



**REPUBLIC OF KENYA**

**THIRTEENTH PARLIAMENT**

**NATIONAL ASSEMBLY**

**THE HANSARD**

**VOL. III NO. 8**

## THE HANSARD

Thursday, 22<sup>nd</sup> February 2024

The House met at 2.30 p.m.

*[The Speaker (Hon. Moses Wetang'ula) in the Chair]*

PRAYERS

QUORUM

*(The Hon. Speaker consulted with the Clerks-at-the Table)*

**Hon. Speaker:** After praising you so much, Hon. Members...

*(Laughter)*

We are back to normal. *Pombe inaongezwa maji, eh?* Serjeant-at-Arms, can you ring the Quorum Bell.

*(The Quorum Bell was rung)*

Leaders of the Majority and the Minority Parties, where are your Whips? In our old days when the Bell was rung like this, the Whips would be running helter-skelter!

*(Hon. Kimani Ichung'wah spoke off-record)*

You say they are running? Order, Hon. Members. We now have Quorum to transact the business of the House. Clerks-at-the-Table?

PAPERS

**Hon. Speaker:** Leader of the Majority Party.

**Hon. Owen Baya** (Kilifi North, UDA): Hon. Speaker, I beg to lay the following Papers on the Table:

1. Annual Report and Financial Statements of the Kenya Power and Lighting Company PLC for the Year ended 30<sup>th</sup> June 2023.
2. Reports of the Auditor-General and Financial Statements for the Year ended 30<sup>th</sup> June 2023, and the certificates therein, in respect of:
  - (a) Commission on Revenue Allocation Staff Mortgage Scheme Fund;
  - (b) Office of the Director of Public Prosecutions Staff Housing Mortgage and Car Loan Scheme;
  - (c) Receiver of Revenue Statements;
  - (d) State Department for the Blue Economy and Fisheries;
  - (e) Public Service Commission;
  - (f) State Department for Regional and Northern Corridor Development;
  - (g) State Department for Tourism;
  - (h) State Department for Public Works;

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- (i) Communication Authority of Kenya – Universal Service Fund;
- (j) Commission on Administrative Justice Staff Mortgage and Car Loan Fund;
- (k) Consolidated Fund Services – Salaries, Allowances and Miscellaneous Services – the National Treasury;
- (l) Stores and Services Fund – State Department for Public Works;
- (m) National Land Commission;
- (n) Competition Tribunal;
- (o) Occupational Safety and Health Fund; and,
- (p) National Cancer Institute of Kenya.

I, thank you, Hon. Speaker.

**Hon. Speaker:** Thank you, Leader of the Majority Party. Chairperson, Departmental Committee on Agriculture and Livestock. *Wapi Mhe*. Mutunga? The Vice-Chairperson? Okay. Chairperson, Select Committee on Regional Integration? Hon. Wanjiku?

**Hon. Wanjiku Muhia** (Kipipiri, UDA): Hon. Speaker, I beg to lay the following Paper on the Table:

Report of the Select Committee on Regional Integration on a study visit to the Southern African Development Community (SADC) Headquarters in Gaborone, Botswana.

**Hon. Speaker:** It is pronounced GAB-ə-ROH-nee, Botswana. Next is the Chairperson of the Public Investments Committee on Social Services, Administration and Agriculture.

**Hon. Emmanuel Wangwe** (Navakholo, ODM): Hon. Speaker, I beg to lay the following Paper on the Table:

Second Report of the Public Investments Committee on Social Services, Administration and Agriculture on its consideration of the reports of the Auditor-General on the financial statements of five State corporations.

Thank you, Hon. Speaker.

**Hon. Speaker:** Thank you. Chairperson of the Departmental Committee on Agriculture and Livestock. Leader of the Majority Party, where is your Chairman? He is always here.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Hon. Speaker, you can see the challenges we had even at the beginning of the House. Several Committee Chairpersons and Members are sitting for the Budget Policy Statement (BPS).

**Hon. Speaker:** Okay, we will stay the matter to Tuesday. Next Order.

## NOTICES OF MOTIONS

**Hon. Speaker:** Chairperson of the Departmental Committee on Agriculture and Livestock? I think it suffers the same fate. It is stayed until Tuesday.

Chairperson of the Public Investments Committee on Social Services, Administration and Agriculture, Hon. Wangwe.

### ADOPTION OF REPORT ON FINANCIAL STATEMENTS OF FIVE STATE CORPORATIONS

**Hon. Emmanuel Wangwe** (Navakholo, ODM): Hon. Speaker, I beg to give notice of the following Motion:

THAT, this House adopts the Report of the Public Investments Committee on Social Services, Administration and Agriculture on its consideration of the reports of the Auditor-General on financial Statements of the Kenya Medical

Training College for Financial Year 2017/2018 to 2020/2021, the Kenyatta University Teaching, Referral and Research Hospital for Financial Year 2019/2020, the Kenya Medical Research Institute for Financial Year 2012/2013 and 2013/2014, the Kenya Medical Laboratory Technicians and Technologists Board for Financial Year 2014/2015 to 2020/2021, and the Kenya Medical Practitioners and Dentists Council for Financial Year 2017/2018 to 2020/2021, laid on the Table of the House on Thursday, 22<sup>nd</sup> February 2024.

Thank you, Hon. Speaker.

**Hon. Speaker:** Thank you. Chairperson of the Select Committee on Regional Integration Committee, Hon. Wanjiku Muhia.

#### ADOPTION OF REPORT ON INSPECTION VISIT TO EAC SEMI-AUTONOMOUS INSTITUTIONS IN UGANDA

**Hon. Wanjiku Muhia** (Kipipiri, UDA): Hon. Speaker, I beg to give notice of the following Motion:

THAT, this House adopts the Report of the Committee on Regional Integration on its inspection visit to the semi-autonomous institutions of the East African Community in Uganda, laid on the Table of the House on Wednesday, 29<sup>th</sup> November 2023.

**Hon. Speaker:** Thank you. Next Order.

### QUESTIONS AND STATEMENTS

#### STATEMENT

**Hon. Speaker:** Leader of the Majority Party, are you ready we start with you or do you want us to end with your statement?

#### BUSINESS FOR THE WEEK OF 26<sup>TH</sup> FEBRUARY – 1<sup>ST</sup> MARCH 2024

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Hon. Speaker, pursuant to the provisions of Standing Order 44(2)(a), I rise to give the following Statement on behalf of the House Business Committee, which met on Tuesday, 20<sup>th</sup> February 2024 to prioritise business for consideration during the coming week.

As Members are aware, this week, the House concluded various business, including the passage of the Affordable Housing Bill, 2023. Notably, the House awaits reports on various items, and I urge Committees to expedite any pending business.

With regard to business scheduled for Tuesday next week, the House is expected to consider the following Bills at Second Reading, if not concluded today—

1. The Statute Law (Miscellaneous Amendments) (No.2) Bill, 2023.
2. The National Disaster Risk Management Bill, 2023.
3. The Employment (Amendment) Bill (Senate Bill No. 11 of 2022).
4. The Natural Resources (Benefit Sharing) Bill (Senate Bill No. 6 of 2022).
5. The Petitions to Parliament (Procedure) (Amendment) Bill, 2022.
6. The Regional Development Authorities Bill, 2023.

Additionally, Hon. Speaker, debate will also be undertaken on the following Motions, should they not be concluded today:

1. Ratification of the Agreement on Establishment of the International Vaccines Institute.

2. Report of the Auditor-General on Financial Statements for national Government Ministries, Departments and Agencies for the Financial Year 2020/2021.
3. Report of the Auditor-General on Twenty-Three Non-Compliant State Corporations.
4. Report on compliance with Article 54(2) of the Constitution regarding employment of persons with disabilities in public institutions.

Hon. Speaker, in accordance with the provisions of Standing Order 42A(5) and (6), I wish to convey that the following Cabinet Secretaries are scheduled to appear before the House on the afternoon of Wednesday, 28th February 2024, to respond to Questions as follows:

1. The Cabinet Secretary for Gender, Culture, the Arts and Heritage is to appear and respond to the following Questions:
  - (a) Question 242/2023 by the Member for Gilgil, Hon. Martha Wangari, regarding the changes the Government has made to the disbursement model of the Women Enterprise Development Fund.
  - (b) Question 31/2024 by the Member for Kilifi County, Hon. Gertrude Mbeyu, regarding the significant reduction in the allocation to the National Government Affirmative Action Fund (NGAAF) in the Financial Year 2023/2024 for projects across the 47 counties.
  - (c) Question 32/2024 by the Member for Machakos County, Hon. Joyce Kamene, regarding the breakdown of funds allocated and disbursed for the provision of sanitary pads.
2. The Cabinet Secretary for Education is to appear and respond to the following Questions:
  - (a) Question 22/2024 by the Member for Nyakach, Hon. Aduma Owuor, regarding the criteria used to disburse infrastructure funds to schools in the country.
  - (b) Question 23/2024 by the Member for Alego Usonga, Hon. Samuel Atandi, regarding the disbursement of an average capitation grant by the Ministry.
  - (c) Question 24/2024 by the Member for Nairobi County, Hon. Esther Passaris, regarding measures undertaken by the Ministry to bolster guidance and counselling departments in public schools.
  - (d) Question 25/2024 by the Member for Nakuru Town West, Hon. Samuel Arama, regarding withholding of Kenya Certificate of Secondary Education (KCSE) certificates of former students on account of non-clearance of school fees.
  - (e) Question 26/2024 by the Member for Kisumu Central, Hon. Joshua Oron, regarding house allowances for teachers in Kudho Secondary School, Kudho Primary School and Obinju Kanyakwar Primary School.
  - (f) Question 40/2024 by the Member for Nyakach, Hon. Aduma Owuor, regarding the delocalization of teachers even after the policy was abolished.
  - (g) Question 41/2024 by the Member for Dagoretti North, Hon. Beatrice Elachi, regarding the status of implementation of the Competency-Based Curriculum (CBC) and measures in place to ensure its success.
  - (h) Question 42/2024 by the Member for Dagoretti North, Hon. Beatrice Elachi, regarding ownership of valid land documents by public schools in the country.

