

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 12th March, 2014

The House met at 2.30 p.m.

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

PRAYERS

PAPER LAID

Hon. (Dr.) Ottichilo: Thank you, hon. Speaker. I beg to lay the following Paper on the Table of the House today Wednesday, 12th March, 2014.

Report of the Joint Committee on Energy, Communication and Information and Education, Research and Technology on the status of the San Marco Space Application Centre in Malindi

Thank you.

NOTICES OF MOTIONS

ADOPTION OF REPORT ON STATUS OF SAN MARCO SPACE APPLICATION CENTRE

Hon. (Dr.) Ottichilo: Hon. Speaker, I beg to give notice of the following Motion:-

THAT, this House adopts the Report of the Joint Committee on Energy, Communication and Information and Education, Research and Technology on the status of the San Marco Space Application Centre in Malindi laid on the Table of the House today Wednesday, 12th March, 2014, in the afternoon Sitting.

Hon. Speaker: Well, is it also the understanding, hon. Ottichilo, that when debate on this Report commences, one of the Chairs of that Committee who is still in the House, hon. Eng. James Rege, will lead debate in this matter. Is that correct?

Hon. (Dr.) Ottichilo: Yes, hon. Speaker.

Hon. Speaker: Very well. Hon. Eng. James Rege should prepare because you were the co-chair in that joint investigation.

Hon. (Eng.) Rege: Most obliged, hon. Speaker.

POWER SUPPLY SUBSIDY TO COMMUNITY WATER PROJECTS

Hon. Macharia: Thank you, hon. Speaker. I beg to give notice of the following Motion:-

THAT, aware that the ever increasing cost of power remains a burden to many Kenyans who find themselves struggling to pay or have their power disconnected; noting that numerous community-driven water projects, especially water boreholes have stalled due to the high cost of electricity, further aware that this challenge has the potential to greatly impact livelihoods given that water is a necessity for life, this House resolves that the Government subsidizes power supply for community water projects to enable Kenyans without access to tap water benefit from this crucial commodity.

Thank you, hon. Speaker.

ESTABLISHMENT OF HIGH COURT IN EVERY COUNTY

Hon. Wakhungu: Hon. Speaker, I beg to give notice of the following Motion:-

THAT, aware that devolution was meant to devolve governance and public service across the country, including access to court services; further aware that courts are a crucial part of a functioning governance system without which the administration of justice cannot happen effectively and efficiently, deeply concerned that most counties across the country lack a division of the High Court forcing litigants to travel long distances thus occasioning delays in hearing and additional costs while pursuing justice; further aware that the Constitution of Kenya, 2010 under Article 22 on enforcement of Bill of Rights, Article 50 on fair hearing and Article 6(3) on reasonable access to public services in all the parts of the Republic cannot be fully realized if the courts remain out of reach for a majority of the citizens, this House resolves that a division of the High Court be set up in every county in order to ease access to justice.

Thank you, hon. Speaker.

Hon. Speaker: Did you say a division of the High Court? That is because if you seek a division of the High Court to be set up in every county and the High Court has many divisions, you may appear narrow. Which particular division do you want? Is it Family Division or the division that deals with constitutional matters? Which division do you want? Perhaps, when debate comes, you may be advised by your colleagues that it could be a High Court to be set up in every county. Therefore, when moving, you can do so in an amended form.

Hon. (Ms.) Odhiambo-Mabona: On a point of order, hon. Speaker.

Hon. Speaker: Hon. Millie Odhiambo, there is nothing that is out of order, not unless you want to give him some information.

Hon. (Ms.) Odhiambo-Mabona: Yes, hon. Speaker. Perhaps I could put it as a point of information.

In the Tenth Parliament, we passed a law which provides that every county must have a High Court. I moved that amendment on the Floor of this House. So, I would urge our leader to work with the Budget Office, so that the provision can be provided for in the

Budget. That is something which is already in existence by law. So, we cannot urge anybody to do what already exists in law.

Hon. Speaker: Hon. Millie Odhiambo, as a trained lawyer also, you ought to have told him that in the Tenth Parliament, you passed a law known as “x, y and z”, which provided for the establishment of a High Court in every county. It looks like your information is also not complete. You need to give him the actual information, so that he does not spend any more time urging the House to resolve on the same. Perhaps, you need to tell him what law that one is. Was it provided for in the process of passing the Judicial Service Act or which particular one is it?

Hon. (Ms.) Odhiambo-Mabona: Thank you, hon. Speaker. It is actually provided for in the Judicial Service Act. I remember very well because I was sitting with hon. Rachel Shebesh. The late Senator Mutula Kilonzo was sitting on the other side. I remember because the Speaker was saying that Rachael and I were conniving to give him amendments. One of the amendments that we moved provided for a High Court in every county. I am the one who moved the amendment and so, I know.

Hon. Speaker: In the fullness of time, hon. Wamalwa should be allowed to consult the provisions of the Judicial Service Act.

Next Order!

REQUESTS FOR STATEMENTS

Hon. Speaker: Yes, hon. Chris Wamalwa!

OWNERSHIP STATUS OF KENYA SEED COMPANY

Hon. Wakhungu: Hon. Speaker, pursuant to Standing Order No.44(2)(c), I would like to request for a Statement from the Chairperson of the Departmental Committee on Agriculture, Livestock and Co-operatives regarding the ownership of the Kenya Seed Company. The Chairperson should inquire into and report on the following:-

(i) the ownership of Kenya Seed Company and clarify whether it is a parastatal or a private company;

(ii) the percentage of shareholding by the Government or the respective private individuals; and

(iii) the criteria used in the recent appointment of the Board of Directors to the company.

Thank you, hon. Speaker.

Hon. Speaker: Yes, Chairperson of Committee on Agriculture, Livestock and Co-operatives.

Hon. Nooru: Hon. Speaker, we have some information about the Kenya Seed Company but we need to be given two weeks so that we can provide a comprehensive answer.

Hon. Speaker: Yes, hon. Wamalwa!

Hon. Wakhungu: Hon. Speaker, hon. Nooru is a very good friend of mine. I have no problem waiting for two weeks, but I remember that about a month ago, I raised an issue about fertilizers and lime. He promised to bring a Statement after two weeks but

six weeks have since lapsed and I have not gotten any report. So, I hope that this one is not going to be like the fertilizer issue. So, I will give him two weeks.

Hon. Speaker: Hon. Members, this is the kind of request in respect of which I do not expect hon. Nooru to call a meeting of his Committee to deliberate. He just has to pass on this information to the Principal Secretary. The information is just on the ownership of Kenya Seed Company. I do not expect the Committee to debate such information. Those hon. Members who may be aware of the goings on in the company, especially those who sat in the previous Public Investments Committee (PIC), will readily get the information.

Therefore, I do not see the Committee sitting to discuss the Government's shareholding in the company. There is nothing for the Committee to discuss because the question is just on information. Even on the issue of the criteria that has been used to appoint the Board of Directors, there is nothing that the Committee can sit down to discuss. It is just a matter of accessing information from the relevant Ministry.

Even if you said that you will provide the information in a week's time, it would be okay. However, since hon. Wamalwa is comfortable with the weeks, make sure that you bring the information then. You have no reason for camping in the Office of the Cabinet Secretary. Just tell him that the information is required in Parliament and he should give it to you.

Hon. Members, we must also utilise our time prudently. A busy Committee like that on Agriculture, Livestock and Co-operatives should not sit to deliberate on a matter like this one. Just get the information, hon. Nooru, and come and read it out here.

Next Statement request is by hon. ole Ntutu of Narok West!

Hon. ole Ntutu: Hon. Speaker, before I request for my Statement, I would like to take this opportunity to welcome students from Ololunga Boys High School, who are seated in the Gallery. They have travelled all the way from Narok County to be with us this afternoon. The students are members of the school's debating club.

VIOLATION OF LABOUR LAWS BY INVESTORS WITHIN MAASAI MARA

Hon. Speaker, pursuant to Standing Order No.44(2)(c), I would like to request for a Statement from the Chairperson of the Departmental Committee on Labour and Social Welfare regarding the non-compliance with labour laws by hotels, restaurants, camps and lodge owners within and outside Maasai Mara National Game Reserve. Maasai Mara is one of the Seven Wonders of the World. Investors operating within the game reserve are collecting colossal revenue largely derived from the tourism industry. However, the management of the investors operating in the game reserve has been engaging employees on contract basis for more than the period stipulated in the labour laws. The affected employees are vulnerable to arbitrary dismissal from service by their employers. This has affected their morale and security in terms of employment.

Hon. Temporary Deputy Speaker, the Chairperson should inquire into and report on the following:-

(i) why the management of the said establishments does not comply with the legal provisions of the law regarding recruitment of employees;

(ii) measures taken against the management of those establishments for violation of the labour laws;

(iii) when all the employees who have served the required contractual period will be employed on permanent and pensionable terms; and

(iv) whether the Committee could consider visiting the said establishments in the Maasai Mara Game Reserve on a fact-finding mission.

Hon. Speaker: Hon. ole Ntutu, you have just said, generally, all the hotels, restaurants, camps and lodges inside and outside Maasai Mara National Game Reserve are in violation of the labour laws. Your last request is that the Committee visits all those restaurants, hotels, lodges and camps. If the Committee were to do that, its members will cease being Members of this House. They will be performing the work of the Ministry concerned. You have not indicated how many those establishments are. I do not know how long they will take if they were to visit all the lodges. Obviously, they will enjoy themselves. The Maasai Mara Game Reserve is a fantastic place. So, unless you want to have the Members enjoy the facilities available, your last request may be a very tall order for the Committee.

Let us hear hon. David Were, who is the Chairperson of the Committee. I am sure he welcomes the opportunity to travel.

Hon. Were: Hon. Speaker, you have actually said exactly what I was going to say. I would request for, at least, one month, considering that the camps and the lodges are in hundreds. It will take us time to look at the issues at hand and, maybe, just sample a few. It will not be possible for us to visit all the lodges and camps in that area, but we might have to look at two or three. Some of them belong to the same company.

(Loud consultations)

Hon. Speaker: Order! Order, hon. Members! Consult in low tones.

Hon. Were: Hon. Speaker, I believe that a month would be enough for us to carry out investigation, so that we can bring a Statement. Should we require more time, we can still come back to the House and request for more time.

Hon. Speaker: What is your reaction, hon. ole Ntutu?

Hon. ole Ntutu: Hon. Speaker, I was just thinking that, maybe, the Committee can sample a few of the establishments to see for themselves the kind of injustice that is happening to thousands of workers in the Maasai Mara. You will be surprised by the report that they will come up with. A month is reasonable. I will bear with the Committee.

Hon. Speaker: Hon. ole Ntutu, kindly, helps them to identify the camps and lodges to sample, so that they do not drain the budget of Parliament. If they desire to stay there for longer periods unnecessarily, I am sure that you would want to welcome hon. David Were and his team.

Next Statement request is by hon. (Dr.) Victor Kioko Munyaka!

MEASURES TO ENSURE FOREIGN UNIVERSITIES
OPERATE WITHIN UNIVERSITIES ACT

Hon. (Dr.) Munyaka: Hon. Speaker, pursuant to Standing Order No.44(2)(c), I hereby request for a Statement from the Chairperson of the Departmental Committee on Education, Research and Technology concerning the operations of foreign universities in this country. The Chairperson should inquire into and report on the following:-

- (i) the list of all universities operating in Kenya and whether they comply with the Kenyan universities regulations as specified in the Universities Act, 2012;
- (ii) whether the United State International University (USIU) is one of the foreign universities, and whether it has a chancellor as required by the Universities Act, 2012;
- (iii) the fate of the degrees awarded by universities that do not have chancellors;
- (iv) why USIU has not deemed fit to appoint a qualified Kenyan to hold the post of vice-chancellor; and
- (v) the measures that the Government is taking to ensure that all foreign universities comply with Kenyan laws.

Hon. Speaker: Yes, Committee Vice-Chairperson.

Hon. Melly: Hon. Speaker, I would like the hon. Member to give us two weeks so that we can deliberate on the matter and bring a report to the House.

Hon. Speaker: Yes, hon. Munyaka.

Hon. (Dr.) Munyaka: Hon. Speaker, I am agreeable to the request.

Hon. Speaker: Next Statement request is by hon. Roba Duba!

MEASURES TO MITIGATE INTER-TRIBAL CONFLICT IN MARSABIT COUNTY

Hon. Duba: Hon. Speaker, pursuant to Standing Order No.44(2)(c), I would like to request for a Statement from the Chairperson of the Departmental Committee on Administration and National Security concerning the unprecedented destruction of property and loss of human lives as a result of inter-tribal conflicts within Marsabit County.

Hon. Speaker, in the recent past, Marsabit County and, specifically, Moyale Constituency, has experienced inter-tribal conflicts which have resulted in loss of lives and incredible destruction of property. The conflict in the county appears to have had an international dimension since the county borders Ethiopia and is in close proximity to the chaotic Somalia. Elements of the *Al Shabaab* militant group and mercenaries from other neighbouring countries as well as the current structure of county government appear to have fuelled the conflict.

The Chairperson should inquire into and report on the following:-

- (i) plans by the national Government to ensure that a comprehensive assessment of the damage to property, loss of lives and displacement of people in the county is done and declare the situation a national disaster;
- (ii) consideration by the Government to establish a judicial commission of inquiry to investigate the underlying issues surrounding the conflict that has taken quite a different dimension from the traditional tribal conflict;
- (iii) whether the Government has extended sufficient humanitarian assistance to those affected by the conflict;

(iv) consideration by the Government to establish a special land committee to demarcate or adjudicate on traditional grazing lands between communities in the county, preferably using the 1963 boundaries, so as to deal with modern land grabbing menace;

(v) alternative conflict resolution mechanism that the Government intends to put in place, considering the fact that the traditional grazing land demarcation method of conflict resolution has broken down; and

(vi) both short-term and long-term provision of security for sandwiched villages like Moyale.

Thank you, hon. Speaker.

Hon. Speaker: Yes, hon. Kamama.

Hon. Abongotum: Hon. Speaker, you will recall that just before we proceeded on recess, this House approved the deployment of military officers to Marsabit and other counties like Samburu, West Pokot and Turkana. So, I just want to give an interim report.

Hon. Speaker: Hon. Kamama, is the interim report going to address the issues raised in this request, so that the hon. Member can be given a chance to seek further clarifications? If it will not fully address the issues that have been raised, it will not be helpful.

Hon. Abongotum: Hon. Speaker, I will give the report in two weeks' time but, due to the gravity of the issues in Marsabit and Moyale, I just want to tell the House and the nation what is obtaining at the moment and what the Government has done. There is a Committee that was formed by His Excellency the President about two months ago, under the chair of two eminent personalities; namely, hon. Kaparo and hon. Yusuf Haji.

I just want to report that substantial peace has been achieved at the moment. The situation is not as bad as it used to be. So, we will address the issues raised by the Member because the issues in Marsabit are very close to the hearts of Kenyans. We do not want to tolerate a situation where people are killing and maiming each other just because of some issues that have not been solved. So, I will issue a substantive response in two weeks' time.

Hon. Speaker: I would also suggest or, indeed, direct that hon. Duba be invited. This matter, on account of the various issues that he has raised, if you look at this Statement, you will see that it requires many issues and you may need to have the Cabinet Secretary. There is the issue of special land committees, the issue of humanitarian assistance and judicial commission of inquiry. This is the kind of Statement that requires that a Committee can really hold a proper sitting with a number of people from the Executive branch. Hon, Duba should be alerted so that he can also be present at such a sitting.

Hon. Duba: Much obliged hon. Speaker. I could not agree more. But just as a possible addition or modification to the able Chairman's position, I propose, just like you said, particularly on the issue of declaration of national disasters, things like this may not wait for two weeks. So, I suggest an interim kind of report on this matter within one week to address what is extremely urgent. Then the others can run the full length of two weeks, as the Speaker has rightly ruled.

Hon. Speaker: Are you suggesting an interim report? You see, I am looking at the issues that you have raised. In terms of declaring the situation a national disaster, I would imagine that it requires a lot of more consideration and consultation among the

various agencies of the Government. If you are agreeable to the Chair bringing the response in two weeks' time, there will be no need for us to get an interim report.

Hon. Duba: Hon. Speaker, I stand guided. It is quite appropriate. Your directions are in order.

SHORTAGE/RATIONING OF ELECTRICITY IN GARISSA TOWN

Hon. (Ms.) Gure: Hon. Speaker, pursuant to Standing Order No.44(2)(c), I wish to request for a Statement from the Chairperson of the Departmental Committee on Energy, Communication and Information regarding the power outages and the rationing of electricity in Garissa Town.

Electricity in Garissa Town is currently being provided through one engine, whose life span is 25 years. This engine has been used for over 30 years now. That has caused power shortage in the area in addition to electricity rationing. That has been ongoing since August, 2013. Despite all that, electricity cost remains high. There have been talks between the relevant authorities and KenGen to procure a new engine, but there has been no progress on the matter. Unfortunately, the engine is now out of operation leaving the whole town in darkness.

