

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 16th August, 2016

The House met at 2.30 p.m.

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

PRAYERS

Hon. Speaker: Hon. Members, before I read out the Petition that I have, allow me to recognize the presence of students in the House this afternoon. In the Speaker's Gallery, we have pupils from Fluorspar Primary School, Keiyo South Constituency, Elgeyo Marakwet Constituency. We also have students from Nyakach Girls High School, Nyakach Constituency; pupils from St. Joseph Primary School, Galole Constituency, Tana River County and St. Brigids Academy Keiyo South Constituency, Elgeyo Marakwet County.

In the Public Gallery, there are pupils from Barekeyiwo Primary School, Kesses Constituency, Uasin Gishu County Primary School and Chebang'ang Secondary Schools, Konoin Constituency, Bomet Constituency. We also have students from Kamiruru Secondary School, Igembe North Constituency, Meru County and Sotik Primary School, Sotik Constituency, Bomet County.

They are all welcome to observe proceedings of the National Assembly this afternoon.

PETITIONS

REMOVAL OF PHILIP KINISU FROM THE ETHICS AND ANTI-CORRUPTION COMMISSION

Hon. Speaker: Hon. Members, Standing Order No. 225 requires the Speaker to report to the House any petition other than those presented through a Member. In this regard, I wish to report to the House that my office is in receipt of a Petition regarding the removal of the Chairperson of the Ethics and Anti-Corruption Commission (EACC), Commissioner Philip Kinisu.

The Petition is signed by a Mr. Albert Mokono Ondieki of P.O. Box 7947-00100 Nairobi. The Petitioner states *inter alia*:-

THAT, the Chairperson is the majority shareholder in a firm alleged to have had irregular dealings with the National Youth Service (NYS), the subject of which may be under investigations by the Commission and thereby creating obvious conflict of interest;

THAT, the integrity of the Chairperson is injured by his association with a company that has dealt with and benefited from payments from the NYS; and,

THAT, Mr. Philip Kinisu did not satisfy the requirements of Chapter 6 of the Constitution and ought not to have been appointed to the position of Commissioner of the EACC

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over the current claims disclosed to Parliament and the appointing authority at the time of vetting and subsequent appointment.

In this regard, the petitioner prays that the National Assembly interrogates the grounds in the Petition with a view to recommending the vacation from office of the Chairperson in accordance with the provisions of Article 251 of the Constitution.

Having keenly considered the Petition, I am satisfied that it is presented in the proper form as contemplated under Article 251 of the Constitution, the Petition and Procedure Act of 2012 and our own Standing Orders. Consequently, and in keeping with paragraph 3 of Standing Order 230, this Petition stands committed to the Departmental Committee on Justice and Legal Affairs for consideration. The Committee is expected to guide the House by way of a report on whether the Petition satisfies the grounds for the removal of a Member of a constitutional commission as set out under paragraphs 1 and 2 of Article 251 of the Constitution.

Aware that the consideration of a petition for removal of persons from office in accordance with Article 251 of the Constitution is different from that of an ordinary public petition, the applicable timelines ought to be strictly adhered to by the Committee and, indeed, the House.

For the avoidance of doubt, and unless the House resolves otherwise, the Committee is required to submit its report to the House within 14 days as required by Standing Order 230(4). Thereafter, the House shall within 10 days, consider the report and resolve whether or not the Petition discloses grounds for removal of Chairperson in accordance with Article 251 of the Constitution.

I thank you.

Hon. Members, I notice that some of you may want to comment but for the convenience of the House, let us get the other two petitions then we can make comments.

Let us now have Hon. Esther Gathogo.

INTERDICTION OF MR. EMPRAIM K. WAMBUGU
BY TEACHERS SERVICE COMMISSION

Hon. (Ms.) Gathogo: This is a Petition by a former school principal on unlawful interdiction by the TSC.

I, the undersigned, Esther Nyambura Gathogo, Member of Parliament -*Mama ako sawa, aendelee na kazi* - on behalf of Ephraim Kamuhu Wambugu, a Kenyan citizen draw the attention of the House to the following:-

THAT, in 1993, Mr. Ephraim Kamuhu Wambugu was engaged by the Teachers Service Commission (TSC) as a graduate Teacher and posted to Masinga Girls Secondary School;

THAT, in 1997, the petitioner was promoted to the position of Deputy Principal and further promoted to the position of Principal at Kiamariga Secondary School in 2006;

THAT, in addition to being a principal, the petitioner was also elected and served as the Chairman of Mathira District Schools Head Association;

THAT, the petitioner served as the principal in Kiamariga Secondary School until December, 2011;

THAT, in 2012, the petitioner was demoted and transferred to Kangocho Secondary as an ordinary class teacher;

THAT, this has caused him social, emotional and psychological trauma and led to depression;

THAT, on 16th March, 2015, the petitioner was interdicted with allegation of desertion of duty;

THAT, the petitioner launched several appeals with the TSC for intervention regarding the matter but efforts to resolve the matter have borne no fruits;

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

Therefore, your humble petitioner prays that the National Assembly, through the Departmental Committee on Education, Research and Technology:-

- i. recommends reinstatement of Mr. Ephraim Kamuhu Wambugu as the principal by the TSC and payment of his dues;
- ii. ensures that the petitioner's plight is addressed; and,
- iii. makes any other order or direction that it deems fit in the circumstances of the case.

And your petitioner will forever pray.

I do not know why people laughed at me when I said "*mama ako sawa, aendelee na kazi 2017 to 2022*".

Thank you.

Hon. Speaker: The next Petition is shown in my record to be presented by John Munuve but he has not inserted his card in the machine.

Hon. Mati: I have inserted it.

Hon. Speaker: It is showing now.

MURDER OF MR. COSMAS MUTUNGA AT KENYATTA NATIONAL HOSPITAL

Hon. Mati: I, the undersigned, on behalf of the family of the late Mr. Cosmas Mutunga and the residents of Mwingi North Constituency, draw the attention of the House on the following: -

THAT, Article 26(1) of the Constitution provides for the right to life while Article 43(1) (a) provides for the right to the highest attainable standards of health for every citizen;

THAT, whilst the Kenyatta National Hospital (KNH) is the largest national referral hospital in Kenya many patients have lost their lives under mysterious circumstances while undergoing treatment at the facility;

THAT, on 29th November, 2015, Mr. Cosmas Mutunga who was admitted at the KNH was found dead in his hospital bed having been stabbed severally using a sharp object and bled profusely to death;

THAT, the mysterious death of the patient at the KNH has caused great agony and distress to his family, other patients at the Hospital and the country at large;

THAT, to date no arrest has been made despite the fact that the said patient was killed while in the custody of the KNH and in presence of other patients, bearing in mind that the entire hospital is under 24 hours surveillance;

THAT, efforts to bring closure to this matter have been futile, and further that similar incidents in the past, have not yielded any prosecution or convictions; and,

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

Therefore, your humble petitioners pray that the National Assembly, through the Departmental Committee on Health: -

- i. calls for an immediate probe into the death of the late Mr. Cosmas Mutunga;
- ii. ensures the establishment of mechanisms to guarantee security and safety to patients admitted and visiting public hospitals especially those under the national Government;
- iii. considers paying compensation to the family of the late Mr. Cosmas Mutunga and other affected persons as a result of gross violation of human rights of patients, under the care and custody of KNH;
- iv. ensures that the Petitioner's plight is addressed; and,
- v. makes any other order or direction that it deems fit in the circumstances of the case.

And your Petitioners will forever pray.

Hon. Speaker: Hon. Members, before I allow comments, I need to guide you that comments will be limited to the two petitions presented by Hon. Esther Gathogo and Hon. John Munuve respectively. The earlier Petition touching on Article 251 is not open for comments at this point. We do not want anything prejudicial and we have to wait for the Report of the Committee.

In the meantime, allow me to recognise the presence of Public Communication Officers from the Parliament of Uganda who are seated in the Speaker's Gallery. The officers are Mr. Moses Mugoya, Mr. Moses Kaziba and Miss. Dorothy Mweisigwa.

Further, I wish to recognise the presence of students from Starehe Boys Centre namely, Michael Ochieng, Jason Kamau, Brian Wanjala and Alex Mutuku. The students are on an academic attachment to the National Assembly for five days commencing yesterday. On my behalf and that of the National Assembly, I wish them fruitful engagements with the House during their stay within Parliament.

Thank you.

Let us now have Hon. Daniel Maanzo.

Hon. Maanzo: Thank you, Hon. Speaker, I wish to comment on the Petition by Hon. Munuve in relation to Cosmas Mutunga whose death was a shock to the country considering that the KNH is supposed to be a very safe place for patients. It would be very safe if the hospital is fitted with Closed-Circuit Television (CCTV) cameras especially on the pass ways so that patients will be monitored and those with ill motives are detected.

I condemn such acts and request the Departmental Committee on Health to get to the bottom of this matter. Several incidents have happened at the KNH and other hospitals and no prosecutions have been done so far. Probably, it is because of lack of evidence. If the CCTV cameras were fitted they would be helpful so that people with ill motives are spotted and, the hospital's security is boosted.

Finally, with your kind permission, I welcome the students from Starehe Boys Centre where I learnt and with whom I had lunch with. Thank you, Hon. Speaker.

Hon. Speaker: Yes, Hon. Robert Pukose.

Hon. (Dr.) Pukose: Thank you, Hon. Speaker. I was listening to the Petition by Hon. Munuve. It is important he tells us which ward the patient was at the KNH and under what circumstances the patient was stabbed. It is very critical. For something like that to happen in a national referral and teaching hospital, it warrants a lot of concern. It is an alarming issue for a patient who should be in the care of medical professionals within that hospital to be stabbed to death. It is also important for us, as the Departmental Committee on Health, to have details of when it happened, what time it was and under what circumstances the incident happened.

On the other issue that was presented by *Mama aendelee*---

Hon. Speaker: Presented by who?

Hon. (Dr.) Pukose: Presented by Hon. Gathogo alias *Mama aendelee*.

Hon. Speaker: Is she called "*Mama Aendelee*"?

Hon. (Dr.) Pukose: Yes, she is alias *Mama Aendelee*. That is what she said and I heard her very clearly.

Hon. Member: Yes, we agree.

Hon. (Dr.) Pukose: Yes, it is true, Hon. Speaker. That is her other name. She is referred to, as "*Mama Aendelee*" in her constituency. She said she wants to continue being a Member of Parliament for her second term from 2017 to 2022.

On the Petition concerning a teacher who is suffering, you know teachers have done good service to this nation having taught almost everybody who is here and that is something the Departmental Committee on Education, Research and Technology should look at very seriously.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Chrisantus Wamalwa, would they say *Kijana aendelee* or they would say *Mzee aendelee*?

Hon. Wakhungu: Thank you, Hon. Speaker, they would say *Kijana aendelee*. Because you had ruled that we should not comment on the Petition pertaining to Article 251, I respect that and will not do that. I want to seek your direction because in my position as a representative of the people of Kiminini Constituency, where Mr. Philip Kinisu comes from, I request for your direction pertaining to the aspect of *sub judice* because this matter is in court.

Hon. Speaker, is it in order for the Petition to be before the Departmental Committee on Justice and Legal Affairs for determination and yet this matter is active in the courts of law?

Thank you.

Hon. Speaker: Let us have Hon. Florence Kajuju.

Hon. (Ms.) Kajuju: Thank you, Hon. Speaker for this opportunity to support the Petition that has been presented by Hon. Esther Gathogo. The Leader of the Majority Party is guiding me that it is *Mama aendelee na 2017 up to 2022* which I support. She is one of the most hardworking women in this Parliament, and so, she has my blessings. I wish I could vote for her.

(Applause)

Hon. Speaker, I support this Petition because teachers have had general issues as far as their career progression is concerned. When I look at this Petition, I notice that this is a teacher who had risen from the post of a Deputy Principal to a Principal and then demoted. We know that there are primary school teachers who have gone back to school to obtain bachelors and Masters degrees which are not recognised by the TSC. Teachers ought to be respected and

honoured in their call of duty. I also noticed that money has been set aside for retired teachers. That is something that should be made in haste so that they are paid because they have served this country.

I support this Petition and pray that the matter is solved expeditiously for justice to be done to that teacher.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Ali Rasso, you have the Floor.

Hon. Dido: Thank you very much, Hon. Speaker. I want to comment on the Petition by Hon. Munuve. The KNH is our last resort. It is the first referral hospital in Kenya. Occasionally, I have time and again visited the KNH because there are patients from my constituency who are admitted there. Unless we become tough on the KNH, we are going to lose more patients in very vague circumstances.

I have written to the Chief Executive Officer (CEO), KNH on a similar case where a young man from my constituency called “Guyo Wario” was referred to the KNH from Marsabit Hospital. He died at the reception because nobody wanted to attend to him. We call upon the Departmental Committee on Health to be really tough on this Hospital. Whether it is about management, finance or professionalism, we must get the answers.

Thank you, Hon. Speaker.

Hon. Speaker: Finally, let us have Hon. David Kangongo.

Hon. Bowen: Thank you, Hon. Speaker for giving me an opportunity to also air my views about the two Petitions by Hon. Gathogo and Hon. Munuve of Mwingi North. The case of the KNH is very serious. A patient was admitted to a highly secure hospital like KNH and unfortunately some fellows went to the hospital and killed him. As we speak, there is a widow and orphans in Mwingi North Constituency because of the loss of their father. These orphans cannot meet their basic requirements.

We want the KNH to take up the matter, together with the Departmental Committee on Health, which is led by an Hon. Member from the same county, to make sure that the family gets justice and understands what exactly happened. You also heard from Hon. Rasso that there has been an incident like that before. We do not want a repeat of the same.

For the case of the teacher, I do not want to talk much on it but I want the Departmental Committee on Education, Research and Technology to look into the matter. A teacher who served very well and got promoted to a level of principal is all of a sudden demoted and given a disciplinary letter. I guess there is a lot to be investigated. It could have been a management issue between the TSC and the person.

Hon. Speaker, I support.

Hon. Speaker: The Leader of the Majority Party, you have the Floor.

Hon. A. B. Duale: Hon, Speaker, the Petition by Hon. Munuve is a very serious matter. It is not an ordinary Petition.

Hon. Speaker, you must put your foot down. We need a Report in this House before we go on recess. We have a situation where Kenyans take the sick to the KNH where they are given a bed. I am told that Cosmas, the patient who was stabbed several times, was a cancer patient. A criminal went in, stabbed him more than 42 times, he died and seven months down the line the security agencies and the management of the KNH have no answer for his family and country.

Under Article 95(4), it is the business of the National Assembly to deal with matters that concern people. This Petition is not even close, as much as it is a good one, to the Petition presented by Hon. Member for “*Mama Aendelee* Constituency”. This is a serious matter. Hospitals are supposed to be places where people go to console the sick, take flowers, take food and religious leaders to go and pray for them. That, seven months down the line the person who committed that heinous act has not been brought to book is a serious affront on the security of not only the KNH but all hospitals. If you remember, one time Hon. Charity Ngilu was in Nairobi Hospital and there were people who entered her ward without her permission. If it was not for the security of the Nairobi Hospital, maybe they wanted to kill her. This can happen. This is the beginning.

Hon. Speaker, you can direct the Committee--- I will be the first among the people who will appear before them. I want to hear what the CEO of the KNH will say. The blood of Mr. Cosmas should not go in vain. It should be a lesson to those criminals. We must find why that happened.

Hon. Speaker, I beg to support.

Hon. Speaker: The Petition by Hon. Esther Gathogo is directed to the Departmental Committee on Education, Research and Technology while the one by Hon. Munuve is referred to the Departmental Committee on Administration and National Security because the issues therein are not necessarily medical but are matters to do with security.

PAPERS LAID

Hon. A.B. Duale: Hon. Speaker, I beg to lay the following Papers on the Table:-

The National Treasury Quarterly Economic and Budgetary Review for the Fourth Quarter Financial Year 2015/2016 for the period ending 30th June, 2016.

