketi wetu aliye hapa, na mkuu wa makarani, dadangu Bi. Susan, ninatoa shukrani kwa wenzangu wote walioweza kuweka juhudi na kuhakikisha kuwa nyuso za Wakenya zimeinuliwa na ile dalili ya kuwa fedha za Wakenya zitarejeshwa.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Thank you, Hon. Member. I now give the Floor to Hon. Ngeno. What is the name of your constituency?

Hon. Kipyegon: Thank you, Hon. Temporary Deputy Speaker. I know the name of my constituency is completely challenging for many people. It is Emurua Dikirr.

Before I make my contribution to the Report by our Committee, I want to congratulate our brothers and sisters who are in Rio, especially at this very minute when Kipruto has managed to get our country a gold medal. Unfortunately, we came in third through our great steeple-chaser, Mr. Kemboi.

I also want to congratulate many other Kenyans who are in Olympics despite the challenges they are facing. I thank them for making us proud. People have been complaining that there are over 30 former Kenyans who are participating in the Olympics for other countries, especially Chebet, who denied us a gold medal over Bahrain.

The reason most of our athletes leave our country is poor management and the meagre amounts of money we give them when they win compared with the money they are given by other countries. We need to do something to retain our athletes and motivate them, so that whenever they participate, they do it as patriots.

I want to delve into the Report of PIC on the issue of the YEDF. We all know this Fund was created because of many other reasons apart from unemployment. The drafters of the Act which created the Fund wanted to ensure that the youth of this country are kept busy, feel they belong to this country and participate in economic activities.

Many youths in this country go through a lot of issues and one of them is unemployment. Most of the youth are unemployed. Despite completing university or college, they still cannot find employment. Secondly, many youths cannot access education because their families cannot afford to take them to university. These are the people the creation of this Fund was meant to take care of so that they can also participate in economic activities and have a means of living.

The creation of the YEDF, WEDF and *Uwezo* Fund was meant to equalise the sections of society which have never had opportunity to participate in economic activities in the country. The creation of the NYS by the retired President Daniel arap Moi was meant to give the youth an opportunity to participate in activities outside offices and give them leverage so that they could also do business and work, which they could not have done without going to university.

Unfortunately, these are the areas which have been very vulnerable to those who are hell-bent on making this country a corrupt State. Many people have been targeting these areas. I do not know if it is because the regulations are not so tight or it is because people who created these Funds knew that it would be so easy to take money from them. It is very absurd that even after knowing that this money was meant to elevate our youth who are idle in the villages and cities, we still follow that money and ensure that it never goes to the right people.

As a Member of PIC, I was appalled and perturbed by how people dip their hands into these coffers. You wonder how even a credible bank then like Chase Bank, would allow such activities and transactions to take place at their branches without adhering to regulations. Chief Executive Officers, who are supposed to be caretakers of these Funds, are the ones who prey on this money. You can also imagine the chair of the board being part of the looters despite the fact that he is a youth.

These are people who are supposed to have known that this money is meant to elevate their fellow youths. Instead, people divert the money for their own use. We have a culture in this country where people look for ways to make quick money. This culture, which must be stopped, was first coined by a group which used to call themselves "Youth for KANU 92". That was the beginning of thuggery and thievery. Although some of the people who coined that are old now, some of them are holding high offices in this country. That is the time when people knew that you can maneuver around and steal from the Government without being jailed. Although sometimes we want to thank the former President Daniel arap Moi for preventing the arrest and

jailing of some of these crooks who stole from our country, we must also state clearly that these are the people who created the culture of using the youth to steal from the Government. I do not know how this culture will come to an end, but I believe one day it will. It is us as Members of this House, Members of watchdog Committees like PIC and the nation who should stop this culture. We are hoping that when this matter is forwarded to the EACC, they will act on it, so that we can prevent such unfortunate incidences from happening.

I read on social media that the EACC Chief is to appear before the CID and the Director of CID is also to appear before the EACC. Both of them have allegations of corruption. You then wonder what is happening. The hunter is becoming the hunted and vice versa. These people can agree and settle the matter out of that arrangement. Kenya has become so corrupt and yet we still let them remain in office. We are waiting to investigate them. Now who is going to investigate who? Today, if somebody is to be investigated by the EACC, which is also corrupt in itself, what will happen?

The EACC participated in the questionable activities of the NYS. They have a corruption case and yet we expect them to investigate other institutions. We need to turn this country around. I do not like the way this House behaves. This is a person we approved the other day yet most of us knew about it. We used the tyranny of numbers and passed his name in this House. Now look at the mess he has put us in EACC. We now have an issue against the YEDF. To whom are we going to forward the matter? Is it the EACC, the DCI or the DPP? This country is on its knees. We only need God to intervene.

We went through many things and we only hope that the people who are supposed to act on the issues will do so.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Thank you, Hon. Member. I now give the Floor to Hon. Jakoyo Midiwo.