In the Statement, the Chairman should inquire into and report on the following:-

- (a) reasons for KenGen using an engine beyond its life span leading to outages;
- (b) why the cost of electricity remains high despite the long periods of rationing in Garissa Town; and
- (c) the expected date of resumption of normal electricity provision and measures being put in place to resolve the on-going power outages and shortage in Garissa Town in the long-term.

There was a fire outbreak in Garissa where the plant was and the engine has been burnt down. However, after negotiations between the Garissa County Government and Kenya Power (KP), they decided to hire engines from independent bodies and refused to get them from the county. They are paying Kshs2 million for each engine, which the county government could have provided at Kshs1 million per engine or free to the people of Garissa County.

Hon. Speaker: Hon. Shukra, it appears like you have more information than the Committee. Why can you not just give us the information and forget about seeking the Statement. You have read your request.

(Laughter)

Hon. (Ms.) Gure: What I am requesting from the ---

Hon. Speaker: Hon. Shukra, just listen; the rules are that you are bound by your own content here. So, you have already stated what you want the Committee to give you, but you have gone on gratuitously to give them more information. Maybe, they should just invite you to give them these responses. It is like you know more than the Committee. But anyhow, the Chairman of the Committee! Hon. Eng. Rege, you want to say something?

Hon. (Eng.) Rege: Hon. Speaker, I sympathize with the people of Garissa for lack of steady power supply. Currently, the Committee, through my Chair, is discussing power shortage in the whole country. We have engaged KP and KenGen and if you could give us, at least, two weeks, we should get back to hon. Shukra and, hopefully, the issue will be solved.

Hon. Speaker: Two weeks. Hon. Shukra.

Hon. (Ms.) Gure: Hon. Speaker, I stand guided. Two weeks for people who are living in darkness and yet they are used to power, is not fair. We should get a shorter period. Two weeks is a long time.

Hon. Speaker: If they are in darkness, indeed, two weeks may be a very long time. The Leader of Majority Party, you have a point of order. The Leader of Majority Party is one of those who are in darkness.

Hon. A.B. Duale: Hon. Speaker, I have just come back from my constituency.

Hon. (Ms.) Odhiambo- Mabona: At least, there has been no power!

Hon. A.B. Duale: Hon. Speaker, could my old friend, hon. Millie Odhiambo, whom we have a long history, give me some time to speak?

(Laughter)

Hon. Shukra comes from the county, but I am the Member for Garissa Township. If it is Garissa Township where I was on Monday, there is a Seven Newgen Set by a company called Aggreko and I am sure those who follow Twitter and those who are watching me know that there is power in Garissa. I kept quiet because the gracious lady represents the county. Maybe, there are some other places where there is no power. The Committee Chair can give that answer in seven days. He just needs to go to the Ministry now and get it.

(Laughter)

Hon. Speaker: Hon. Shukra, you have been granted the opportunity to raise the point of order.

Hon. (Ms.) Gure: On a point of order hon. Speaker. Let me tell you something because I respect---

(Laughter)

Hon. Speaker: Hon. Shukra! Hon. Shukra! You are on a point of order. There is light here and so, we can see you. So just proceed to raise your point of order. Do not----

Hon. (Ms.) Gure: In as much as I respect the Leader of Majority Party, I do not agree with whatever he has said. That is not true; I just came from Garissa Township where he represents yesterday.

(Laughter)

Hon. Speaker: Yes, hon. Rege. Hon. Shukra, you may have a point but your Statement is dated 6th March, 2013. The Leader of Majority Party came from Garissa Township on Monday and you came from the county and his constituency yesterday. So, you may have a point. Maybe after he left, darkness descended.

(Laughter)

So, you are absolutely right if you passed by there yesterday. Hon. Rege, are you able to assist hon. Shukra with an answer in seven days?

Hon. (Eng) Rege: The Committee will endeavor to solve the problem as soon as possible, whether there is power now or not. We will make sure that Garissa is lit. We only ask for two weeks and we will be able to solve the problem.

Thank you, hon. Speaker.

Hon. Speaker: Very well, two weeks let it be. Hon. Joseph Kiuna Kariambeu.

MEASURES TO PROTECT FORESTS IN THE COUNTRY

Hon. J.K. Ng'ang'a: Thank you, hon. Speaker. Pursuant to Standing Order No.44(2)(c), I beg to seek a Statement from the Chairperson of the Departmental Committee on Environment and Natural Resources on environment conservation in our forests. The Chairman should inquire into and report on the following:-

(i) the number of acreage covered by forest in the Republic of Kenya and, more so, in Mau Forest; and

(ii) how well protected they are, especially against logging and charcoal burning.

Hon. Speaker: Hon. Kiuna, was the Statement you are requesting for approved on 28th February, 2013?

Hon. J.K. Ng'ang'a: Yes, Sir.

Hon. Speaker: Can you read the Statement which I approved? It has nothing about those issues you are raising, especially about charcoal burning. This one is about the measures the Government has put in place to ensure that:-

(i) Forests are not destroyed by loggers and charcoal burners;

(ii) The steps the Government has taken to ensure that the water catchment towers are protected;

(iii) Reasons why more than 30 homesteads in Tereti in Mauche Division were destroyed by the Government, without following the due process for eviction and timeline.

If you could just confine yourself to that so that the stories can easily come over the weekend.

Hon. J.K. Ng'ang'a: Thank you, hon. Speaker. It is only that I am using different words. But I will read it as it is written. That is because I like explaining things articulately. However, if you just want me to read it the way it is, I will do that.

What I was saying---

(Loud consultations)

Hon. Speaker: Order Members! Order, Members! Consult in low tones.

Hon. J.K. Ng'ang'a: Thank you, hon. Speaker. I will read as follows:-

(i) the measures the Government has put in place to ensure that forests are not destroyed by loggers and charcoal burners;

(ii) the steps the Government has taken to ensure that the water catchment towers are well protected; and

(iii) why more than 30 homesteads in Tereti, Mauche Division, were destroyed by the Government, without following the due process for the eviction and the timeline, and when the affected persons will be compensated.

Thank you, hon. Speaker.

Hon. Speaker: Chairperson, Departmental Committee on Environment and Natural Resource or the Vice-Chair. Who is the Vice-Chair of that Committee? Is it hon. Ottichilo or hon. Chachu Ganya? This is a problem now! Who is the Vice-Chair of that Committee? I am aware that the Chairperson is out of the country on official duties, but there must be a Vice-Chair. It is rumoured that hon. (Dr.) Ottichilo could be acting? That is the rumour I hear from the grapevine. Is that correct, hon. Ottichilo?

Hon. (Dr.) Ottichilo: Thank you, hon. Speaker. The Vice-Chair is hon. Kosgey, and he is not in the Chamber. I have taken the liberty to answer or make commitments on behalf of the Committee.

Hon. Speaker: How long?

Hon. (Dr.) Ottichilo: The question raised by hon. Joseph Kiuna is very pertinent and of importance. We need, as a Committee, to take a lot of time to do thorough research, so that we are able to give him a comprehensive report. That is because he is asking about the current status of forest conservation in the country. Therefore, it requires a lot of comprehensive work. I would want to propose that he gives us three weeks in which we can do a lot of consulting and also engage the relevant Ministry.

Hon. Speaker: Yes, hon. Kiuna.

Hon. J.K. Ng'ang'a: Thank you, hon. Speaker. I can agree with my friend hon. (Dr.) Ottichilo. However, I would like this House to know that those people are still languishing in the cold. They have not been told their fate. I do not mind three weeks because they have waited for more than one month. I would kindly request the Department Committee in-charge to do thorough and comprehensive work and make sure that justice is done to those fellow Kenyans.

Thank you, hon. Speaker.

Hon. Speaker: Obviously, I agree with hon. Ottichilo that the first part of your question requires a very comprehensive answer because it involves all the forests in the country. For that reason, you have tied your first question to the third issue, which makes it now difficult for them to respond immediately. So, they have to give a report on all the forests in the country. You have not tied them to a particular forest area. Now that you are agreeable to the three weeks, we will just go by them. Hon. Wanjiku Muhia.

SITUATION AT KISII UNIVERSITY

Hon. (Ms.) Muhia: Thank you, hon. Speaker, for giving me this opportunity. I appreciate your good Office for considering my request for a Statement as a matter of urgency.

Pursuant to Standing Order no.44 (2) (c), I wish to request for a Statement from the Chairperson of the Departmental Committee on Education, Research and Technology regarding the situation at Kisii University. Genuine concerns have been raised by students as regards how the institution is being run and managed. The students have, several times, tried to dialogue with the administration so as to have their concerns addressed, but their efforts have been turned down.

Therefore, the students resorted to holding a peaceful demonstration the day before yesterday and the administration is alleged to have procured the services of a local vigilante group called *Sungu Sungu* to disrupt the students' demonstrations. The alleged vigilante group of rowdy youths armed with *pangas* and *rungus* raided the ladies only hostels called Upper Hill and Vishmas. It is alleged that they raped and beat up female students.

It should be noted further that, as we are currently speaking, the students are still engaged in running battles with police and the aforementioned vigilante group. Thus, this matter should be treated with the urgency it rightly deserves.

In the Statement, the Chairperson should inquire into and report on the following:-

(i) alleged claims that the Kisii University administration is charging students Kshs10,000 attachment fees which is not applicable in other public universities;

(ii) alleged claims of service delivery in the institution, which happens to be a public university, being based on tribal affiliation;

(iii) the relationship between the public university and the *Sungu Sungu* vigilante group; which is alleged to have harassed students leaders; and

(iv) alleged claims of the said group raiding ladies hostels and ending up beating and raping female students.

Thank you, hon. Speaker.

Hon. Speaker, Kisii University is located in hon. Tong'i's constituency. I do not need to guide you but I request you kindly, if he can make an addition. Please consider that.

Thank you.

Hon. Speaker: You are requesting him to do what? What are you requesting? You have raised the issue. Let us hear from the Vice-Chair.

Hon. Julius Melly, can you respond?

Hon. Melly: Thank you, hon. Speaker. Owing to the urgency of the matter and because it is of national importance, the Committee shall take it to the concerned Ministry and actually report back to the House next week.

Hon. (Ms.) Muhia: Thank you hon. Speaker. Next week is okay, but let him be specific on the date. Maybe, Tuesday or Wednesday.

Hon. Melly: On Wednesday, hon. Speaker.

Hon. (Ms.) Muhia: Thank you, hon. Speaker. Wednesday is okay with me.

Hon. Speaker: Seven days from the date hereof.

Hon. (Ms.) Muhia: But the *Sungu Sungu* must keep off the students meanwhile.

Hon. Speaker: Whatever that may mean, I certainly appreciate that it is not English or Kiswahili. But you may have to explain in English language or Kiswahili what that represents.

Hon. Geni: On point of order, hon. Speaker. I remember yesterday I talked about *Sungu Sungu*. We said that nobody had gone to the ground to investigate and report that *Sungu Sungu* were involved in the riots. As much as my colleague---

(Laughter)

Hon. Speaker: If you are going to be out of order, do not tell us about the local village stuff. The Statement has been sought. Now you want to begin giving the response. Whether it is in your village or not, allow the Committee to come and inform the House. If you start giving the response, you are opening yourself to cross-examination by many hon. Members here. People would want to know whether you are the owner the of alleged *Sungu Sungu*---

(Laughter)

Do not be excited about the mention of that organization if, indeed, it is an organization.

Hon. Ken Okoth, what is your point of order?

Hon. Okoth: Thank you, hon. Speaker. I rise under Standing Order No.1 to seek your guidance or ruling about resolutions of the House. We are a House of rules, records and a House that conducts its business based on traditions and precedents. I want to get a ruling from the Chair either today or another day indicating the circumstances under which resolutions of this House can be overturned by the House itself, by other bodies, committees or agencies outside this House.

Hon. Speaker: What is it that you want to know and in relation to what now?

Hon. Okoth: Hon. Speaker, in relation to two specific matters affecting hon. Members of this House. The first one is that this House passed a resolution that Committee Members would serve in different committees. I was appointed to the Committee on Delegated Legislation and I have been removed from that Committee without any proper procedure. I was appointed to that Committee through a resolution of this House.

Hon. Speaker: Please, hon. Okoth, go and raise that matter with the leadership of your sponsoring party. The Speaker is not privy to that. Any Motion to that effect does not have to be brought to the Floor of this House. It may be an internal party matter, but just try to find out whether there is something you have done contrary, maybe, in the recent past, which could have occasioned the party to discipline you. Remember you belong to a political party. There are provisions which guide how you should be dealt with by your sponsoring party. Perhaps, that may have been applied, but I have not been notified.

When, indeed, I am notified, I will make the communication. But if, as you say, your name has been removed, there must be a reason. First all find out from the party.

Hon. Linturi: Thank you, hon. Speaker. I rise with a lot of humility to seek your indulgence and being aware that the rules of this House prohibit anticipatory debate. When I look at the next Order, which is the next Motion, I want to kindly ask you because there is no time for debate on this particular Motion, the Mover should just be called upon to reply.

Allow me to make this Statement that today is a very great day for this country. Indeed, the Kenya National Assembly, the Senate and the county assemblies are in ecstasy. The prince of impunity, arrogance and shame is demolished! The voice of megalomania is silenced. The soprano of the governors' choir has been terminated. Munya is out!

(Laughter)

Hon. Speaker: Hon. Linturi --- Hon. Members, honestly, let us not transact business which is not before the House.

Hon. Wakhungu: On a point of order, hon. Speaker. Thank you for the opportunity. I rise to seek your direction in line with Standing Order No.1 and this is a follow-up on the Departmental Committee of Education, Research and Technology.

As the Committee tries to look at the Kisii Campus unrest, could they also look at the problems we are having at the universities now, with the ongoing strike? That is because there is paralysis in public universities. If you could allow the Committee to further investigate on that matter, it would be fine.

Thank you, hon. Speaker.

Hon. Speaker: They do not have to seek permission. If committees want to investigate--- Why is it that hon. Members are not interrogated even when they are sitting in Committees? What do they investigate, inquire into and report, as provided in Standing Order No. 216? You do not require the resolution of the House if it is a matter do with the Departmental Committee on Education, Research and Technology.

Remember also in all fairness, our own Constitution, in the Bill of Rights, does guarantee the right to go on strike and the right to demonstrate. I am sure Members of the Eleventh Parliament are quite alive to the very violent demonstrations that happened sometimes in the last Session and everybody just said: "Let them exercise their freedom to do so." If it is a matter about people who want to go on strike out there, to picket or to go on a go-slow, the best that the House can do is to express sympathy and possible support and no more. That is because it is a constitutionally guaranteed right.

Hon. Kamama, what is your point of order?

Hon. Abongotum: Hon. Speaker, I just want to get clarification before I get to the point of order on what was raised by hon. Wanjiku Muia. Hon. Wanjiku Muia is talking to Mong'are. We have three militia groups operating in that region so that we do not get confused---

Hon. Speaker: No! Please, hon. Kamama. We do not want information on them.

Hon. Abongotum: Is it *Sungu Sungu*, *Chinkororo* and *Abachuma*?

Hon. Speaker: We do not want information on what you are calling *Sungu Sungu* and so on.

Hon. Abongotum: That is because the *Sungu Sungu* are even in Kisii.

Hon. Speaker: I do not want to know. Let the Chairman of the Departmental Committee on Education, Research and Technology report on how many groups - whatever their names – operate in Kisii, including the one that is exciting hon. Mong'are Geni.

An hon. Member: On a point of order, hon. Speaker.

Hon. Speaker: There is no point of order. Let us not engage in arguments for nothing. Leader of the Majority Party, take the Floor.

Hon. A.B. Duale: Hon. Speaker, the Statement made by the Chair of the Departmental Committee on Administration and National Security is a serious one. It should be expunged from the HANSARD. He said that he is aware of three serious militia groups in a county in Kenya. Unless he substantiates, that goes to the fabric of our national security.

Hon. Speaker, the Chair should either withdraw that Statement or he substantiates to this House at a later date. He says he is aware of three groups and he wants to find out which one of the three--- You cannot be the Chair of the Departmental Committee on Administration and National Security and you are here telling the country that you are aware in one of the 47 counties, there are three serious armed militia groups. Militia groups are only in Somalia, to my knowledge. Can he substantiate?

Hon. Speaker: Hon. Kamama, you have been challenged to substantiate. I am not able to tell how far this will go.

Hon. Abongotum: Hon. Speaker, I am very well schooled on matters of security and let me tell my good friend, the hon. Leader of Majority Party that I am well schooled in this area. I want to tell him that there is a Report in this House on militia groups that have been terrorising people. Actually, there is even a full Report and we know where those gangs or militias operate. One, we used to have *Taliban* and *Mungiki*. These were based actually in Nairobi and Central Province. There was *Jeshi la Mzee*. We used to have *Abachuma* and *Chinkororo* traces in Kisii. I want to say that *Sungu Sungu* normally operates from Kuria and not in Kisii. That is the knowledge that I have as the Chair.