The Report of the Auditor-General on the Financial Statements on the Truth, Justice and Reconciliation Commission for the two months ending 21st August, 2014 and the Certificate therein.

The Report of the Auditor-General on the Financial Statements of the United Republican Party (URP) for the year ended 30th June, 2015 and the Certificate therein.

The Annual Reports and Financial Statements for Chuka University for 2014/2015

Hon. Speaker, I remember last year I raised an issue whether - I am sure the Chairman of Public Investments Committee is here - political parties audited accounts from the Auditor-General were interrogated and a report submitted. Today, I want to confirm that before it winds up and merge with the Jubilee Coalition, the URP has submitted its audited reports.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Wangwe, you have the Floor

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

The Report of the Departmental Committee on Transport, Public Works and Housing on its consideration of the Civil Aviation (Amendment) Bill, 2016.

Thank you, Hon. Speaker.

Hon. Speaker: Yes, Hon. Kiptanui.

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

The Report of Departmental Committee on Energy, Communication and Information on the visit to nuclear plants in China from 11th to 19th June, 2016.

Hon. Chepkong'a: On a point of order, Hon. Speaker.

Hon. Speaker: What is your point of order, Hon. Chepkong'a?

Hon. Chepkong'a: Hon. Speaker, I was waiting for someone to rise on Statements but it appears there is no one rising on Statements.

Hon. Speaker: Yes, because there is no Statement.

POINT OF ORDER

DELAYED SUBMISSION OF REPORT ON MATTERS RELATING TO IEBC

Hon. Chepkong'a: Hon. Speaker, as you know, this House approved the Joint Select Committee on Independent Electoral and Boundaries Commission (IEBC). The last date was Friday. I expected them to file a report here this afternoon. That is why I was saying that if we are moving from Statements, it therefore means that the Report of the Joint Select Committee is not here.

As you know, three of my items have been frozen as a consequence of that Committee. One is on the IEBC (Amendment) Bill, two, the Elections (Amendment) Bill and three, the Petition for removal of the IEBC commissioners. I was supposed to move it here but I was persuaded by people across the aisle. Of course, as you know, we were prepared to debate it on this other side because we are always prepared, but unfortunately, some people may not be prepared. I am not saying anything out of order. It is the norm at times.

Hon. Speaker, will I be in order to request you to make a ruling? You know, if they do not bring the Report today, it should then not be moved or brought to this House. First and foremost, it will be in breach of the House rules and in breach of the Motion which appointed it. This is because they have exceeded the time they were allowed. As you know, we have the same powers as the High Court. If you do not enter appearance as required, judgement will be entered against you. That is the normal course.

Hon. Speaker, I would like you to make a ruling that that Report should never be brought to this House. They can take it to any other House and not this House because they are totally in breach of the Motion that approved them. They are also in breach of the 30 days that were granted to them and there must be consequences. It is like, I failing to table the Report of the IEBC Commissioners. It will not be allowed to come to this House and many things will be said about it. I expected the Leader of the Majority Party to table a report in this House this afternoon. I am just seated next to him and I am wondering why he is only reading a Statement without the Report.

Hon. Speaker, I would like to invite you to make a ruling in respect to this issue.

Thank you.

Hon. Speaker: When was the last day? The Joint Select Committee was given 30 days. For them to purport to do anything, even at midnight, without express leave of the House, would mean that they are engaging in some funny activities which are not recognised by the House. If they were supposed to submit their report, they know the rules. They may just be entertaining themselves there and attending other functions.

If the report is tabled after the 30-day period, without leave of the House having been sought to extend their sittings beyond the 30 days, then it will be null and void. I hear that there are some lawyers who are sitting in that Committee. I am sure they understand these rules because they are very simple. Those rules do not even require a very experienced person to explain them because they are simple.

Our own rules are also clear. Several Chairs of Committees, including Hon. Chepkong'a, have on numerous occasions sought permission from the House to extend time for consideration of business with timelines. This House understands the rules about timelines and dates. It may well be that some people are engaging in things that will be of no consequence. I hope nobody engages in that.

If the Committee will be found to have exceeded the number of days allowed, then the two Houses might have to be asked to approve extension *post facto*. It is not unusual to have a *post facto* application being made. There must be reasons given. There must be justification. If people are not ready to do the work that they purport to want to be given by the Houses, they must say so upfront. Otherwise, do not engage in futile exercises.

I can only address myself to what is before me. There is no debate. I will only deal with the matter when a purported report is tabled. I will look at the Motion and the timelines and determine whether it is capable of being debated here or we give it to other people elsewhere to deal with it. There is nothing to debate on this.

Hon. Chepkong'a, let us not deal with this because there is nothing before me to rule on. Should anybody purport to do something that is outside the mandate given by the two Houses, then obviously there will be need for me to express myself on what it is that they will be presenting, if at all there is anything. That is unless they proceed as I have indicated, to seek *post facto* approval of extension of the time within which to sit and do what they purport to be doing now. Otherwise, for now, there is nothing for me to do. I cannot rule on anything because there is no report before me.

Hon. Nyenze: Hon. Speaker---

Hon. Speaker: The Leader of the Minority Party, let us not comment on this. People are at liberty to visit hotels. That is why these hotels are there.

In fact, this House of Parliament pays for Members to spend weekends there. There is nothing wrong with anybody visiting those hotels and inviting religious leaders to pray for them while they are there. Members should know that even if you are being prayed for, what you are doing must be within the mandate that you were given by the House. You cannot ask them to pray for you when you have already exceeded your mandate. You will have to proceed in the manner that I have indicated.

For now, I cannot make any ruling because there is no paper that has been laid for Members to comment on the dates and the respective mandates. It may well be that they will see the light of day and come to seek a *post facto* approval of extension of time.

For now, let us just proceed with our business. Do not worry. I know the Leader of the Minority Party, being a very pious man, might want to---There is nothing for me to clarify. Let me not clarify that.

Let us just move on with our business. Hon. Nyenze, I am sure when the matter comes, if it comes at all, everybody will get a fair chance to make informed comments.

Let us move on to the next Order.

MOTIONS

REPORT OF COMMITTEE OF THE WHOLE HOUSE ON SENATE AMENDMENTS TO THE FISHERIES MANAGEMENT AND DEVELOPMENT BILL

THAT, the House do agree with the Report of the Committee of the whole House on the consideration of the Senate amendments to the Fisheries Management and Development Bill (National Assembly Bill No.20 of 2015)

Hon. Speaker: Is that the Member for Nairobi? Debate on this Motion was concluded. What remains is for me to put the Question.

(Question put and agreed to)

REPORT OF COMMITTEE OF THE WHOLE HOUSE ON SENATE AMENDMENTS TO THE ACCESS TO INFORMATION BILL

THAT, the House do agree with the Report of the Committee of the whole House on the consideration of the Senate amendments to the Access to Information Bill (National Assembly Bill No.36 of 2015)

Hon. Speaker: Hon. Members, once again, debate on this Motion was concluded last week.

(Question put and agreed to)

BILLS

Second Readings

THE CIVIL AVIATION (AMENDMENT) BILL

(Hon. A. B. Duale on 11.8.2016)

(Resumption of Debate interrupted on 11.8.2016)

Hon. Speaker: Let us have Hon. Manson Nyamweya. Hon. Nyamweya, you have a balance of four minutes.

Hon. Nyamweya: Thank you very much, Hon. Speaker. I would like to point out one thing about sharing of revenue. The Kenya Civil Aviation Authority (KCAA) cannot work effectively without getting enough funding. It needs a lot of money to train manpower, buy equipment and cover all that they require.

Unless the Kenya Revenue Authority (KRA) Act is amended, you cannot amend this section of the Civil Aviation Act. At the moment, the KRA collects all the revenue at the airport.

It is guided by an Act which this House passed. If we amend the section on how revenue will be shared without amending the KRA Act it will not work.

I will propose an amendment during the Committee of the whole House to amend the KRA Act so that it can be in line with the Civil Aviation Act. If we do not do that, it will not work.

Another issue is about the board of directors. If you look at who will be the board members, you will find that the independence that the KCAA wants will not be attained because the system of appointing the board of directors is the same old one which we are using at the moment.

The Principal Secretaries (PSs) or the Cabinet Secretary (CS) are the ones that appoint directors. In this country, the CS appoints directors who were politicians, former Members of Parliament (MPs) and people who will not bring independence to the Authority. There is need to amend that section if we aspire to make the KCAA independent and make it work effectively so that it can provide security, monitor planes that come to this country, give certification to aircraft that land in this country and satisfy personnel. This cannot happen if there is no proper funding to the KCAA because it requires a lot of money to do that. This can only happen if the Civil Aviation Act is amended.

With those few remarks, I support.

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

Hon. Barua: Hon. Speaker, I had contributed to this Bill.

Hon. Speaker: Hon. Barua, you should have just owned up that you had contributed. You have been put off because it was realised that you would have more than your fair share of the pie.

Let us have the Member for Muhoroni.

(Hon. Mwadeghu walked between the Speaker and Hon. Oyoo)

Hon. Speaker: Hon. Mwadeghu, read Standing Order No.103(2).

Hon. Oyoo: Thank you, Hon. Speaker. I had intended to speak to the previous issue as I had contributed to this Bill last week.

Hon. Speaker: Is the Member for Emurua Dikirr in?

Hon. Member: He is here.

Hon. Speaker: He is very nomadic! The Member for Laikipia East, do you want to contribute to this Bill?

Hon. Kimaru: No, Hon. Speaker.

Hon. Speaker: Hon. John Olago Aluoch, do you want to speak to this Bill?

Hon. Aluoch: Yes, Hon. Speaker.

Hon. Speaker: Please proceed.

Hon. Aluoch: Hon. Speaker, I wish to support the Civil Aviation (Amendment) Bill. It is important to understand that the roles of both the KAA and the KCAA are in law. They are distinct and separate. While supporting this Bill, I heard the Leader of the Majority Party stating that this amendment will have effect on the United States Federal Aviation Authority (USFAA) in having direct flights to Kenya. It is not just this amendment but it is important to note that as we seek for direct flights between Kenya and the US, we must look at the personnel

requirements of the KAA, particularly those in charge of security. There are personnel referred to as security wardens at the KAA. From my experience at the Moi International Airport, Jomo Kenyatta International Airport (JKIA), Kisumu International Airport and Eldoret International Airport, I have noticed that the KAA security wardens are the most demotivated staff. Some have been working for even five years without being confirmed and yet they have undergone training in aviation security locally and some even internationally. Even if the Civil Aviation (Amendment) Bill is passed, unless the KAA looks at the welfare of its staff, particularly security wardens, nothing will come out of it.

At this time when Kenya is under serious threats of terror, it is important to appreciate that our laws should assist the country fight terror at our airports. In my view, this Bill will go a long way towards assisting the KAA and the KCAA fight terrorism at our airports.

The Kenya Government has for a long time looked forward to achieving direct flights to the US. As we debate this Bill, we should look at how best the Civil Aviation Federation of the US and the KAA can work together to fast-track the process of direct flights between the US and Kenya.

I support.

Hon. Speaker: There being no other Member willing to contribute, the Mover will now be called upon to reply. Before he replies, allow me to recognise the presence of the following students and pupils from Janeiro Junior Academy from Rangwe Constituency, Homa Bay County; Mercy Girls High School from Kipkelion Constituency, Kericho County; Choroiboro Primary School from Buuri Constituency, Meru County and Trans Mara Hills Springs Academy from Kilgoris Constituency, Narok County. There are also three students from Maxwell, Morgan and Okomo in the USA. You are welcome to observe the proceedings in the National Assembly.

The Leader of the Majority Party, you have the Floor.

Hon. A.B. Duale: Thank you, Hon. Speaker. I want to thank all the Members who contributed to the Civil Aviation (Amendment) Bill No.14 of 2016. This Bill amends the Civil Aviation Act of 2013 and more fundamentally, it is meant to address findings of the audit of the International Civil Aviation Organisation (ICAO) and the USFAA. These organisations did a technical review for the international audit safety and assessment category that is required. This law is important in economic growth and increasing passenger capacity handling at the JKIA in terms of making it a regional hub in the aviation industry. This law will create a legal framework that will fill the gaps in the current Civil Aviation Act of 2013 and solve the impediments and challenges that have made us not to have direct flights from the JKIA to the USA. The filling of these gaps legally, through these amendments to the Civil Aviation Act of 2013, will unlock the economic potential of the civil aviation industry in our country. It will ensure the civil aviation industry becomes highly competitive on the continent against the likes of Ethiopia and South Africa.

With that summary, Hon. Speaker, I beg to move.

Hon. Speaker: Hon. Members, for reasons well known to you, I withhold putting of the Question. We have only sat for one hour. We have noticed in the past that a few of us are allergic to sitting in the Chamber beyond 30 minutes.

(Putting of the Question deferred)

So, let us move on to the next Order.

THE KENYA REGIMENT (TERRITORIAL FORCE) (REPEAL) BILL

Hon. A. B. Duale: Hon. Speaker, I beg to move that the Kenya Regiment (Territorial Force) (Repeal) Bill (National Assembly Bill No.39 of 2015) be read a Second Time.

The Kenya Regiment (Territorial Force) Act is a pre-independence Act. It is a colonial Act and it is outdated. It was enacted in 1937 and it creates the Kenya Regiment which was a reserve force that was to complement the British Army at that time. That reserve force which consisted of white settlers was disbanded at the eve of our Independence.

As we speak, there is no legal framework for the establishment of a regiment to the Kenya Defence Forces (KDF). There is a new legal framework through the Kenya Defence Forces Act that establishes the KDF and, of course, its regular, volunteer and auxiliary reserves. So, the KDF Act has taken care of this old colonial Act.

The Act is, therefore, superfluous. What this Bill is trying to do is to repeal it. We do not understand why previous Governments did not think of this. Under the new Constitution, I am sure this is one of the pieces of legislations that are in place, but are of no use to the citizens of this country or even the KDF.

This Bill seeks to repeal that subsidiary piece of legislation that was made under the Kenya Regiment (Territorial Force) Act. There is no intention to replace this Act to preserve the continued application of a subsidiary legislation under Section 24 of the Interpretation and General Provisions Act.

This is a small piece of legislation. It has been lying in the National Assembly since June, 2015. It has only one reason and that is why it is a very small Bill. I think it is just a one-page Bill. It wants to repeal the Kenya Regiment (Territorial Force), a stand-by force which was used by the British colonial power, as I said, since 1937.

Under the new Constitution, we have the KDF Act. For the police and the other arms of security, we have the National Police Service (NPS) and the National Police Service Commission (NPSC). So, this law which has just been in existence has been serving nobody. Nobody has been using the Kenya Regiment (Territorial Force). It is a subsidiary piece of legislation within the Kenya Regiment (Territorial Force) Act. Because there is no intention to replace it, the framers of the Constitution and the Office of the Attorney-General felt that this is redundant, superfluous and we must remove it from our laws.

It is a small Bill. I am sure we will not take much time on it. As I move, I ask the Hon. Member for Kajiado West who is a man of God, priest, bishop and a man of the collar to second.

Hon. Speaker: The man of the collar, you have the Floor.

(Laughter)

Hon. ole Sakuda: Hon. Speaker, I think the Leader of the Majority Party is too generous with his words and titles to me. Of course, the good thing is that I am a friend of the clergy.

(Laughter)

I rise to second this Bill. Just like the Leader of the Majority Party has stated, it is a Bill that tries to put things straight knowing that the reality of 1937 is not the reality we are in right now in 2016 and moving forward. It is a Bill that brings to light the times we are in. It does not require the engagement of any county government or the Senate. It also does not have any additional expenditure to public funds. It is very short. It is actually half a page and it is meant to put things in order.

With those few remarks, I rise to second.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Members, before I propose the Question, let me recognise students from Dol Dol Boys High School from Laikipia North Constituency in Laikipia County. They are welcome to observe the proceedings in the House.

(Question proposed)

I am told the Member for Mbita Constituency--- Is that the correct name and pronunciation?