Having said that, I wish to note that the House Business Committee will reconvene on Tuesday, 27th February 2024, to schedule business for the rest of that week. I now wish to lay this Statement on the Table of the House.

Thank you.

### REQUEST FOR STATEMENTS

**Hon. Speaker:** Thank you, Leader of the Majority Party. Member for Nairobi City County, Hon. Esther Passaris.

#### NHIF REMITTANCES TO HOSPITALS

**Hon. Esther Passaris** (Nairobi City County, ODM): Hon. Speaker, pursuant to Standing Order 44(2)(c), I wish to request a statement from the Chairperson, Departmental Committee on Health regarding remittances to hospitals.

The National Health Insurance Fund (NHIF) has a duty to contribute towards Universal Health Coverage (UHC) through the provision of affordable, accessible, sustainable and quality health insurance. However, it is regrettable to note that there have been numerous complaints from Kenyans regarding their dissatisfaction with NHIF services. In some cases, patients under NHIF coverage who are admitted in hospitals while unconscious are not attended to for long periods owing to the inability of NHIF to confirm the patients' details. In addition, some patients under NHIF cover are denied direct admissions even under emergency circumstances as the cover does not provide for pre-admission diagnostics such as implants and scans and yet, some civil servants under the same cover get those services. This goes against the provisions of Article 43 of the Constitution on access to emergency medical treatment.

It is on this background that I request a statement from the Chairperson of the Departmental Committee on Health on the following:

1. Could the Chairperson explain the criteria used to prioritise settlement of NHIF claims to eligible hospitals and reasons why certain facilities are paid fully while others are not?
2. Could the Chairperson explain why there are delays in payment of monies owed by NHIF to some hospitals, particularly the Kenyatta National Hospital and the Nairobi County facilities, for services already rendered?
3. Could the Chairperson outline the plans, if any, that the Government has put in place to cushion detained patients with outstanding bills beyond NHIF settlement through waivers of bills, including a possible framework for a waiver by both county and national hospitals?
4. Could the Chairperson give the timelines in which the Government is planning to release approximately Ksh32 billion owed to all NHIF-accredited Government and private hospitals, including the Ksh480 million owed to the Nairobi County medical facilities and Ksh1.6 billion owed to Kenyatta National Hospital and provide a report on all accruals and payments made to health facilities for the years 2021, 2022 and 2023?
5. Could the Chairperson outline the measures that the Government is putting in place to ensure that no person is denied emergency medical treatment regardless of NHIF approval?

I thank you, Hon. Speaker.

**Hon. Speaker:** Hon. Pukose, how much time do you need to bring a response?

**Hon. (Dr) Robert Pukose** (Endebess, UDA): Thank you, Hon. Speaker. I want to thank the County Member of Parliament for Nairobi, Hon. Esther Passaris, for asking for the statement. I would want to ask for two weeks to be able to get a substantial response to your questions.

Thank you.

**Hon. Speaker:** Two weeks. It is so ordered. Member for Embakasi Central, Hon. Benjamin Gathiru.

#### RECRUITMENT OF NATIONAL YOUTH SERVICE VOLUNTEERS

**Hon. Mejjadonk Gathiru** (Embakasi Central, UDA): Thank you, Hon. Speaker. Pursuant to Standing Order 44(2)(c), I wish to request a statement from the Chairperson of the Departmental Committee on Social Protection regarding the lack of transparency and equity in the recruitment of National Youth Service (NYS) volunteers.

The Government, through NYS, recruits about 30,000 youth annually who are thereafter trained in various skills, including paramilitary, engineering, fashion and design, business management, catering, agriculture, secretarial, plant operations, construction and driving. They are also prepared for other national duties such as service in the Armed Forces, national reconstruction and disaster response.

Recruitment of NYS servicemen and women is expected to be as representative as possible to ensure the majority of the interested youths get an opportunity to appear before the recruitment personnel. However, there have been numerous concerns from Members of Parliament and the public regarding the level of transparency and equity in the distribution of available NYS slots. During the launch of the 2024 recruitment, the Cabinet Secretary for Public Service, Performance and Delivery Management indicated that the process would be undertaken at the ward level. However, this did not happen in most parts of the country, including Nairobi City County. There seems to be systematic interference in the process with the aim of denying certain members of the public, especially in Nairobi, the opportunity to engage in this noble national duty.

Hon. Speaker, it is against this background that I seek a statement from the Chairperson of the Departmental Committee on Social Protection on the following:

1. Could the Chairperson outline the steps that the Ministry of Public Service, Performance and Delivery Management is taking to ensure that National Youth Service (NYS) recruitment is transparent, fair and conducted at the ward level, especially in Nairobi County, to avail maximum opportunity to all interested youth.
2. Could the Chairperson of the Departmental Committee on Social Protection and the Budget and Appropriation Committee take measures to ensure that the operation of NYS is carried out in utmost fidelity to the law and consider withholding funding to the NYS, either through Supplementary Budget or through the 2024-2025 estimates, unless proper measures are put in place to address Members' concerns;
3. Could the Chairperson elaborate on measures being taken to ensure that the Ministry does not exploit the provision of Article 223 of the Constitution to access funds for NYS recruitment and operations, noting that NYS has been used as a conduit to siphon public money?

Thank you, Hon. Speaker.

**Hon. Speaker:** Hon. Beatrice Elachi.

**Hon. Beatrice Elachi** (Dagoretti North, ODM): Thank you, Hon. Speaker. I would like to appreciate the Member for Embakasi Central and comment on his request for statement. Nairobi has 17 constituencies. I would like to get an explanation of how possible it is to conduct the recruitment exercise at the same place for all the 17 constituencies in one day. Is it possible for the Chair to bring the list and show us the number of young people who were recruited in each constituency? This is because there is a number of people recruited in every constituency

across the country. Did they just recruit for one constituency? How do they ensure that every constituency in Nairobi benefits?

**Hon. Speaker:** Thank you. Hon. Mwenje.

**Hon. Mark Mwenje** (Embakasi West, JP): Thank you, Hon. Speaker. I support my colleague from Embakasi Central. In Nairobi, our constituencies are quite close to one another. Conducting recruitment in one venue creates a disadvantage because it is impossible to determine the wards that candidates come from. It is important that we follow the criteria that were given by the Cabinet Secretary (CS). It is a very good criterion. However, it would have been fair if we involved the use of the voters' register to determine where candidates come from.

Secondly, I would like the Chair to take note of the issue of where one gets their identification card (ID). For instance, I got my ID while I was still at Alliance High School in Kikuyu. I am sure you do not know that some of us went there. My ID does not read that I am from Embakasi Constituency. People who had ID cards that were reading Murang'a or Nyeri were chased away and advised to go to where they got their IDs. That is a very unfair system. Those people got their IDs there, but they reside in Nairobi. Those are some of the issues that need to be addressed.

I hope that when the Chair responds to this Statement, he will give us a good explanation. We must insist that the voter's register is used in Nairobi to determine the number of beneficiaries from each ward as per the list given by the CS.

Thank you, Hon. Speaker.

**Hon. Speaker:** Who is the Chairman of this Committee? Is it Karemba or Alice Ng'ang'a?

*(Hon. Opiyo Wandayi spoke off the record)*

**Hon. Speaker:** Pardon? Go ahead. I give you one minute.

**Hon. Opiyo Wandayi** (Ugunja, ODM): Hon. Speaker, I was asking for permission indirectly. The issues being raised by Hon. Mejjadonk and Hon. Mwenje are very weighty. For instance, Nairobi, Kisumu and Mombasa counties belong to everybody. When you find yourself staying in Kisumu City, it does not matter where you were born or where you got your ID card from. Likewise, when you live in Embakasi East, West or Central, it does not matter where you were born or where you got your ID from. You can live anywhere in this country, be it in a village in Kikuyu or Sidindi in Ugunja. Therefore, the criterion of asking where one was born is not only unfair, but also unconstitutional. This criterion has to be revisited. The Chair should move with speed and come back with proper answers to the questions that have been raised. If it is possible...

**Hon. Speaker:** Your time is over.

**Hon. Opiyo Wandayi** (Ugunja, ODM): I have made my point. Thank you, Hon. Speaker.

**Hon. Speaker:** Hon. Anthony Oluoch, you have one minute.

**Hon. Anthony Oluoch** (Mathare, ODM): Thank you, Hon. Speaker. I join my colleagues in supporting this request for statement. As this Committee looks at this issue, I hope it will broaden it to cover recruitment in the armed forces. They should not just look at the NYS.

The manner in which the recruitment has been centralised in one place is intended to create choreographed chaos where we disenfranchise the 17 constituencies in Nairobi County, which contribute an inordinate amount of the Gross domestic product (GDP) in this country. There is a maxim that there can be no taxation without representation. This representation is



not only about representation in Parliament; it is representation in the State's recruitment and other things.

Devolution has also been put in place to ensure we devolve services. Why would we centralise the recruitment for all the 17 constituencies to happen at Nyayo Stadium? People will have to come all the way from Mathare and Dagoretti. This issue must be looked into so that the young people of Nairobi are given their fair share of recruitment.

Thank you.

**Hon. Speaker:** *Mhe. Mandazi.*

**Hon. Victor Koech** (Chepalungu, CCM): Thank you, Hon. Speaker. In my constituency, I have two regions. Unlike the cities and the towns, Chepalungu Constituency has two regions. Politically, some regions are in Chepalungu and, administratively, some are in Bomet Central and Bomet East. Subsequently, in any recruitment of any kind of discipline, some are disadvantaged. They are normally told to go back to Bomet Central. And when they go to Bomet Central, they are told to go back to Sigor. We should focus on the person who has gone for that recruitment and not the ID. I support my colleagues. This criterion discriminates against the youth who are looking for jobs.

Thank you, Hon. Speaker.