Hon. Speaker, but I want to confirm that they have been neutralised and that is why I wanted to know whether *Sungu Sungu*, who used to operate from Kuria, are actually back in Kisii. In Kisii, we used to have *Abachuma* and *Chinkororo*. So, that is the clarification so that we do not get confused. There is a Report in this House. So, there is nothing strange.

Hon. Speaker: The hon. Kamama was challenged to substantiate and he has made his statement that there was a Report which was tabled before this House.

An hon. Member: On a point of information, hon. Speaker.

Hon. Speaker: Those of you who are experts in those groupings, please, do not say you are giving me information. Even if you finance them, please, do not. So many of you appear to be agitated and you want to say how much you know about which group. Surely, that is not the business we came to transact about who finances and who belongs to or who is a sympathiser to which one and who is a friend of which one. Let us transact the business before the House.

Next Order.

As we move to the next Order, I want to draw your attention to the existence of a Supplementary Order Paper. That is the one we are going to use.

BILL*Second Reading*THE NATIONAL FLAG, EMBLEMS AND
NAMES (AMENDMENT) BILL*(Hon. Keynan on 5.3.2014)**(Resumption of Debate interrupted on 12.3.2014)*

Hon. Speaker: The Question had already been put that the Mover be called upon to reply but he was not in the Chamber. I have received communication from hon. Adan Keynan in which he has requested that hon. Jimmy Nuru Ondieki Angwenyi replies on his behalf. Yes, hon. Nuru Ondieki Angwenyi.

(Applause)

Hon. Angwenyi: Thank you, hon. Speaker. I rise to reply but--- *(off record)*.

Hon. Speaker: You must be on the microphone.

Hon. Angwenyi: *Haiya.*

Hon. Speaker: Do not touch the gadget again.

Hon. Angwenyi: Thank you, hon. Speaker. These days, I am digital if you do not know.

(Laughter)

Hon. Speaker, I rise to reply to this Bill but before I give my formal reply, I want to ask my dear brother ole Metito to give some information for two minutes.

Hon. Speaker: Yes, hon. Katoo.

Hon. Katoo: Thank you, hon. Speaker and thank you hon. Angwenyi for donating two minutes to me. I support this Bill but I wanted to say that it was not even necessary. It has become necessary just because some people are moving around with impunity.

If you look at the County Governments Act, 2012, Clause 4(1) - and allow me to quote, it says:-

“Every county shall enact legislation prescribing the following county symbols-

- (i) the county flag;
- (ii) the county coat of arms;
- (iii) the county public seal.”

Hon. Speaker, Clause 4(2) says:-

“The County Executive shall develop the symbols of the county through a consultative process for approval by the County Assembly by legislation.”

It further says:-

“The county legislation enacted under subsection (1) shall provide for the use of the county symbols in the same manner as provided in the National Flag, Emblems and Names Act (Cap, 99)”, which we are trying to amend.

However, the most interesting, is Sub-clause (4) which says:-

“A county symbol shall not be the same as, or bear a likeness or similarity to a national symbol.”

Hon. Speaker, that tells you there should be a county flag that should not have a likeness or any similarity to the national flag. So, therefore, this Bill is quite in order.

My final comment is when we reach the Third Reading. It is my opinion that we should allow Cabinet Secretaries to fly national flags.

Hon. Members: Only if they are elected!

Hon. Katoo: It is fine. I am being informed that unless they are elected, that is when they can fly the flags.

I beg to support. Thank you, hon. Angwenyi.

Hon. Speaker: Hon. Angwenyi.

Hon. Angwenyi: Hon. Speaker, there is one thing that we must stress as a National Assembly; this country is a unitary State. This country is not a federal state. We might even want to seek from our Budget and Appropriations Committee to reserve some funds so that we can educate our governors. We send Members of the National Assembly to various counties to teach our governors that we do not have federal states. What we have are counties. It is just another name for county councils and so, they must understand that.

(Laughter)

Hon. Speaker, this country is a unitary State and if anybody wants to oppose that, they should tell us. The flying of flags has been stated by an Act of Parliament; an Act enacted by this Parliament. We cannot allow any system to go against the law. So, in this case, we are saying the various people who have been specified in the Bill are the ones who will fly the national flags. If you want to make any amendments, you can make them during the Third Reading.

With those few remarks, I beg to reply.

(Question put and agreed to)

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

MOTION

ADOPTION OF PAC REPORTS

(Hon. Ababu on 6.3.2014)

(Resumption of Debate interrupted on 6.3.2014)

Hon. Speaker: Hon. Members, the Chairperson, Public Accounts Committee (PAC), is moving for the adoption of the Report on the Government of Kenya accounts for the Financial Years 2008/2009 and 2009/2010. I think it is fair and prudent that we listen to what the Chairperson is going to tell us, especially granted that there is some national debate happening. There is some national debate happening in some other forum which I am sure, perhaps, could benefit from this Report by the Chairman of PAC. I, therefore, want to beseech hon. Members to – those who are able to – get copies of the Report and contribute. It is from here that people can input on some of the solutions being sought from outside of this plenary.

Hon. Ababu: Hon. Speaker, indeed, last Thursday, I had started moving that this House adopts the Report of PAC on the Government of Kenya accounts for the Financial Years 2008/2009 and 2009/2010 laid on the Table of the House on Wednesday, 13th November, 2013.

I already noted that this is a historic moment in the history of this House that we are moving two reports at the same time: Reports from two financial years at the same time. As I do that, let me just join you and thank you for emphasizing the importance of these Reports, the importance of this House to pay keen attention to these Reports and also for this House to support the work that PAC is doing to expedite---

Hon. Ng'ongo: Hon. Speaker, I did not really want to interrupt my Chair but you will appreciate that a PAC Report is a very important report for this House. But the microphone that my Chair is using is not audible enough. We cannot hear as much as we would want to hear his contributions.

Hon. Ababu: Hon. Speaker, I just switched microphones. I do not know whether that is better.

Hon. Members: No! Get another one!

Hon. Ababu: I could speak into both microphones! I am told that is better.

Hon. Speaker, I was joining and thanking you for emphasizing the importance of these Reports and also urging this House that it is critical to consider the importance of Article 203 of the Constitution in so far as the sharing of revenue between the national Government and the county governments is concerned. For the record, let me read to this House the words of Article 203(2) and (3) of the Constitution.

“(2) For every financial year, the equitable share of the revenue raised nationally that is allocated to county governments shall be not less than fifteen (15) per cent of all revenue collected by the national Government.

(3) The amount referred to in Clause (2) shall be calculated on the basis of the most recent audited accounts of revenue received and as approved by the National Assembly.”

It is, therefore, important for the House to note that, ultimately, the formula to be used to calculate how much revenue is shared and the exact factor of calculating how much goes to the counties is based on the audited accounts considered and approved by this House. So, the more recent we are in terms of audited accounts, the better it is for our counties in terms of the share of national revenue they receive. Allow me, therefore, to thank PAC that is doing everything possible to make sure that we are up to date in terms of accounts presented to this House. Allow me to appreciate Members of this Committee

and the efforts they are making to make sure that we live up to the spirit of Article 203 of the Constitution. They are:-

Hon. Cecily Mbarire, hon. Joseph Manje, hon. Jude Njomo, hon. Joel Onyancha, hon. Kareke Mbiuki, hon. Gonzi Rai, hon. Julius Melly, hon. Jackson K. Rop, hon. James Bett, hon. Fathia Mahbub, hon. Mathias Robi, hon. Stephen Manoti, hon. John Sakwa Bunyasi, hon. Arthur Odera, hon. Edick Omondi Anyanga, hon. Samuel Arama, hon. Junet Sheikh Nuh, hon. John Mbadi, hon. Kyengo Katatha Maweu, hon. Silvanice Onyango Osele, hon. Manson Nyamweya, hon. Alice Nyanchoka Chae, hon. Andrew Mwadime, hon. Abass Ahmed Ibrahim, hon. Geni Charles Mong'are, hon. Jessica Mbalu and, of course, yours truly, the Member for Budalang'i.

Hon. Speaker, the reports we are presenting right now are for the Financial Years 2008/2009 and 2009/2010. These Reports were prepared by the preceding Committee and allow me also, in the same spirit, to acknowledge the membership of the Committee that prepared these Reports. They are:-

Hon. (Dr.) Boni Khalwale, hon. (Dr.) Julius Kones, hon. Martha Karua, hon. Daniel Muoki, hon. Charles Onyancha, hon. Alex Mwiru, hon. Boaz Kaino, hon. Francis Chachu Ganya, hon. (Dr.) Nuh Nasir Abdi, hon. David Ngugi and hon. Edick Anyanga. Those were the Members of the Committee when these Reports were prepared.

This Motion was interrupted a week ago. I was at the point of mentioning Article 226 of the Constitution which stipulates that, if the holder of a public office, including a political office, directs or approves the use of public funds contrary to the law or instructions, that person is liable for any loss arising from that use and shall make good the loss, whether the person remains the holder of the office or not. That Constitutional provision was long overdue as in the past, accounting officers had committed financial malpractices with impunity and got away with them for lack of any elaborate legislation to hold them accountable. The Committee calls on accounting officers to take notice of this provision and act prudently to safeguard public funds from loss or face dire consequences. Indeed, the Public Finance Management Act is clear in terms of every accounting officer being personally responsible for their actions in the expenditure of public resources.

In pursuance of Article 226 (1) of the Constitution of the Republic of Kenya, Section 74 of the Public Finance Management Act of 2012 gives accounting officers powers to discipline errant officers under their jurisdiction. The same section of the Act also gives the appointing authority of accounting officers powers to discipline errant officers under Section 74(3) of the Act, which further empowers the appointing authority to revoke the appointment of errant accounting officers. In the past, the appointing authority had previously told the Public Accounts Committee that accounting officers had continuously committed or presided over fiscal indiscipline and malpractices in their Ministries with impunity, as there was no legal framework giving them powers to sanction them. The Committee is glad to note the enactment of the Public Finance Management Act and calls on the appointing authority to strictly apply provisions of this Act to ensure fiscal discipline over public funds. In both Reports, the Public Accounts Committee has applied Section 226(1)(5) of the Constitution and Section 74 of the Public Finance Management Act to recommend the investigation and the surcharging of various persons that may have been responsible for the loss of public funds. Indeed, the Report

contains specific recommendations including names and public institutions that are liable to be charged for misuse of public funds.

As general observations, the Committee notes the following:-

(i) The Committee has noted failure by accounting officers to act in time when dealing with the Auditor-General. In the course of the audit, the Auditor-General issues management letters to accounting officers to take positive action on audit queries before the final audit report is produced. However, there were several cases where accounting officers failed to act on the management letters or acted late thus leading to audit queries that would have, otherwise, been avoided. In this regard, the Committee recommends that:-

(a) Accounting officers must take management letters issued by Auditor-General very serious and act on them promptly.

(b) Where an accounting officer fails to ensure that matters capable of being resolved with the Auditor-General through timely action are not resolved, he be sanctioned by the appointing authority.

(ii) The second observation relates to the big issue of pending Bills. Pending Bills continue to dominate as one of the most persistent audit queries in the Ministries. As at 30th June 2010, the total pending bills in 38 Ministries at that time and departments of Government amounted to Kshs.16,640,966,825.99. The Ministry of Roads topped the list with pending Bills of Kshs.9,533,605,300.51 followed by Ministry of Local Government at Kshs.2,138,973,060.26. Pending bills were in most cases attributed to inadequate Exchequer issues and failure by donors to release funds. The Committee observed that failure to settle bills in time adversely affect supervision for the subsequent year to which they have been charged. The Committee further observed that failure to settle bills in time portrays the Government in bad light and may discourage suppliers from dealing with the Government, thereby, adversely affecting service delivery. The Committee heard from Treasury that the Pending Bills Closing Committee appointed by the President to investigate and advise on Kshs.120 billion bills owed by the Government of Kenya had once again failed to beat its deadline of 31st December 2010, after an extension from 30th June, 2010. The Committee had now sought another extension of 31st December 2011. The Committee noted with concern that the Pending Bills Closing Committee was appointed in the year 2003 and its failure to accomplish its task, close to ten years after appointment, was not in the best interest of the public. The Committee, therefore, made the following recommendations in respect to the big question of pending bills:-

(a) Accounting officers, in conjunction with Treasury, should put in place sufficient austerity measures to ensure that bills are always cleared within the financial year they relate.

(b) The Government should ensure that the Pending Bills Closing Committee finalizes its work by 30th March, 2013 and immediate action taken on its report.

Let me just point to the House that in the next Report that we will be submitting to this House in the coming month, we will be able to report substantively on the progress made by the Pending Bills Closing Committee. That is because it is a key element of clearing the big cloud of pending bills. The other big issue that has continued to dodge Government account is outstanding imprests. Cases of outstanding imprests were

reported in many Ministries and departments as at 30th June, 2010. The total outstanding imprests amounted to Kshs792,557,902.65. The Ministry of Public Health and Sanitation topped the list with an outstanding imprest of Kshs.408,364,263.05, followed by the Ministry of Education at Kshs76,708,420.45. This is a worrying trend considering that the Government has lost huge sums of money on account of imprests defaulting. The Committee observed that Government financial regulations and procedures on imprests are supplemented by various circulars issued by the Treasury from time to time. They clearly spell out guidelines for management of imprests and faulted accounting officers for failing to enforce those circulars and regulations leading to malpractices that have been noted by the Committee. The Committee, therefore, in respect of outstanding imprests recommended that:-

(1.) Accounting officers must immediately take necessary steps to ensure that all outstanding imprests within their jurisdiction are fully recovered.

(2.) In cases where an accounting officer is unable to recover an outstanding imprest within three months from the due date, he or she be surcharged for the full amount due.

(iii) Under-expenditure and under-collection of A-in-A - and I dare say that even as the Committee continues to handle accounts for subsequent years since these accounts were last concluded – is a major problem. It is one that will definitely recur in subsequent reports. Under-expenditure and under-collection of A-in-A was reported in several Ministries and departments. This was, notwithstanding, assurances by accounting officers during past appearances that sufficient measures had been put in place to address the situation.

Many accounting officers attribute the situation to inadequate Exchequer releases, failure by donors to release funds and procurement hitches. The Committee made the following recommendations:-

(i) That accounting officers should investigate the under-expenditure and under-collection of Appropriations-in-Aid in their Ministries and departments and take appropriate action against culpable officers where laxity, negligence of duty and malpractices are established.

(ii) Accounting officers either severally or jointly with the Treasury must ensure that they have, at all times, sufficient mechanisms in place to address under-expenditure and under-collection of A-in-A. This issue is one that I invite hon. Members to pay keen regard to as they debate this Report - the question of under-expenditure and under-collection in aid.

(iv) Issue number four is the development of a Kenya External Resources Policy (KERP). Treasury had in the past informed the Committee that it was developing KERP which will address several issues relating to donor funding because it was a major cause of under-expenditure and under-collection of A-in-A, and, to an extent, pending bills. However, the policy has not yet been developed to date. It should be noted that under-expenditure and under-collection of A-in-A as well as pending bills have dominated this and previous Reports as some of the most recurring audit queries. The Committee gave Treasury another chance to develop the policy not later than June, 2013 and immediately report to Parliament. I can inform the House that, indeed, the Committee has been liaising with Treasury very closely on this matter of developing the KERP and up to date, Treasury has assured the Committee that this should be concluded before the conclusion

of the current financial year. I want, on behalf of the Committee, to send a very clear message to Treasury that the Committee will not expect any other excuse or any other extension of time with regard to the conclusion of the policy. That is because the policy has a direct and immediate implication for the under-collection and under-expenditure of A-in-A.

(v) On the question of winding-up of funds that are dormant or have outlived their usefulness, the Committee noted that there are several funds in Ministries that are dormant or had outlived their usefulness and were supposed to have been wound up. This had been alluded to by parent Ministries of the funds as well as Treasury, which was to take the leading role in the winding up process. Key among the funds were:-

Under the Ministry of Finance: The Cereals and Sugar Finance Corporation (C&AFC), the Asiatic Widows and Orphans Pensions Fund. Under the Ministry of Livestock: The Hides and Skins Cess Fund.

Those are funds that have become dormant, but they continue to take time and resources in the processing of accounts. They should be closed to stop any further time wasted on them. The Committee expressed concern over the long delay by Treasury in the winding up of those funds. A task force to wind up the funds had been formed in 2005 but its members retired or exited the service culminating to another taskforce which, up to date, has not completed the assignment. The taskforce had failed to beat the last deadline given by this Committee. Upon request, the Committee had, once again, granted the taskforce an extension of the deadline to 30th June 2011. However, the taskforce again failed to meet the deadline and sought for another extension of up to 30th June 2012, which again it failed to meet.

The Committee, therefore, recommends that the Permanent Secretary, Treasury must take personal interest and responsibility in this matter. He should ensure that the taskforce completes its assignment not later than 30th June, 2014. If the 30th June, 2014 deadline is not met, Parliament may have to make far reaching recommendations against that accounting officer.