Hon. (Ms.) Odhiambo-Mabona: Thank you, Hon. Speaker for giving me this opportunity to speak to this Bill.

First of all, I am very happy to be back home. I have been away at the Pan-African Parliament for a while.

Last week, I was privileged to observe the elections in Zambia. Even as I support this Bill, I want to say that if there is something that is wonderful and we can emulate from Zambia, not necessarily from the elections, it is the fact that they are largely united along ethnic lines. Issues of elections do not divide them as much as it does here.

What I want to say in regard to this law is that it is fairly straightforward. Even as we repeal it because we have a legislative framework in place, I urge that we ensure we implement the laws that are there. This is especially on the inclusion of women in our armed forces.

Recently, I was in Uganda talking to the new Parliament. I was training the women parliamentarians in Uganda and one of the things that came up is that the Ugandan legislature has the defence forces represented in Parliament. They were sharing that many women in practice are still excluded in the armed forces. It is a fact here. We know there are women who were excluded because they were suspected to be pregnant. I know they can be given other roles in the armed forces. We should not penalise motherhood, especially in certain professions.

Finally, I just want to thank you for acknowledging the students visiting from the USA. They are also linked to Mbita. They come from Mbita, specifically from Rusinga Island. They have a heritage there. I am glad they are visiting our country and you have acknowledged them.

Thank you, Hon. Speaker.

I support.

Hon. Speaker: Hon. Members, listening to the Mover, Seconder and the Member for Mbita Constituency, I need to know whether the people whose names appear here want to contribute to this Bill. This is particularly in seeking to repeal this Act, and if you have looked at the memorandum of objects and reasons, the specific issue that it seeks to be addressed is the subsidiary legislation made on the authority of that Act.

I am not debating, but it may well be that it confers certain rights to fellows who may be hovering around in their 80s and 90s, and perhaps, have some rights which they think they want to enforce through those subsidiary legislations. So, I think it is good to also seek to know what it is that was made in that subsidiary legislation under the Act.

Hon. Shakeel Shabir, the Member for Kisumu East.

Hon. S.S. Ahmed: Thank you, Hon. Speaker, for raising that issue. Firstly, I am in full agreement that this Act needs to be repealed. At the time it is being repealed, we need to look at some of the ramifications, if any.

The first one I would like to mention is a substantial property which borders Kenyatta National Hospital (KNH) and Nairobi Hospice. That substantial property is in the name of Kenya Regiment Territorial Force (KRTF). When this Act is repealed, I am sure that a system will be put in place to revert that property to the Kenya Defence Forces (KDF).

The second element is that there are retired soldiers; a number of them from Nyanza, western and all over Kenya, who initially started in the KDF but for some reasons they were transferred to the KRTF where they retired. They were to be given pension. I am not too sure whether that pension is still coming from the British Government or not. It is good that we want to get rid of colonial baggage, but we also want to recognise some of the beneficiaries who might still be alive. On the issue of property, where does it go? Who should benefit from that property, or does it revert to the KDF?

Thank you, Sir.

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

Hon. Kimaru: Thank you, Hon. Speaker. I come from Laikipia East Constituency, which has a large population of settlers who were formerly nationals of Britain and who may also form part of this territorial force. I am in support of the Bill that seeks to repeal the Kenya Regiment Act. Kenya being an independent State, we do not need nationals of another country to form a territorial force. If, indeed, there is need to form a territorial force, we have a great reserve of our retired soldiers who would form it. We must reinstate our Independence and sovereignty. We should not seem to surrender this to foreign nationals. Later on I will be in support of the ratification of the Defence Cooperation Agreement. I am convinced that we do need to have that territorial force.

I would like to echo the comments of my colleague from Kisumu East that even as we do this, probably at a later stage, we also need to make amendments to facilitate the transfer of the property that the KRTF held. If we do not provide for the transfer back to the Kenya Government or the KDF, we might find that the same property will get into wrong hands. So, as we proceed, I think at a later time, we will need to specifically provide for the transfer of this property back to the Kenya Government.

I support.

Hon. Speaker: Hon. Michael Onyura, do you want to contribute to this?

Hon. Onyura: Thank you, Hon. Speaker. I will be very brief since, as everybody has observed, it is fairly a straightforward matter. I support that the Act be repealed. However, a curious question that I have is; how come it has been left in our books for all these years? It was enacted in 1937, nearly 80 years back and over 50 years after our Independence. This is the case and yet it is still lying somewhere on our legal shelves. Do we have other Acts like this? Maybe this is just another wake-up call for the agencies that are concerned, like the Kenya Law Reform

Commission (KLRC), to look at each and every statute and related provisions so that nothing overstates the way this one has. That was the curious point that struck me. Otherwise, I support the repealing of this Act.

Thank you.

Hon. Speaker: Hon. Timothy Wanyonyi.

Hon. Wetang'ula: Thank you, Hon. Speaker. I wish to support the repealing of this Act. These archaic laws that still exist in our books ought to have been cleaned up long time ago. This shows that we still have a hangover for our former colonial masters. I believe we are moving in the right direction by repealing some of these pieces of legislation. As the previous speakers have said, anything that fell under this legislation should be transferred to the relevant authorities. I wish to support that this Act be repealed. Any other existing legislation that may have been overlooked needs to be removed from our books because it can easily be misused.

Hon. Speaker, I support.

Hon. Speaker: Yes, Hon. Ferdinand Wanyonyi.

Hon. F. K. Wanyonyi: Hon. Speaker, I also want to support the repealing of this colonial Act. I am really a rural person because I come from rural areas. I know two old men who, when I was very young, went as far as the Far East and fought there. These people are still alive, but if you look at the condition in which they live, you will not believe it. They are poor and they were not compensated. I am sure other people are still alive elsewhere. As we repeal this outdated Act, I suggest that we look at those who served in the colonial days and see if there is any way we can compensate them. I am aware that the *Mau Mau* soldiers who fought the colonialists are looking for compensation from the British Government. I sympathise with those old men. They are in their hundreds. Maybe, as we repeal this Act, we should look for a small token to compensate them. If not directly, we can compensate their dependants. As we clear all these old Acts, we should also look at the compensation of those who took part in serving the colonial masters.

There are two old men who say how they were transported to the Far East to fight. They are still alive but there is nothing to show for that. I know it is a very old Act. As we look at the archives and clean some of these things, let us also do an honourable thing. I ask the Leader of the Majority Party to look at it and see if he can give a token of appreciation to the people who served our masters. Of course I cannot underrate the role they played in bringing civilisation in this part of the world. We should look at their compensation.

I support.

Hon. Speaker: You seem to suggest that they were part of the territorial force. The intention of having this Bill was not to recognise them. Their recognition ought to be elsewhere in the law about pensioners. It cannot be part of the reason why the law was enacted. There is mischief which is sought to be corrected by the repeal of this legislation.

There being no other person willing to contribute, I call upon the Mover to reply. Let us have the Leader of the Majority Party.

Hon. A.B. Duale: Thank you, Hon. Speaker. This is one of the Bills that I knew would not have much debate. It is basically meant to repeal the Kenya Regiment (Territorial Force) Act which was enacted in 1937. It was a regiment which was a reserve force that was to complement the British Imperial Army. This force mainly consisted of white settlers. So, Hon. Wanyonyi must be talking about those Africans who served as porters, cooks and cleaners for the forces. I am sure that there is a mechanism in law currently that can help. There is a new legal framework

for the establishment of the Kenya Defence Forces and its regular, volunteer and auxiliary reserves within the framework of the KDF Act. So, as I have said, this Act is superfluous and the Bill seeks to repeal it.

I beg to reply.

Hon. Speaker: Hon. Members, for similar reasons as those given in the previous business, I will not put the Question on the Second Reading of this Bill. We will move to the next Order.

(Putting of the Question deferred)

MOTION

Hon. Speaker: The Committee Chairman, Hon. (Eng.) Gumbo, has 60 minutes within which to move. Of course, this is a fairly short period given what the Public Accounts Committee (PAC) Report contains. Those of you who have some history of yester years will know that some of us would have wanted to speak for about a week or two when moving a Report like this one. So, Hon. Members, be ready to listen to Hon. Gumbo for 60 minutes.

(Laughter)

ADOPTION OF THE PUBLIC ACCOUNTS COMMITTEE REPORT FOR 2013/2014

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

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

(Resumption of Debate interrupted on 10.8.2016)

Hon. (Eng.) Gumbo: Hon. Speaker, on behalf of the PAC and pursuant to the provisions of Standing Order No. 199(6), it is my pleasure, privilege and honour to present to this august House the Report of the Committee on the Appropriations Account, other public accounts and the accounts of the Funds of the Government of Kenya for the year 2013/2014. I will go to the guiding principles upon which this work is based.

In the execution of its mandate as aforesaid, the PAC is guided by the core constitutional and statutory principles of public finance management as well as established customs, traditions, practices and usages. These principles, among others, include Article 201 of the Constitution, which enacts fundamental principles that shall guide all aspects of public finance in the Republic of Kenya. The principles are *inter alia* under Article 201(a) of the Constitution, which says:-

“There shall be openness and accountability, including public participation in financial matters.”

Article 201(d) of the Constitution says that public money shall be used in a prudent and responsible way. Article 201 (e) of the Constitution says that financial managers shall be responsible, and fiscal reporting shall be clear.

The PAC places a high premium on these principles among others and has been guided by them in the entire process that has culminated in the preparation of this Report.

During the course of our investigations, we looked at direct personal liability. In doing this, we were guided by Article 226(5) of the Constitution, which is emphatic 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, the 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.

This is important because it extends culpability up to and into the time when the holder of the office ceases to hold the office. The PAC has hosted this constitutional principle as the basis for holding each individual accounting officer and other public officers directly and personally liable for any loss of public funds under their watch. The Committee has and will continue to invoke this provision in its recommendations to hold those responsible personally accountable. This is also intended to serve as a deterrent measure.

Hon. Speaker, guiding principle number three is on the obligations of accounting officers. Section 68(1) of the Public Finance Management Act, 2012 provides, *inter alia*, that an accounting officer for a national Government entity, Parliamentary Service Commission (PSC) and the Judiciary shall be accountable to the National Assembly for ensuring that the resources of the entity for which he or she is the accounting officer are used in a way that is lawful, authorised, effective, efficient, economical and transparent.

This provision obligates all accounting officers to appear before the PAC of the National Assembly to respond to audit queries in their respective ministries, departments and agencies. Section 74(2) of the Public Finance Management Act, 2012 stipulates as follows:-

“If a Cabinet Secretary reasonably believes that an accounting officer is engaging in or has engaged in improper conduct within the meaning of subsection (4), the Cabinet Secretary shall take such measures as may be provided in regulations or refer the matter to the relevant office or body in terms of the statutory and other conditions of appointment or employment applicable to that accounting officer.”

This section empowers the appointing authority to discipline errant accounting officers, which could include revoking their appointments. This provision has sealed the long standing loophole that has previously seen accounting officers continuously committing or presiding over fiscal indiscipline and malpractices in their MDAs without sanctions.

The PAC strongly holds the view that these provisions of the law were intended to be fully deployed to give effect to the high principles in Article 201 of the Constitution to ensure prudent and responsible use of public funds. The Committee has accordingly applied these provisions to recommend diverse disciplinary actions, investigations and surcharging of various persons found to bear responsibility for breaches of the law, or for loss or wastage of public funds.

The Committee held a total of 46 sittings in the period under review, during which we examined all audit queries by the Auditor-General (AG) on the MDAs. All the minutes of the Committee’s sittings are herein jointly tabled with this Report as Volume II. In this exercise, the

Committee was guided by the stated principles as well as the rules, procedures and customs of the National Assembly derived from the Constitution of the Republic of Kenya, the relevant Acts of Parliament, the National Assembly Standing Orders, conventions, usages, practices and rulings and directives of the Chair. During the course of our investigation, we made the following general observations:-

The Report by the Auditor-General was tabled in the House in early July 2015. This delayed tabling was a contravention of Article 229(4) of the Constitution, which expressly gives timelines for audit. The Report was thus six months late. The late tabling of this Report was compounded by lack of cooperation, unwillingness and sometimes outright reluctance and apathy by some Accounting Officers. Their constant requests for rescheduling of appearances hampered the Committee's progress in the production of this Report. It is important to reiterate that this matter has been raised on the Floor of this House many times as well as at the highest level within the Executive arm of the Government. Therefore, urgent intervention should be instituted to mitigate the slow progress, particularly as we go into the future. Notwithstanding these challenges, the Committee embarked on a tight schedule and sat for long hours, and sometimes on odd days, until late into the night.

The Committee, indeed, is thankful to Hon. Speaker for allowing the Committee to sit during House sessions to enable us cope with the workload and the strict constitutional timeframe. This was in pursuit of compliance with Article 229(8) of the Constitution as aforementioned. The timely tabling of this Report is of particular significance in ensuring fair revenue sharing within the national Government and the county governments, calculated on the basis of the most recent current audited accounts approved by Parliament as required by Article 203(3) of the Constitution. We, therefore, call upon this honourable House to expeditiously discuss and approve this Report as a matter of urgency.

I want to draw the attention of the House to the observations from the Committee proceedings, evidence taken and selected project visits and findings that relate to the fiscal year under review.

First, there was non-compliance with the accounting standards. During the year under review, the Committee noted several accounting errors in appropriation accounts. More significantly, there were numerous cases of lack of footnotes and balances in Appropriation Accounts and those in the trial balances and ledgers not agreeing or tallying. The Committee notes that this was as a result of non-adherence to the International Public Sector Accounting Standards (IPSAS), which are yet to be adopted across the Government. Lack of adherence to IPSAS was the key contributing factor to the several audit queries that we encountered. Indeed, some Accounting Officers admitted to lack of capacity by their accounting staff. If the standards were adhered to, it is our belief that a lot of the audit queries would not have arisen. Therefore, the Committee recommends that the Accounting Officers, in liaison with the National Treasury, should take immediate action to ensure that MDAs adhere to IPSAS in conformity with the Public Finance Management (PFM) Act, 2012 and relevant regulations.

Moreover, the Committee recommends that each Ministry, department and agency should ensure adequate training and capacity building of its PFM members of staff, namely, accountants, finance officers and supply chain management officers, to cope with the current emerging standards on financial reporting. Action must be taken against accountants who do not

keep proper records or fail to report in compliance with the IPSAS framework, or do not present records as and when required by law.

Secondly, there are challenges to do with the Integrated Financial Management Information System (IFMIS), which was introduced to support the Government's as well as agency level policy decisions. It was also meant to integrate Budget and Budget execution data allowing great financial control and reducing opportunities for discretion in the use of public funds. The system was designed to provide information for Budget planning, analysis and the Government wide reporting, to facilitate preparation of financial statements and to provide a complete audit trail in order to facilitate audit.

The Committee held discussions with the Cabinet Secretary (CS) of the National Treasury on 25th June 2015. He said that the Government has so far spent Kshs5.5 billion in software related expenses. However, it is the feeling of the Committee that the expenditure on this system to date is a lot higher. We hope this will be revealed when the special audit report on the IFMIS is tabled before this House. Even though the figure of Kshs5.5 billion was given by the CS for the National Treasury, he has not provided proof of the actual expenditure to date. The Committee knows that this system has not improved financial management in the Government. Indeed, Accounting Officers have confessed to the unhelpfulness of the system. The Auditor-General said the system has not improved financial tracking and reporting, which were the key intentions. For example, in last year's Report, the Committee noted that the National Treasury reported that they had re-engineered IFMIS and trained up to 6,000 personnel on its use. The challenges have however continued unabated.

In the foregoing, the Committee was further informed that the certificate of ownership of the IFMIS software still rests with the supplier. Therefore, the country has no exclusive rights on its ownership and improvement. The data back-up by the Directorate of IFMIS is also wanting since the redundant system is yet to be fully implemented. For the IFMIS system to be completely fool-proof, you need both primary and secondary data back-up systems. Therefore, the Committee recommends that the National Treasury conducts an independent systems audit on IFMIS, geared towards simplification of use and safeguards of public funds. Most importantly, the audit should provide a detailed cost-benefit analysis for effectiveness of the system *vis-a-vis* the actual investment on IFMIS to date.