**Hon. Speaker:** Lastly, let us have Hon. KJ.

*(Loud consultations)*

**Hon. Speaker:** That is the Member of Parliament from Chepalungu Rural. Go ahead.

**Hon. John Kiarie** (Dagoretti South, UDA): I thank you, Hon. Speaker. I also thank the Member for Embakasi Central for bringing this matter to the Floor so that it is discussed as a national issue. When we devolved with the new Constitution, we ended up with a suspended system. The system of devolution only devolves up to the ward level. There is a gap between the ward level and what is happening in *mashinani*. What happens is that with the devolution, each county is equalised; including the biggest city in East and Central Africa, Nairobi. In Nairobi County, you get wards that are probably the size of an entire county elsewhere in terms of population. So, when you centralise the recruitment of either NYS, Police or the Army, you disenfranchise an extremely big part of Kenya's population.

Beyond the recruitment issue, we have to find a way to resolve this issue of Nairobi County being considered equal to every other region in the country. Nairobi needs to get its fair share, considering its big size and its contribution to the GDP of this country. It should get its fair share of the national cake.

Thank you very much.

**Hon. Speaker:** Thank you. We will stop it there. Leader of the Majority Party, inform Hon. Alice Ng'ang'a to bring a response to that request for statement in two weeks.

Hon. Members, allow me to acknowledge the following institutions in our galleries. In the Speaker's Gallery, we have:

1. Salvation Army, Kieni Girls Secondary School from Runyenjes, Embu; and,
2. Elburgon Secondary School from Molo, Nakuru.

In the Public Gallery, we have:

1. Kirimunge Secondary School, Kirinyaga Constituency, Kirinyaga;
2. Tamana Group of Schools from Kiambaa, Kiambu;
3. Saint Mary Magdalene Girls Secondary School, Runyenjes, Embu;
4. Nandi Students Association, Emgwen, Nandi;
5. Kiambogo Township Junior Secondary School, Gilgil, Nakuru; and,
6. Itoloni Girls Secondary School, Mwingi West, Kitui.

(Applause)

Hon. Gitari from Kirinyaga has requested I allow him to welcome the students. Speak on behalf of all the constituencies that I have mentioned. Where is Hon. Gitari? Give him the microphone.

**Hon. Joseph Gitari** (Kirinyaga Central, UDA): Thank you, Hon. Speaker. I take this opportunity to welcome all the schools in the Public and Speaker's galleries to this august House. I do not want to miss a point. Kirimunge Day Secondary School from Kirinyaga Central is performing very well. We started it with the National Government Constituencies Development Fund (NG-CDF) money. In the last Kenya Certificate of Secondary Education national examination, they had two A- from twins. It was covered in our televisions. I welcome them. They are accompanied by Ms. Jemima Waweru. I welcome you all.

I thank you.

**Hon. Speaker:** On behalf of the Speaker and all Members of Parliament, we welcome the schools, the students and their teachers to the House of Parliament.

### PAPERS

**Hon. Speaker:** Hon. Members, I will step back to Order No. 5 and invite Hon. Mutunga. I am doing this because Hon. Mutunga has never failed to be in the Chamber. He is always here. He is not a persistent offender. I will allow him to lay his paper on the Table. The Chairperson of the Departmental Committee on Agriculture and Livestock.

**Hon. (Dr) John K. Mutunga** (Tigania West, UDA): Thank you very much, Hon. Speaker. I beg to lay the following Paper on the Table:

Report of the Departmental Committee on Agriculture and Livestock on the Budget Implementation for the Financial Year 2022/2023 for:

1. Vote 1162 - State Department for Livestock Development; and,
2. Vote 1169 - State Department for Crop Development.

**Hon. Speaker:** Proceed under Order No. 6 to give a notice of Motion.

### NOTICE OF MOTION

#### ADOPTION OF REPORT OF THE DEPARTMENTAL COMMITTEE ON AGRICULTURE AND LIVESTOCK ON THE BUDGET IMPLEMENTATION FOR THE FINANCIAL YEAR 2022/2023

**Hon. (Dr) John K. Mutunga** (Tigania West, UDA): Hon. Speaker, I beg to give notice of the following Motion:

THAT, this House adopts the Report of the Departmental Committee on Agriculture and Livestock on its examination of the Budget Implementation Monitoring for the Financial Year 2022/2023 for the following votes: 1162 State Department for Livestock Development and 1169 for State Department for Crops Development, laid on the Table of the House this Thursday, 22<sup>nd</sup> February 2024. Thank you, Hon. Speaker. Thank you.

**Hon. Speaker:** Let us go to Order No. 8. Clerk-at-the-Table.

### MOTION

#### ADOPTION OF REPORT OF THE NATIONAL DIALOGUE COMMITTEE

THAT, this House adopts the Report of the National Dialogue Committee, laid on the Table of the House on Thursday, 7<sup>th</sup> December 2023.

*(Moved by Hon. Kimani Ichung'wah on 20.2.2024)*

*(Debate concluded on 21.2.2024 – Afternoon Sitting)*

**Hon. Beatrice Elachi** (Dagoretti North, ODM): On a point of order, Hon. Speaker.

**Hon. Speaker:** Hon. Elachi, what is out of order?

**Hon. Beatrice Elachi** (Dagoretti North, ODM): Hon, Speaker, nothing is out of order. I rise pursuant to Standing Order 1. With a lot of humility, I want to request that the two-thirds gender rule matter becomes part of the National Dialogue Committee Report.

The President gave us a memorandum in December, 2022, in this House. We debated it and it was explicit. The memorandum can be carried forward to become the resolution that we really want so that, as we move on, we can know that we have something that will be part of the National Dialogue Committee (NADCO) Report other than making it an addendum. When we will be debating all the other reports, they will be reflecting on the NADCO Report and ours will be a Report outside the NADCO Report. I request for clarity on that.

**Hon. Speaker:** Hon. Elachi, we had a meeting this morning where you attended with the Cabinet Secretary responsible for matters, *inter alia*, gender. It was clear that the two thirds gender rule is mentioned in passing in the NADCO Report. The NADCO indicated that there is a multi-sectoral process that is going on, on the two-thirds gender rule that was going to bring it to fruition. Out of that meeting – this is for the Majority Party and the Minority Party leaders – we agreed that if their report is ready, they will forward it to the Speakers of both Houses and, thereafter, we shall give direction.

Hon. Elachi, as it is now, the Speaker has absolutely no capacity to superimpose a matter that is strange to the NADCO Report on the NADCO Report. When that report comes, we will find a way, through consultations with the leadership, on how to actualise it. All is not lost because, out of the Question that I am going to put, like I said, we are going to reach out to the other legislative proposals out of the NADCO Report, including some possible constitutional amendments, bringing fresh Bills and policy changes where necessary, so that we can actualise what is in the NADCO Report. So, the lady Members of Parliament – I can see many of you here who were with us in the meeting – do not panic. We will see what we can do. I cautioned you that, that gender issue has collapsed in this House 15 times in the last 10 years. So, you better change your strategy and choose your friends and supporters carefully so that this time round, you will have the matter carried to fruition. As it is now, I cannot append the gender rule issue on the NADCO Report because the Motion has been debated, concluded, and replied to. We are only now putting the Question.

Yes, the Leader of the Majority Party.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Thank you, Hon. Speaker, for that guidance. As you have rightly said, it is true that we did not conclusively give a way forward in NADCO on the two-thirds gender rule because principally, there was no broad agreement between the various stakeholders on the issue of the two-thirds gender rule. That is the reason it became impossible for us to build consensus within the NADCO. There were too many proposals with too many routes. We, therefore, agreed by consensus to leave that matter to the multi-sectoral forum that the Cabinet Secretary is leading. Indeed, as late as yesterday, I had a discussion with the Cabinet Secretary. If you read the NADCO Report, we said that the multisectoral forum under that Ministry will table a report to Parliament, including any legislative proposals that they may have agreed on. The various players within that space did not agree. If you go through all the presentations that they brought to the NADCO, everyone

had proposed their own route and we could not agree on the way forward. Therefore, if what the Cabinet Secretary says... When they complete their report, they will table it here and in the Senate. I believe we will also generate legislative proposals from whatever they would have come up with and push them as part of the package of the NADCO legislative proposals. We will support them.

I want to advise our good ladies that the proposal that came with the memorandum from the President had a very workable formula. If they can only go towards that route, it maybe one step ahead. We may not get everything at a go. However, if we get 28 at a go, it will be better than being where we have been for the last 10 years as you have said. I want to agree with you that it is time that we changed strategy, especially those of us like me who are true believers in women courses. Being a father of four girls, I want to support the two thirds gender rule. I want to ask all our lady Members of Parliament to work with us and, as you have advised, it is time you changed strategy.

**Hon. Speaker:** The Leader of the Minority Party, do you want to say something.

**Hon. Opiyo Wandayi** (Ugunja, ODM): Yes, Hon. Speaker. Let me weigh in a bit. I agree entirely with what Hon. Ichung'wah has said. I am also happy that you have decided that you will give us direction once the task force hands in their report. It is a fact that the NADCO deferred the matter to the multisectoral working group. I hope Hon. Lady Members will listen to me. NADCO deferred to the multisectoral working group for the reasons that Hon. Ichung'wah has cited on the question of the two-thirds gender rule. However, if you read carefully the paragraph in the NADCO Report concerning this matter, the intention was and still is that, once the multisectoral working group completes its work and submits its report here with probable legislative proposals, that report plus its recommendations and any other proposals would be treated as part of the NADCO Report.

**Hon. Speaker:** That is not in your Motion.

**Hon. Opiyo Wandayi** (Ugunja, ODM): It is not in the Motion but it is implied in the Report. There is a danger here. If we treat the report of the working group separately from the NADCO Report, it may face headwinds. My coalition, the Azimio Coalition, has taken a strong position to support the achievement of the two-thirds gender principle in the House. We will do whatever it takes to make that realisation.

I want to thank you profusely for giving that guidance. I also pray that the taskforce will complete its work quickly and bring to us whatever they will have agreed upon.

Thank you.

**Hon. Speaker:** Thank you. Let me not open a debate on this. Hon. Nyamai and Hon. Faith, hold your horses. Hon. Faith, you were in the meeting this morning and so, you know what we discussed.

Hon. Members, as I put the Question, once you pass this Motion – I am advised that it has been passed in the Senate – we will direct the Clerks to both Houses to convene a meeting with the senior officials to look out at your proposals on legislation, both on the Constitution and the drafting of Bills, so that they can work expeditiously to get the Bills in place.