(vi) Unsatisfactory performance by the Criminal Investigation Department (CID): Accounting officers expressed their displeasure over the performance of the CID in dealing with matters referred to it for investigations. They submitted that the department took too long to act on matters and that, in most cases, its investigations did not sustain successful prosecutions. Once the accused persons were acquitted, they would then sue the Government for unlawful detention and malicious prosecution and the Government would end up paying huge compensatory sums because of those claims on public funds. The Committee took cognizance of the fact that several reforms were being undertaken in the Police Service pursuant to the new Constitutional dispensation and expects to see an improved CID in terms of performance.

(vii) Unsatisfactory performance by the Office of the Attorney General in court cases on behalf of Ministries and departments: Accounting officers complained of unsatisfactory performance by the Office of the Attorney General. They told the Committee that the Attorney General rarely won cases on behalf of the Government and even in some cases, where judgment had been entered against the Government; the Office did not inform Ministries on time, thereby causing them to pay certain avoidable interest on judgments. Some of the affected Ministries included the Ministry of State for

Defence, Ministry of State for Provincial Administration and Internal Security and Ministry of Medical Services. The Committee, however, observed that a new Attorney-General had been appointed and recommends that he must carry out the necessary reforms aimed at ensuring satisfactory performance of his office and to address this long persistent complaint.

(viii) Unsatisfactory performance by contractors: The Committee noted several cases where the performance of contractors was wanting. Unsatisfactory performance related to poor workmanship and slow progress of work on account of inefficiency, inadequate equipment, breakdown of equipment and poor planning. The unsatisfactory performance by contractors had also been reported severally in the previous reports by the Auditor-General and no marked improvement had been registered. In this regard, the Committee recommends that:-

(i) The Ministries of Roads and Public Works must identify all contractors with a poor track record in execution of Government contracts and blacklist them from being awarded Government contracts.

(ii) The Ministry of Roads and Public Works should ensure that an up to date data-base on performance of contractors is maintained and that the data is made available to the public to enable it make informed decisions when awarding contracts.

On the Integrated Financial Management Information System (IFMIS), let me just say that, that system is so integral that virtually every issue, be it issues of delays, or issues of mis-expenditure, under-expenditure or over-expenditure they have been laid at the feet of this IFMIS. The Committee, in a bid to ensure that this system works effectively, held a workshop with the entire department of IFMIS at Treasury and through that workshop, the Committee has set very clear targets of what we expect Treasury to do in the application of IFMIS in the use of public funds and in accounting procedures by Treasury and all accounting officers. The introduction of IFMIS in financial accounting in the year 2007 was very welcome. However, since its inception, the system has reported incessant failures and this had made it impossible for some Ministries and departments to effect certain accounting transactions thereby adversely affecting service delivery and leading to audit queries that would, otherwise, have been avoided. Treasury had on numerous occasions acknowledged the situation and told the Committee that it was addressing the situation but, up to date, no remarkable success has been recorded. The Ministries of Foreign Affairs, Immigration and Registration of Persons, Transport, Gender, Children and Social Development among others had been adversely affected by the IFMIS. The Committee recommends that the Treasury must take necessary steps to ensure an all-time efficient and reliable functional integrated IFMIS covering a more diverse functional mandate. As I have noted, it is important for the record, for it to be noted by the House that the Committee has, indeed, taken up this matter with the Treasury. The Committee is pleased to report to the House that as far as this matter is concerned, the Treasury is definitely doing something about it.

With regard to unresolved accounting matters, the Committee observed that over the last five years, Ministries and departments have had several accounting matters which have remained unresolved. Virtually all Ministries and departments had account balances and differences translating into billions of shillings, some of which had been carried forward and accumulated over the years without clearance. This state of affairs has been

of great concern to the Committee as the import of these long outstanding balances would be that the Government could have been defrauded. Despite the Committee's recommendations that all accounting officers take necessary action to resolve outstanding accounting matters, no remarkable progress has been recorded. For this reason, the Committee did not find it necessary to specifically report on accounting matters since all the outstanding issues were as reported in previous reports and most recently that of the year 2008/2009.

As I have already noted, this is a double submission and so all the issues that had been noted in the report for the Financial Year 2008/2009, also stand as they were at that time. The Committee recommends the following in respect of unresolved accounting matters:-

(i) All Accounting Officers under the supervision of the Treasury must take necessary steps to ensure that all outstanding accounting matters are resolved not later than 30th June, 2013 and a report by the Treasury, specifying the status of individual Ministries immediately submitted to the Auditor-General.

(ii) Immediately upon receipt of the report in (i) above, the Auditor-General should prepare a special report and submit it to Parliament for necessary action.

Before I deliver the final appreciation note on this submission, let me just state that as at 30th June, 2010, the period of the very last quarter covered by this report, the Government financial position as at 30th June, 2010, recorded an overall net surplus of Kshs25,920,539,638.81 compared to Kshs35,783,721,151.10 reported in the previous year 2008/2009. The surplus of Kshs25,920,539,658 was arrived at as shown in the details which are provided in the report. I will not go into those details.

The Committee would like to thank all the accounting officers who appeared before it for purposes of these reports and provide valuable insights into the issues raised by the Auditor-General. The Committee wishes to record its appreciation for the exemplary services rendered by officers from the Kenya National Audit Office, office of the Clerk of the National Assembly and the Treasury. Indeed, their commitment and devotion to duty have made the work of the Committee and the production of this report successful. Let me also use this opportunity to really record the appreciation of the PAC to the office of the Speaker, yourself. I say this aware that having previously chaired another key oversight Committee of this House, of course, Members would recall that you served superbly well as the Chairman of the Public Investments Committee (PIC), you have indeed, demonstrated your very keen interest in the oversight work of this Committee and our sister Committee, the PIC. We have received a lot of support from yourself and indeed, even allowing these two Reports to be submitted together and to expedite the process of concluding debate on these Reports has been made possible by your personal intervention.

Please, accept the gratitude and the compliment of the PAC. On behalf of the Committee, I urge the House to adopt both Reports of the Government of Kenya Accounts for the years 2008/2009 and the year 2009/2010 together with the full recommendations therein.

I move and hon. Joseph Manje will second the Motion.

Hon. Manje: Thank you, hon. Speaker for giving me this chance to second this very important Motion. These Reports have been tabled by a very able Chairman of the

PAC and since in the country we are having debate on the wage bill, I urge all Members to go through these Reports and they will see why our country is poor. We realize that accounting officers have been entrusted with resources by Kenyans, but instead of managing them the way they are supposed to do, they end up entertaining corruption in their undertaking.

I want to start by giving an example before I second this Motion. In 1997, Kenya entered into an agreement with a company from South Korea to supply vehicles. The model of the vehicle was Hyundai and they were to supply 520 vehicles within six months. Unfortunately, in the process they supplied only 361 vehicles. They were unable to supply the total number of 520 vehicles. Then the Kenya Government, through the advice of the Attorney-General, discontinued this contract. But the funny part is that the Government paid the whole amount. According to the contract, the amount was about US\$10 million which was to be paid in 1997, 2000 and 2001. The funny part again is that only 361 vehicles were supplied. Out of these, 52 could not be accounted for. Remember this was done by an accounting officer who is still serving this country. These are known people.

The Auditor-General's report was tabled in Parliament, but nothing was done. Another issue that we have to consider as the PAC is to be current with this information. If you expect the Ethics and Anti-Corruption Commission to act on information of 2008, then this report is not timely. The main idea behind accounting process is to give an entity a working document. Currently, we are looking at the accounts of 2010/2011, meaning that we are about two years behind schedule. So, I would like us to borrow a leaf from Uganda. You will find that in the Standing Orders of Uganda, they allow senior police officers to sit in these committees. So, when they realize there is corruption that is going on in a certain ministry, they take action. I wish we can borrow from that.

We can also borrow a leaf from Rwanda, which pegs these accounts to the budgeting of the country. If you cannot account for your previous expenditure, you are not allowed to continue spending monies. We should try to revise our Standing Orders and see how we can make sure that these Reports are current. I would also emphasize on giving more funds to the Auditor-General's Office. This is because we have realized that they are not able to operate comfortably because of lack of enough funds to go round the country. They now have to also audit the 47 counties. If they are not up to date with one government, what about now with 47 counties? So, this is an area where the Government is supposed to direct resources. The Ethics and Anti-corruption Commission should also be properly funded, so that it can take care of these resources.

With those few remarks, I want to second these Reports.

(Question proposed)

Hon. Speaker: I can see obviously, hon. John Mbadi is agitated, he wants to say something. While you are at it hon. Mbadi, without taking your ten minutes, the Mover, the Chairperson and the Secunder have raised very pertinent issues.

I would want you, using your knowledge, to address the issues relating to the provisions of the Constitution in Article 203(2) and (3), as well as Article 229 (4) which states that within six months after the end of each financial year, the Auditor-General is

required to audit and report, in respect of that financial year on accounts of all entities, including the national Government. Hon. John Mbadi, given your knowledge in that area; I can also see hon. Manson Nyamweya is nodding in appreciation, you would want to have a shot at those areas. Also addressing the issue of wastage which these Reports are talking about, in the context of what is happening, we are talking of some things, yet here we are reporting on wastage. I am sure the Chairman has indicated that he would want to be up to date with regard to audits. Hon. John Mbadi!

Hon. Ng'ongo: Thank you, hon. Speaker. I rise to support this Motion seeking the approval of this House to adopt the Reports of the PAC for the two Financial Years, that is 2008/2009 and 2009/2010. I am aware that I have just 10 minutes to make my contribution.

By asking this House in 2014 to adopt reports of up to June 2010, it is a clear reflection that a lot still needs to be done. As you rightly put it, Article 229 of the Constitution speaks to the Auditor-General having six months from the end of a financial year. Within those six months, the accounting officers have three months, from 1st July to 30th September, to prepare accounting reports to be submitted to the Auditor-General for audit and thereafter, for subsequent submission to Parliament, which we need to receive immediately after December. I would only urge accounting officers to be fast enough with their accounting records, to make sure that the Auditor-General is seized of these records in good time to prepare the audit report by December, so that Parliament is seized of these reports by January each year to avoid the kind of backlog that we have. Right now, we still have Reports for 2010/2011, 2011/2012 and 2012/2013. These are financial years that have been concluded and this House has not been able to finish going through these reports to table them in Parliament. This is partly because of the delay from various accounting officers to answer to audit queries and also partly due to delay from the Auditor-General.

The most critical thing is for the accounting officers to take advantage of management letters, so that when audit queries are minimized, they give Parliament enough time to look at more reports, within a very short period. If you have so many audit queries, some of which are even just technical, then it takes a lot of Parliament's time.

Article 203 of the Constitution, as you rightly put it, puts responsibility on this House to be up to date with the financial reports, so that we have a basis upon which we can divide our revenue. Otherwise, we will be using historical data to divide current revenue and this will be harmful not only to our counties but even to other devolved funds, like Constituencies Development Fund (CDF) and also Equalisation Fund.

The issues being raised in these Reports, if you go through them, are voluminous. If you look at the issues being raised, they are the same and consistent every year. Therefore, this means that the accounting officers do not pay special attention to audit reports and also the reports of Parliament. Parliament's time should be utilized in a good way and we should not legislate in vain. Once we pass a report, there is a requirement that a memorandum must be prepared by the Cabinet Secretary for the National Treasury. This House, through the committee concerned, which is the Committee on Implementation, must ensure that the reports which are adopted are followed through to the Ministries, so that we get the steps taken to correct these anomalies.

You will allow me to just address four issues because of time. The first issue that has been ably amplified in these Reports, and which my Chairman has ably addressed is under-expenditure and under-collection of Appropriation-in-Aid. It is reported that under-expenditure is about 40 per cent in many instances and under-collection would even hit a high of 75. The reasons for this range from one, non-release of funds by donors, which is as a result of poor accounting by our various Government Ministries. Donors are very particular in accounting. Two, slow implementation of projects and that has to do with the technical arms of our Ministries. Three, slow procurement and lack of Exchequer issues. Continued under-collection of Appropriation-in-Aid is likely to hamper service delivery. As a result of diminishing revenue collection, this would in the end slow down economic development as it affects the overall economic outturn. Every year, when the Cabinet Secretary reads the revenue projections, it is assumed that projected expenditure will be incurred as stipulated. In the event that does not take place, the effect on the economy is so huge. I would advise that the National Treasury ensures that projects steering committees responsible for monitoring disbursements are in place in all Ministries, especially those that deal with donor-funded projects.

The other issue that I wanted to touch on is with regard to management of public debt. The Committee, in the two Reports has noted that even after asking the accounting officers to provide for audit verification a full disclosure of the breakdown of the public debt, this did not take place as at the time of writing the Reports, and it is not acceptable. Once Committees of Parliament ask Ministries or accounting officers to give a breakdown of the money we borrowed and show where it is applied, that information needs to be given because this country has a history of cases where we have paid monies that were never utilized or applied in the right manner.

The National Treasury must have in place an elaborate debt management plan to ensure that the Government always gets value for all money borrowed and that borrowed monies are also repaid in good time. A case in point that I want to talk about is with regard to the issue of KenRen Chemical and Fertilizer Company Limited. This goes a long way to give an answer that this country has a lot of revenue. We collect, borrow, but we misapply and therefore we come with these short-cuts of trying to reduce people's salary to finance our Budget, yet there is a lot of money that is wasted.

Take the example that happened in the 1970s. In the 1970s, it is a pity that this country owed money to some company that is non-existent. We owe money to Austrian and Belgium companies; how did we come to owe this money which we are paying currently? A joint venture was entered into between the Government and an American company called Enren and from there we formed "KenRen". This company was supposed to manufacture fertilizer for both domestic and export market. What happened is that this company entered into several financial and equipment procurement contracts with various Austrian and Belgium banks, but these contracts were never honoured because the factory was never put in place to manufacture fertilizer as planned by the Government of Kenya. The Government of Kenya was supposed to be a guarantor. As at the time of writing these Reports, this country was still servicing a loan which stood at about Kshs.3 billion.

Hon. Speaker, today, we are talking about the laptop project. This Government was just about to give a contract to a company which has no capacity to manufacture

laptops. Probably, we were going to see another Ken-Ren in the making. Therefore, I would urge His Excellency the President, the Deputy President and the entire Cabinet, that instead of bothering Kenyans who are already pressed with the high cost of living – because really reducing someone’s salary is not possible - to seal these loopholes which we have seen over the years.

Hon. Speaker, some people are being listed today as who is who in this country; the richest, the wealthiest. They are put on the front pages of the media, but these are the people who “ate” money for Ken-Ren and we know them. They are there and they hold huge banks accounts and they own tall buildings in this country. Why can we not take steps? These people are no longer powerful in Government, they used to be powerful during Moi’s Government, but they are no long powerful. Why do we treat them as if they are gods? We need to take action on these people so that in future, no one will think of stealing from the public coffers.

Hon. Speaker, I would have gone on and on, but I can see the light is on.

With those few remarks, I beg to support.

Hon. Speaker: Very well. Hon. John Mbadi Ng’ongo, of course, is aware of the provision read by hon. Ababu Namwamba in Article 226 (5). That henceforth, indeed, if hon. Ababu Namwamba and yourself are able to produce those other three reports, we will be eager to hear and see what recommendations to make in light of that provision, that it does not matter whether you held whatever position in terms of that Article 226(5), you can still be held responsible. Therefore, we must also begin exercising some other aspects of power that we have.

Hon. Katoo ole Metito, you have the Floor.

Hon. Katoo: Thank you, hon. Speaker. Let me thank hon. Ababu Namwamba and his Committee for bringing these Reports. I would like to say that we need to request our Committees to expedite and fast track the laying on the Table of the House and approval by the House of these reports. As the Constitution says, the money that goes to the counties; the 15 per cent of the national revenue as stipulated in the Constitution, will be based on the audited accounts and approval by this House. Therefore, if we go by the Constitution, during this financial year, actually it is the Reports of 2009/2010 and 2010/2011 that will determine how much the county governments will receive because they have to be approved by this House.

Hon. Speaker, three key issues are coming out in these two Reports. The problems in government systems, Ministries and departments are three; the issues of pending bills, outstanding imprest and under-performance. If you read the two Reports, those are the three key elements that have been highlighted by the Committee in both Reports.

Hon. Speaker, if you look at the pending bills, as the Mover has just said; as at 30th June, 2009, we had pending bills amounting to Kshs16.393 billion. Actually, that increased in the following financial year; that is 2009/2010, to Kshs16.640 billion. As the Mover has said, this has portrayed Government in bad light because very many people, especially supplier of goods and services are getting a little bit chilly in dealing with Government and it is affecting service delivery to *wananchi*.

[Hon. Speaker left the Chair]

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

Hon. Temporary Deputy Speaker, on the issue of outstanding imprest; I think this is contributing to wastage in Government. As at 30th June, 2009, according to the Reports, in Government Ministries and departments, we had Kshs3.34 billion as outstanding imprest. That is really wastage. If you look at the Ministries that have been topping in that category, it is the Ministry of Public Health and Medical Services that time. That is why we are having a lot of outcry in the health sector. That is even why we are saying, maybe, in devolution; if we devolve this outstanding imprest to counties, it will go up. I think the medics have got a point when they say that imprest should not devolve to that level.