Thirdly, there is the issue of delayed Exchequer releases. While examining and scrutinising the financial statements relating to the Financial Year 2013/2014, the Committee observed that implementation of most of the projects and programmes lag behind due to inadequate or delayed Exchequer releases. This situation exposes the Government to serious obligatory challenges caused by non-adherence to contract agreements and provides a basis for litigation by service providers. This always leads to additional costs on interest charges and *ex gratia* payments.

The Committee recommends that all projects and programmes Funds should be ring-fenced within the Ministries', departments' and agencies' budgets, and timely requisitioning and releases of Exchequers be prioritised by the project managers and the National Treasury, respectively. I wish to report to the House that we had an engagement with the CS and the Principal Secretary of the National Treasury on this same matter yesterday. We are concerned that delayed Exchequer releases are one of the causes of toxic debts within the Government.

Fourthly, there is the issue of unresolved audit queries. The Committee noted that many issues were resolved long after the exit meetings, and after directives during appearances by Accounting Officers before PAC yet the same queries are reflected in the Blue Book as outstanding. The PAC is of the view that all Government MDAs ought to be the ones to schedule exit meetings with the Auditor-General regarding their audits and not *vice-versa*. We are concerned that some MDAs still think that it is the business of the Auditor-General to chase them around town to schedule exit meetings. The Committee, therefore, recommends that the Auditor-General issues a comprehensive list of certificates of clearance on all resolved issues, particularly those in respect of which audit exit meetings have been concluded.

The fifth issue is on poor implementation of Government projects. The Committee undertook site visits to sample projects across the country and the reports are annexed in Volume II of this Report as Annex 2 and noted several cases where performance of contractors and consultants was both wanting and unacceptable. The serious cases noted included poor workmanship and slow progress of work on account of inefficiency, review of designs and poor planning. This matter of unsatisfactory performance has similarly been reported severally in previous reports by the Auditor General, yet no marked improvement has been noted.

Moreover, the Committee noted that some contractors were abusing the judicial process to frustrate Government projects.

Indeed, this revelation by the Committee speaks to the whole question of the use of court systems to avoid accountability. We have noted, a lot of times those who fall foul to the law, particularly with regard to accounting for public matters, usually result to the courts in a way to either forestall or avoid accountability altogether. Indeed, this matter came up in our meeting with the 'big nine' which included the leaderships of various parts of the Government.

A notable example of this case was the Kakamega-Webuye Road that was at 2.5 per cent complete 34 months after works began and a lot of money, far incommensurate with the work done, had already been paid.

The Committee also noted that officers in the Public Works Department were an impediment to effective and efficient project implementation. They often inflate bills of quantities and overdesigned a lot of the work and failed to professionally supervise the works. This has led to contracting of private consultants to supervise works, an extra and unnecessary cost to the taxpayer. In this regard, the Committee recommends as follows:-

- (a) The Ministry responsible for Public Works must identify all contractors with a poor track record in execution of Government contracts and blacklist them from being awarded Government contracts.
- (b) The Ministry responsible for Public Works should ensure that an up-to-date database on the performance of contractors is maintained and that the data is publicised at all times to enable Government departments make informed decisions when awarding contracts.
- (c) Feasibility studies should be undertaken and mitigation measures relating to infrastructure projects developed to enhance the implementation of key capital projects. This is evident in the Marsabit-Turbi and Kisumu-Kakamega roads which suffered slow progress due to unforeseen bottlenecks in the work plan execution, resulting to not meeting timelines.

- (d) Interest payments arising from delay in honouring payment certificates will be avoided if MDAs prioritise the preparation of annual procurement plans and attendant work plans to facilitate prompt requisitioning of funds from the National Treasury.

On the other hand, the National Treasury should ring-fence project funds for timely releases and on requisitioning.

(a) We noted rampant cases of unapproved project work and cost variations on Government contracts. Project managers are advised to avoid such variations since they distort the project procurement plans given that the variations will be above the recommended 25 per cent limit on bills of quantities and costs. In this regard, any project manager who approves such variations without due process will be held personally liable and be surcharged and/or prosecuted.

(b) Those Government officers who collaborate with contractors to alter project quality and delivery of work plans are put on notice for professional negligence. Disciplinary action including sanctions by their respective professional bodies must be taken on those Government officers who provide substandard/inflated bills of quantities and project management reports that seem to favour rogue contractors who collude to fleece public resources.

The Committee recommends that the project implementing Government agencies engage Public Works officers and cease incurring extra costs on private consultations as much as possible.

The sixth issue is on performance of Accounting Officers. Aware that the CS National Treasury is the appointing authority for Accounting Officers, the Committee wishes to express its displeasure by the poor performance by many Accounting Officers.

The Committee notes with deep concern the weak supervisory control by the CS, National Treasury over the Accounting Officers. Among the key concerns are:-

(a) The unwillingness or outright failure by the Accounting Officers to convene entry and exit meetings with the Auditor-General to facilitate the audit process and ventilate on the provision of information and relevant documentation.

(b) Failure to respond to Management letters from the Office of the Auditor-General in a timely manner.

(c) The tendency by most Accounting Officers to find excuses, most of which tend to be frivolous, to delay and/or frustrate convening of exit meetings.

(d) Poor, inadequate or unsatisfactory responses to audit queries as raised by the Auditor-General.

(e) Late submission of responses to the audit queries by the Auditor-General.

(f) Numerous and unconvincing excuses to avoid appearance before the Committee.

(g) Failure to act on the recommendations of the Committee.

(h) Unwarranted attack on the Office of the Auditor-General.

Hon. Speaker, we noted cases where some MDAs, including the National Treasury, bought space in the media to discredit the report of the Auditor-General when it was tabled. The Committee considered this action as reckless and displays a lack of appreciation of the requirements of the new Constitution and signals a *laissez faire* attitude towards the audit process.

The Committee's reservation is informed by the fact that during appearance of the Accounting Officers, particularly the National Treasury and the Ministry of Health, the matters

they challenged in the media were still outstanding and were not satisfactorily answered as detailed in this Report.

The seventh issue is on weak financial management and control by the National Treasury. Sections 12 and 13 of the Public Finance Management (PFM) Act, 2012, gives wide ranging responsibilities and powers to the National Treasury all aimed at ensuring effective financial management and controls in the public sector. Specifically, Section 12 states as follows:-

“12. General responsibilities of the National Treasury

- (1) Subject to the Constitution and this Act, the National Treasury shall –
 - (a) formulate, implement and monitor macro-economic policies involving expenditure and revenue;
 - (b) manage the level and composition of national public debt, national guarantees and other financial obligations of national Government within the framework of this Act and develop a framework for sustainable debt control;
 - (c) formulate, evaluate and promote economic and financial policies that facilitate social and economic development in conjunction with other national governments entities.
 - (d) mobilise domestic and external resources for financing national and county government budgetary requirements;
 - (e) design and prescribe an efficient financial management system for the national and county governments to ensure transparent financial management and standard financial reporting as contemplated by Article 226 of the Constitution,
 - (f) Provided that the National Treasury shall prescribe regulations that ensure that operations of a system under this paragraph respect and promote the distinctiveness of the national and county levels of government;
 - (g) in consultation with the Accounting Standards Board, ensure that uniform accounting standards are applied by the national government and its entities;
 - (h) develop policy for the establishment, management, operation and winding up of public funds;
 - (i) within the framework of this Act and taking into consideration the recommendations of the Commission of Revenue Allocation and the Intergovernmental Budget and Economic Council, prepare the necessary legislative proposals and annual Division of Revenue and County Allocation of Revenue;
 - (j) strengthen financial and fiscal relations between the national Government and county governments and encourage support for the county governments in terms of Article 190(1) of the Constitution in performing their functions; and,
 - (k) assist county governments to develop their capacity for efficient, effective and transparent financial management in consultation with

the Cabinet Secretary responsible for matters relating to intergovernmental relations”.

Section 12(2) provides that:-

“(2) The National Treasury shall have the following functions, in addition to those in subsection (1)—

- (a) promote transparency, effective management and accountability with regard to public finances in the national Government;
- (b) ensure proper management and control of, and accounting for finances of the national Government and its entities in order to promote the efficient and effective use of budgetary resources at the national level;
- (c) co-ordinate the preparation of annual appropriation accounts and other statutory financial reports by the national government and its entities;
- (d) prepare national estimates of revenue of national government and co-ordinate the preparation of budget of the national Government;
- (e) consolidate reports of annual appropriation accounts and other financial statements of the national government and county governments and their entities;
- (f) Report every four months to the National Assembly on the implementation of the annual national budget on areas not reported on by the Controller of Budget;
- (g) be the custodian of an inventory of national Government assets except as may be provided by other legislation or the Constitution”.

Hon. Speaker, this is a very important point that we noted. In all the MDAs that appeared before us, hardly half a dozen have credible and reliable asset registers as required by law.

Section 12(2) gives further functions of the National Treasury as:-

- (h) monitor the management of the finances of public enterprises and investments by the national government and its entities;
- (i) monitor the financial aspects of risk management strategies and governance structures for the national Government and national government entities;
- (j) monitor the financial performance of state corporations; and,
- (k) issue guidelines to national government entities with respect to financial matters and monitoring their implementation and compliance”.

Section 12(3) provides that the National Treasury shall take such other action not inconsistent with the Constitution, as will further the implementation of this Act.

Similarly Section 13 on the Powers of the National Treasury states as follows:-

“(1)The Cabinet Secretary may generally give the National Treasury such powers as are necessary to facilitate the Cabinet Secretary and the national government to exercise their powers in the Constitution and in particular the National Treasury may do all or any of the following-

- (a) with prior notification to the entity, access any system of public financial management and control of national government entity;

- (b) where reasonably in the execution of its functions, access the premises of any national State organ or other public entity and inspect the entity's records and other documents relating to financial matters after giving notice;
- (c) require national government entities to comply with any specified applicable norms or standards regarding accounting practices and budget classification systems;
- (d) require any public officer in the national government to provide information and if necessary, explanations with respect to matters concerning public finance:
Provided that a person providing information shall not be liable if at the time of providing the information that person, in writing, objected to providing such information on grounds that the information may incriminate him or her;
- (e) provide any County Treasury with any information as it may require to carry out its responsibilities under the Constitution and this Act; and
- (f) perform any other act as the Cabinet Secretary may consider necessary, including power to intervene where a state entity or a state organ fails to operate a financial system that complies with requirements provided for under this Act or is in the serious material breach under this Act, or in accordance with Article 190 and 225 of the Constitution.

(2) The National Treasury may authorise any of its officers in writing to carry out a responsibility or exercise a power specified in the authorisation on behalf of the National Treasury.

(3) When acting in terms of subsection (2), an authorised officer, if requested by the person in relation to whom the responsibility of power is being carried out or exercised, shall produce the authorisation for inspection and failure to comply with that request invalidates any subsequent action purporting to be taken in terms of the authorisation.

(4) An authorisation given under subsection (2) remains in force for a period specified in it or, if no period is specified, until it is revoked by the National Treasury.

(5) The National Treasury may, in writing, revoke or vary an authorisation given under subsection (2).”

In this regard, the Committee finds that the National Treasury has not instituted the required system to ensure effective financial management and controls within the public sector thus leading to wastages and general lack of openness and accountability in financial matters. The Committee particularly finds the National Treasury to have failed in the following areas:-

(i) Conducting routine inspection of MDAs' records and other documents relating to financial matters;

(ii) Enforcement of applicable standards and norms regarding accounting practices and budget classification systems.

Hon. Speaker, in particular, we were very concerned with lack of enforcement to ensure that all MDAs maintain credible, accurate and reliable asset registers.

(iii) Failure to design and prescribe efficient financial management system for the national and county governments to ensure transparent financial management and standard financial reporting as per Article 226 of the Constitution.

(iv) Ensuring maintenance of comprehensive asset registers by MDAs.

(v) Failed internal audit functions of MDAs.

The Committee observed, with a lot of concern that the simple audit queries that end up being reported should have been dealt with internally. It is clear that the internal audit function of the Government is virtually non-existent, does not do its job well as provided for under the Public Audit Act, 2015 and the Public Finance Management Regulations, 2015. The Committee, therefore, recommends that the CS National Treasury revamps with speed this function across the Government to help improve systems and processes.

(vi) Prior years' unresolved matters: In this particular case, we are looking at the Ministry of Defence. The Committee noted with deep concern that the queries touching on the purchase of Armored Personnel Carriers (APCs) by the Ministry of Defence had not been resolved in the subsequent audit accounts of the Auditor-General. The same matters were raised in the Financial Year 2012/2013 and 2013/2014 in the Public Accounts Committee's (PAC) Report, but the questionable purchases remain unresolved to date. In the circumstances, the Committee strongly apportions blame to the appointing authority for failure to take action against the then Accounting Officer and consequently recommends that the Auditor-General conducts a special audit on matters related under Paragraphs 149, 150 and 151 in the Financial Year 2013/2014 Report over the entire procurement process of all the APCs and report to PAC by 31st December, 2016. We also further recommend stern action, including prosecution to be taken against the officers found culpable for these irregular purchases.

(vii) Security/confidential expenditure: The Committee notes that while the Government may from time to time need, on behalf of the citizens of Kenya, to incur confidential expenditure on matters relating to national security, all the money used for that purpose is nevertheless raised from the public of Kenya. Consequently in line with the national best practice, the Committee, therefore, recommends that all MDAs that incur such expenditure be subjected to detail scrutiny by vetted officers acting under oath.

(ix) Overstated enrolments in the Ministry of Education: The Committee noted with deep concern that there were rampant falsifications of enrollment figures by head teachers for Free Day Secondary Education (FDSE) and the Free Primary Education (FPE). The Committee observed that it was illegal and culpable for heads of schools to take advantage of funds meant for FDSE and FPE through wrong enrolment records presented to the Government. This is a grave matter because we have evidence to believe that some enrolments presented by heads of schools maybe twice the actual enrolment in those schools yet that results to loss of funds.

Hon. Speaker, as a Committee, therefore, we recommend detailed forensic audits of all schools in the country to be carried out and I am glad the Chair of the Departmental Committee on Education, Research and Technology is here. This is intended to confirm the actual records of all enrolment in our schools and a report be presented to a Committee by 31st December 2016, so that we can be certain of the actual capitation required for Free Day Secondary Education (FDSE) and Free Primary Education (FPE).

The Committee further recommends that heads of schools found giving wrong information on enrolment in schools be held personally accountable, be surcharged and be prosecuted and the money that has been lost under their watch be recovered.

(ix) Fixed Assets Registers for MDAs: The Committee observed a worrying trend in many MDAs who did not keep and maintain fixed assets registers contrary to the law. It was thus

impossible to establish ownership of assets belonging to MDAs. Top on the list was the Ministry of Devolution and Planning, which not only lacked a proper assets register, but also had entries of assets whose values were grossly exaggerated. Absence of assets registers poses a grave risk of loss of public funds and public assets resulting from unaccounted for assets.

The Committee, therefore, strongly recommends that it is mandatory for all MDAs to keep comprehensive and up to date assets registers. Accounting Officers who fail to keep assets registers in their respective MDAs will be held personally liable and be compelled to make good the loss of public funds arising from lack of proper assets registers as provided in the Constitution.

(x) Coordination of One Stop Boarder Post: The Committee noted that many activities at the one stop border posts were uncoordinated. For example, it was observed that every border post was manned by officers from different agencies, such as the police, Immigration, Customs and health among others. Each agency was engaged in its specific core function such that activities that were not clearly defined and assigned to any of the agencies, particularly those activities that affect all the agencies like facilities management were left unattended and virtually uncoordinated.

The Committee, therefore, strongly recommends that there is a strong need to establish an inter-agency coordination organ to oversee and supervise operations that do not fall under the purview of any of the agencies represented at the one stop border post.