*(Hon. Opiyo Wandayi spoke off record)*

**Hon. Speaker:** If you drafted Bills, then pass them on to the Clerks. Yours are mere drafts. The Clerks will have to put them in a manner that is acceptable in Parliament. Let us see how we will move from there.

On the gender rule, we will move as I have guided.

**MOTION**

## ADOPTION OF REPORT OF THE NATIONAL DIALOGUE COMMITTEE

THAT, this House adopts the Report of the National Dialogue Committee, laid on the Table of the House on Thursday, 7th December 2023.

*(Moved by Hon. Kimani Ichung'wah on 20.2.2024)*

*(Debate concluded on 21.2.2024 – Afternoon Sitting)*

*(Question put and agreed to)*

Next Oder.

**MOTION**RATIFICATION OF THE AGREEMENT ON THE  
ESTABLISHMENT OF THE INTERNATIONAL VACCINES INSTITUTE

**Hon. Speaker:** Hon. Pukose.

**Hon (Dr) Robert Pukose** (Endebess, UDA): Hon. Speaker, the Departmental Committee on Health tabled the Agreement on the Establishment of the International Vaccine Institute (IVI).

I need to move the Motion.

*[The Speaker (Moses Wetang'ula) left the Chair]*

*[The Temporary Speaker (Hon. David Ochieng') took the Chair]*

**The Temporary Speaker** (Hon. David Ochieng'): Hon. Pukose.

**Hon (Dr) Robert Pukose** (Endebess, UDA): Can I have the Order Paper?

**The Temporary Speaker** (Hon. David Ochieng'): You are a veteran Member. I expect you to do the right thing.

**Hon (Dr) Robert Pukose** (Endebess, UDA): Apologies, Hon. Temporary Speaker.

**The Temporary Speaker** (Hon. David Ochieng'): Go ahead.

**Hon (Dr) Robert Pukose** (Endebess, UDA): Hon. Temporary Speaker, I beg to move the following Motion:

THAT, this House adopts the Report of the Departmental Committee on Health on its consideration of the Agreement on the Establishment of the International Vaccine Institute (IVI), laid on the Table of the House on Tuesday, 5<sup>th</sup> December 2023, and pursuant to the provisions of Section 8(4) of the Treaty Making and Ratification Act, 2012, approves the Ratification of the Agreement on the Establishment of the International Vaccine Institute (IVI).

The IVI is a non-profit international organisation that was established on 12<sup>th</sup> May 1997 as an initiative of the United Nations Development Programme. It is dedicated to vaccination in furtherance of global health. Therefore, its mission is to discover, develop and deliver safe, effective and affordable vaccines for global public health. It focuses on vaccines against infectious diseases affecting the world's most impoverished populations with the aim of making vaccines available and accessible to vulnerable populations in developing countries. It has its headquarters in Seoul. It is hosted by the Republic of South Korea. Currently, it has 39

member countries and the World Health Organisation (WHO). Kenya requested the Board of Trustees' approval to become a party to the IVI Agreement on 24<sup>th</sup> November 2022.

The IVI Agreement was submitted to Hon. Speaker of the National Assembly on 21<sup>st</sup> August 2023, upon its approval by the Cabinet on 6<sup>th</sup> December 2022. It was subsequently tabled before the House on Wednesday, 23<sup>rd</sup> August 2023, for consideration and approval of its ratification. It was committed to the Departmental Committee on Health for consideration and reporting to the House, pursuant to Section 8 of the Treaty Making and Ratification Act and Standing Order 216 (5)(f)(fa). The IVI is founded on the belief that the health of children in the developing countries can dramatically be improved by development, introduction and use of new improved vaccines. It realises this by:

1. Providing training and technical assistance in the production, technology and research of vaccines.
2. Conducting laboratory and field-based research and development.
3. Supporting and conducting clinical trials and field evaluation of new vaccines to facilitate and promote introduction of new and improved vaccines.
4. Co-operating with vaccine manufacturers and national control authorities and other relevant bodies in developed and developing countries to promote vaccine research and development.

Kenya will, therefore, greatly benefit from its membership in IVI in many ways. I will highlight a few. The membership will enable knowledge transfer, capacity building in biotechnology and vaccine production. This is crucial as vaccine research, development and field research are catalysts to the attainment to Universal Health Coverage (UHC). The Technical and hands-on training to develop skill sets across vaccine development and production process, disease surveillance, biopharmaceutical manufacturing, biosafety and good manufacturing practices requirements are also essential and beneficial to the realisation of UHC and economic growth. The IVI will open up Kenya to network of vaccine producers, as well as consortia and networks of researchers in health matters.

The IVI Membership will promote knowledge transfer leading to self-sustenance as Kenya will set itself as a vaccine producer in the region. Therefore, it will supply vaccines to other countries, thereby generating revenue for the country. As you are aware, Hon. Temporary Speaker, we are already producing vaccines for animals through the Kenya Veterinary Vaccines Production Institute (KEVEVAPI). Therefore, this is not a new phenomenon for us.

The most crucial membership to the IVI will support the performance of functions of Kenya Biovax Institute and the Kenya Medical Research Institute (KEMRI), which are two Semi-Autonomous Government Agencies (SAGAS) within the Ministry of Health. One is involved in research and the other one in production and marketing. That will give the mandate to conduct human research for health, and manufacture and commercialise human vaccines, biotherapeutics and diagnostics. In recognition of this, the Kenya Biovax Institute and KEMRI shall enter into strategic collaborative partnership in technology transfer and manufacturing support.

Even as we consider this Report, the IVI continues to support the Kenya Biovax Institute as it establishes itself in biomanufacturing of human vaccines. The support is through developing research plans, creating partnership opportunities and enhancing capacity through training and technical assistance.

African countries such as Egypt and Senegal are already benefiting. Their researchers attend the highly regarded vaccinology courses offered by IVI in Korea. The countries have collaborated in vaccine efficacy studies. Kenya can, therefore, expect similar benefits as the country implements its paradigm shift from curative to preventive and promotive healthcare.

Pursuant to Standing Order 170A, the Committee was required to conduct public participation during its consideration of the Treaty or Agreement. It placed an advertisement

in the print media on 6<sup>th</sup> September 2023 seeking public and stakeholder views on the Agreement in accordance with Article 118(1) (b) of the Constitution, Section 8 (3) of the Treaty Making and Ratification Act No. 45 of 2012 and Standing Order 170A(2). Following this, we had public participation from various stakeholders, among them the Ministry of Health; the Ministry of Foreign and Diaspora Affairs; Ministry of Investments, Trade and Industry; Ministry of East African Community; ASALs and Regional Development; the National Treasury, Kenya Biovax Institute; and many other organisations.

Following this public participation, the Departmental Committee on Health recommends that this House approves the ratification, acceptance and accession of the Agreement on the Establishment of the IVI. I will not conclude without thanking Hon. Speaker and the Clerk of the National Assembly for the logistical and technical support accorded to us during our sittings. The Committee further wishes to thank all stakeholders who submitted their views on the Agreement.

Finally, I express my appreciation to the Members of the Departmental Committee on Health and the Secretariat who made useful contributions towards the consideration of the Agreement and production of this Report.

I, therefore, move and ask Hon. Ferdinand Wanyonyi, the Member for Kwanza, to second.

**The Temporary Speaker** (Hon. David Ochieng’): Hon. Wanyonyi, go ahead.

**Hon. Ferdinand Wanyonyi** (Kwanza, UDA): Thank you very much, Hon. Temporary Speaker. I take this opportunity to thank the Departmental Committee on Health for their Report on the establishment of the International Vaccine Institute (IVI). This will be a technological advancement and will assist with the shortcomings in public health. This is one of the best things that the Committee has ever done.

I take this opportunity to second.

*(Question proposed)*

**The Temporary Speaker** (Hon. David Ochieng’): I can see Hon. Victor Koech. Hon. Ruku.

**Hon. Ruku GK** (Mbeere North, DP): Thank you, Hon. Temporary Speaker. March 2020 taught us great lessons on how life is very fragile and that we are interdependent. This is because the COVID-19 calamity, disaster or pandemic was a serious disruption to humanity. Also, business activities and governments were seriously disrupted across the globe. The successful fight against COVID-19 was as a result of different measures taken by many governments like the development of a vaccine. Therefore, ratification of the agreement on the establishment of IVI is extremely important. Research will be enhanced in as far as the development of appropriate vaccines within our nation is concerned.

This will also create partnerships which will lead to product development, international research and development of consortiums or networks which will enable us in the development of vaccines for different diseases or viruses. That institute will build capacity in form of trainings, technical assistance and technological transfer within our country. It will enable us to fight future pandemics and improve our capacity to protect not only lives, but also businesses and ensure we have a stable Government which will protect people from different pandemics.

Hon. Temporary Speaker, I support the ratification of the agreement.

**The Temporary Speaker** (Hon. David Ochieng’): Thank you. Member for Saku.

**Hon. Ali Raso** (Saku, UDA): Thank you very much, Hon. Temporary Speaker. From the onset, let me thank the Member for Endebess and Chairperson of the Departmental Committee on Health for bringing this very interesting Report on ratification of this agreement by the House as quickly as possible.

An international vaccine institute is important for both research and development. Today, scientific institutes are intended to extend frontiers of science and medicine. After the Ebola outbreak in West Africa and slightly later the COVID-19 pandemic, we saw the importance of having vaccine institutes. Countries that are advanced in medicine and research were able to consolidate and mobilise scientists across the world to save humanity. For that reason, we have seen how much Kenya Medical Research Institute (KEMRI) is doing in this country. This is in terms of research on new diseases, discovery of scientific methods and approach to medicine as curative and preventive.

KEMRI is also helping the Ministry of Health under the World Health Organisation (WHO) guidance on surveillance of tropical diseases in less developed countries. Interestingly, in Marsabit, there were cases of Kala-azar, which is not a common disease in that region. As soon as those cases were discovered, the first patients succumbed. Later on, samples were taken to KEMRI and some West Africa countries and it was discovered that the people of Marsabit who live in very rural areas were suffering from Kala-azar and they were able to get treatment.