Hon. Temporary Deputy Speaker, the other key elements that have been highlighted in the Reports are three categories of institutions that have been underperforming. One is the Criminal Investigation Department (CID). They take too long to investigate cases and even if they do it, their investigation cannot sustain prosecutions. This has been making the accused, once they are acquitted, to go back and sue the Government for unlawful detention and also malicious prosecution. This has made the Government to pay huge compensations to these people. This has also caused wastage. With the reforms by the Director of Public Prosecutions (DPP), we hope this will be corrected.

The other office that has been highlighted as underperforming is the Attorney-General's Office. This is the office that is supposed to be in court on behalf of Government Ministries and departments, but they rarely win cases, according to the Public Accounts Committee Reports. Actually, the worst of it is that they do not inform Ministries of the judgments that have been entered against them. Ministries and departments come to know about that after a very long time and by that time a lot of interest has accrued on these claims.

Hon. Temporary Deputy Speaker, the Office of the President and especially the Provincial Administration and Internal Security and also the Medical Services Ministry have caused a lot of wastage. Public funds are going to be used for unnecessary expenditure. These are the places that we are saying we need to put the accounting officer and the other staff under contracts so that each one of them is paid according to how they deliver.

The other category on underperformance is contractors. These contractors, especially those in the Ministry of Roads do very poor work. There is poor workmanship. There is a lot of slow progress on the work done and this has been attributed to inefficiency, breakdown of equipment, inadequate equipment and poor planning. All this is turning out to eat into public funds and it is also contributing to wastage of public money.

I will agree with the Committee where they have recommended that such contractors need to be blacklisted. I am very happy with the Report of the Committee where they have gone further to say that we need to have a database of all the contractors. This will be open to the public and every time a road is advertised or any Government contract is advertised, any contractor who applies will be vetted by the public. We need

to have a database and the public needs to give input on whether that contractor is qualified or whether he has a good history. That is what is happening now in the laptops case. You see, the tender for the laptops has been cancelled. It will go again through another process and it is costing the public money and all this is wastage.

That really brings me to my final point on how to cut down on this big public wage bill. I think we need to be very stringent and go where wastage is. A lot of money is being wasted and if we could correct that, we will not be talking of a bloated public wage bill. We need to handle these pending bills and outstanding imprests. We need to cut down on wastage in Government Ministries and departments on issues of stationery. There are some offices where their budget for stationery and hospitality is bigger than that of a single Ministry in the Government. This is the time we are talking of being digital. We have to digitise. Even here in Parliament you see all this paperwork. We are spending a lot of money on it. If we could digitise or take advantage of technology then we will save a lot of money and this is not even a very big institution. So, I am saying that wastage on stationery, hospitality, unnecessary travel, seminars and workshops that add no value to the running of this country are the issues that we need to consider.

Hon. Temporary Deputy Speaker, even when we go to the structure of the Government, I think in the morning people talked of commissions. The Constitution says that commissioners should be a minimum of three and a maximum of nine people. We went for the maximum because of the mistrust we had at that time because of the National Accord. So, we need to go to the minimum of three.

Hon. Temporary Deputy Speaker, on the issue of county governments, we must have devolution but we need to have lean and efficient county governments. I was going to propose that in the county governments we do not need to have a cabinet of the governor with all those people with offices. You just need to have a governor and the Director of Education, Director of Finance and so on without having what they call the Executive Committee. They are now calling themselves Ministers. You just need to have directors heading those departments.

Hon. Temporary Deputy Speaker, it is very true that some people have been talking of having the gender rule in elective positions. We need to have the gender rule on appointed offices. The issue of nominated leaders all the way from National Assembly, Senate to the county assemblies needs to be done away with. This way we shall cut down the wage bill, although we have some nominated Members representing special interest groups. I will support my colleague here, hon. Mwaura who is representing special interests. In my county, there are 25 elected members of the county assembly but there are 18 nominated ones. Surely, what are we saying? I think this is the time to say that as per the structures in the current Constitution, we cannot implement them. It is not possible economically.

I beg to support, hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Kajwang'): Thank you. Member for Turkana.

Hon. (Ms.) Emanikor: Thank you, hon. Temporary Deputy Speaker. I stand to support the Motion. The Report is very clear on the austerity measures that the Ministries and State departments need to take if Kenya is to attain the objective of becoming a middle income country.

Hon. Temporary Deputy Speaker, the pertinent issues that have been raised in the Reports include pending bills going into scores of millions, imprests, unscrupulous and dishonest contractors and under-collection of Appropriation-in-Aid. With regard to that, I think going forward the counties should also account for the A-in-A they collect and it should be factored in future reports.

Hon. Temporary Deputy Speaker, a lot of seed money is pumped into State corporations and agencies that are supposed to generate revenue but no returns are realised and this actually translates into non-performance or under-performance by the Chief Executive Officers (CEOs) of these organisations. It translates into inefficiency.

Hon. Temporary Deputy Speaker, one of the indicators of the performance contract targets is reducing dependency on the Exchequer but looking at the under-collection of revenue by these agencies, it means that they still heavily rely on the Exchequer.

Hon. Temporary Deputy Speaker, we would not be talking of the ballooning wage bill, the rise in the cost of living and the increasing public debt if the alerts from the oversight bodies were adhered to. The Report says that the Auditor-General has time and again given alerts on areas that have been overspent and on areas on wastage.

Hon. Temporary Deputy Speaker, I suggest that the Auditor-General should be given powers beyond just raising audit queries and issuing circulars to CEOs. The Auditor-General should go further and give ultimatums to the appointing authorities with timelines to take disciplinary action on non-compliant CEOs.

Hon. Temporary Deputy Speaker, it is evident that there is need for all the oversight bodies including the Public Procurement Oversight Authority (PPOA), the Ethics and Anti-Corruption Commission (EACC) and the Auditor-General to move in speedily and ensure compliance and enforcement of the austerity measures in curbing the wastage.

Thank you, hon. Temporary Deputy Speaker. I beg to support.

The Temporary Deputy Speaker (Hon. Kajwang’): Members who are exiting the Chamber, I recognise you for some other reasons but please leave quietly and for those reasons do not entertain Members in discussions which are neither the business of the House. Thank you very much. That was from Turkana. Member for Kibra.

Hon. Okoth: Thank you, hon. Temporary Deputy Speaker. I rise to support the Reports as presented by the Chair of the Public Accounts Committee (PAC) and seconded by hon. Manje. I want to thank the Committee for a good job and I want to go directly to aspects of the recommendations that they brought up and the salient issues that they highlighted for us, especially considering the debate that our country is going through right now.

We have had a debate very recently about the wage bill and a bloated Civil Service; that we have too many civil servants but this debate has been narrowed down sometimes in a cheeky and unhelpful manner to mean that we have overrepresentation in the legislatures, which is far from the truth. I want to say that if our wage bill is very high and our Civil Service is bloated, there are very practical steps we as the custodians of public money and the interests of Kenyans should be taking and decisions that we should consider as patriotic Members and leaders of the National Assembly.

We really should be pushing to ensure that we implement our Constitution which called for the reformation and elimination eventually of our Provincial Administration. We should make sure that we support devolution to make sure that there is no duplication of duties and that the county governments staff can deliver and do all of the duties that are necessary and that are currently being done by the Provincial Administration. I think a serious commitment to reformation of the Provincial Administration should be undertaken. I know that an immediate elimination of the Provincial Administration may be hard. We should find a way to trim the excessive Provincial Administration which has been doubled and make sure that money goes to the county governments which should do some of the duties that the Provincial Administration does. The Provincial Administration has been maintained and expanded causing confusion and competing with our county governments. We should push back on that. If the Government of President Uhuru Kenyatta is serious about saving taxpayers' money, we can start right there because it is something that has been ordained in the schedules of the Constitution. We are supposed to implement it. Let us start things that we can do on a serious level.

Hon. Temporary Deputy Speaker, another area that we need to be serious about as Kenyans, if we really want to save the taxpayer some money--- We have entered into a Government system and structure that in some sense is very wasteful but there are things we can do. For example, in the last Parliament and prior ones, we have had Members of this august House serving as Cabinet Secretaries very successfully and competently. Any Member of this House, for example, Chairman Abongotum, if he were to be appointed the Minister for National Security instead of the current hotelier, who knows more about mattresses--- If hon. Abongotum who has shown his competence and knowledge in this area could be appointed the substantive Minister, I think he can discharge that duty as former Ministers for security have done. The cost of hon. Abongotum doing that professional job for Kenyans would be very minimal. We could add him Kshs200,000 as responsibility allowance and he is here. Instead, what we currently have is somebody somewhere who is sitting outside this House, who does not directly and constantly respond to Members of this House who are the voice of the sovereign people of Kenya. Somebody who does not answer to us is being maintained at a salary probably twice the one that hon. Abongotum is currently earning as a Member of this House and the Chairman in this House. I think that is wastage and we should deal with it.

If we go to matters of education, that sector that is very dear to my heart is being handled incompetently; we are not getting full value for our money as Kenyan taxpayers. We have seen the laptop tender was mishandled by the Ministry of Education which is a huge shame and embarrassment. Our children were promised laptops but they have not got them. The tender was awarded in a terrible manner that it has had to be cancelled. The Cabinet Secretary, Prof. Kaimenyi did not work with the Departmental Committee on Education, Research and Technology. He showed complete contempt throughout the process as we tried to get information; as we tried to raise concern about that laptop project which is a key signature in Jubilee manifesto. He did not work with us. Instead, we should get rid of Prof. Kaimenyi who sits outside this House and earns more money than the Speaker. If we got rid of somebody like that and hired a very competent educationist in this House and add them a minimal responsibility allowance, they could do that job competently as prior members of the Cabinet did when they served in this

House and showed up here for Question Time. They answered Questions directly to us. So, as I appeal to my colleagues in this House, let us think broadly on these financial records that we are looking at, the public accounts that have been audited. Give us an opportunity to understand the cost of having a government system that we embraced that is not perfect and gives us a sense of urgency to quickly go ahead and fix it. We need to go back to a system where Ministers will be in this House.

For instance, on the railway tender we never got straight answers. If the very competent, energetic and professional hon. Kamanda was the substantial Minister for Transport, we would be in a very different place in understanding what is going on with regard to the railway tender project and it would cost us much less. Instead, somebody who does not report to this House and does not report to the Kenyan people in a very direct manner sits out there and earns a double salary, allowances and privileges and cannot be found. They find themselves very busy and send their assistants to meetings. We have had a history of successful Ministers showing up here on Tuesdays, Wednesdays and Thursdays, answering Questions and successfully running their Ministries. So, we really need to save costs and one place I beg our Members to think about is to go back to a system where we have elected Members of the National Assembly who understand the political dimension and the need for accountability to Kenyan citizens. We need to have them serve as Ministers so as to effectively deliver the manifestos of whatever Government coalitions they will be serving in.

Hon. Temporary Deputy Speaker, a key point that I must talk about when we think about the debate on the wage bill and wastefulness in our Kenyan Civil Service and our Government system, is the role of the Kenya Revenue Authority (KRA). The KRA, we must give it credit that is due to it, especially in the time that the NARC Government came in under the leadership of President Kibaki and during the last ten years under the leadership and partnership with hon. Raila Odinga. The KRA raised its ability to collect taxes in this country from less than Kshs60 billion per year to about an average of Kshs900 billion per year. What I am arguing here, therefore, is that Kenya is not a poor country. Our Government is not broke and it does not need to be a broke Government. We need to get back to a place where all Kenyans pay their taxes. I commend Members of this House for gladly and willingly paying their taxes and to dissuade the myth that is created out there as we have seen in the media to demonize Members of this House as people who do not pay taxes. All hon. Members pay taxes. We need to get to a place where the KRA is collecting enough taxes and no corporations and companies have loopholes to escape paying their taxes and in the process rob the Kenyan people of the fair share they need to be getting to the Government.

My final point is, the laptops projects was supposed to cost Kshs24 billion. I cannot tell you how delighted I am that, that contract has been cancelled by the Public Procurement Oversight Authority (PPOA) that reviewed it and found that there was a lot of corruption and irregularities. The Uwezo Fund with Kshs6 billion is going to bring about Kshs.19 million or Kshs20 million per constituency. The laptop project was going to cost Kshs.24 billion. The project is expected to run over a period of five years and bring nothing to our constituencies that we can measure. I argue that if we took the Kshs24 billion we were willing to spend and implement the project through the Constituencies Development Fund (CDF), we would get benefits. There would be proper

education in all our schools, electrification would be done and our young teachers would be employed to teach computers. We would get the exact same benefit at a fraction of the cost. For Kshs.12 billion instead of Kshs.24 billion, we could get through each CDF this year, Kshs.40 million and make sure that every constituency can put electricity and put up computer laboratories in all its schools. We can kick out Members of Parliament and their CDF committees in 2017 if they do not deliver on that promise. So I think there are better ways---

The Temporary Deputy Speaker (Hon. Kajwang’): Your time is up!

Hon. Okoth: Hon. Temporary Deputy Speaker, I beg to support.

Hon. Oyugi: Hon. Temporary Deputy Speaker, thank you. I rise to second the adoption of these Reports. Even as I rise to support the adoption, it is very sad that we are discussing the Reports of 2008/2009 and 2009/2010. I would like to bring to your attention the provisions of Article 229(4) of the Constitution which makes it mandatory for the Auditor-General, within six months after the end of a financial year to submit a report on audited accounts of Government entities. We are discussing reports that are three, four or five years beyond the due date. In my understanding, before we continue to blame everyone, the provisions of Article 251 of the Constitution are very clear in terms of an Auditor-General who will bring reports three or four years late. The Kenyan public is suffering from wastage, corruption and all manner of malaise. The provisions of Article 251 are very clear. Any Auditor-General who tables a PAC Report late should read Article 251(1)(d) on incompetence. We cannot just be crying as a country as if we do not have recourse. Persons who do not deliver on their job, need to be held accountable. The Committee should ensure that public funds are well utilized and the public realizes value for the money in all Government expenditure.

The Temporary Deputy Speaker (Hon. Kajwang’): Hold on Member for Ndhiwa. That is an interesting point that is being advanced and I want to follow it up. I will give you the minutes that I will take away from you. Just resume your seat. Let me hear this from the Chair of this Committee. Please, address yourself to Article 229(4) of the Constitution in terms of which the Auditor-General shall audit, report and I think submit the reports within six months of each financial year. Take that mind as the Member has alluded to Article 251 of the Constitution in which several conditions have been given there of removing from office of independent Members those who either are in serious violation of the Constitution or gross misconduct and so forth. They may, therefore, be removed from their offices. Just to be able to enlighten Members so that we have an intelligent debate. What is your take on this?

Hon. Member: On a point of Order

The Temporary Deputy Speaker (Hon. Kajwang’): No point of order when the Speaker speaks. No point of order if you know your Standing Orders very well. No point of order is raised against the Speaker. Nothing can be out of order when the Speaker speaks. You do not want to interact or have a discussion like this with the Speaker. Please, let us have this information. I will give you the minutes that I may have taken away from you.

Thank you.

Hon. Ababu: Before you took the Chair, these matters had already come to the attention of the House.

(Loud consultations)

The Temporary Deputy Speaker (Hon. Kajwang’): It is all right. You should not shout. You are totally out of order. Please, just bring your temperatures to where they belong and let us have a good debate in this Chamber.

Hon. Ababu: Hon. Temporary Deputy Speaker, I was mentioning that several of the issues you referred to, indeed came to the attention of the House. One of them is Article 229(4) which is clear that within six months after the end of each financial year, the Auditor-General shall audit and report in respect to that financial year. We also do take notice of Article 203(2) and (3) and especially (3) which says that the amount referred to, that is the division of revenue between the national Government and the county governments is based on the most recent audited accounts of revenue received and approved by the National Assembly. This, of course, raises fundamental questions when the Commission on Revenue Allocation (CRA) is sharing revenue between the national Government and the county governments. The basis for that sharing is these audited accounts as approved by this House. This places even a greater urgency on this House to be up to date for purposes of determining accurately the revenue share between the national Government and the county governments.

The Reports we have just tabled here, for the Financial Years 2008/2009 and 2009/2010 were, in fact, prepared by the previous Committee and for some strange reasons, as at the time when the life of the Tenth Parliament lapsed, those Reports were never brought to the attention of the House. It is only later after this Committee was put in place - and you will remember this Committee came into being a bit late in the day because of the procedural issues that you understand were going on in the House at that time. We then realized that we had a whole two financial years not yet cleared in terms of audited accounts approved by this House. We have taken the unprecedented measure of submitting double reports in the House at the same time. It has never happened before - it is a precedent. We are also taking an unprecedented measure in an attempt to be up to date and live within the spirit of Article 203(3). Right now, we are targeting to complete reports for two Financial Years, 2010/2011 and 2011/2012, which we hope again to do a double submission in the House in a bid to be up to date. But in terms of Article 229(4), I would say we have a crisis. It is an absolute crisis and the Committee is grappling with how to handle that because the Office of the Auditor-General is on trial here. That is because of the speed at which it handles the accounts.