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

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

(xi) Unresolved Government Land Issues: In the course of receiving evidence from Accounting Officers, the Committee noted with grave concern that a lot of Government land and fixed assets all over the country had no ownership documents making them an easy target for unscrupulous land grabbers. The most affected institutions include public schools and prisons which had progressively lost huge parts of their land to greedy land merchants.

The Committee directs the Director of Survey to immediately embark on a process of adjudicating all public land in Kenya, so that the Ministry of Lands, Housing and Urban Development can issue title deeds by 31st December 2016 to all public entities. The Committee further directs that all private organisations and/or individuals who may have acquired land illegally from these public institutions should immediately have their title deeds revoked with the ownership reverting to the public.

(xii) Retention Accounts: The Committee observes that the actual balances in the retention accounts in various MDAs have become difficult to ascertain thus rendering these accounts susceptible to misuse. Examples were noted in the Judiciary, Parliamentary Service Commission and in the Ministry of Transport and Infrastructure where retention money was applied haphazardly without clear procedures and guidelines.

The Committee, therefore, recommends the setting up of a task force by the National Treasury to conduct detailed forensic audit of all retention accounts in all MDAs and report the same to Parliament, specifically to PAC by 31st December 2016.

Hon. Speaker, there is the issue of the round table discussion of the big nine. The Committee, together with the Public Investments Committee, held a round table discussion with the big nine on 3rd March, 2016. The big nine comprise of the Speaker of the National Assembly, Chairs of Public Accounts Committee and Public Investments Committee, Chair of the Budget and Appropriations Committee, the Cabinet Secretary, National Treasury, the Chief Justice, the Director of Public Prosecutions, the Auditor-General, the Controller of Budget, the Attorney-General and the Head of Public Service.

The agenda of the meeting was to discuss policy matters surrounding the entire public finance cycle and tackle the challenges encountered by oversight committees in execution of their mandate. The meeting resolves that:-

(i) All agencies implementing resolutions of Parliament including the DPP, the Ethics and Anti-Corruption Commission and the Attorney-General's Office will report to Parliament every six months on the status of the implementation.

(ii) There will be regular meetings between the Controller of Budget and the Departmental Committees of the National Assembly on the Controller of Budget Annual Reports on the Budget implementation.

(iii) Treasury will give an annual memorandum on the implementation of the recommendations of PAC and PIC.

(iv) Accounting Officers to strictly adhere to audit timelines as per the Constitution. This will be done, among others, offering timely and full responses to management letters by the Auditor-General. To this end, it was resolved that all responses to issues under management letters shall not be considered in oversight committee deliberations.

(v) The National Treasury to enforce the external resources policy to curb under-collection of AIA.

(vi) Engagement between all agencies and Parliament will be cordial and mutually respectful. All agencies will in turn work in synergy and appreciate each other's work.

(vii) The big nine round table meeting will be held annually.

(ix) The President and the National Treasury to enforce the Parastatal Reform Policy (Mwongozo) by immediately hastening the Bill that seeks to harmonise all relevant laws.

(ix) The Director of Criminal Investigations and the DPP to second officers to PAC and PIC to facilitate timely investigations and subsequent prosecution where culpability is apparent on Accounting Officers or witnesses.

The Committee is confident that all the arms of the Government working in synergy will see more prudent use of public funds. Even as we pursue audit queries, the Committee is trying to build capacity of Accounting Officers by proactively engaging them.

There is also the issue of the accounts of the Constituencies Development Fund (CDF). As a departure from the norm, the Auditor-General did not include accounts from the CDF in the comprehensive Blue Book. These reports have been tabled in the House piece meal. The Committee noted that it was within its mandate to examine these accounts as they are funded by the national Government.

On 10th March 2016, the Committee held discussions with the Principal Secretary for Planning and the Acting Chief Executive Officer of the CDF Board and sought to examine these accounts as one comprehensive report. The Committee, therefore, embarked on examination of these reports after the adoption of this Report.

The highlights from this Report are on the Government financial position as at 30th June which is provided in summary. On that, the Committee recommends as follows:-

(a) The Kenya Revenue Authority (KRA) has not been meeting its targets, resulting in scaling down of Government programmes. Moreover, failure by the MDAs to comply with the conditions agreed with development partners has been a major contributing factor. Development partners also contribute significantly to this problem by sometimes setting impossible conditions including insistence on retention of original accounting documents.

The Committee, therefore, recommends that the CS, National Treasury, and the KRA seal all revenue leakages and tax fraud and avoidance by forwarding to Parliament draft legislation which shall criminalise the same with punitive measures.

(b) All Accounting Officers, in liaison with the National Treasury, should develop and implement a programme of action to comprehensively address the under-expenditure and under-collection of AIA in their respective MDAs.

(c) The National Treasury should ensure that the Kenya External Resource Policy is adhered to and substantively addresses all current and emergent issues relating to funding by development partners.

We have listed the unsupported expenditure as reported by the Auditor-General. We note that after the Auditor-General submitted his report to the House, a number of Accounting Officers disputed the report and accused the Auditor-General of failing to accept their records.

During their appearance, most of the Accounting Officers could still not account for this money and the Committee has made recommendations on a case-by-case basis. Accounting Officers are further warned to adhere to audit timelines and respond to the Auditor-General's management letters. More of unsupported expenditure, as seen with the Ministry of Devolution and Planning which to date cannot explain the expenditure of Kshs8,036,371,566, emerge on assets which, in our view, are grossly exaggerated.

(d) Another consideration was excess expenditure. The Auditor-General reported excess expenditure incurred during the 2013/2014 Financial Year, without Parliamentary approval, which totalled to Kshs24,566,651,642 compared to Kshs38,495,253 recorded in the previous year.

Excess expenditure of Kshs24,566,651,642 was incurred under the MDAs and Funds as listed below. The excess expenditure of Kshs24,566,651,642 has not taken into account pending bills amounting to Kshs16,638,164,142 which, though relating to the 2013/2014 Financial Year, were not settled during the year, but were instead carried forward to the 2014/2015 Financial Year.

It is the Committee's considered position that expenditure without Parliamentary approval constitutes a grave violation of the Constitution and those found responsible must be severely punished. The Committee further recommends that stern action be taken by the appointing authority against Accounting Officers and Treasury officials responsible for this breach of the letter and spirit of the Constitution. The Committee further recommends that the EACC should investigate for culpability and recommend to the DPP to consider prosecuting those responsible.

Further, the CS of the National Treasury must promptly institute stringent controls to ensure fiscal discipline in public finance management within the public sector as clearly stipulated in the Public Finance Management Act, 2012 and relevant regulations.

(e) The fifth issue is on the Eurobond. The Auditor-General reported that net proceeds from the Sovereign Bond of US\$1,999,052,872.97 out of the total amount of US\$2 billion were received on 24th June 2014 and deposited into an offshore account contrary to Article 206 of the Constitution of Kenya and Section 17(2) of the Public Finance Management Act, 2012.

The law requires that all the money raised or received by or on behalf of the national Government be paid into the Consolidated Fund. There is the risk of proceeds being appropriated without the authority of the Controller of Budget and also being applied for other purposes other than those for which the Sovereign Bond and other debt instruments were floated.

Out of the balance of the offshore account of US\$1,999,052,872.97 as of 2nd July, 2014, an amount of US\$395,439,262.50, equivalent at the time to Kshs34,648,388,180.25, was on 3rd July 2014 transferred to the Exchequer to fund infrastructure projects and was accounted for under the 2013/2014 Financial Year.

On 3rd July 2014, another amount of US\$604,560,737.50 was withdrawn from the offshore account to fund the repayment of the syndicated loan, but was recorded in the books of 2014/2015 Financial Year. Authority of the Controller of Budget to incur expenditure was however not obtained.

The statement of receipts into and issues from the Exchequer accounts for the 2013/2014 Financial Year, therefore, reflects only actual receipts from the commercial loan of Kshs34,648,388,180.25 out of the net proceeds from the Sovereign Bond as a result of failure to pay the full amount of the net proceeds from the Sovereign Bond of US\$1,999,052,872.97, equivalent at the time to Kshs173,917,599,948.39, into the Consolidated Fund during the year. The Committee held sessions with the CS for the National Treasury, the Controller of Budget and the Auditor-General to shed light on the matter. This has now become a controversial public issue in the country.

Due to the overwhelming public interest in the matter, the Committee instructed the Auditor-General vide a letter written in early December last year, to conduct a special audit on the Eurobond. This report is still awaited and we are hoping it will soon be tabled in this House. The Auditor-General has indicated that the report will be presented to Parliament any time soon. The Committee will embark on examination of the same as soon as it is received.

(f) The sixth issue is on pending bills. During the year ended 30th June 21014, a number of MDAs did not settle bills amounting to Kshs16,638,164,142, comprising of Kshs9,748,225,546 and Kshs2,685,969,026 under the Recurrent and Development Votes respectively and a further Kshs4,203,969,660 not classified, but were instead carried forward to the 2014/2015 Financial Year.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Chair, you have around seven minutes. This is just for your planning purposes.

Hon. (Eng.) Gumbo: Hon. Temporary Deputy Speaker, I would like to request for another 15 minutes, so that I can wind up. I am just about to finish.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): You can plan yourself within seven minutes.

Hon. (Eng.) Gumbo: The Ministry of Education, Science and Technology topped the list with bills amounting to Kshs7,891,746,180 followed by the Ministry of Agriculture at Kshs2,681,683,989 and the Ministry of Health at Kshs2,165,368,641. The Committee noted that:-

(1) Failure to settle bills in the year they fall distorts the financial statements for that year and adversely affects provision for the subsequent year to which they are charged.

(2) Failure to settle bills in time has serious implications for suppliers and the economy in general, and portrays the Government in bad light.

(3) Delayed Exchequer releases significantly contribute to pending bills and interfere with procurement plans of MDAs.

Therefore, the Committee recommends as follows:-

(a) Accounting Officers should institute measures to ensure that bills are always cleared within the financial year that they fall;

(b) The National Treasury should ensure timely Exchequer releases to MDAs to enable them to settle bills as they fall due. This money should be ring-fenced to avoid delays in spending and reporting.

(c) The Cabinet Secretary of the National Treasury should prepare a status report on the work of the task force on pending bills, together with the schedule of all pending bills with comparative figures as relates to previous years of 2011/2012, 2012/2013 and submit the report to the National Assembly by 30th June 2016, failure to which he would be held accountable.

(d) The seventh issue is imprest management. Review of the management of imprest for the national Government revealed imprest balances amounting to Kshs351,043,211 which ought to have been recovered or accounted for on or before 30th June 2014, but were still outstanding as at that date. The Ministry of Sports, Culture and Arts had the highest amount of outstanding imprests of Kshs135,310,107. The Committee notes that the total outstanding imprests of Kshs351,043,211 for the current year significantly reduced by Kshs282,135,447 or approximately 45 per cent from the Kshs633,178,658 reported as outstanding as at 30th June 2013.

The Committee further notes that weak controls have turned imprests into soft loans by Government officers. This is a concern. The Committee recommends strict adherence to the Public Finance Management (PFM) Act, 2012 in future. All Accounting Officers are instructed to forthwith recover all outstanding imprests in total, plus interest at the prevailing Central Bank of Kenya (CBK) rate.

The Committee further recommends that the National Treasury urgently develops a comprehensive imprest management system across MDAs in general and in particular, for recovery of imprests from deceased officers.

(h) The eighth issue is on the Ministry of Devolution and Planning. This is a big concern. The Ministry of Devolution and Planning gets a specific mention because the Accounting Officers were completely unable or unwilling to respond to audit queries raised. After appearance before the Committee on three occasions, the Ministry requested for further rescheduling of meetings four times. The Ministry produced an asset register with items at grossly exaggerated prices all procured in the last month of the financial year which we noted was very suspicious. The Committee observes that this was the Ministry whose Budget was enhanced threefold with no absorption capacity giving room for schemes for plunder as has been witnessed in the National Youth Service (NYS) scandal.

Accordingly, the Committee recommends that the DPP immediately proceeds with prosecution of the concerned Accounting Officers for breach of audit timelines as stipulated under Articles 225 and 226(5) of the Constitution.

That the current Accounting Officers of the Ministry submit before the National Assembly and the Auditor-General a status report of all audit queries by 31st December 2016. The status report must contain an up to date asset register of the Ministry and all agencies under it.

The Committee will then scrutinise and use the status report to apportion responsibility for individual errors of omission or commission.

The Committee also notes that a special audit of the accounts of the NYS has already been finalised by the Auditor-General and submitted to the National Assembly and is currently under consideration by the Committee.

Hon. Temporary Deputy Speaker, I would like to request you for five more minutes to wind up.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Chairman, I know this is an important Report, and so, I will add you five more minutes.

Hon. (Eng.) Gumbo: Thank you, Hon. Temporary Deputy Speaker. In conclusion, the Committee notes as follows:

That, some Accounting Officers seem not to know their roles. This is a concern and we have discussed it with the Ministry. In fact, some appear to be simply incompetent and in certain cases, outright scared of some departmental heads. There are quite a number who seem not to know what goes on in their respective MDAs.

The Committee further recommends that stiff action be taken on Accounting Officers who open bank accounts without express approval of the National Treasury. The PFM Act is clear that no Government entity can open accounts without approval by the National Treasury. This is being flouted and we have seen it in the NYS and the Judiciary.

We are recommending that the Research Unit of the National Assembly and the Parliamentary Budget Office (PBO) should take a leading role in reviewing the Attorney-General's Report with guidelines on the best format for writing and presenting PAC and PIC reports.

As a Committee, we feel that we need a national debate on Kenya's public debt particularly on the silent debts incurred from Government guarantees on independent power producers. The debate should focus on among others, the exact accurate quantum of public debt, date of acquisition of different debts, sources and expected date of retirement with emphasis on the Eurobond, short, medium and long-term bonds and National Treasury Bills, each divided on their own line. We note that debt is not a bad thing. All countries of the world incur debt at one point or another. It is worth noting that some developed countries have a debt-to-Gross Domestic Product (GDP) ratio in excess of 100 per cent, including the United States of America (USA), Japan and France. The concern of the citizenry is not about incurring debts, but how debts incurred on their behalf have contributed to national progress.

As a citizen of Kenya, I believe the citizenry would have no problem with debts if they can see all that is acquired contributing to improving their livelihoods. We need a robust national debate on this matter which accurately constructs all the applicable matrixes both on the financing and the appropriation side, so that the citizenry can be satisfied that every instrument

of debt that the Government has acquired on their behalf has gone towards improving their livelihoods. Only then, shall we have satisfied the requirements of Article 201(c) of the Constitution which obligates all of us to ensure that the burdens and benefits of the use of resources and public borrowing shall be shared equally between the present and future generations.

I am happy to report that the National Treasury recognises this need and together with the relevant Committees of this House, namely, PAC, PIC, Budget and Appropriations Committee and the Departmental Committee on Finance, Planning and Trade will be working on convening a national conference later this year to exhaustively discuss this matter of Kenya's public debt.

I wish to thank all the 27 Members of my Committee who put long hours into this work. Our work is in no way a walk in the park. Members worked late into the night and avoided going to their constituencies so that they can produce these 466 pages of the Report that we have tabled here as Volume I plus the attachments.

To all the Members, I want to thank you for your dedication and service to your motherland. Working in PAC in the circumstances that we have now is a risk to our career growth. These Members have taken a risk. I wish this House would note what these Members had to forego.

On behalf of PAC, it is now my pleasant duty, honour and immense privilege to move this Report, and urge this House to adopt it with the recommendations therein.

I wish to call upon the able Vice-Chairman of the Committee, Member of Parliament for Kipkelion West, Hon. Jackson Rop, to second the Report.

Thank you.

Hon. Rop: Thank you, Hon. Temporary Deputy Speaker. I wish to second the Motion on Adoption of the Report of PAC on the Government of Kenya accounts for the 2013/2014 Financial Year. My able Chair has elaborated so well and very fluently on issues raised in this Report, findings of the Committee and recommendations therein. I would like to share with the Members some of the pertinent areas that the Auditor-General raised issues on. There is a summarised version of the audit report where the AG queried a few areas in the financial statements of the Government.