The world has made quantum leap in terms of scientific research in medicine. For Kenya, it is allowing the growth of such an institute which will build a body of human capital and growth of other institutions. From where I sit, as we talk about institutes like IVI, KEMRI and others not necessarily in the health sector but in agriculture, I see the need to have satellite institutions based in Nairobi expand the frontier of knowledge and surveillance so as to discover new diseases.

Hon. Temporary Speaker, with those many remarks, I beg to support and thank the Chairperson of the Committee.

**The Temporary Speaker** (Hon. David Ochieng’): Thank you. Member for Samburu East.

**Hon. Jackson Lekumontare** (Samburu East, KANU): Thank you, Hon. Temporary Speaker. I want to support that vaccine centre. Sometimes, there is shortage of vaccines in our country but once that research centre is established and becomes functional, vaccines will be available. When this country develops a research centre, the vaccines, which sometimes are not affordable to Kenyans, will become available. Sometimes, the prices of some of the vaccines are very high. When they become available, people will afford them. This is a very important idea and I support it.

We all know when the COVID-19 struck us. That period taught us a lesson that everyone needs to have vaccines, which we were not able to get because they come from very far places. This is a very good idea. I support it for the sake of our people and even the country.

Thank you, Hon. Temporary Speaker.

**The Temporary Speaker** (Hon. David Ochieng’): Member for Funyula, do you want to speak on this? Okay. Member for Gilgil.

**Hon. Martha Wangari** (Gilgil, UDA): Thank you, Hon. Temporary Speaker. I also rise to congratulate the Chairperson of the Committee on Health, Dr. Robert Pukose, on this Report for Ratification, Acceptance and Accession of the Agreement on the Establishment of the International Vaccine Institute. The importance of vaccines in any country cannot be gain-said and cannot be over-emphasized. If anything, COVID-19 taught not just Kenya, but the whole world of how important it is to have continuous research and to have continuous improvement of vaccines.

If it were not for those vaccines, maybe the COVID-19 would have ravaged this country in a bigger way. Even as we look at the achievement of the Sustainable Development Goals (SDGs), we cannot leave the issue of the wellbeing of our country behind. In fact, it is said that a healthy nation is a wealthy nation. In any case, even during COVID-19, when members of the communities are not okay, there is no proper work that can be done in the country. So, this ratification will ensure that it is available, it is of the right quality, and it is accessible. It will



also ensure that our institutions continually study, research and develop so as to enable us to get closer to becoming a producer and not just a consumer of vaccines.

Hon. Temporary Speaker, what we have seen in this country is that the moment you give birth to a baby, you start vaccination from that point. Not many parents or even mothers are aware of it, especially the ones who give birth in the homes and those who give birth in areas that are far flung. They are not able to access vaccination services at the time they should be getting them. What that does is it actually exposes their children to further problems in future. I am looking forward to this institution to ensure that vaccinations are done in schools. As we talk about accessibility, we will be able to integrate those, considering the whole Government approach to ensure that we have even vaccinations done in schools.

This will also be accompanied by a lot of civic education. We have seen many religious groups... I will give an example of Kabonokia Group, which has even been taken to court. They do not believe taking their kids for vaccination. This should ensure that every child goes through the mandatory vaccination so that everyone can be given what we call the herd immunity. That is because even if you vaccinate one person and the others are not, you are still exposed. So, we will be hoping to ensure that that will happen at this point.

The establishment of the institute will also go a long way in engaging our academia and our academics. Students studying biomedical and biostatistics will find it useful and they will be employed. It will also be a source of ensuring that they get absorbed in the market and practise the trade that they have been trained on.

What the world has shown us is that you cannot be too prepared. You do not know which disease will come. People never knew about COVID-19 and Ebola. They would say someone has bewitched you and yet, it is a disease that with the right research, it would have been prevented.

You can prevent cervical cancer from the age of 10 to 15 years when vaccination is administered. Some of these issues will need a lot of education. It will need a lot of involvement by Non-Government Organizations (NGOs) and by the civil society. It has to take everyone on board and leave no one behind. With that, then we will be able to ensure we have a healthy society, a health community and a healthy country that can be very well useful when needed. Without that, we will be dealing with treatment and yet, we could have prevented it.

The last point is for the county governments because it is their area. They need to ensure that all the vaccinations are available at the dispensaries and the health centers. That way, we do not have to load it to the referral hospitals. We can leave them for the serious diseases and the referral cases.

With that Hon. Temporary Speaker, I support.

**The Temporary Speaker** (Hon. David Ochieng'): Well said, thank you so much. Hon. Members, I note that there is no further interest to speak on this particular Motion. I accordingly call upon the Mover to reply.

*(Hon. Emmanuel Wangwe consulted loudly)*

**The Temporary Speaker** (Hon. David Ochieng'): Order, Member for Navakholo. Go ahead, Hon. Pukose.

**Hon. (Dr) Robert Pukose** (Endebess, UDA): Thank you, Hon. Temporary Speaker. On 18<sup>th</sup> of this month, which was last Sunday, His Excellency President William Ruto led a high-level delegation at a breakfast meeting in Addis Ababa on sustainable vaccine manufacturing through end-to-end vaccine research and development projects in Africa. In the meeting, issues about vaccine especially in support of the Institute of Vaccine Initiative were high on the agenda. This will culminate, probably, I think, in the next one or two weeks, in the establishment of the headquarters for the African region in Nairobi.

This is a very great achievement for us as a country and as a region. I want to thank Members for supporting this very important ratification treaty. As Members have put it, COVID-19 taught us a lesson. We must be in the forefront in having our own institute, Biovax, that can manufacture for us our own vaccines, not just for outbreaks, but also for the infectious diseases and, more so, among the children.

Hon. Temporary Speaker, I thank my Committee on Health for the efforts they put in this. I want to ask that the House approves this ratification.

We those few remarks, I reply.

**The Temporary Speaker** (Hon. David Ochieng’): Thank you. Hon. Ruku

*(Hon. Wilberforce Oundo spoke off the record)*

Order, Hon. Oundo. Come on! Go on, Hon. Ruku

**Hon. Ruku GK** (Mbeere North, UDA): Hon. Temporary Speaker, I rise pursuant to Standing Order No. 53(3) which says, “Despite paragraph (2), the Speaker may, on the request of a Member, defer the putting of the question to the following day in which case the Speaker shall thereupon nominate a time at which the question shall be put.”

Thank you, Hon. Temporary Speaker.

**The Temporary Speaker** (Hon. David Ochieng’): Thank you so much Hon. Ruku. Members, I note the point of order raised by Hon. Ruku. I direct that decision on this Motion will be made in the next sitting, which is Tuesday next week.

*(Putting of the Question deferred)*

Before I call for the next Order, I wish to welcome to the House students from Miathene Boys Secondary School, Tigania West Constituency, Meru County. They are seated in the Public Gallery and they are welcome to follow the proceedings of the Assembly this afternoon. I ask Members to join me in welcoming them to the House.

*(Applause)*

Next Order.

## MOTION

**The Temporary Speaker** (Hon. David Ochieng’): Hon. John Mbadi. You have been itching to move this Motion since yesterday, but I cannot see Members of your Committee in the House.

**Hon. John Mbadi** (Nominated, ODM): Thank you, Hon Temporary Speaker. Members have disappeared in the Budget Policy Statement (BPS).

**The Temporary Speaker** (Hon. David Ochieng’): Go ahead.

### ADOPTION OF REPORT OF THE AUDITOR-GENERAL ON THE FINANCIAL STATEMENTS FOR THE NATIONAL GOVERNMENT MINISTRIES, DEPARTMENTS AND AGENCIES FOR THE FINANCIAL YEAR 2020/2021

**Hon. John Mbadi** (Nominated, ODM): Hon. Temporary Speaker, I beg to move the following Motion:

THAT, this House adopts the Report of the Public Accounts Committee on its examination of the Report of the Auditor-General on the Financial

Statements for the National Government Ministries, Departments and Agencies for the Financial Year 2020/2021, laid on the Table of the House on Thursday, 30<sup>th</sup> November 2023.

Hon. Temporary Speaker, on behalf of the Public Accounts Committee and also pursuant to Standing Order 199, I wish to move that this House adopts the Report of the Committee on the audited financial statements of the Ministries, State Departments, Commissions and Independent offices for the Financial Year 2020/2021.

Before I proceed further, I would want to mention the names of the Members of this Committee who have worked tirelessly to make sure that we produce this voluminous Report on 60 votes and the paragraphs that were dealt with were 1,787. The Membership of the Public Accounts Committee, which is the first one in the 13<sup>th</sup> Parliament, comprise of the following:

1. Hon. John Mbadi - Chairperson;
2. Hon. Nicholas Tindi S. Mwale – Vice-Chairperson;
3. Hon. Eckomas Mwengi Mutuse;
4. Hon. (Dr) Otiende Amollo;
5. Hon. (Dr) Wilberforce Ojiambo Oundo;
6. Hon. Samuel Kinuthia Gachobe;
7. Hon. Amina Udgoon Siyad;
8. Hon. David Kiplagat;
9. Hon. Edwin Mugo Gichuki;
10. Hon. Gabriel Gathuka Kagombe;
11. Hon. Mohammed Adan Adow;
12. Hon. Nabwera Daraja Nabii;
13. Hon. Victor Kipng'etich Koech and,
14. Hon. Yakub Adow Kuno.

It is sad to note that we lost our Member, one Hon. Hassan Kulow Maalim, whose untimely demise cut short his membership.

The National Assembly exercises its oversight over national revenue and its expenditure pursuant to Article 95(4)(c) of the Constitution through Public Accounts Committee, which in turn also derives its mandate from Article 124 (1) of the Constitution and Standing Order 205 of the National Assembly. It is important to note that Article 229 (8) of the Constitution requires that Parliament, within three months after receiving an audit report, to debate and consider it and then take appropriate action. Further, this explains the reason I was really itching that we move this Report and dispense with it. Further to that, Article 203 (3) of the Constitution provides that the equitable share of the revenue raised nationally and allocated to the national Government and county governments is to be calculated on the basis of the most recent audited accounts of revenue received as approved by the National Assembly.