Hon. Midiwo: Thank you, Hon. Temporary Deputy Speaker. I am not sure if there is anything left to say after the Member for Emurua Dikirr. Sometimes you wonder whether he is in Opposition or in the Government or in KANU. He is a logical man. I have been listening from the time the Chairman of the PIC started to move this Report and it is the most depressing thing to listen to. I think the centre has caved in. I do not think there is anything left of our country. A few months ago, I tried to constitute a Select Committee to investigate Chase Bank, Imperial Bank and Dubai Bank.

I saw the connivance to have the issue sent to the Departmental Committee on Finance, Planning and Trade and immediately, Chase Bank was taken over by KCB. I do not know under which laws this Chase Bank was revived. This same Chase Bank, which is in this corruption, is the one that I suspect knows something about Eurobond. The day Bruce Odhiambo appeared before PIC and admitted that he single-handedly stole public funds, I said in the media that if he is not arrested, it means there is negative will to fight corruption. Indeed, there is in this country. How can a public servant who has no qualifications, admit before Parliament and walks away free the way Bruce Odhiambo did?

I am told by none other than Semalang'o, the former chair of this Fund, that he refused to give in to these suggestions of corruption in the YEDF. That is why the President brought his high school friend. The only qualification Bruce Odhiambo has is that he is personally known to the President. How low can we sink? Just because somebody is known to the President is put to manage a budget that requires policy and thinking. Youth money is no good to the youth without proper youth policy.

Therefore, you cannot put a semi-illiterate man from the streets to oversee that Fund. This person and that Namuye need to be in prison. They do not even need sentencing. I am not in agreement with the recommendation that they be investigated. What is there to investigate? Jail them. The Jubilee Government's manifesto looked good. I remember one day I was sitting in my House in Gem and I looked at the youth propositions by the Uhuruto campaign and I thought they were making sense. What have they done to the youth? They have instead presided over the theft of the trust of the youth. You cannot rape the trust of the youth and let us not talk about it. That is what the Government has done.

The issue of NYS is not different. It is all about job creation. I asked on this Floor after they had put up such a rosy manifesto, that the first thing you do as somebody who is willing to run a Government is to do an employment policy so that it fits in. Public funds and employment go together. The moment I saw that was never done, I knew we were heading to the ditch or the gallows.

In this country, if it is not Eurobond, it is the Standard Gauge Railway (SGR) or the NYS. Where will we stop? I knew the day I saw the President and his deputy launch the Naivasha wing of the SGR on a Sunday that something was suspect. Now it turns out it was decided. Without naming names that I cannot prove, I know there are middle level officers in the Government who are benefiting from that.

The President comes from Thika where nearly all our industries are. I would have never objected if he told us that that wing of the SGR was going to Thika to bring goods to Nairobi and to the airport. What is in Naivasha? Flowers? So, the SGR does not go to the airport and it does not go to the flower farms. It beats logic. It is the reason somebody went and closed the inland port in Kisumu, so that one is created in Naivasha.

You cannot impoverish my people and expect me to keep quiet about it. You cannot have a bad policy and expect us to keep quiet about it. These are the issues we ask the President that, "please, whatever you want to do, let us not eat the calf and the cow together". That is what is happening in this country.

This is so depressing. This morning, I was talking about betting and gaming as an uncontrolled industry on *Citizen Television*. It is so big. What is so disappointing about it is that there are people in the Government who are involved. It is not right to let our people suffer while the Government watches. If you look at how much money is being exported in the so called betting and gaming, it beats logic why there is so much appetite for public funds. It used to be 10 per cent and things were okay. It is 10 per cent in many places. They say that corruption is everywhere, but why are we not leaving even 1 per cent? We are not doing 99 per cent. It is just 100 per cent. It is just unthinkable.

This animal called corruption has reached levels where we probably need to admit that we are all so corrupt that it is necessary to legalise corruption. What will our youth expect of us if anything that was promised in a manifesto was turned upside down to benefit a few? This was supposed to be the flagship of the Government. Tomorrow, without consulting Parliament, there is some deal being signed by De La Rue, namely, theft of public funds. We shall take that to court. The De La Rue thing, if it is not brought here so that we can know the shadowy figures behind it, we shall take it to court. It is not fair to our people.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): I now give the Floor to the Member for Baringo, Hon. Kiptui and you only have one minute.

Hon. (Ms.) Kiptui: Thank you, Hon. Temporary Deputy Speaker. Even with a minute, I will say what I feel. Looking at this document and having heard the Mover and read the Report,

as a mother, my heart bleeds for the youth of this country because when we go home, they always confront us with requests for employment or on ways of earning a living. It is so sad that fellow Kenyans sit and come up with ways and means of bleeding the YEDF to enrich themselves. I wonder whether they have a conscience. For them to sit and write letters saying that money in an account can be withdrawn by one person, it is unheard of.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Member, you have another nine minutes when this Order comes back on the Order Paper. You will be the first one. Hon. Members I want to remind you that tomorrow we have a sitting in the morning.

ADJOURNMENT

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Members, the time being 6.30 p.m., this House stands adjourned until tomorrow, Thursday 18th August 2016 at 9.30 a.m.

The House rose at 6.30 p.m.