Out of the 101 audited reports or the financial statements prepared by the MDAs, only 26 per cent were unqualified. By unqualified, it means they were clean reports. Out of 101, 50 of them were qualified. That means the AG could not make a determination and give an acceptable opinion. Sixteen of them were adverse in nature. That means there was so much material and pervasive issues in the financial statements that the AG could not make an opinion on. Disclaimers were nine out of 101. That means we still have Ministries which were not in a position to provide information for the audit exercise in their respective Ministries.

Hon. Temporary Deputy Speaker, this is very alarming. Looking at the 2014/2015 audit reports, we are still meandering around 26 per cent of the unqualified, which are clean reports. We are still lying around 50 per cent for the qualified reports. That means that Accounting Officers should take the audit exercise seriously.

On revenue, the AG had nine financial statements to go through. Out of the nine, four were found to be very clean, which is around 3.8 per cent. That translates to Kshs36,962,979,048. What I have read to you are the clean reports. The qualified ones are four out of nine translating to 96.1 per cent. In figures, it is Kshs929,047,300,549. You can imagine

such a figure that the AG was not in a position to make a determination or give a good opinion on, yet this is Government money that we desire to finance our Budget. This is an area we have shared with the National Treasury. We were lucky to have had a meeting with the CS of the National Treasury. We are stressing this area because without revenue, this country cannot finance its Budget.

Those are the major areas of concern. The issues raised by my able Chairman on areas of unsupported expenditures are queries that are very prevalent in several Ministries. In the audit report of the year 2013/2014, we were told by the AG that he was unable to get documentation for payments totalling Kshs66.7 billion. This is a very worrying trend. Looking at the figures for 2014/2015, I am happy the figure has come down to around Kshs7.3 billion.

Accounting Officers should take the audit exercise seriously. From the memorandum of the National Treasury that has been tabled before this House, the CS of the National Treasury has instructed, through a circular, the Accounting Officers to take the audit exercise seriously, so that when auditors appear, they must make sure they sit together through the exit meetings to share the findings before they land in the final grey book that is tabled before this House. This is an area of concern.

Missing documents in the Government is quite unwarranted because we have very able accountants who know how to keep records. They know how to file their payments. The AG going to Ministries to look into cash books and other financial statements only to ask for a payment voucher that relates to an entry he has seen and fails to get it is really disturbing. I encourage accountants in the respective Ministries and heads of accounting units to take the matter seriously.

There were areas of excess expenditure. We have been told that over Kshs24,566,651,642 was in excess of the voted provisions that were passed in this House. These are areas of concern that we have raised with the National Treasury. No Ministry should be allowed to spend over and above what was voted for or what has been passed in this House. That means they are collecting a lot of AIA and not accounting for it, but this is utilised at source leading to an excess. They are going over and above the budgeted provisions. That is very wrong. It is illegal. We have already made our recommendations in our Report as has been read by the Chairman. We are saying that we should not encourage Accounting Officers to incur any extra money outside the budgeted provisions by this House.

Issues of pending bills were also raised by the AG. Pending bills have been quite alarming in this country. We make proper budgets and expect Ministries to budget and operate within their means. But you will find Ministries with huge pending bills amounting to Kshs16.6 billion at the end of the financial year. It shows how poor our officers are in managing and planning their budgets. We should not be incurring unnecessary pending bills.

I am happy that when we met the CS of the National Treasury, he also consented that some of the pending bills might not be genuine. When they went through, because all pending bills must be checked by the National Treasury for approval for payment, they discovered that most of the pending bills are not genuine. We are forewarning the Accounting Officers to come out with genuine pending bills that, probably because of the Exchequer release issues, the Ministry did not get the money and ended up making commitments and were unable to make the payment resulting to pending bills that should be paid in the immediate subsequent financial year.

Hon. Temporary Deputy Speaker, there are issues on imprest. Looking at the documents, this is reducing. In that financial year, we had over Kshs351 million in form of imprest. But these are issues of management.

A circular has been issued to the effect that officers are no longer required to surrender imprest within 48 hours, but within seven days. I can see the red light yet I know I should be having around 10 or 20 minutes to speak on this.

Nonetheless, I second this Motion and encourage Members to go through the Report. It is a very big Report and several issues have been resolved. We are encouraging Accounting Officers to resolve matters before they land before PAC, so that we can reduce the audit queries.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): For the sake of record, just go into it and say that you are seconding.

Hon. Rep: Yes, Hon. Temporary Deputy Speaker. I second the Report.

(Question proposed)

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): The first chance goes to Hon. Nyamweya. Let us listen to the Member who is well known for serving in the second term as he pronounces himself. Give him the microphone.

Hon. Nyamweya: Thank you, Hon. Temporary Deputy Speaker for giving me a chance to support this very important discussion about the Adoption of the Report of the PAC.

I want to lay one emphasis on the wastage of funds.

We have unsupported expenditure of Kshs66 billion. I am going to talk about the Ministries which have got more than Kshs1 billion unaccounted for. The Ministry of Agriculture, Livestock and Fisheries was not able to produce documents for more than Kshs1.2 billion. The Ministry of Education, Science and Technology was not able to produce documents for Kshs12.8 billion. The Ministry of Energy and Petroleum was not able to account for Kshs2.4 billion. What do we mean by “not able to account for” or “not able to show how they used the money”? Either they did not have Local Purchase Orders (LPOs) or payment vouchers. This wastage should not be allowed at this time. It is important for the Accounting Officers to take this issue more seriously than before because we are going to elections and the Jubilee Government wants to be re-elected. With this kind of wastage, is that possible?

I want to go to the area of excess expenditure. I want to look at the other side. When there is excess expenditure, it means a contractor, supplier or service provider has been given work through either an LCO or an LPO. All he expects after doing the work is to be paid. What happens? The supplier is not paid. This is a vicious cycle. What happens is that the person who is not paid borrows money from the bank. In effect, if you had given security to the lender, your property may be sold. If you had given security, the banks are going to label you a bad debtor. You approached the bank in sincerity with an LPO or an LCO, but because some officers in the Government---

The Accounting Officers need to take this issue more seriously than before. How do you incur excess expenditure? You must, first and foremost, have Authority to Incur Expenditure (AIE). The first question I want to ask is this: Was AIE given out by the Accounting Officers? The Principal Secretaries (PSs) need to tell us what happened because they are in office. Fortunately, it is a current Report we are discussing today. How comes they allowed expenditure

not approved by Parliament? What system was used to procure those items? It is a critical issue. It amounts to economic sabotage because you are spending what you do not have, which is illegal. The person who is most hurt is the contractor, supplier or service provider who is not going to be paid.

Another area which is of concern is where people spend more money than what they have. Kshs24.5 billion was spent without the authority of Parliament. It means there was no money to pay. That is the message here. If there is excess expenditure, you do not have revenue to cover it. There is no money for it. It is criminal. The Office of the President must take this issue seriously if they want to help this nation. It affects innocent business people looking for business to genuinely make a living.

When you go further, you find another big problem is pending bills. It has become a tradition that every year, we must have pending bills. This issue of pending bills affects women and the youth who are doing business with the Government. They are not being paid and yet, we are here to promote employment. We want people to be self-employed so that they can increase their income. Here is a case of somebody who is just starting his business supplying goods, but he is not paid. That amount becomes part of the pending bills. This is a serious concern for the country. We need to address it. It is a vicious cycle. A supplier approaches a bank while some go to the small women support groups to borrow money and they pay very high interests. They are not able to pay and it is not their fault. They genuinely got an order from a Ministry and they have not been paid.

As we move on, I want to tell the Cabinet Secretary for the National Treasury - he is the one who appoints the Accounting Officers - that those people are criminals! You cannot cause somebody's property to be sold and yet, he has supplied goods to the Government. If you do not pay back the loan, your property will be sold and, of course, you will look bad. That is why we are talking about bank interest rates. This is the vicious cycle we have. You are not able to pay and the interest accumulates. Let us address issues that will benefit the nation.

The Government must control its officers so that those pending bills are eliminated. The amounts look like figures when we read them here in the National Assembly. We are talking of pending bills of Kshs16.6 billion. Those are not small issues! Those are issues affecting small-scale business people. They affect the youth who have borrowed money from the Youth Enterprise Development Fund. They affect women who start businesses. It is very important that this issue is addressed adequately by the CS for the national Treasury. He has to rein in his officers. Why should you allow officers you control to spend money you do not have? It causes poverty.

If you talk to people who have supplied goods to the Government, they will tell you the torture they undergo, some of which can break families. You can offer your home as security to take a loan. If you offer your home as security for a loan, your wife may not agree. Once you have taken the loan, you may not pay because you have not been paid by the Government after supplying goods. You even calculate the profit you will make. It is a big challenge this country faces. There is need to have discipline in the Ministries, especially among the Accounting Officers.

We have issues with the Ministry of Devolution and Planning, which spent over Kshs8 billion, and is not able to account for. We hope next year we do not get similar Public Accounts Committee (PAC) Reports. We hope this comes to an end. The biggest challenge is that the

Exchequer is always to blame. This has been a tradition since Independence. It encourages people to procure goods in the months of May and June.

With those few remarks, I support. Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): The Chair of the Departmental Committee on Education, Science and Technology.

Hon. (Ms.) S.W. Chege: Thank you, Hon. Temporary Deputy Speaker. I want to support this Report.

I noted with a lot of concern the issues raised on the education sector, especially on the accountability of the free primary education and the money that is given for free secondary education. It is very sad for heads of institutions to inflate the numbers so that they can get more capitations from the Ministry. I noted that the Committee recommended that a special audit be done in all our schools and a report be tabled by December 2016. I am very keen to see that audit report. It is high time Kenyans embraced the issue of values and integrity. We need to name and shame some of the people who will be taking Government money. We invest a lot of money in education. I note, with a lot of concern that, a lot of that money does not reach the intention of the Government. This is very sad, knowing that education is the key and driver of this country and the economy at large.

I also note the issue of opening private banking accounts by Government institutions. I urge the Committee to also audit public universities which open private accounts and private institutions outside Kenya so that we know where they get the money from. This is public money. How can the public universities open campuses outside this country? Whose account do they operate on? We need to really do a lot of scrutiny on the public accounts that are being opened by Government institutions. Who manages them, who audits them and where does the money go? It is also important for the Office of the Auditor-General, as they give their report, to make sure that they harmonise their findings with the ministries concerned before bringing that information to the public. I want to note that there are several Members of this House whose names appeared in the local dailies saying that they had not submitted their imprests. It is important for us to be sure that the report is harmonised with the institutions concerned before we start pointing fingers at people.

Finally, I will talk on the issue of pending bills. It is important for officials who have been entrusted with spending of Government money to make sure that they put everything in the Budget. We need to be very careful because we might give them money which they divert to other things that are not in the Budget and then, we end up with pending bills. We need to start asking for personal responsibility. Right now, money goes to the county governments. This money comes from the national Government. Many governors and other officials in the counties might over-engage and put money into projects simply because they want to pass it on to their campaign kitties. Some of them know that they will not be re-elected next year. Therefore, they want to spend money meant for certain projects on other things and leave the burden of paying the bills to the taxpayers. It is important for Government officials to know that they can take personal responsibility. They should spend monies for the intended purposes.

I support.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Let us hear the Member for Kajiado North, Hon. Joseph Manje.

Hon. Manje: Thank you, Hon. Temporary Deputy Speaker, for giving me this chance to support the PAC Report for the 2013/2014 Financial Year.

The impression you get when you go through this Report is that financial reporting in this country is not very good. It appears as if it is overlapping. You will not see a very clear demarcation between one financial year and the other. The overlap has become so large it has affected the accounting period of the following year. Also, there is an observation that Accounting Officers do not respect the management letters written by the auditors. The relationship between the auditors and the Accounting Officers is a bit sour because when they appear before us, we get the impression that there is a tug of war as if they are not working for the same course. I envisage a situation where the accounting cycle will be properly observed. If it is not, there will be a lot of unexplained circumstances.

There are some areas that need to be highlighted, like the issue of pending bills. It has become an issue in all Reports of PAC of the National Assembly. It keeps on recurring every time. We need to do something as a country. We need to evaluate ourselves and see if we are doing it in the right way. Maybe, this issue should be sorted out in different fora.

There is also the issue of unsupported expenditure. The Auditor-General reports that there was an unexplained expenditure of about Kshs67 billion. When it came to evaluation, we realised that it was just a matter of reconciliation. In some cases, it took time for records of expenditure at the county level to get into the records at the ministry level. This was reported as a lost amount. This gives the impression that the accounting period is not very smooth. The three months that are normally given after the closure of the accounting period are not properly utilised to make sure that all the expenditures are reconciled. There is also the issue of un-surrendered imprests, which keeps on recurring in almost all the ministries. Officers take monies for various usages and they do not submit returns within the required time. The imprests surrender period used to be 48 hours, but it has since been pushed to one week. This will give people who have spent money ample time to surrender imprests.

We also realised that the assets of the Government are not properly captured. They are bought using public money and yet, they are not properly recorded. The inventory is not well kept in most of the ministries. That area needs to be checked. Generally, because of the increase in the amounts of monies allocated to the ministries, there is a tendency of misappropriation of public funds. Capacities of the spending units are not established before large sums of money are given to them. The capacity of a unit to spend money should correspond with the amount of money allocated to it. For example, if you want to give a lot of money to a certain government body, you should enhance its capacity to spend it.

We also realised that monies given to the counties are being misappropriated. There ought to be some ways of making sure that monies given to the county governments are properly utilised. There is a general feeling that monies being sent to the counties are free-for-all. There are so many people who take money from the county government kitties, and it is as if the Auditor-General is not in a position to make sure that good accounting takes place at that level. Also, the formula of sharing revenue should be changed a bit. As we continue, we have to consider the productivity of a county. Some governors are not collecting revenue because they expect money from the national Government. If we do not change this approach, we are likely to continue with wastage on the ground.

The use of IFMIS is also not helping. It is actually complicating issues. Despite the fact that corrupt transactions are captured in the IFMIS, nothing is being done to bring the perpetrators to book. It is high time we woke up as a country and make sure that public financial resources are not misappropriated. If we do not do so as a country, we will take very long to develop. We should also start giving auditing a different approach. Performance based auditing can help. For example, a building can be audited based on its value. I also request the decision-makers to make sure that the accounting departments are stable in particular ministries. During the accounting period, you will find that departments move from one ministry to another. This disorganises the Accounting Officers at that particular time. When we call the Accounting Officers, they say they have been transferred from one department to another, and that they left records where they were. During the accounting period, stability should be seen. If a department is in the Presidency, it should remain there for quite a good time, so that it can account for the resources that were given out to it.

Lastly, I emphasise that Accounting Officers should make more use of Information Communication Technology (ICT) and device methods of ensuring that contractor are paid directly from the National Treasury, instead of funds being moved to the ministries and departments, and then to contractors. This arrangement has created a very long process, leading to public money getting wasted in the process.

With those remarks, I support the Report.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Members, please join me to welcome girls from Samburu County, Laikipia County, Isiolo County, Kuria County, Taita Taveta County and Marsabit County, who are seated on the Public Gallery. They form the umbrella of Samburu Girls Foundation. They are welcome to see the proceedings of the House. They might be Members of Parliament one day. *Karibuni sana.*

(Applause)

Hon. Members, I have 11 requests. This shows that Members want to contribute to the PAC Report.

Member for Balambala!

Hon. Aden: Hon. Temporary Deputy Speaker, I thank you for giving me the opportunity to contribute to this very important Report.

At the outset, I want to say that I support the Report. I am a Member of the PAC Committee. Before I contribute, allow me to say that it is with great honour that I join you in recognising Miss Kulea and the team of the young girls from Samburu, Isiolo, Laikipia, Marsabit, Kuria, among other places, who have joined us today. It is a great honour. Those are girls who have inspired many other young girls to ensure that they do not fall off their education. We are very proud of you.