The Temporary Deputy Speaker, you would want to note that – and this is also for the benefit of the House - before the Committee receives audited accounts from the Auditor-General, the Committee can do nothing. What the Committee has at the moment is accounts for the Financial Year 2011/2012. So, even as we talk about being up to date, our hands are tied until the Auditor-General has come up to date himself. But the Auditor-General is also hampered by activities of accounting officers who take forever.

The Temporary Deputy Speaker (Hon. Kajwang’): At some point, do you have some recommendations around that subject.

Hon. Ababu: Yes, hon. Temporary Deputy Speaker. As we work on the report that we are preparing now - which PAC is working on now, the Committee is paying special attention to that matter and the Committee will be making very specific

recommendations to the House in terms of how to deal with implications of Article 203(3) and 229(4).

The Temporary Deputy Speaker (Hon. Kajwang’): Thank you Chair. You may resume your seat. I take that to be an important issue in our role as per Article 94 and 95 and I am sure my friends who are on the left side of the House must take it very seriously. That is because, after all, what is the National Assembly if it is not for purposes of holding the Government to account? So, I am sure that we are going to look at those recommendations and see how we can bring those offices to do what they must do. The National Assembly should not be the institution that is being blamed for not acting when we should act responsively according to the Constitutional demands.

Thank you very much. Can we go back to the Member for Ndhiwa? I think you had used up seven minutes. You still have some more. Remember that you have already used almost seven minutes.

Hon. Oyugii: Thank you Temporary Deputy Speaker. I hope you will give me some more time. I am happy with the clarifications that the Chair of the Committee on Public Accounts has given to us. The reason why I am happy with that is because I think even in the preamble of this particular Report, we see the provisions of Article 226 of the Constitution which intend to hold public officers accountable. If you see the first general observation of the Committee Report, it is in parts. One of the observations was failure by the accounting officers to act in time when dealing with the Auditor-General. I think that is what English defines as impunity. You cannot have accounting officers who know that there is a Constitutional mandate in terms of preparing an audit report and then, they do not comply with the particular provision of the Constitution. I really think that - like the Chair of the Public Accounts Committee has said - there ought to be specific recommendations with regard to accounting officers who shall not then deliver their mandate. The second thing I would like to raise and highlight on the Report is the unsatisfactory performance by the CID. You appreciate that there is not much that can be done in any criminal case if at all the prosecution or the investigation work is not properly done. I think it will be in order to request or support the enhancement of the capacity of Director of Public Prosecutions. That office should be given more thought. If at all the public is going to lose money and the investigations are going to be improper, we will be going round in circles. The Kenyan public will be losing money time and time again. Therefore, there is need to strengthen our investigations in terms of criminal prosecutions so that, at least, the accounting officers who walk away with public money are then brought to book.

The other point is the highlight on the unsatisfactory performance of the Attorney-General’s Office. You appreciate that the Government has been losing loads and loads of money in terms of compensation for people who allegedly take the Government to court for the purposes of malicious prosecution. We really need also to strengthen the capacity of Attorney-General’s Office in terms of defending the Government, where issues of criminal investigations with regard to accounting officers have been highlighted.

The last point I would like to speak to - I am sure my time is almost up - is the unsatisfactory performance by contractors. Year in, year out, there are many incomplete buildings and construction works. Several contracts are inflated and the work is not done

in a proper way. I really think that contractors should not only be blacklisted, but should also suffer specific criminal sanctions. Actually to an extent, I really appreciate because a couple of days ago--- Of course, I am aware of the fact that the National Construction Authority is trying to harmonize and put in place schedules of both contractors--- We really need a body that is going to deal with errant contractors; in addition to just blacklisting them, we should also apply penal sanctions against contractors, so that the public does not waste a lot of resources.

With those few remarks, I beg to support the adoption of these Reports.

I thank you.

The Temporary Deputy Speaker (Hon. Kajwang'): Thank you.

The hon. Member for Mbita.

Hon. (Ms.) Odhiambo-Mabona: Thank you, hon. Temporary Deputy Speaker. I rise to support the adoption of these Reports. I would like to say that, indeed, I am concerned like other Members about the issue of the currency of the information in these Reports. That is because we are debating two Reports for 2008/2009 and 2009/2010. I want to congratulate the Committee for making this unprecedented move to bring the two Reports. I want to encourage the Committee that by next year, they should be ahead of the Auditor-General, so that the issue is not that we are dealing with a backlog from parliamentary committee. We will be putting pressure on the Office of the Auditor-General to actually bring reports on time. The reason it is really fundamental is this: If you actually refer to Article 203(3) that you are talking about, these Reports are the basis for division of revenue between the national Government and counties. If you are going to use the audited Report of 2010 as a basis for budgeting for our counties now, we will not actually be giving them the correct position in terms of the monies we are giving. So, I would like to encourage the Committee to really hasten with the reports and, indeed, I want to congratulate them again for this unprecedented move that they have made.

I just want to mention the issue that was raised in the Report about the funds that should be wound up. The Chairman, when he was moving the Report, indicated that a taskforce was set up, disbanded, set up again and given more time. This Committee has a lot of powers under Article 226(5). I want to encourage the Committee that even as they go back to look at the other reports, they use the power that they have under Article 226(5) to deal with errant officers. That is because you cannot have a taskforce that wants to sit forever. Then why is it a taskforce? Use those powers to disband that taskforce and even draw your own conclusions in terms of the funds that should be wound up. We know that we are currently having a very serious debate about pay cuts; it is targeting very poor Kenyans. It is targeting teachers, civil servants and if you look at this Report, it shows that we have so much wastage of public money. We have taskforces that have outlived their usefulness. I want to ask the hon. Ababu-led Committee to hold the bulls by the horns; if you have taskforces that do not work, let them go home. We do not need them.

The other issue that came up very strongly is under-expenditure and under-collection of Appropriations-in-Aid (A-in-A). I also want to refer to that especially in the light of the current debate. We cannot be saying that, as a country, we are having a challenge of paying salaries, when we cannot even utilize what we have; we cannot have what we are being given by our donors. The crisis we have is of management, and I want

to encourage the leadership of this country to really sit properly. I did not vote for the President or the Deputy President but now that they are in office, they should sit properly and work properly as duly--- Let me not use the word “duly,” but they should sit as the heads of the Government and deal with issues that are confronting the nation. We should not just look at the vulnerable of our society.

The Temporary Deputy Speaker (Hon. Kajwang’): The hon. Member for Mbita, you have one minute.

Hon. Kaluma: On a point of order hon. Temporary Deputy Speaker. Did you hear the hon. Member for Mbita say that the President and the Deputy President are not sitting properly? How are they sitting? It is serious!

The Temporary Deputy Speaker (Hon. Kajwang’): Sorry! Did I hear you Member for Homa Bay? Kindly repeat yourself.

Hon. Kaluma: Did you hear what the hon. Member for Mbita said? She has said that the President and his Deputy are not sitting properly. How are they sitting?

Hon. (Ms.) Odhiambo-Mabona: I am a student of literature and that is a figure of literature. The person who is saying it was a slip of tongue is wrong. They are not sitting properly.

The other issue that I want to talk about---

The Temporary Deputy Speaker (Hon. Kajwang’): I just want to say that it is not an issue which you need to substantiate. You cannot substantiate how people sit. I do not think it is something that you need to substantiate. I think you are in order.

Hon. (Ms.) Odhiambo-Mabona: Thank you. But they are sitting badly.

I want to talk about the issue of under-performing---

The Temporary Deputy Speaker (Hon. Kajwang’): People can decide to sit the way they want. They will still be sitting. Is that so?

(Laughter)

Hon. (Ms.) Odhiambo-Mabona: The other issue I want to speak to concerns under-performing institutions. For instance, the Report talks about under-performance by the CID and the State Law Office. In Mbita, I have inherited a case of a school called Lusare Primary School. In that school, there were people who donated land, and after that, when they died, their dependants asked to be paid for the land. The community was taken to court by those owners. The matter came to court more than 30 times. Out of those 30 times, the State Counsel appeared only three times. After that, the State Counsel came in and entered consent without even knowing what the matter was. The CDF Office in Mbita has been asked to pay Kshs2 million for this land. So, is it an issue of paying debts because of a State Counsel who did not do his or her work? These are the issues on which I am asking this Committee to be brave and use their powers. In fact, I am thankful to the substantive Speaker for pointing in the right direction. These Committees have powers; a big mandate given to them under the Constitution. Use those powers effectively; if you do not use them, we will recall you back to this House and give the work to other people; they can do the work my very able Secretary-General is doing.

I also want to raise the issue of unresolved accounting matters for 2008/2009 again 2009/2010. I would like to encourage this Committee that should these issues still

arise in the current financial year that they are looking into, then they should single out the specific accounting officers and use the mandate that they are given constitutionally.

Finally, I want to thank you also for bringing to our attention the issues under Article 229 of the Constitution. I think this is not just an issue for this Committee, but an issue that we would actually want to call upon the Chair to rule on.

The Temporary Deputy Speaker (Hon. Kajwang’): Hon. Waiganjo, what is not in order?

Hon. Waiganjo: On a point of order, hon. Temporary Deputy Speaker. The Member for Mbita, who happens to be my learned senior, has spoken very well. But after listening and looking at her, I am wondering. She is not only the Member for Mbita, but also a Member of the Pan-African Parliament. That Parliament is in session now, but she is very convincing and sitting pretty in the National Assembly of the Republic of Kenya. Is she in order to be in this House when, indeed, she is supposed to be representing the country in South Africa?

The Temporary Deputy Speaker (Hon. Kajwang’): Well, I take that to be another issue of sitting improperly, but whichever way you sit, you still sit.

Hon. (Ms.) Odhiambo-Mabona: Hon. Temporary Deputy Speaker---

The Temporary Deputy Speaker (Hon. Kajwang’): Unless you really want to respond to it, I do not want to distract you from the main issue.

Hon. (Ms.) Odhiambo-Mabona: Hon. Temporary Deputy Speaker, yes, I want to respond to it. My learned junior is very quickly catching up because in Parliament, if you do not know how to get in through points of order--- He has found a perfect way of trying to defend his President and Deputy because he missed the opportunity. So, I want to congratulate him. While congratulating him for using his Standing Orders and law well, I want to confirm to the House that the decision was taken yesterday and you know the parliamentary process takes a while. So, I am hopeful that if Parliament finalizes it, I will proceed. I am told that my passport has gone to the Ministry of Foreign Affairs; you know we are very important persons. Once it goes to the Ministry of Foreign Affairs and comes back, I will travel.

Otherwise, I was concluding by saying that if you look at Article 229, perhaps, the office of the Speaker should give us direction. This is a clear violation of the Constitution. If you have a violation of the Constitution, and, as a Committee of the House, you sit down and discuss issues that are clearly a violation of the Constitution, what should we do? Should the committee still consider these reports? Is the committee sitting in violation of the Constitution? I am sure a Kenyan can go to court and raise issues about this; as a House, are we in order to be sitting in direct violation of Article 229 of the Constitution?

I support.

The Temporary Deputy Speaker (Hon. Kajwang’): Well spoken, but I do not think that, that is a responsibility that falls on the Speaker’s office. You are the debating chamber. The committee brings to us recommendations, we debate those recommendations and pass them when necessary. You too can come up with your Motion on that recommendation and you can persuade Members here that “A,” “B,” “C,” “D” should be done, or this or that; if the Members are fully persuaded, we will go your direction.

That is not an issue that calls for any opinion. It requires you as Members to debate and see which direction to go. This is because you have a vote but the Speaker does not have a vote.

All right, Member for Bomet Central.

Hon. Tonui: Thank you, hon. Temporary Deputy Speaker for giving me this opportunity to support this Motion. It is actually a postmortem report which is long overdue. I know my other colleagues have commended this Committee, but I am not sure whether to thank them because they have brought a report of a different committee. In fact, if I am to be asked, I will consider this committee one of the laziest, because---

The Temporary Deputy Speaker (Hon. Kajwang’): Hold on; what did I hear you to be saying, Member for Bomet Central? Can you rephrase yourself?

Hon. Tonui: Hon. Temporary Deputy Speaker, I withdraw.

The Temporary Deputy Speaker (Hon. Kajwang’): Yes, you should withdraw it even before you mention it. I will not repeat that for the benefit of the HANSARD.

Hon. Tonui: I withdraw.

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

Hon. Tonui: Hon. Temporary Deputy Speaker, it is only that I wanted to emphasize the idea that at the Committee on Finance, Planning and Trade, we have dealt with more than 20 reports and several Bills. I do not remember this committee bringing anything to the Floor for us to tackle. One time, I entered this Chamber and thought that the Auditor-General was before the PAC presenting something, which I thought was an audit report for the year 2011/2012. So, I thought that that report was with the Committee and I would have wished that we discussed that report and not this one of long time ago. However, it is good to adopt the report for record purposes.

I know this report is critical in terms of the division of revenue, which we are waiting anxiously to tackle. We need these resources to be taken to the grassroots. Currently---

Hon. Ababu: On a point of information, hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Kajwang’): Member for Bomet Central, do you want some information from your colleague?

Hon. Tonui: Yes, let him inform me. It could be good.

The Temporary Deputy Speaker (Hon. Kajwang’): Thank you. Can we have that information, Chair?

Hon. Ababu: Hon. Temporary Deputy Speaker, I just wanted to inform my hon. colleague that PAC does not work in the---

The Temporary Deputy Speaker (Hon. Kajwang’): I beg your pardon. What did you say?

Hon. Ababu: I wanted to inform the Member for Bomet Central that PAC does not submit to this House a report of the Auditor-General. After the Auditor-General has presented a report to PAC, PAC then organizes hearings with all accounting officers and then presents a report from the hearings on the report of the Auditor-General. If it was merely a conveyor belt that receives a report from the Auditor-General and then brings it here, then nothing would be easier than to merely collect a report from the office of the Auditor-General and submit it to the House. So, it is a long drawn process that also has a lot to do with the operations of the Government. For example, the whole of last week,

PAC was unable to interact with accounting officers; Principal Secretaries because they were all at the Mount Kenya Country Club where the Government was doing its evaluation. So, that needs to be taken into account when you are looking at the frequency at which the Committee brings reports here. The fact that the last committee concluded reports and did not table them in the House is really not sufficient for the Member to pass a judgement on the Committee. In fact, he should be complimenting this Committee for being able to carry on the business of the previous committee. Without appearing to defend the Committee, that record needs to be set right.

The Temporary Deputy Speaker (Hon. Kajwang’): All right. After that information, can you wind up your submission, hon. Tonui? Let him have the microphone.

Hon. Tonui: Hon. Temporary Deputy Speaker, I wish to thank hon. Ababu for that information. I appreciate it, but still I believe the Committee can work harder and give you these reports on time. The Cabinet was only on a retreat last week. They have not been on a retreat the whole year.

The Temporary Deputy Speaker (Hon. Kajwang’): Just move to another point. We want to get to the discussion.

Hon. Tonui: Hon. Temporary Deputy Speaker, I wanted to clarify that. The Chair took the Floor to deal with that.

The Temporary Deputy Speaker (Hon. Kajwang’): All right. Move on.

Hon. Tonui: So, I do not want it to appear as if it is factual, when it might not be that factual.

The adoption of these Reports is critical in terms of the division of revenue. Our people at the grassroots need to be served. We need to take more resources to the grassroots. We are dealing with a Budget of Kshs1.6 trillion, but what trickles to Bomet Central?

The Temporary Deputy Speaker (Hon. Kajwang’): Member for Nambale, you are on an intervention?

Hon. Bunyasi: On a point of order, hon. Temporary Deputy Speaker. In respect of Article 229(4), on timeliness of submission of reports by the Auditor-General’s office, it would be fair, since we are on national coverage, to say that the critical delay is not on the Auditor-General’s side. He has two reports that were completed, and that we have not been able to look at.

The Temporary Deputy Speaker (Hon. Kajwang’): Thank you. I appreciate your view on the matter, but does it not look more of debate than an intervention?

Hon. Bunyasi: Let me restructure that point then. Are we in order to imply that, in fact, the delay is critically from the side of the Auditor-General when it is the process of vetting and viewing each report that is lengthy? That is why we are here with reports that are five years old. So, I think we need to get this right. Otherwise, we will come across as a House that is throwing---

The Temporary Deputy Speaker (Hon. Kajwang’): Well, I think Members are in order to criticize a report, and even to make references to the fact that there could be delay based on certain facts. I think that the Member is really in order to draw from his experience and other issues and also look at the Constitution. It is a fair criticism.

Hon. Bunyasi: Thank you, hon. Temporary Deputy Speaker. When you give me a chance to contribute, then I will elaborate on the other points.

The Temporary Deputy Speaker (Hon. Kajwang’): I will and you will persuade the Members otherwise. Thank you very much. I am sorry, hon. Tonui, we have taken your time, but go on.