Hon. Temporary Speaker as we speak, we are still using 2019/2020 audited and approved accounts. This afternoon, we are requesting this House to approve our Report which will give effect to the 2020/2021 Financial Year. I want to give confidence and report here that even as we deal with this Report, my Committee has actually done over 50 per cent on the Financial Year 2021/2022. We intend to conclude our deliberations and witness hearings by early May, so that the Financial Year 2021/2022 will be disposed of. We will then embark immediately on Financial Year 2022/2023. By the end of this year, I guarantee this House that my Committee will be up to date. We will be waiting for the Office of the Auditor-General to conclude its audit on the Financial Year 2023/2024. Thus, the question of backlog of accounts will be a thing of the past.

Having said that, I wish to commend all the accounting officers whose financial statements received unqualified opinion. I want to be clear here that unqualified opinion from the Auditor-General is actually a good opinion while qualified opinion is a negative opinion,

contrary to the conventional English language. As to why accountants chose that route, that is something that we need to research on.

I also encourage at this point for all accounting officers to emulate this worthy examples. In this Report, the Committee has continued to hold individual officers to account for the various acts of omission and commission that occasioned either loss or illegal application of public funds. In a number of instances, the Committee has recommended specific follow up actions including further investigations by the investigative authorities, mostly by Ethics and Anti-Corruption Commission (EACC). That is because most of the crimes in this Report are economic crimes. It is my hope that these recommendations, which are contrary to what we have seen previously, will be implemented within the shortest time possible by all those who are concerned, while taking into consideration public interest above everything else.

Hon. Temporary Speaker, I want to give some highlights of the Auditor-General's Report for Financial Year 2020/2021. I will begin by stating that in consideration of reports of various ministries, state departments and agencies, what is known as (MDAs), the Committee encountered cross-cutting and, at times, persistent matters that informed the general observations and recommendations. Specific observations and recommendations are, however, made to each query. If you go through this Report, it is a voluminous one, on each paragraph, you will get specific recommendations. What I am going to do this afternoon is just to highlight or give an overview of those common issues that probably needs much more attention from Members of Parliament. The general observations and recommendations include the following:

Poor accounting standards and general incapacity of some accounting units. The Committee found that despite all accounting units being staffed by qualified accountants and procurement officers, non-compliance with the various provisions of the various laws pointed to incompetence or resistance. You find the laws are there, you have competent staffs based on their academic qualifications, professional background and even experience in terms of the number of years, but still the violation of laws is common. The various breaches included inaccuracies in the financial statements. Just imagine the inaccuracy in the financial statement and yet, we have qualified accountants preparing those accounts. Failure to reconcile accounts, which is very basic if you are an accountant... You would understand that reconciliation of accounts is one of the basic, actually the first unit in accounting class. Failure to address prior year matters. Despite the fact that this House reports and asks for certain actions or interventions, by the time we get to the next cycle, the same are repeated again and again, without any action.

Accounting officers have also cited challenges with the Integrated Financial Management Information System (IFMIS). We have been using the IFMIS for quite some time now and, therefore, issues of capacity to manage or use it should not arise at this stage. Therefore, the Committee recommends the following:

1. The National Treasury should conduct periodic sensitisation and capacity building programmes for all accounting officers, finance staff and procurement officers across the Government on their responsibilities during the audit cycle, and adherence to the International Public Sector Accounting Standards (IPSAS).
2. Relevant professional bodies like the Institute of Certified Public Accountants of Kenya (ICPAK) and others should enforce compliance with standards and mete out sanctions against officers found to be wilfully failing to discharge their functions.

The second cross-cutting issue is late submission of supporting documentations. Further to the above, the Committee observed that some accounting officers failed to submit supportive documentation to the Auditor-General on time during the audit cycle. The audit cycle is very simple. First, auditors report to the accounting entity or State agency. There is an

entry meeting which is held with the management. The Office of the Auditor-General will take on average two to three weeks or even a month to engage with accounting staff and ask them to provide documentation. After that, a letter is issued to the management for their response. They are supposed to respond.

Once that is done, there is a window of opportunity to come up with a draft report, which is prepared and given to the management before the final report. After that entire process, you will still find that documentation has not been provided to the Auditor-General as required under Section 68 of the Public Finance Management (PFM) Act, and the various provisions of the Public Audit Act. This invariably led to the Committee discussing matters that should ordinarily not feature in the final report, some as mundane as appearing before us to answer questions on why accounts were not balancing. A whole Principal Secretary appeared before us to answer questions on why the accounts could not balance.

The Committee observed that accounts and finance staff in various State agencies did not maintain financial statements in real-time and waited for the end of the financial year to commence reconciliations. Therefore, the Committee recommends the following:

1. Accounting officers should henceforth comply with Section 68(2)(k) of the Public Finance Management Act, 2012 by providing supportive documentation on time. The Committee will prescribe punitive measures to accounting officers who fail to adhere to requirements of the law in this regard in subsequent audits.
2. Further, the Committee will not entertain continuous engagement between officers of the Office of the Auditor-General and accounting officers beyond the time period prescribed by law. All queries carried in the report of the Auditor-General will be considered as such and attract requisite recommendations as this.

You will find that when we hold our meetings, accounting officers are still engaging the Office of the Auditor-General in a bid to clear audit queries. It is irregular and immoral. My Committee has decided that we will not entertain that from the 2022/2023 Financial Year.

3. The Departmental Committee on Finance and National Planning should consider amending the Public Finance Management Act, 2012 to reduce the time period allowed for accounting officers to submit financial accounts to the Auditor-General from three months to one month. This is because accounting officers are engaged with their accounts and process documents during the whole year.

Therefore, the moment the financial year comes to an end, they do not require more than one month to prepare accounts. Accounts are supposed to be prepared in real-time, and if anything, there is an accounting system. You just need to click a button and produce financial statements if the system works. This is so that the Auditor-General gets more time to conduct audits. We only have six months to consider those accounts. We give the accounting officer three months to prepare accounts and we give the Auditor-General the other three months to audit them. We should increase the time given to the Auditor-General to five months for them to audit the accounts and give us a more reasoned opinion.

The third cross-cutting issue is outstanding construction works, also known as stalled projects. The Committee encountered cases where some construction projects took inordinately long to complete for various reasons, including contractor non-performance, late exchequer issuances or releases, budget cuts, and general poor foresight and project management. On budget cuts, this House stands indicted because we allow too many supplementary budgets, which distort and disrupt the budget implementation process hence resulting in audit queries. That leads to sunk costs, general lack of value for money, and in certain cases, interest charged by contractors. My Committee is in the process of compiling this information. In the next

report, we will give a brief to the House on how much we have spent as a country on interest charged on delayed payments and incomplete projects.

Therefore, the Committee recommends that the National Treasury should only approve projects whose funding and completion within the medium-term economic framework can be guaranteed. No new projects should be commenced by an agency before all existing ones are completed or fully funded.

Accounting officers are further warned of personal responsibility should contractors fail to perform, considering evaluation of technical and financial capacity of bidders is mandated under the procurement law. Any procurement process requires that bidders are evaluated on the basis of technical and financial capacity. However, you will still find contractors who are unable to discharge and complete projects, either for lack of technical capacity or financial inability to finance implementation or execution of the contract. Failure to enforce and/or recall performance guarantees will also be personally remedied by accounting officers.

The fourth cross-cutting issue is non-existent or weak internal audit functions. The Committee noted numerous instances where internal audit committees were non-existent or did not meet regularly as prescribed by law. The law prescribes that there should be a meeting of internal audit committees at least once every three months. However, many Ministries, Departments and Agencies (MDAs) do not observe that. The Committee observed that the current practice where accounting officers appointed and facilitated audit committees may be a hindrance to the effectiveness of those committees as they are required to report to the same accounting officer on breaches by the same. The current practice is that those committees, which are supposed to oversee accounting officers, are appointed by accounting officers. How do you appoint someone who will oversee you? It does not make sense.

Therefore, the Committee recommends that the National Treasury submits a proposal to the National Assembly within six months of adoption of this Report de-linking internal audit functions in terms of appointment, facilitation and reporting from accounting officers to an independent office.

The fifth cross-cutting issue is budgetary control and performance. All MDAs faced budgetary under-performance predominantly attributed to late exchequer releases, supplementary budget cuts, or incapacity to collect Appropriation-in-Aid. This invariably led to under-performance of programme objectives and lack of service provision to the public.

Therefore, the Committee recommends that the National Treasury and the National Assembly, through the Budget and Appropriations Committee and the Departmental Committee on Finance and National Planning, make realistic revenue projections and attainable expenditure estimates starting with the 2024/2025 Budget Estimates. The reality is that we are over-budgeting as a country. We are budgeting for money that is on paper and that cannot be realised. We need to be realistic about our projections. Our Parliamentary Budget Office has always warned us every financial year that the revenue projections from the National Treasury are unrealistic. However, we continue and go ahead to approve them.

The sixth cross-cutting issue is pending bills. Related to the above, which I have just mentioned on budget control and performance, State agencies have seen accrual of huge sums of pending bills largely blamed on inadequate exchequer release and budget rationalisation after commitments have been made and goods and services procured. As at August 2023 when we were conducting our investigations, total pending bills which are loans given to the Government of Kenya by ordinary business people had accumulated to Ksh567 billion. I am not talking about millions but billions. This amount should be added to the figure that I see being floated around as our indebtedness as a nation, of Ksh11.2 trillion. We are about Ksh12 trillion in terms of indebtedness as a country.

I will just give one example. Before I go there, many businesses have been crippled because of being owed huge sums of money. People have committed suicide, especially those who have done business with the national Government and county governments. Local economies have been grounded to a halt because of money owed to suppliers and contractors. Banks are auctioning property across the country because of this.

Let me just give an example of the State Department for Roads alone. As at 31<sup>st</sup> December 2023, the State Department for Roads had pending bills of Ksh162 billion with up to Ksh650 billions of certified works. What it means is that if you are to pay for all the roads that you see being constructed around the country to completion, then their total value would be Ksh650 billion. The works that have been done on those roads and certified for payments and yet they have not been paid is Ksh162 billion. Compare that to how much is allocated to this State department. The State Department has a provision of roughly Ksh40 billion to Ksh50 billion. If you have to clear only all the pending bills today, it means you will need a minimum of four to five years. If we were to pay for all the roads that you see being constructed around, we would need 12 years. Without even starting a kilometre or an inch of a new road, we need 12 years for the ones under construction only.