This Report has revealed serious fraud and inefficiencies within the Government expenditure system. The national Government is usually responsible for 85 per cent of the shared revenue. It is only 15 per cent of the revenue which goes to the counties. We make a lot of noise in the media about how county governments are misusing the funds that have been devolved. It is disheartening to see that all those complaints and noise are only about the 15 per cent or 23 per cent of the total national revenue. About 85 per cent of the national revenue is expended by the

national Government. This Report reveals serious misuse of money. The recommendations of this Report must be taken with a lot of seriousness by the appropriate authorities. We have made recommendations to Ethics and Anti-Corruption Commission (EACC) and the Director of Public Prosecutions (DPP) in many occasions, to ensure that culpabilities which have been clearly identified are dealt with immediately. Failure to do that, corruption will never leave Kenya. We will always suffer from the cancer called “corruption”.

I want to cite a few examples as I contribute to this Report. The Ministry of Planning and Devolution is the most affected with corruption. It is a great shame that an Accounting Officer who was allocated over Kshs100 billion could only account for about Kshs8 billion. The remainder of the funds allocated to that ministry remains unaccounted for. Some of the perpetrators of such vices are walking freely out there. That is why, sometimes, we feel that there is no seriousness in fighting corruption in this country. Those people should be behind bars. The Accounting Officers in the Ministry of Planning and Devolution, who were involved in misappropriation of public funds, and who shamelessly bought one pen for over Kshs8,700, in addition to incurring other ridiculous expenditures, should be behind bars. Unfortunately, those people continue to enjoy their liberty while some Kenyans who have been accused of stealing a mango because they were hungry, have since been jailed for several months, if not years. That is the irony of corruption in Kenya. The issue of unapproved expenditures is becoming common. You find that a project which was tendered for Kshs1 billion midway through, changes to Kshs2 billion. By the time of its completion, the costs get to Ksh5 billion. If you look at the project and what has been done, you find nothing of significance that has changed the scope of works. Even where the scope of work changes, there is a law that applies to say that beyond certain amount of changes of the scope of work and amounts, there must be an approval level that is required. We have seen Accounting Officers shamelessly inflating projects, and it is all in this Report.

The unwarranted attack on the office of the Auditor-General was another disheartening thing to see in this Report. We have seen ministries publish on all the newspapers, a cost to the taxpayer for taking pages of the advertisement, to say how they want to hit at the Auditor-General for not presenting factual information. However, when the same Accounting Officers came before the Committee, we, indeed, proved what the Auditor-General was saying was right. Those Accounting Officers lied to Kenyans. They were trying to conceal corruption in their ministries. We strongly recommend that they are not only surcharged to pay back the cost of those advertisements, but also make sure they are held responsible for attempting to hide that corruption.

The internal audits in the different ministries have become almost useless. There is corruption, but every ministry has a department of internal audit. What is the work of the internal auditors? We asked some of them what exactly their work is, if they cannot stop over-payment of invoices. We have seen invoices whose amounts were changed by a hand. We have seen ridiculous things happening or being presented before the Committee, but the internal auditors have absolutely no clue. For prudent management of financial resources, we need a critical relook at those internal auditors. Some of them do not even have the qualifications as auditors. This is the other thing. How do you put somebody who is not a qualified auditor to be the head of internal audit?

The Ministry of Education, Science and Technology and the free primary education is one other leakage out of our system which is unfortunate. It is a paradox that our schools are

almost collapsing because of lack of resources and yet, billions of shillings are stolen each year. We strongly recommend that a lifestyle audit be done on senior directors in the Ministry of Education, Science and Technology, who have been the conduit of stealing funds in the name of free primary education. This is evil and unacceptable. Those fellows should be charged against that corruption.

The Government asset register which was presented before the Committee showed that there is total failure in accounting for the assets of the national Government. Each Ministry should have an asset register, but they do not have them. There is an asset register in any organisation. This seat must have a tag in this House. The property owned by Parliament must be known. The Government ministries should have asset registers which has vehicles and all other high valuable properties. Unfortunately, in almost all the Government ministries, none of them has satisfactorily produced a genuine asset register. This has led to the theft of land and property that is owned by the Government. We have seen motor vehicle logbooks which have been stolen in an attempt to steal the motor vehicles. That is a serious issue.

I do not want to spend a lot of time on the Eurobond issue. I look forward as a member of this Committee to see the special audit on Eurobond which is being done by the Auditor-General. There was serious anomaly in it according to my knowledge of this area. I will leave that for the time when we will be debating the special report.

Several ministries and departments in the Government have pending bills which are almost as large as their allocation for each given year for Budget. This is unacceptable. Having small ministries like the Ministry of Sports, Culture and Arts with Kshs.634 million shillings in pending bills is not acceptable. That amounts to almost 60 per cent of the annual allocation that they are given. When will those ministries ever pay those bills? Those are the issues which require immediate attention.

On the issue of IFMIS, we were told as taxpayers that it was a system designed to remove the element of human nature in the payment process of Government expenditures. Unfortunately, what we have come to know is that IFMIS has been used as a conduit to steal from the taxpayers. We are waiting for a special audit report which is ongoing on this system. We need to see a lot of seriousness from implementing authorities.

My parting shot is that the implementing authorities on this Report; the EACC and the Office of the DPP must act swiftly to implement the recommendations as soon as this Report is passed. Kenyans want to see people prosecuted and put behind bars for misuse of public funds.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Well spoken. The next on my request list is the Member for Gichugu, Hon. Njogu Barua.

Hon. Barua: Thank you, Hon. Temporary Deputy Speaker. I am happy to finally get an opportunity to make my contributions on the PAC Report.

From the outset, I want to congratulate the Chair of the Committee who has done an excellent job and made a good presentation. By extension, I thank the Committee for the good work.

To start with, I would like to say that the work of PAC and PIC in this House is critical in ensuring that this country moves forward to eliminate corruption in all systems. It is for this reason that we are lagging behind as Parliament because today we are discussing Volume 1 of PAC Report of the 2013/2014 Financial Year. The year we were sworn in and today, we are in our final stretch - the fifth year of our service as Members of this House.

The single most important purpose for auditing is to ensure that there is value for money in whatever investments our Government makes. It is one thing to audit, and confirm that money has been spent properly and another to audit the real implementation of projects on the ground. For us to establish the value for money, the final auditing must be augmented by fiscal audit of the intended purpose of the finances.

This Government has adopted a project-based budgeting process and accounting. If you are having a project-based budgeting process or initiative, then you also need to have a project-based accounting. The MDAs should not find it difficult to account for monies given to them. Those monies are actually allocated for specific purposes whose outputs are clearly anticipated and known. If those outputs are not realized, however much you ascertain that the monies have been properly spent, it does not add up because *wananchi* will not receive value for the money.

For this to happen, the National Treasury must also play a role in this. It must ensure that the Exchequer is raised in a timely manner to the beneficiaries; who are the MDAs.

We have seen situations whereby an allocation for one financial year's project is disbursed to institutions, maybe, three months towards the end of that financial year. This does not auger well with the development or the proper utilization of money.

When ministries are not able to exhaust their finances, they are accused of having a low absorption capacity. Sometimes, this low absorption capacities are actuated by the same people who are supposed to be financing or disbursing those monies. It is for this reason that I would like to make a recommendation and call upon the National Treasury to ensure that money is released at the right time so that project implementers do not face many difficulties.

Sometimes, when that money is released towards the end of a financial year, it becomes difficult to absorb and, hence, it is returned back to the National Treasury, thus leading to the suffering of the intended beneficiary. We are talking about auditing at the two levels of Government; the national and county governments. One of the things we should do as Parliament is to ensure that we conduct, through partners, an audit on the capacities of various audit departments. If the audit departments in ministries and county governments are not adequately trained and properly equipped to carry out the audit, then there is a problem.

It is for this reason I am calling upon various agencies, and especially county governments, to ensure that they recruit competent people to conduct their audits. As we move on, it is the responsibility of Parliament - both the Senate and National Assembly - together with county governments, to ensure that they put the respective governments in check. Parliament must perform its roles without fear or favour, and with a bipartisan approach. We should audit the Government initiatives and ensure that all the benefits which are intended are realised.

I want to put it on record that Parliament and the 47 county assemblies are at the centre of it all. If we are not capable to do oversight as we were elected to, then we are doing a disservice to this nation. It is for this reason that the county governors have been accused. I have personally accused them for not spending money properly.

One of the reasons is because the people who are supposed to oversee them do not have the capacity. In this House, we expect to have a few of us becoming governors, including the Chair of PAC. I wish him well and hope he succeeds. I wish when that time comes, he will have a competent assembly which will put him on check. He does not have to 'pay like other people do'. I do not need to be accused to bear the burden of proof - and compromise MCAs to do a few things which are un-procedural.

As I conclude, Parliament should not be allowed to debate and legislate in vain. Once we produce a Report such as this, we need to have timelines on when we expect the recommendations to be implemented. If there are some recommendations for some people to be held accountable, let us be told when that will happen. Let us have other agencies who are supposed to implement recommendations held responsible for lack of implementation.

It is for this reason - and I am very happy to hear from the Chair - that there is a collaborative effort between PAC, PIC and Budget and Appropriations Committee. If they work as a team with a common purpose, they shall take this country very far.

With those few remarks, I wish to thank you for this opportunity and the Jubilee Government for supporting many laid-back infrastructural projects across this country. If this country gets connected through an effective road network; east, west, south and north - and with an effective rail system and aerodrome network - we will be more productive.

Connectivity is a big factor of production and that is why I take the opportunity to thank the Jubilee Government for giving us this type of support, regardless of political persuasions.

Hon. Temporary Deputy Speaker, I support.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): The Member representing people of Molo in the House.

Hon. (Eng.) Gumbo: On a point of information.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Who are you informing?

Hon. (Eng.) Gumbo: I wanted to inform the House. Let me start by thanking my good friend---

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Hon. Gumbo that may not be procedural. Someone has to be allowed to inform the House, lest I use my discretion. You need to inform a Member. Just inform the House.

Hon. (Eng.) Gumbo: Thank you, Hon. Temporary Deputy Speaker. I want to thank Hon. (Dr.) Barua for his very concise and incisive contribution. I just wanted to inform him that as Public Account Committee (PAC), we do not have any backlog anymore. If you look at the Report, the apparent backlog came from the fact that this Report was tabled six months late as per the constitutional guidelines. Right now, the Report before us is for 2013/2014, which was due by 31st December 2015. The Report that the Committee is currently considering is on 2014/2015 and that was tabled about a month ago. I thank him for his comments and congratulate him once again for getting a PhD.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Hon. Members, we are debating the PAC Report for 2013/2014 Financial Year. I appreciate what the Chairman of the PAC is trying to put across. Indeed, they are current as far as the financial year is concerned. This is constitutional and I think it was a good message to pass to the House for our knowledge.

Hon. Members, before I give the opportunity to the other Member, join me to welcome students from Kathonzi HGM Primary School, Makueni County. They are all welcome to the House to observe the proceedings.

Hon. Member for Turkana Central, Hon. John Nakara.

Hon. Nakara: Thank you, Hon. Temporary Deputy Speaker.

Hon. Macharia: Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Hon. John Nakara, I had given this opportunity to the Member for Molo before the Chairman of PAC stood to inform the House about the status of PAC. Hold on! The Chair will see you.

Member for Molo.

Hon. Macharia: Thank you, Hon. Temporary Deputy Speaker; I rise to support the Motion on the Adoption of the Report of PAC on the Government of Kenya Accounts for the year 2013/2014. However, I am concerned that some of the things that the Chairman of the Committee has read out to Parliament today indicated that, at some point, school managers or school heads have---

(Hon. Maanzo and Hon. Mwaura consulted loudly)

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Hon. Maanzo and nominated Member, Hon. Isaac Mwaura, you are aware of the procedures of the House as well as the dos and do nots of the House. Let us not abuse them. Carry on Member for Molo.

Hon. Macharia: Thank you, Hon. Temporary Deputy Speaker. It seems like my presentation is being interrupted heavily. The Chairman of the Committee has indicated that some school managers or teachers could possibly have presented wrong figures of enrolments in order to get more Free Day Secondary Education (FDSE) and Free Primary Education (FPE). The Committee, through its Chairman, could make this matter more clear because school enrolment is something that the Ministry of Education has emphasized on. It is something that we are sure of. I am also concerned about the fact that most of the public land in our constituencies has no ownership documents and so many people have been encroaching on it. We have seen school land getting encroached. We have also seen land meant for public use getting encroached. It is, therefore, important that such land be given title deeds or other ownership documents so that we can proceed. I support, Hon. Temporary Deputy Speaker.

The Temporary Deputy Chairlady (Hon. (Ms.) Mbalu): Next is the Member for Turkana Central. As I had indicated before, you had "caught my eye".

Hon. Nakara: Thank you, Hon. Temporary Deputy Speaker for honouring your word. First of all, I want to thank PAC for the work it has done. This is the first time I have seen a report written without quarrels or complaints from the members of the Committee.

I would like it to be clear that public resources must be used well. Whenever we have audits in our Government institutions, we must bring to account some people who may have gone against the traditions or against the law. Some people need to go behind bars to become an example to others. Those resources come from citizens' tax and people work hard in order to get that money. Whenever we give back to the public, we must ensure that we are giving the right services and goods with regard to their needs. We should come up with projects that will raise their standard of living. When you see the misuse and mismanagement of those resources, you feel very bad.

Accounting officers have failed to demonstrate to auditors how they spent their money. They have failed to provide documentation. I do not see the reason an auditor should entertain an Accounting Officer who has no documentation at his place of work. Every shilling that has been spent is public money and the Accounting Officer must demonstrate how that money was spent. People who are concerned with the accounting of those resources must be brought to

book and they must be examples to others because they lay the foundation for corruption to happen in this country. Some accountants in our constituencies and Government institutions have been there for years, but have only been laying ground for corruption to happen. Some of the accountants have been in one station for, say, nine years. This gives them an opportunity to create connections and networks and that is why you see them get rich. It is all because of corruption. Sometime back, we recommended that an Accounting Officer must be in one station for two years only and then be transferred to a different place. This will ensure that they do not network and do business with the people they are supposed to audit.

Another issue is public participation. This is a constitutional requirement; it is not something that we are requesting the Government to do to the public. We must involve the public in every area, especially on financial matters so that they can have a say over the money. That is because the money belongs to the public.

The issue of pending bills is the worst scenario in counties and national Government institutions. Some contractors have gone to court because they have not been paid by the Government. They took loans from banks and other financial institutions, but have been unable to repay the money. I was happy when the President, last week, told his Cabinet members that they must ensure that all debts are cleared before they engage other contractors. That is a statement from a caring President and a good leader. This nation is being run by business people. If the business people are not paid, many things get stuck. We were, therefore, happy, when the President declared to the Cabinet that all pending bills must be cleared.

Again, they must finish the projects that are yet to be completed.

Hon. Temporary Deputy Speaker, there are some projects which are allocated money every year. You wonder how long those projects will take to complete because every year, they are budgeted for. The idea of continuity has led to a lot of corruption.

Finally, sometimes, we also question the Auditor-General's report. Sometimes, the Auditor-General rushes to a conclusion of a matter before investigating. When he appears before the Committee or if the person is called to come and answer questions, you realise that the Auditor-General went against the norms. You discover the report of the Auditor-General is not the way it was supposed to be. So, we appeal to the Auditor-General to investigate before he rushes somebody because somebody can be taken to court or somebody's name can be mentioned in public and the reputation of that person can be questioned because the Auditor-General has mentioned that he did not give the right information, or he did not account for the money.

We also need the Chairman of Public Accounts Committee (PAC) to tell the Auditor-General that before he presents the report or before he gives them documents, he must make sure that he has verified and that he has the right information so that when we mention the person or mention an institution, what he has given the Committee can be confirmed from those who are going to be interrogated.

With those few remarks, I support.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Member for Nambale, Hon. Sakwa Bunyasi.