Hon. Tonui: I do not know if that was related to my contribution, or it was something else.

Hon. J.K. Bett: On a point of order, hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Kajwang’): Member for Kesses, I rule that there is nothing out of order. So, will you, please, allow this Member to finish? I do not want to interrupt him. Where is the Member for Kesses?

Hon. J.K. Bett: Hon. Temporary Deputy Speaker---

The Temporary Deputy Speaker (Hon. Kajwang’): No, no. I do not want to give you the microphone. I just want to rule that I find nothing in the Chamber to be out of order. So, let him continue.

Hon. Tonui: Hon. Temporary Deputy Speaker, what I want to say is that I expected us to be having more audit reports, just as we had the other day from the counties. The Auditor-General produced something in the last six months. This same auditor had not produced anything on the national Government. I wonder whether there is sort of partisanship. Those are the kind of issues we wanted to be brought to the public limelight. I would wish to see that the resources we have nationally are cascaded down to our people at the grassroots. The Constituencies Development Fund (CDF) is the one which can be physically audited by the public. It can show what we are doing in terms of structures like schools.

Hon. Temporary Deputy Speaker, there is also Kenya Rural Roads Authority (KERRA) and a bit of what is being done by the county government. But in certain corners, like where I come from--- Out of the Kshs200 billion which is allocated to the national Government to do development on the ground--- For example, in Bomet, if my people are asked, they may not be able to pinpoint any projects funded by the national government which is on the ground. That is why I am saying that I am eager to adopt, so that when we reach the stage of dealing with division of revenue, we can push for more resources for the CDF; it can be 10 per cent. If KERRA money can be adjusted even four times, that is the money which we will be able to see on the ground, and possibly adjust also the allocations to the county governments. This is because I tend to think that many of the functions which touch on the people---

The Temporary Deputy Speaker (Hon. Kajwang’): Thank you. I think you have made your point; have you? Have you made your point?

Hon. Tonui: I am trying to make it, hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Kajwang’): Take another one minute, just to wind up. Do not feel harassed. Really, we are just trying to make sure that every hon. Member has an equal opportunity. you have one minute.

Hon. Tonui: But I am not seeing any light there.

The Temporary Deputy Speaker (Hon. Kajwang’): No, do not look for the light. Just take one minute and be there.

Hon. Tonui: Thank you. When going through these Reports, you can see that various departments in the Government have been withdrawing money without the authority of this House. I believe this is a House of authority and in this House we represent our people. We have been elected and given the power to approve any expenditure. We are not a House to rubber stamp anything from anywhere. I believe it should be clarified which amounts were withdrawn without the authority of this House. Those are the kind of issues which I would wish to see dealt with. The other day there was a report about Kshs300 billion which was misused during the last financial year. We have not had any reports on how this misappropriation has been handled. How has it been addressed? Should we simply be talking about it and then letting it go without any action being taken?

What is the relevance of the office of the Auditor-General if these reports cannot be acted upon, if it is not providing the details on areas to deal with, so that we save more for expenditure in the right places? I do not think that salary cuts are popular with Kenyans. Many people are suffering at the moment. Their purchasing power is very low and when you tell them that we have to take salary cuts, I do not think it is acceptable. They will think of Kshs300 billion which was not accounted for in the last financial year and how much will not be accounted for in this financial year. Those are the kind of issues which we need to get addressed, if we are to move forward as a country.

Hon. Temporary Deputy Speaker, what are the institutions like the Ethics and Anti-Corruption Commission (EACC) doing to address these issues? How is it addressing these issues? What is coming out of these reports? Are they acting on these reports to make sure that we have more resources available for development and taking care of the needs of the poor in the society?

The Temporary Deputy Speaker (Hon. Kajwang’): All right. Hon. Member for South Mugirango, you have the Floor.

Hon. Nyamweya: Thank you, hon. Temporary Deputy Speaker for giving me a chance to contribute to these Reports. I thank the Committee which compiled these Reports. I would urge hon. Members to go through them.

First, I want to make comment on one thing. We have been talking about under-expenditure and under-collection. Over-expenditure and under-expenditure is a situation where the people in the Ministries do not spend the money that they have. These people work for the Kenya Government; the only job they do is to wait for money to be given so that it can be used on various projects. Therefore, when somebody comes and says that we were not able to do a particular project--- They sit in the office and wait for money to come on the last day.

Hon. Temporary Deputy Speaker, another point is the donor-funded projects. We have been told that donors give us money; when they give us money they give us conditions, which are lengthy. The point is very clear here. The technocrats in the Ministry, wherever they are, know the procedure. They know that if they are going to get money from donor organizations, it will take four months. Why then should you put this money in the Budget when you know very well that during the financial year, this money will not be available for use?

Therefore, I would urge the Budget and Appropriations Committee and the Finance, Planning and Trade Committee to be more thorough on these issues. This is

because what is coming out very clearly is that estimates are prepared without clearly thinking whether this revenue will be raised.

Hon. Temporary Deputy Speaker, what is shown in these Reports here has been a practice since Independence; we shall always say: "Donors did not give us money. We went for negotiations." The same reasons are given; when they know how long it will take. If they know how long it will take, then that money should be actualized; if they do not know, surely, why should they sit in the office? They do not look for money from anywhere else; they just sit in the office. Therefore, there is a challenge here for hon. Members and I urge Parliament to address the matter, and be more firm and thorough in this issue of projects being earmarked for various places in the country. We start in August, September and October comes and at the end of the year, there is no activity taking place, be it in roads, power supply or water in various parts of the country. Therefore, clearly, we need to be told whether we really have these funds. We need to be told whether we have these funds, because the same thing cannot be repeated year in, year out.

Hon. Temporary Deputy Speaker, I also want to talk about another issue here, which most hon. Members have talked about; I will tell you where the problem arose in this country. In this country we have not developed our external resource policy. This issue has been raised severally by the Public Accounts Committee. For example, if I go by the Report of 2009/2010, the Permanent Secretary undertook that he would be able to develop a policy for external borrowing by June, 2013 and immediately report to Parliament. This has not been implemented, and it is what is killing this country.

I want to show hon. Members where the problem is. The problem is not salaries for Kenyans who are going to buy goods made in Kenya. That cannot be a problem in this country. You cannot say that a Kenyan who is earning a salary and buying goods made in Kenya--- He buys bread and soap and that cannot be the cause of the big deficit that we have. I am going to tell hon. Members the cause of this. Please, hon. Members, let us be very serious. We know where the source of this is in this country.

Hon. Temporary Deputy Speaker, we have had projects being commissioned in this country, negotiated and finally nothing is delivered. I will start with Ken-Ren Chemical and Fertilizer Company. This company started some time back and money was paid. Initially, there was an issue and the Government did not pay. It took some years, negotiations started and finally the Government said: "Yes, we owe the money, let us clear it." How was it paid? Donor funds come. The World Bank comes here. It was paid by the National Alliance Rainbow Coalition (NARC) Government. This thing was started during the *Nyayo* era. So, how is that money paid? We need donor funding.. The donors tell the Government: "You have money which you have not cleared. Can you, please, agree to pay this? If you agree to pay this we will give you money." Then this money of the fertiliser factory was paid. That is a national debt which comes to the Kenyan taxpayer. That is how this country is being burdened. It is not being burdened by the salaries of people, as I have said, who buy products made in Kenya. Two things happen here. We do not have the factory and we lose the money. Two tragedies happen and not one.

Hon. Temporary Deputy Speaker, we have talked about importation of motor vehicles. Some Members have talked about it. These vehicles came in. Advance payment

was made. No vehicle was given. Finally, we are going to be told that this is a national debt and we should pay it. What is it doing to us? It is increasing our burden. However, had we an Act and a policy on how we borrow from outside, these problems would not be there.

I am urging Members, and specifically the Leader of Majority Party, who is here today, to tell Uhuru, the good President, that we should come up with a Bill which guides this country on how we borrow from overseas. Let it not be a case where a Ministry comes up with a decision that we need to import cars since we are the Office of the President, and we do not have vehicles. There are no clear rules to be followed. Money is given out and even before a single vehicle is delivered, the supplier is paid. The agony of all this is that the Attorney-General has never won a single case since these syndicates began stealing the resources of this country. It happened in the *Nyayo* era. It came to the NARC era. We had the issue of Anglo Leasing. This is going to be a national debt again.

I wish I could expound on the issues this country faces. Then we have security-related projects costing Kshs20 billion. Add the cost of all these projects to what the Kenya Government has been paying and look at the national debt; we have a problem as a nation. The first problem this country must sort out is how we borrow from outside Kenya.

Hon. Temporary Deputy Speaker, finally let me talk about this issue of the laptops. Somebody added Kshs1.2 billion in a tender document. That is a Cabinet Secretary who is in the current Government and a Principal Secretary who is in the current Government. They are behaving as if nothing has happened. The Public Procurement Review Board has clearly said that firm could not have even moved a step forward. However, the Cabinet Secretary is proudly saying that: "We are getting late and we must start the project." For President Uhuru to rule this country well, he must take action and discipline this group involved in the scandal of the laptops project.

Hon. Temporary Deputy Speaker, finally, we have the issue of the railway. It is under probe but unless this country sets a clear system on donor money and how we borrow, we will not go far. It should not come from individuals. People are compromised in each Ministry. They have a system and no case has been won by the Attorney-General. Finally, this Parliament maybe approached in this manner: "You know we want money from donor funds. They have given us a condition. One condition they have given us is that we must pay these bills. Can we approve money and pay?" That is how we are becoming poorer as a nation.

With those few remarks, I support but I ask Parliament to act more aggressively to help this country, the President and everybody. We have to come out with a foreign policy on how we will make the law which will guide this Government so that money is not wasted.

The Temporary Deputy Speaker (Hon. Kajwang'): Thank you.

Member for Shinyalu, just hold your guns for a minute. Let me get the Leader of Majority Party to make a comment. Of course, you understand that we have a constitutional order in our Standing Orders. So, allow the Leader the Majority Party to speak. That is the problem of coming late into the Chamber and finding your space taken by other Members who have been waiting.

Hon. A.B. Duale: Hon. Temporary Deputy Speaker I think you are very digital, because the other Chairs could not do that for me. I do not want to cast aspersions.

Hon. Temporary Deputy Speaker, from the outset I am a very sad man and I want to set the record straight as a person who sits in the House Business Committee (HBC), that this Report was tabled 14 days ago and the HBC, through the intervention by the Chair of the Public Accounts Committee (PAC), made sure that it was given priority.

Either it is the Executive or Parliament that is failing the people of Kenya, because we cannot be discussing PAC's Report for the year 2008/2009. We are talking of the 2014/2015 Budget-making process. This will have serious implications on the kind of resources that we allocate to the county governments.

Hon. Temporary Deputy Speaker, however, I will not talk very much about this Report for one fundamental reason: This 2008/2009 Report, in my opinion, has been overtaken by events. Why do I say so? The Constitution of Kenya 2010 has introduced fundamental and serious reforms in the public finance management of our country; I am sure this is through the creation of independent offices – Article 218 creates the Controller of Budget and Article 219 creates the office of the Auditor-General. That Constitution gave our country serious reforms; if these reforms are implemented in the Government of Kenya accounts for the years 2010/2011 and 2012/2013 the kind of wastage, corruption and serious audit issues that are raised in this Report will not recur.

Hon. Temporary Deputy Speaker, the common denominator in these Reports page by page and Ministry by Ministry is powers to rein in errant accounting officers, failure to settle bills, distortion of financial statements and timely payment of Government pending bills. That is why I even decided not to read the whole Report. It talks about external report policy but after the 2010 Constitution and the serious reforms that took place in the management of the public finance in our country, no accounting officer can repeat what the reforms sector has overruled. These are the safeguard measures in the utilisation of public resources in this country.

Hon. Temporary Deputy Speaker, I want to start with one of the key reforms in the Public Finance Management Act. It governs operations of both the national Government and the county governments; I am sure my very good friend, who served as an accounting officer, Dr. Nyikal, will agree with me. What was supposed to be done by the essence of that reform was the creation of a Treasury single account, which was to be a guide in Budget preparation. It was supposed to create Treasury's single account to regulate reporting to Parliament. There was serious consultation under that reform. There was sharing of information with the public. That Treasury single account was also a panacea for public debt management.

Hon. Temporary Deputy Speaker, this Treasury single account, when I look at it and analyze it was the only reform accounting officers and the Government could use to reduce the cost of borrowing and increase transparency within public finances. The other very important reform that was introduced in Public Finance Management Act (PFM) is the famous implementation of the Integrated Financial Management Information System (IFMIS) in all our Ministries. I know it is very hard to teach a new system to people who are used to corruption, people who are used to wastage. IFMIS was supposed to bring sanity and reduce wastage in public finance management. It was to bring computerization in Budget allocations and expenditure. It was to guide the procurement operations in all

Government entities. It was to do reconciliation between revenue and expenditure. It is only IFMIS that can give you a statement of Government finances, the position, and this is what is in the private sector.

Before you even go to a procurement entity, you must get one stop financial position of that entity. IFMIS provided that. Even the enactment of the new Constitution provided new PFM institutions. We even created institutions in the 2010 Constitution; an independent Auditor-General's Office and an independent institution called the Commission on Revenue Allocation (CRA) for allocation of revenue between the county and national Governments. We also created an independent Controller of Budget, who will look at what goes into the system, and what you need to budget. The Controller of Budget must approve your budget and you must follow his guidelines. The days when you said you were going to do a road between point "x" and "y" in your submission to the Controller of Budget and when you receive the money you use it for other things is over.

If these reforms, which came with the new Constitution are used then we will get timely reports to Parliament. The enactment of the PFM Act, 2012 comprehensively covered all aspects of PFM. There was a very key reform that was introduced by the Constitution to the PFM Act of 2012 termed the establishment of the Public Sector Accounting Board (PSAB). This Board was to set standards for efficient financial reporting by all public institutions. This is a hallmark. In any public financial institution, systems of reporting must be within this established institution called the PSAB. There is a serious reform that was also introduced in the transfer of funds in the Government and public sector. There was the implementation of electronic funds transfer (EFT), which is known as GPAY. This was to create an efficient way of payment within the Government. The days when an officer could hide a cheque for over a month was to be eliminated. So, there was to be timely disbursements and elimination of the use of cheques. This was reform that was geared towards reducing loss of public funds. The whole concept of the reform agenda within the PFM Act was how to reduce wastage and loss of public funds.

Hon. Temporary Deputy Speaker, serious training was done in areas of PFM. I want to confirm also that today, as a country, we are proud of the first establishment of an IFMIS academy at the Kenya School of Government (KSG); this is value addition to the Kenyan public sector and even to our neighbours in the region as countries want to come and learn from us. We want to believe that the creation of the CRA, the Office of the Controller of Budget, the enactment of the PFM Act, 2012 cover comprehensively all these areas; the re-engineering of the IFMIS as a system, the implementation of the EFT known as the GPAY and the Treasury single account are meant to reduce idle funds in MDA accounts and avoid excessive borrowing by the Government. These are organs that will reduce corruption. These are organs that will reduce public resource loss.

Having said that, these reforms are to be implemented by human beings, the same public officers and they might use these public reforms to loot public resources. We are talking about the wage bill; of course, it is very sad and I want to say it here. The debate is very healthy and timely, but the Gross Domestic Product (GDP) rate and the population growth are lower than the wage bill growth rate; that is a serious scenario for the growth of any economy. I will discuss more of the wage bill in tomorrow's Motion on the Budget Policy Statement from the Budget and Appropriations Committee.

Today I do not want to discuss what happened in 2008/2009 and the Grand Coalition Government, who looted what and who did not loot. My focus in discussing this report is: Are we serious about the PFM reforms that were introduced by the new Constitution? If these safeguards are put in place, I am sure even the work of the Public Accounts Committee (PAC) in the subsequent years will be less.

Finally, I want to thank the Chair; we know you are one of the most active Members who have served with me in the last Parliament. If you were in my party you would have been unopposed Secretary-General. If you were in my party I would have offered that or even the party leader; some of us believe in talent.

(Hon. Kaluma consulted loudly)

Hon. Kaluma is agitated but I am speaking for a great party that has 76 hon. Members in this Parliament. But believe in talent; we believe in men and women who can deliver, I am sure a time will come when an opportunity will be given to you in political gerrymandering in our country. I can assure you that if you feel too cold there, walk across and, as the deputy party leader, I can assure you that your position as the SG is assured.

With those few remarks, I beg to support.

The Temporary Deputy Speaker (Hon. Kajwang’): Well, Leader of Majority Party, before you entered into that saucy subject, which I am sure is interesting to hon. Members, I was waiting for you to tell us whether you support or oppose the Report; I am sure residents of Garissa Town want to know where their Member stands. I am sure they do not want their Member to be prevaricating.

Hon. A.B. Duale: Hon. Temporary Deputy Speaker, I want to confirm that Garissa is one of the serious constituencies that the Jubilee Government is doing serious investment in because of the Leader of Majority Party. Right now, there are seven new generators delivered there by Aggreko; the few of us who are in the social media can go to---

Hon. Temporary Deputy Speaker, I support this Bill. I have full confidence in the Chair. I offered him a position in the great party.