As a country, we need to stop politicking and accept the reality that we have been over-committing. We should stop any new constructions of roads and continue to complete ongoing roads so that there would be value for the money spent and pumped into those roads. It is about time this House bit the bullet, I have said it before and I say it again: Let us take radical steps.

**The Temporary Speaker** (Hon. David Ochieng’): Hon. Mbadi, there is a point of order that I want to listen to. Hon. Ruku, what is out of order?

**Hon. Ruku GK** (Mbeere North, DP): Hon. Temporary Speaker, I respect Hon. Mbadi because he is a senior and ranking Member of this House. It is not right for him to purport that the Kenya Kwanza Government does not have a plan.

**The Temporary Speaker** (Hon. David Ochieng’): What is out of order?

**Hon. Ruku GK** (Mbeere North, DP): Hon. John Mbadi is indicating that the Kenya Kwanza Government can only do roads after 12 years. That is not true. There is a plan.

**The Temporary Speaker** (Hon. David Ochieng’): Order. I have been sitting here listening to him. I have not heard him talk about the Kenya Kwanza Government in his statement, at all. Unless you point out what is out of order, I will request that you resume your seat.

**Hon. Ruku GK** (Mbeere North, DP): Let me reframe it. Hon. John Mbadi is implying that the Government cannot meet pending bills and implement roads. From where I stand, I know that the Government has plans to pay pending bills.

**The Temporary Speaker** (Hon. David Ochieng’): Thank you. Hon. Ruku, resume your seat. I know that you want to speak on this matter. You will have a chance to contribute to this matter. We will now allow Hon. Mbadi to conclude. What is out of order, Hon. Junet Mohamed? It should not be on what Hon. Ruku has said.

**Hon. Junet Mohamed** (Suna East, ODM): Hon. Temporary Speaker, indulge me. Hon. John Mbadi is the Chairman of the Public Accounts Committee. He is presenting a Report about a financial year. We are not in a debate yet. We can contribute to the tabled Report after it is moved as he is doing, and seconded. This is a very important thing.

**The Temporary Speaker** (Hon. David Ochieng’): Correct. Let him now do that. You may resume your seat.

**Hon. John Mbadi** (Nominated, ODM): Hon. Temporary Speaker, I have been around for a while. Therefore, I will reserve my comments on Hon. Ruku.

I want to repeat that we will take 12 years to complete ongoing roads, without starting any new ones, if we continue with the current budgetary allocation of Ksh40 billion to the State Department for Roads. That is the reality and it is on paper.

It is imperative to note that pending bills are not viewed as public debts, I mentioned that, yet there are sums owed to private individuals and they should be treated as such. The currently witnessed charade of forming task forces to verify bills will come to note if the bills continue to accrue. These are bills held by Ministries, Departments and Agencies (MDAs) and ministry officials had processed them. In addition to the measures cited above, the Committee recommends that the National Treasury should only rationalise budgets that have not been committed.

When doing supplementary budgets, let us rationalise money that has not been committed. Let us not go to departments and start slashing their budgets in the middle of the year or towards the close of a financial year. At this time, they have already committed funds hence the piling of pending bills. Further, borrowing by the National Treasury to plug budget deficit should be done uniformly across the financial year in order to avoid the end-year rush of disbursements and procurements to beat the deadline. It is towards the end of the financial year that the Government borrows a lot of money and yet, they had already factored that in the Budget. In the process, most MDAs procure in June. Therefore, you cross over the year with pending bills.

The seventh cross-cutting issue is accrual accounting versus cash basis of accounting. The national Government has continued to operate under the primitive and outdated cash basis of accounting that poses various challenges in maintaining financial records. Accrual accounting provides a more accurate view of an agency's financial help, especially by factoring accounts' receivables and payables. This will clear the long persistent matter of pending bills and allow agencies to complete programmes beyond the end of a financial year. In the current practice, agencies see a rush to expend funds at the end of a financial year.

This will invariably need the National Treasury to make realistic budgetary projections as has already been observed above. The Committee recommends that the National Treasury expedite the full roll-out of the accrual basis of accounting by 30<sup>th</sup> June 2024. With the cash basis of accounting that we have today, even the pending bills are not in the body of the financial statements. They are in some notes because they do not form part of our accounts. That kind of accounting is distorting the financial health of our nation. If we were to treat Kenya as a company or a going entity, we would be under-reporting the exact or true financial health position of our country.

The eighth cross-cutting issue is the interest and commitment fees charged on undrawn loans. The Committee observed certain instances where loans have been negotiated, signed, and committed, and it is the implementing agency which is yet to draw down. In some cases, you find that the loan has been negotiated, a contract has been signed, commitments made and yet, even the land where the project is supposed to be implemented, has not been procured or acquired. This is more prevalent with cases of dam construction in this country. I do not want to repeat the issue of Arror and Kimwarer because everybody knows about it.

In these instances, interest accrued pronto while the responsible persons have not even obtained the utility of the programmes. This amounts to wasteful expenditure. Funds cited as commitment fees for the year under review amounted to Ksh2,063,104,537 from 20 loan agreements worth Ksh379,943,389,070 that had no draw-downs. Related to these were various donor-funded projects with undrawn balances that the implementing agencies had no capacity to absorb and, hence, forgone development funds.

Worse still, the Government enters into contracts that prescribe punitive interest rates for delayed payments; some, incredibly, three per cent above the Central Bank of Kenya (CBK) base lending rate. Sometimes, I wonder whether the Office of the Attorney-General is involved when we are negotiating or signing contracts. Some of the contracts are signed with punitive interest rates, some as crazy as three per cent above CBK rates! By practice, we do not pay



contractors on time. This is the source of many Government officials colluding with contractors to fleece and defraud this country of the much-needed resources.

The Committee recommends the following:

1. The National Treasury should only enter into loan agreements whose programme/project implementation plans are ready for immediate execution. Accounting Officers who fail to absorb such funds promptly and within schedule should be personally held liable and will make good the lost interest subject to Article 226(5) of the Constitution.
2. The Auditor-General conducts a forensic audit of the country's entire debt portfolio and submits a report to Parliament within six months of adoption of this Report.
3. The Attorney-General reviews and approves all financing agreements and contracts entered into by the State to secure public interest.

There is the cross-cutting issue of dual implementation of projects between National and county governments. The Committee encountered instances under the State Department for Housing and Urban Development where certain donor projects financed by the World Bank to be implemented by county governments posed an accountability challenge, especially in Kisumu. The accounting officer is expected to account for the funds while total responsibility lies with the counties. The funds are given to counties to spend on implementing housing projects that are funded by the World Bank and yet, it is the accounting officer, the PS of the Ministry, who is supposed to appear before us and account for this. The former, basically acting as a conduit, has no control whatsoever.

The Committee recommends that such funds be wholly issued to the implementing agency as conditional grants rather than the mongrel arrangement that currently subsists.

I am moving to a close of these general cross-cutting issues. May I mention non-compliance with the One-Third Rule of basic salary. This sounds ridiculous, especially with the Housing Levy and others. The raiding of Kenyans pockets by the Government, through Parliament which has been passing these legislations, would make no sense in our law.

**The Temporary Speaker** (Hon. David Ochieng'): You are moving a Motion for the Financial Year 2020/2021 and not the current one.

**Hon. John Mbadi** (Nominated, ODM): I am saying that this problem is going to be bigger. In the Year 2020/2021, I will read what the problem was. Basically, it was COVID-19 and at one point we reduced the tax rate. We thereafter increased it, but now it is going to be worse.

The Committee, however, observed several instances where Government employees were not able to comply with the provisions of the law and human resource policies on the One-Third Rule of basic salary. Reasons adduced were tax reliefs accorded to public officers during COVID-19 but later lifted despite staff committing their net salaries. Moreover, changes in superannuation and tax brackets led to this anomaly. The Committee observes that there is potential for the same recurring due to an uncertain tax regime like the one we are in.

The Committee recommends that the Government ensures that staff are not disadvantaged through the imposition of tax or other measures on their salaries, and that any new policy regime affecting employees' pay should be capped at the maximum of two-thirds of existing staff basic salaries. I do not know how this would be done but that is what my Committee felt.

Failure to resolve prior year's matters, is another cross-cutting issue. The Committee noted various instances where matters recurred because accounting officers did not implement remedial measures for errors of omission or commission. Whilst awaiting the Committee's Report for any preceding financial year, it is the expectation of the Committee that accounting officers be proactive and, incrementally, improve internal controls. The Committee, therefore,

recommends that within three months of the adoption of this Report, all accounting officers should avail a matrix on implementation of various recommendations. This will be alongside the usual National Treasury Memorandum.

The final comment on cross-cutting issues is on resource requirements for the Office of the Auditor-General. The Office of the Auditor-General requires an independent and well-resourced audit office with guaranteed availability of resources and optimal staffing. This will enable efficient and effective execution of the audit cycle. It will also ensure continuous and sustainable audit operations. Over the years, the Office has been grossly underfunded considering the huge mandate. The Office continues to seek support from Parliament and the National Treasury for the enhancement of resources to enable it to build technical capacity, expand its presence in the counties, widen the scope and comprehensiveness of audits and motivate staff.

Hon. Temporary Speaker, I am aware that there is a legislative proposal, either already in the House or on its way. It is trying to ensure that a fund is created for the finances given to the Office of the Auditor-General. This is a welcome move and I urge that this House considers giving the Office of the Auditor-General more funds so that they conduct an even more thorough forensic audit. For example, the Office of the Auditor-General has just completed doing a special audit which is what I would call a forensic audit on Article 223 usage. It is on fertiliser subsidy and the sports stadia which was requested by my Committee. Looking at the quality of that audit, it would impress you. That is what we need to see, but can only be realistic if we have a well-resourced Office of the Auditor-General.