Hon. Bunyasi: Thank you, Hon. Temporary Deputy Speaker. I rise to support this Motion on the Report of the Public Accounts Committee on the Government of Kenya Accounts for the year 2013/2014. This is a very tedious slow job which ends up where we are now. It is

tedious and difficult because I do not get the sense that there is sufficient attention being paid to the process of accounting for the resources that are received. The Budget is a contract between the people and the Government saying that those are the things that we are going to finance so that we can achieve growth in those sectors over time. To achieve goals, for example, we have got for Vision2030. It starts with the Budget Policy Statement and the allocation of resources in relation to areas of priority in the Budget Policy Statement, which is calibrated to produce the results that are needed to grow this country.

When there is a *lacuna* in the effectiveness in implementation, you effectively change the priorities that were set out. So, it is extremely important in this stage of the budget process that we pay attention to how well it has been implemented relative to the Budget Policy Statement that was issued.

One of the big areas of concern, in a broad sense, that we see with the implementation of the Budget, which I have said it is important to be implemented faithfully to achieve the results that have been planned, is that there is a wide variation in the extent to which Accounting Officers ensure that expenditures are as intended.

We have seen every time the Auditor-General announces his report, there is normally a twitch or some concern among the implementing agencies to the extent where in some areas, they have taken out public commercials objecting to criticisms raised by the Auditor-General. Yet what the Auditor-General does, as he should and should do more of it, is to just ensure that there is consistency between the outcomes in expenditure and what was intended so that we can measure the outputs that are needed. Frequently, there is panic at the last minute when, in fact, they panic because they were unwilling or unable to provide explanations at the time it was needed.

It is extremely important that we should take this to a higher notch. When a MDA is unable to account for funds, the only conclusion we can come to and there is no other conclusion is that the funds are lost. If one pretends that they are not lost or that they were not even lost, we do not know that they were not lost at the point of entry. There is no reason why they should be unable to account for the money 18 months down the road. This Report clearly indicates that there are many such areas where attention to detail and the critical element of the expenditure are not being paid.

The reports are being made available increasingly later than it should be the case. There was a time when the Committee itself was unable to go through those reports in time and we had a back-log of several years. We are now running at a year or a year and a half of back-log. Part of the reason is the ability of the Office of the Auditor-General to provide those reports in the time-frame that is required.

One way of looking at it is that this is a loud cry by the Office of the Auditor-General that it has inadequate capacity to look at those reports with the vigour that they require in the expected timeline. I hope Parliament will respond to this cry. On one hand, we cannot demand that there are serious issues of accountability at the central Government and in the counties. At the same time, we cannot deny the Office of the Auditor-General resources to give us those reports with the depths and vigour we expect from that Office.

It is only through the review of the Office of the Auditor-General that the executive bosses are able to know what is going on in their departments. If I was the President of this country, I would be eager to have a very strong Office of the Auditor-General because as

President, you never know what goes on in the individual ministries. This is the only way you can know what is going on. We have had challenges in some ministries because of the diverse range of activities and the large involvement of donors. For example, in the area of health, you never know if there is double-dipping. You do not know if the area uses funds from the Exchequer or borrowed funds. The quality of account-keeping in agencies and ministries is extremely important.

There is also the issue of the use of public funds. The bigger the budget, the more you have to raise the revenue. We call it revenue but it is actually taxation. You have to find a way in which to tax more so as to raise the revenue you need to finance the budget that you have agreed on. It may be impressive to grow the budget. The budget grows each year, partly because of inflation and partly because needs expand. To raise that money, somebody must pay tax. It is very disappointing that after people have raised those taxes in whatever form, our Government has had to borrow funds. This is an obligation for the future. Sometimes, people say that that is not Government money, but it is World Bank or African Development Bank (ADB) money. That is absolutely inappropriate. That is still taxpayers' money. It is money that we have received today and have to pay tomorrow. Therefore, how efficiently this money is used is extremely important.

In some sectors like education, if I may use Nambale my own constituency, in the three plus years I have been a Member of Parliament, there has not been a single classroom that has been built by the central Government. Not a single one! I understand some have been built elsewhere. The criterion used is opaque. Only the other day, we sat down to discuss what might be done. It is very depressing when you find that the areas with the biggest loopholes are the Free Primary Education (FPE) and Free Secondary Education Programmes (FSEP). If those resources were more tightly used, probably we would have had a bit more infrastructure from the central Government, via those resources, to catch up with the infrastructure demand.

I come from a constituency and I know it is true of the county and parts of very many similar counties where the demographics are such that fertility is still very high, classrooms are bursting at the seams with children and, therefore, we still may catch up to get infrastructure.

We hope the Teachers Service Commission (TSC) will provide us with teachers.

Therefore, the leakage we see in those two major funds is one on denying resources to the most critical areas. The Budget process requires that when there are findings on misuse of public funds, they are taken up in a timely manner so that it does not become a chorus each year of the same song that you can almost close your eyes and guess that the next thing people are going to say is that funds were misused. We expect an immediate follow up.

It is my earnest conviction that other judicial agencies should, and Parliament must insist that they sit in those Committees, so that they can pick this issue up so that by the time we are coming to the Floor, the relevant offices doing investigations or those that can charge before a court of law are fully informed. They should not wait for five years to get the document. We should get effective and follow up to have this Report properly implemented.

As I conclude, the road sector is in the process of being devolved. I think we have not passed the appropriate legislation. But there must be sufficient clarity on the transitioning of that process. It was a problem in the 2013/2014 Financial Year and it is going to be bigger now that the sector has been devolved. Use of funds in contracts is still far from efficient and satisfactory. I hope we will pay sufficient attention to the Report of the 2014/2015 Financial Year

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. (Ms.) Regina Ndambuki.

Hon. (Ms.) Muia: Thank you, Hon. Temporary Deputy Speaker. I rise to support the adoption of the Report of the Public Accounts Committee (PAC) on the Government of Kenya Accounts for the 2013/2014 Financial Year. How long will we keep discussing misuse of public resources? Every year, the Auditor-General's Report indicates that huge amounts of money have been misused. No Accounting Officer has been charged in court or even sacked. Every time we summon Cabinet Secretaries (CSs) or Principal Secretaries (PSs) here, all they tell us is that they will bring us more information on a particular issue. All Ministries have auditors who are supposed to give reports every year. We only handle very little money from the Constituencies Development Fund (CDF) but every year, we receive three auditors who come to audit our accounts. Yet, people handling billions are let free to do what they want. Every year, the Auditor-General brings a big list here, but we do not know what happens thereafter. People are now insensitive because they are aware the report will be tabled in Parliament and we will make noise here but no one will be asked to refund the money.

We work with Ministries and they receive money every year. Even District Education Officers (DEOs) cannot account for the money. They keep requesting for classrooms and offices and yet, you wonder what that money does. They do not even pay bursaries. We must come up with a law to tame those people.

The Procurement and Supplies Department in Government offices mostly deal with money. So, it does not make any sense when the CS or the Accounting Officers appear before us and tell us that they will bring more information. They are the same people who are misusing money. We will never get the truth of what happens in the ministries. I think this is just a procedure where we receive a list every year, debate it here and there is nothing. This is the end of what we debate here.

Hon. Temporary Deputy Speaker, even when we look at the issue of county governments, the Senators who are supposed to oversight those people receive a lot of money. We have never received any Report here. We only see names in newspapers. After two to three days, the person comes before the Senate. After one month, that person is said to be innocent and goes back to work. I do not know who is going to oversight those people – whether it is the ministries or whichever sectors. It is like there is no right procedure and the Auditor-General (AG) has no teeth to bite. This is just a paper we will be receiving after every financial year to discuss how much money is lost in each ministry. At the end of the day, I want to assure you that by October or November, you will never hear about that money.

After our debate, that will be the end of it. Can we see something being done instead of talking, making noise here and the money is lost at the end of the day and it is gone? People put that money in their pockets and that is it. They will wait for next year and receive another account. Otherwise, once we receive from him and the Public Accounts Committee (PAC), we will want to know what happened to the previous monies which were lost.

Otherwise, it is a procedure where we will discuss, talk, make noise and people continue with corruption and no one cares. To me, they do not care. When we start blaming Accounting Officers and they are not taken to court, it is improper. That is because the small man does not count here. We call the Accounting Officers, they do not give answers, and they talk and say they will bring information. I do not know where we are heading. People are fed up with us for debating here, yet there is nothing we are doing. We debate every year. Huge monies are lost;

none has been refunded or returned. Therefore, it is just a procedure; we will continue doing the same.

This House should come up with a law. I do not know where we will get powers from, just to tame those people, if we want to help Kenyans.

Thank you, Hon. Temporary Deputy Speaker.

I support.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Member for Kilome. Let me hear, very importantly from the Vice-Chairperson of the Budget and Appropriations Committee. She has already put off her card. I thought she is in. I had seen her card.

Then, let us have the Member of Tinderet Constituency. It would have been good to hear from the Budget and Appropriations Committee *vis-a-vis* expenditure and value for money.

Hon. Melly: Thank you, Hon. Temporary Deputy Speaker. I rise to support this Motion on the Report.

I congratulate Hon. Members of PAC for the work well-done. I will also want to say that as a watchdog over Government, this Committee has done a lot. It has tried as much as possible to ensure the backlog we used to have in the Public Accounts Committees is cleared. The Committee has worked long hours, throughout the weekends and most of the evenings to ensure that this Report is brought before this House.

I would like to say that the accounts as indicated by the Auditor-General have shown that there is need for all Government departments, as said earlier by the Members, to have programme-based budgets. It is where most ministries and departments of Government are working on budgets based on programmes. I wish all the monies and audits can be done based on the projects in the field. I have noted with a lot of concern that a number of budgets are clean on paper. But when you go to the ground, you will realise that most of the projects are not complete. They are not up to the required standards. They are not finished.

I also want to point out that concerning the unsupported expenditures amounting to Kshs66.7 billion, part of that expenditure, at one time, had been shown to be supported. The Auditor-General's Office needs not to move fast to conclude that the expenditure has not been supported. Authority to Incur Expenditure (AIE) holders are supposed to make sure that they coordinate with the managers of the respective audit units in the Auditor-General's office.

I also want to point out the need for Government agencies to account for the Appropriations-in-Aid (A-in-A). In most instances, universities collect a lot of money from parallel programmes students, which they need to account for. Some public universities collect huge amounts of money and receive less Exchequer support, but what they get has never been accounted for well.

I would also like to point out that in terms of revenue status; there is need for Government entities, especially Ministries, to ensure that they take charge of what they have in their respective dockets. There are instances where the projects that have been done are very clean and okay, but they have been poorly documented. I want to urge those officers to keep the name of the Government clean. The officers should keep records and ensure that what they have in the field corresponds with what is in the records in their offices. We have instances where officers, especially accountants, are sent to account for the expenditures, but they do not do it.

I want to point out something on pending bills. The Public Finance Management (PFM) Act requires that you do not advertise for or give out contracts when you do not have money.

Some of the pending bills are caused by failure to follow the law. Pending bills are supposed to be a first charge in every Government expenditure. Those are some of the things we need to make sure we follow so that the Government does not lose a lot of money, especially in paying a lot of interest, by ensuring that those who the Government owes money are paid on time. I support this Report.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Nassir, I am aware you do not have a card.

Hon. Nassir: Thank you very much, Hon. Temporary Deputy Speaker. I wish to congratulate the Public Accounts Committee (PAC) and---

Hon. Rotino: On a point of order, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): What is out of order?

Hon. Rotino: Hon. Temporary Deputy Speaker, we have been sitting here from 2.30 p.m.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Rotino, you are out of order. You are even spoiling for yourself. Hon. Nassir, carry on.

Hon. Rotino: (*Inaudible*)

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): You cannot be a Speaker for that matter. We know what we do.

Hon. Nassir: Thank you very much, Hon. Temporary Deputy Speaker. I wish to congratulate PAC on this excellent Report. It is a 466-page document. They have done well under Article 95(4) (a), (b) and (c) of the Constitution on the role of the National Assembly. This Report of 466 pages for the year 2013/2014 talks about how billions have been lost by this Government when Kenyans are dying of hunger and when our athletes are being mistreated due to lack of funds. Because of time, I just want to touch on a few issues. The first one is that of IFMIS, which has cost this Government Kshs5.5 billion. This is not the exact amount. The amount is yet to be accounted for. The worst part is that the system has not worked. This is based on information from Accounting Officers. We are asking ourselves whether the end has justified the mean for us to spend that Kshs5.5 billion. It is a bit sad when the Ministry of Health and the National Treasury decided to personally attack the Auditor-General using public funds and went ahead and put paid adverts in the dailies. Instead of answering those queries, they are trying to defend themselves. I wish to remind them that the Office of the Auditor-General is a constitutional office and they need to answer those queries instead of coming out to the public.

The report indicates that out of Kshs66.7 billion, they have been able to account for about Kshs40 million. This Government spent Kshs24 billion in unapproved expenses. The question is: "What is our role in the National Assembly if they decide to spend money without our approval?" That is a dictatorial type of governance where they can spend money however they wish. Over and above what was approved for particular projects, an extra Kshs24.5 billion was spent in excess expenditure. Back to the infamous Eurobond, this Government is yet to account for Kshs150 billion. This is as per the Auditor-General's Report. Kshs150 billion has not been utilised and did not go into Kenya's economy.

I would have gone further but time is not on our side. I want every member to go through this Report. We need to support it and ensure that those who are behind the misuse of public

funds and those who are going against the Constitution of this country are brought to book. Thank you. I support this report.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): I now give the Floor to the Member for Turkana.

Hon. (Ms.) Emanikor: Thank you, Hon. Temporary Deputy Speaker, for giving me this chance. I want to start by congratulating the Chairperson of this Committee, Hon. (Eng.) Gumbo and his Committee for the good work they have done. They have pulled out all the key issues that are worrying to all Kenyans. When I read the Report, I saw that one of the issues that delayed the tabling of this Report is lack of co-operation from the Accounting Officers, who kept on postponing the meetings. Matters accounts, finance and accountability are so serious that we cannot allow non-co-operation to hinder the process.

I also saw that political parties need to be included in this comprehensive blue book in terms of reporting so that we do not get piecemeal reports because of different bodies. They have done a good job.

Because of time, I want to mention the issue of wastage and unsupported expenditure to the tune of close to Kshs67 billion. The issues of excess expenditure and pending bills are in the Report. In March this year, the Senate Committee dealing with Finance issues highlighted---

(Hon. Nassir crossed the Floor)

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Just a moment.

Hon. Member, if you have spoken and then you are criss-crossing from one side to the other, it is not procedural. You have to go back and bow, and then come back and talk to the other Member. Proceed, Hon. Member.

Hon. (Ms.) Emanikor: Thank you, Hon. Temporary Deputy Speaker. I was talking about the pending bills, the excess expenditure and wastage of public funds in the ministries, departments and agencies. I remember in March this year, the Senate Committee on Finance highlighted the most extravagant counties, including Bungoma County, Turkana County, Kisumu County, Nakuru County and Vihiga County. This is a drop in the ocean of what is happening behind there. I agree with the Committee that failure to settle those bills distorts the financial statements. It impairs the performance of suppliers, the national economy, and the procurement procedures in the ministries, departments and agencies.

I also agree with the recommendation which the Committee has given that the pending bills in the ministries must be cleared within the third financial year. The Committee has also recommended that there should be timely exchequer releases, and lifestyle audit of public servants in the national Government and county governments. You know what is happening in the counties.

ADJOURNMENT

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Joyce Akai, you will have eight minutes to contribute to this Motion on the adoption of the Report of the Public Accounts Committee (PAC) on the Government of Kenya Accounts for the year 2013\2014, when it is brought back on the Order Paper. I must appreciate Hon. Suleiman Murunga and Hon. Ayub

Savula who were willing to contribute to the Motion. We will still have more time to contribute to this Motion.

Hon. Members, the time being 6.30 p.m, this House stands adjourned until Wednesday, 16th August 2016, at 9.30 a. m.

I thank you all.

The House rose at 6.30 p.m.