The Temporary Deputy Speaker (Hon. Kajwang’): Member for Mbita, you have been on your feet for quite some time. Can you just hold your horses?

Proceed, Member for Shinyalu.

Hon. Anami: Thank you, hon. Temporary Deputy Speaker, for giving me the opportunity to speak on this Report. I would like to take this early opportunity to thank the PAC, and particularly its Chairman, for presenting this Report in the manner he did. The details got down very well with us. We were able to understand what is happening and what the Committee is focussed on.

Obviously, we are concerned about the backlog that has been talked about. Even as we discuss these Reports, which are on accounts of five years ago, we still have a lot of work to do. I was thinking that we should be looking at ways of fast-tracking the examination and adoption of these Reports, because we still have a backlog of work to do. Kenyans are waiting for the outcomes.

From this Report, we see an aspect of laxity on the part of public servants, who are supposed to expedite the work of managing public resources. We should address such matters. I am happy that the Constitution has put in place timelines. You have drawn our attention to that fact. What we should be hearing alongside these belated Reports are the strategies that are going to be used to fast-track future Reports. We should not close our eyes to “*Bwana Mukubwa*” syndrome. The reason as to why public institutions are not delivering, why they have the excesses and commissions that we see in these Reports, is the “big man” syndrome.

When things are done in the Ministries and Government departments procedures are not followed. I am happy that the Leader of Majority Party has just alluded to training of public officers, so that they can understand IFMIS. IFMIS has been with us for some time. It is high time Reports like these ones carried success stories. What is the success story of IFMIS? We have IFMIS in place but we are still talking about a wastage of Kshs300 billion! We need to retrace our ways.

Certainly, the people who are suffering are the ordinary Kenyans. As we discuss these issues, we must address ourselves to the measures that we will be taking to mitigate the losses that Kenyans in the countryside have experienced. For example, when we talk about under-expenditure of 40 per cent, it means that services were not delivered. It means that a certain area of this country was marginalised. When services are not delivered in Shinyalu Constituency, it means that the money meant for that area was taken elsewhere. The people of Shinyalu remain marginalised. It is important that we come out with recommendations and measures to address these matters. We should have follow-up and monitoring mechanisms that will ensure that the ordinary Kenyans who have suffered out of these commissions and excesses are compensated accordingly.

Hon. Temporary Deputy Speaker, when we hear of pending bills we know that somebody’s business is suffering. A person who was not paid in time could not continue with his business, because he gave services to the Government and the Government was not able to pay. When pending bills are in the tune of billions of shillings, it means that the Government is causing suffering and loss of business. We should have strict recommendations that will address the matter of pending bills.

The poverty index in some districts is alarming. When we have poverty indices in the range of 60-73 per cent, it means that some Kenyans can only depend on others. They cannot be guaranteed any food at the end of the day. Some of them will die out of the effects of poverty. Therefore, it is important that while addressing the gaps and excesses that are created by such backlogs, we become mindful of the situation in which we are putting ordinary Kenyans.

In terms of prioritisation, we have gotten our priorities wrong. We have had some priorities set in the Millennium Development Goals. We should be addressing those priorities as we deal with a Report like this one. However, I would like to support the adoption of this Report and a follow-up of the recommendations contained therein. We should also retrace our footsteps, so that Kenyans do not continue to suffer because of laxity by public institutions.

With those remarks, I beg to support.

The Temporary Deputy Speaker (Hon. Kajwang’): Member for Nambale, it is now your time to persuade hon. Members as you had intended.

Hon. Bunyasi: Thank you, hon. Temporary Deputy Speaker, for giving me this opportunity. This is a great moment for---

(Hon. Okoth crossed the Floor without bowing to the Chair)

Hon. Members: On a point of order, hon. Temporary Deputy Speaker!

The Temporary Deputy Speaker (Hon. Kajwang’): Order! Order, everyone! I have heard the Member for Nambale, unless you are not referring to him.

Hon. Members: On a point of order, hon. Temporary Deputy Speaker!

The Temporary Deputy Speaker (Hon. Kajwang’): Member for Gem, what is out of order?

Hon. Midiwo: On a point of order, hon. Temporary Deputy Speaker. Did you notice the Member for Kibra just cross the Floor in front of the emblem of power as if this is a Kibra market, or as if this is a *busaa or chang’aa* place in Kibra?

The Temporary Deputy Speaker (Hon. Kajwang’): The Member for Kibra, can you explain why, as stated by the Member for Gem, you are taking this Chamber as Toi Market in Kibera?

Hon. Okoth: Hon. Temporary Deputy Speaker, I think that is a little below the belt. I had a national security matter which I cannot discuss broadly, but I will withdraw, apologise and follow the procedure. I apologise to the House.

The Temporary Deputy Speaker (Hon. Kajwang’): Order, the Member for Kibra! There cannot be anything in terms of national security in this Chamber. This Chamber is safe and you should feel free to be in any part of this Chamber. Can you do the necessary?

(Hon. Okoth went to the Bar and bowed to the Chair)

All right. Where were we?

Hon. Bunyasi: Thank you, hon. Temporary Deputy Speaker. I pray that the clock be set at zero.

The Temporary Deputy Speaker (Hon. Kajwang): We are keeping time and we will give you time.

Hon. Bunyasi: I was just about to start and this issue came up, hon. Temporary Deputy Speaker.

Indeed, we are discussing a Report that is almost five years old but I think that there is something fundamental about it that needs to be put squarely before Parliament. That is the role and responsibility that Parliament has got in oversight. I am a Member of the PAC. One of the things we note when we attend the Committee meeting is the repetitiveness of claims or reports of wastage, year in year out. We are in an era when we are talking about issues of waste, the public wage bill and how to cut down on costs. What prevailed in 2008, I can assure the Majority Leader still holds true today. I think the greater the attention we pay to this Report--- If indeed, we want to hold all the persons accountable, we may in fact, pre-emptively begin to solve the problems that are going to confront us as we begin to look at the most recent audits.

Hon. Temporary Deputy Speaker, I start by noting that in last year's Budget submissions, the budget for the Office of the Auditor-General was slashed significantly. This was just at the time when for the first time he was going to be reporting on all the 47 counties. I think hon. Members realize the centrality of this function and I hope that its budget will be restored fully, so that the office is in a position to give us more of these reports timeously.

Before I get into the substantive points, being an economist, I am used to critical constraints. The Office of the Auditor-General is not faced with the critical constraints facing us in respect of these accountability documents. Even if he had given us the documents for 2012/2013 Financial Year, we would still be looking at the 2010/2011 Financial Year. Due to the volume of work, we have not even gone to the 2011/2012 accounts that you have already submitted.

What is sad about it is that in the current Constitution – this has been mentioned and it needs to be re-emphasized – allocations to the counties--- The Division of Revenue Bill will be dependent on the findings duly approved or ratified by this House. This is the case, yet we are not there. My Chairman is here, and I know that he will be paying attention once hon. Millie lets him free; we have discussed how we can copy a model from Rwanda, which has been tied seriously on budget allocations. This means that they are very current in terms of the audit trail. They are able to link it to the budget but we are not there yet. If we did that, everything would come to a halt. Hopefully in a year or so, we will catch up. I think the sentiments expressed here are a clear pointer to the Committee that we will have to double our efforts in order to do that.

I will now come to the points that I wanted to raise. One of them is that I noticed a consistent waste management chain particularly in respect of the procurement function. That is from procurement to implementation.

The reports we get clearly indicate that at the procurement, mistakes are made. I am using this phone as my note book and not because I am taking a call. Hasty decisions are made that privatize public resources. This is what has led us to get into the KenRens, Goldenbergs and all these things of today. There are errors in procurement judgements. We have the procurement oversight authority, and my appeal to it is that they must be vigilant, diligent and unrelenting. The other organs of State that are expected to take responsibility and where problems are identified, they ought to swing into action. Also, the Director of Public Prosecutions (DPP) and all the resources that appertain to that office have not been engaged in managing the oversight responsibility by Parliament through the PAC and other institutions. The whole chain of procurement implementation has enormous problems. They are there today and it is not because of the counties; there is inherent tendency to disregard the law because without the law, there is no real accountability.

If we assign this entirely to the counties, we will miss a huge opportunity. It is like a doctor who thinks that your problem is in your leg when it is in your head or he thinks he should cut off the right leg and he cuts off the right arm. We must pin down the problem. It is not the existence of the counties that has created this problem. They are simply benefiting from what their fathers have done; their fathers are the national Government and its institutions.

My colleague, hon. Manje mentioned that in Uganda, senior criminal investigations and intelligence officers sit in the PAC. We thought that was a little strange because our accounting officers might be reluctant to come out fully knowing that a CID officer is present.

It is critically important that the transitioning of the findings from the PAC to the enforcement agencies needs to be re-looked at. It should be instant. It does not have to wait to be told anything if in the evidence giving, it is clear that there has been some malfeasance.

I am sure I do not want to speak on behalf of the Auditor-General, but he must be frustrated. He says so much. When he came before his House, he quantified, for once, the amount of waste as being over Kshs300 billion. Everybody was horrified. It made headlines in this country for several days and then it went quiet. That is what the PAC sees every day. I am hoping that as we become more current, we will be talking about people we have seen on the streets and people we saw yesterday. Lack of follow up is a major weakness and we need to look at it.

Lastly, the reason we get recurrent observations by the Auditor-General is because there is horrendous disregard for accountability by the accounting officers. The same mistakes are repeated every year by the accounting officers, because it does not matter what the offences are if nothing is done. We need to address that, so that the volume of the Auditor-General's report reduces from about 300 to 400 pages to, maybe, just 50 pages. Then PAC will be able to run through it in a month or two and not in nine months.

The Temporary Deputy Speaker (Hon. Kajwang'): All right. Member for Kitui Central, are you a Member of this Committee?

Hon. Mulu: No.

The Temporary Deputy Speaker (Hon. Kajwang'): And the Member for Rarieda? Are you a Member of this Committee? I give the chance to the Member for Rarieda. I am seeing that we are in the dying minutes. I was juggling between the two of you, but I will give this chance to the Member for Rarieda.

Hon. (Eng.) Gumbo: Thank you, hon. Temporary Deputy Speaker. I will try to use as little time as possible.

The Temporary Deputy Speaker (Hon. Kajwang'): Hon. Members, let me just put it in order. We will still debate this. This is for a long time. As you know, this is the reason why we are here. The Chair has no intention to limit debates by any Member on this matter. Therefore, you should feel comfortable to come tomorrow and debate this issue.

Hon. (Eng.) Gumbo: Thank you, hon. Temporary Deputy Speaker for giving me this opportunity to contribute to these Reports. As I contribute, I must indeed, sympathize with the work of Auditor-General because what you get from this Report is a do-not-care attitude of the accounting officers, which is really frustrating public accounting in this country.

Hon. Temporary Deputy Speaker, this House has been granted a lot of powers by the Constitution. I think it is time we started wielding the big stick. When you look at the cases of under-expenditure and under-collection of Appropriations-in-Aid, they indicate laxity. I think we have talked about the provisions of the Constitution that give us power.

It is time that we applied the constitutional provisions, so that officers in public offices who do not want to do their work are held to account.

Hon. Temporary Deputy Speaker, as we read these Reports, it is time we soberly embarked on the audit of the Constitution. This is because there is something fundamentally wrong with some of the individuals we have given office to hold on behalf of the people of Kenya. Even as we cry about the problems that are bedeviling this country, in more ways than one, the Executive remains guilty as charged. We must ask whether the individuals we have made Principal Secretaries and Cabinet Secretaries are really up to the task.

Hon. Temporary Deputy Speaker, a colleague has alluded to the fact that in the old constitutional dispensation, we had Ministers sitting here; the additional Ministerial responsibilities were a much lighter burden to the taxpayer than is the case now. That is why I think that we must, as a country, embark on auditing this Constitution, and accept that some things were not done right. I have said it before, and I am saying it again; I think we must bring Ministers back into this House so that they are held to account.

As I talk about this, sometimes it pains me as a Kenyan who believes in this country. When this country got Independence, we had very noble and achievable national goals, which were to fight poverty, ignorance and disease. But you will realize that, immediately we attained Independence, these very noble, simple, achievable and practical national goals ran into the headwinds of tribalism, corruption and bad governance. We must speak about them boldly; Kenya cannot move forward, after our 50 years of existence. What bad governance, corruption and tribalism have created are small kingdoms within Government. There are some among us who have attempted to bring despotism to our country.

Hon. Temporary Deputy Speaker, there have been even cases where we have had individuals who have wanted to introduce autocracy in this country, and, in the worst of cases, even aristocracy; that is the only way you can explain Ken-Ren, Anglo-leasing and Goldenberg.

There are questions we must ask ourselves. Recently we had a listing of who is who in Kenya in terms of wealth. Is it accidental that some of the wealthiest individuals in this country at one point held public offices? It cannot be accidental! It is shameful and the country must confront these things. We know what public servants earn. Look at the list of billionaires in Kenya and you will find that either at one point somebody was a Permanent Secretary, served in a parastatal or was a bank head. This is shameful. These are the who-is-who in Kenya today. If we do not want to confront these realities head on, we will be scratching the surface and that is why sometimes I sympathise with the President, and I know Uhuru Kenyatta and William Ruto very well. In fact, I want to say that when I campaigned in 2007 William Ruto was one of the people who helped me to win the Rarieda seat.

In my heart I want to believe these two individuals mean well for the country. However, sometimes you have to ask yourself: What kind of advisors do these two individuals have? When you stand on the lawn of a five star facility where you have taken about 100 Government operatives, you have stayed there for over five days, and we know in that facility some rooms cost as much as Kshs27,000 a night and some plates of dinner cost as much as Kshs25,000 a night, and you pronounce austerity measures, are

you not inviting scorn from the universe? Are you not inviting the citizenry to laugh at you? What austerity measures are you talking about when you have so many alternatives and you are saying that you want civil servants to reduce their salaries; you are even saying that you want parastatal heads – some of whom can hardly make ends meet – to reduce their salaries? In my view, the President and his Deputy must relook at the quality, or lack of it, of the advisors they have because they are making Kenyans mock them.

Hon. Temporary Deputy Speaker, as I conclude, the President does not need to ask civil servants to reduce their salaries. Let him have the courage to implement the reports that we are debating here. Let him have the courage to deal with the individuals who have been mentioned in these Reports, and he will have more than Kshs300 billion at his disposal. There will be no need to reduce salaries because his answer lies in the reports that are presented to this House year in, year out.

With those remarks, I support.

The Temporary Deputy Speaker (Hon. Kajwang’): Thank you very much but while you were there, Member for Rarieda, discussion was raised by the Member for Suba exactly on the point that you are raising, namely how this House can deal with some of these people who may have or may not have been involved in matters that you have adverted to. Whereas I agree that the President has something to do, I think this National Assembly also has something to do and can do something within the confines of the Constitution. Is it, therefore, possible that you can connect with the Member for Suba, so that whatever else somebody else in the Executive does, that is his business but we, as the National Assembly, can identify something that we can work on under the Constitution?

Hon. (Eng.) Gumbo: Hon. Temporary Deputy Speaker, the Constitution is bigger than Parliament, the Executive and the Judiciary. The Constitution already permits us to go after these individuals. What I would call for is for the euphoria to be over; now that we know we are Parliament and we are not the Executive, now that we know there are instances where tyranny of numbers means nothing, I think it is important for us, as a House, to provide the remedy that this country needs. It requires courage, a bipartisan approach and belief in Kenya and what Kenya stands for.

The Temporary Deputy Speaker (Hon. Kajwang’): Member for Kitui Central, one minute.

Hon. Mulu: Thank you, hon. Temporary Deputy Speaker for giving me this one minute and then tomorrow I will continue.

(Laughter)

So, I want to support the adoption of these Reports; I want to start by thanking the Committee for actually presenting them to this honourable House. I know a number of challenges have been mentioned by my colleagues in terms of timing, but I believe that it is important that these Reports be discussed in this House. That is why I stand to support it.

Hon. Temporary Deputy Speaker, after listening to the presentation of this Report by the Chairman of the Committee, I have just been asking myself: How many times have Kenyans listened to these kinds of reports? How many times have Kenyans heard

the kind of recommendations which have been mentioned in these Reports? Has this become music to our ears?"

This is because looking back, even when I was in the university, I was keen on what was happening in this House in terms of reports by the Public Accounts Committee (PAC); I do realize that there are many recommendations. There are recommendations to do with pending bills, outstanding imprests---

ADJOURNMENT

The Temporary Deputy Speaker (Hon. Kajwang'): All right, Member. I think that this is the right time to adjourn. You will have your eight minutes or so when this debate resumes in this Chamber.

Hon. Members, the time being 6.30 p.m., this House stands adjourned until tomorrow, Thursday, March 13th, 2014 at 2.30 p.m.

The House rose at 6.30 p.m.