In a few minutes, Hon. Temporary Speaker, allow me to mention some of the cases that we have referred to investigative agencies, and particularly, the Ethics and Anti-corruption Commission (EACC). The State Department for Public Works under Paragraph 871... Let me start with the State Department for Interior and Citizen Services, Vote 1021, Paragraph 162 on irregular procurement, rehabilitation and extension of Homa Bay County Commissioner residence. We have referred the matter to the EACC. On 7<sup>th</sup> May 2020, a variation of Ksh6.4 million was made to this contract, which was 56.4 per cent, contrary to the specific and clear provisions of the law. Section 139(6) of the Public Procurement and Asset Disposal Act, 2015 is clear. Variation should not be beyond 25 per cent. You, however, find rogue officers varying contracts upwards, up to 56.4 per cent, with no justification. That is a matter for the EACC to deal with.

In the State Department for Correctional Services, Vote 1023, Paragraph 179, there was a collapsed perimeter wall at Shimo la Tewa Prison in Mombasa due to poor workmanship. Restricted tender was applied and no reason was given. The tender notification was given and the contract was accepted on 3<sup>rd</sup> April 2017 and the following day it was signed and yet, the law requires it should take 14 days. After completion of the work, the wall collapsed. You can see someone had an interest in this.

In the State Department for Devolution, at Paragraph 185.1, there was ineligible expenditure likely to be fraudulent due to submission of forged documents. There is a flood mitigation programme in western Kenya and Ksh388 million was given by the World Bank to help in flood mitigation. You know how our people often cry when places like Budalang'i, Kano and many others are flooded. Money is given to Government officials to implement these projects. They introduce forged documents. The World Bank discovers that you have given them forged documents to account for the money and they treat that expenditure as ineligible. Yet, instead of the National Treasury acting, it authorises that this money should now come from the people of Kenya and misleads this House in the Financial Year 2020/2021 to approve a supplementary budget. We need to pay this money. It became payable by Kenyans because of forged documents. EACC, we have given you work.

Paragraph 193 is on the irregular payment of demurrage charges. A total of Ksh75 million was irregularly paid. What happened is that the Government of China decided to give us relief food free of charge. It sent it with containers and then Government officials decided to keep them for no reason. It occasioned a loss of Ksh75 million. Should we close our eyes on that? Those responsible need to pay this Ksh75 million, and not taxpayers.

Hon. Temporary Speaker, I am skipping some. There is one for the State Department for Vocational and Technical Training. It is about procurement and payment for consultancy services where a German company won a tender, but the same was executed by a Kenyan firm which did not bid. We also want EACC to look into that. There is also procurement of computers in the State Department for Early Learning and Basic Education where Ksh199 million was paid for 2,040 computers to 200 schools across the country. The State Department used an expired contract of the Ministry of Information, Communication and the Digital Economy, which expired on 7<sup>th</sup> November 7<sup>th</sup> 2019, yet we are dealing with FY 2020/2021. They used the contract to award a tender to a firm. That should be investigated.

In the State Department for Infrastructure, contracts were irregularly varied upwards leading to possible loss. For example, Kiambu Regional Office decided to make payments worth Ksh359 million, up from Ksh273 million, a variation of Ksh86 million, which is 31 per cent above the required amount. The State Department for Housing also has an issue on budget implementation that we have referred to the Auditor-General, where unbudgeted expenditure amounting to Ksh531 million was spent. We want to know under what circumstances that happened. That amounts to spending without Parliament's approval. In the State Department for Public Works, there were vehicles which did not have log books. We think there is irregularity. The log books cannot be traced and that needs to be investigated.

The Ministry of Water, Sanitation and Irrigation delayed construction of Mwache Multipurpose Dam. Advanced payments amounting to Ksh85 million were made. The Ministry tendered and gave a deposit of Ksh85 million, despite not having acquired land for the construction of the dam. The land has not been acquired and you give advance payment to a contractor to go and construct in the air. What are you trying to do? This is also a case we have referred to the EACC.

The State Department for Livestock made full payment for incomplete works to Marimanti Sheep and Goat Farm. A hatchery and poultry house were to be constructed. A 100 per cent payment was made on 12<sup>th</sup> June yet the previous day, a meeting was held on the site and the works were valued at 82 per cent complete. At the time of audit, the works were valued at 85 per cent complete. How do you make 100 per cent payment when you have only done 82 per cent of the work?

There are others that I will skip. There is one under the State Department for Crop Development. There is another one in the State Law Office and Department for Justice of Ksh6 million. The Judiciary also has issues where we want Ksh348 million to be investigated further because some district treasuries did not submit unspent amounts of money.

Finally, one of the outstanding cases which we referred to EACC is that of the National Police Service Commission (NPSC), Vote 2101. Paragraph 1775, on the leasing of a counselling centre in Karen, Nairobi. The NPSC entered into a six-year lease agreement for two plots with Swara Safari Hotel Limited on 1<sup>st</sup> January 2019. One plot had a building. The other one was vacant. They agreed on a monthly rental payment of Ksh1,590,000 for the plot to be used as a counselling centre for police officers. The plot with the building, however, had its registered owner as Amazing Tours Limited. At least, that is what we were told. In November 2020, however, just two years after the lease was signed, a notice was given by a lawyer to the NPSC to vacate the plot which was being claimed to be registered under Elkona Holding Limited. Elkona sued in March 2021.

The court then ruled in August 2021. The case was quickly determined, from March to August. The judgement was against NPSC. The NPSC was ordered that it should pay a monthly rent of Ksh750,000, which was close to half of the rent that was being paid in total from 10<sup>th</sup> December 2018 when negotiations were done between Swara Safari and the NPSC. A total of Ksh24,750,000 for the period, plus cost of the suit, was determined against the NPSC. It is very interesting because, as we speak, we do not even know the actual owner of the property. What is interesting is that NPSC were required to have done a search. They did a search in 2016 and entered the contract in December 2018, two years later. Obviously, common sense, which I hear is common but sometimes uncommon to many, dictates they should have done another search. We know how Kenya is; property changes hands almost monthly or every day. Due diligence was not undertaken. Therefore, we have recommended that the Ethics and Anti-Corruption Commission looks into this matter with a view to prosecute those who have occasioned loss of public funds.

In conclusion, I wish to register my appreciation to the Members of the Committee that I mentioned, the Offices of the Speaker and Clerk of the National Assembly, Parliamentary Liaison, Offices of the Auditor-General and the National Treasury, for facilitating the work of the Committee and making the production of this Report possible. Special appreciation goes to the Directorate of Committee Services and, in particular, members of the Secretariat for their commitment and devotion to duty.

Hon. Temporary Speaker, I want to state that those who have been Members of Audit Committees know how much time it takes to prepare the Report. You, at times, have to work past midnight for the whole week to make sure that these reports are ready. Being a Member of the Public Accounts Committee is like working in an office. In the 10<sup>th</sup> and 11<sup>th</sup> parliaments, we were warned by our seniors then, that being a member of the Public Accounts Committee is very risky for your re-election because you are here most of the time. However, we have tried to balance that with constituency work and I want to thank my Members for being diligent. We have only missed one sitting for lack of quorum ever since this Committee was constituted in October 2022.

Hon. Temporary Speaker, on behalf of the Public Accounts Committee, I now wish to move and urge the House to adopt this Report and the recommendations therein. I want to request a very dedicated Member of my Committee, Hon. (Dr.) Ojiambo Oundo, Member of Parliament for Funyula, to second the Motion.

Thank you, Hon. Temporary Speaker.

**The Temporary Speaker** (Hon. David Ochieng’): Thank you, Hon. Oundo.

**Hon. (Dr) Ojiambo Oundo** (Funyula, ODM): Thank you, Hon. Temporary Speaker. Let me take this opportunity to sincerely thank our able Chairman of the Public Accounts Committee for moving the Report and presiding over the many endless sittings in Room 9 and other venues as we probed and reviewed the various books of accounts for various Ministries, Departments and State Agencies. One of the roles bestowed on the National Assembly under the Constitution of Kenya 2010 is oversight of national revenue and its expenditure. Consequently, it is the history of Parliaments that there must be a public accounts committee that performs that job. We have done our bit today; we have presented the Report of the Auditor-General on the Financial Statements of various National Government Ministries, Departments and Agencies for the 2020/2021 Financial Year.

I do not need to over-emphasize the point that the Constitution of Kenya creates an equitable share of revenue between the various levels of Government. Article 203(3) provides that the amount referred to in clause 2 shall be calculated based on the most recent audited accounts of revenue received as approved by the National Assembly. Once this Report is approved by this House, in the Financial Year 2024/2025, we shall probably use the most recent

audited accounts of 2020/2021 to share revenue between the various levels of the Government; that is the national Government, Judiciary, Parliament as well as the county governments.

Our Party Leader normally tells us that the most respected and sought-after Committee in the Commonwealth, and probably in most places in this world, is the Public Accounts Committee. He has a nostalgic view of when he sat in this Parliament and served as a member of the Public Accounts Committee. He always advises that you must make sure that the Executive trembles and fears Parliament through the Public Accounts Committee. As to whether we have met that threshold or not, is out there for everybody to tell.

I sat in the Public Accounts Committee in the last Parliament. I am fortunate enough to sit again in this Parliament, and there are a few observations that our Chairman has covered extensively on the issues that we came across. As I second, I just want to just pick a few of them and probably re-emphasise and reiterate what he has stated here.

One, it baffles me that a fully qualified accountant cannot keep proper books of accounts. Many a times, our Chairman thinks that I have something against the accounting profession. But I have never understood how a Certified Public Accountant of Kenya (CPA-K), with 15 years of experience, cannot undertake book and bank reconciliations or prepare a management account. They cannot even ensure that all the supporting documents such as the ledgers are available. It leads me to believe that it is wilful neglect or a convoluted process to conceal theft and perpetrate corruption. As I stand here, we must be very careful and be hard on individual chief finance officers and the chief accountants who falsely prepare accounts. They must be held personally liable. We must refer the matter to the relevant professional organisations to take stern action, probably even deregister them, and not allow them to hold professional and public offices.

Hon. Temporary Speaker, it is interesting that they deliberately refuse or fail to give the auditors from the Office of the Auditor-General the documents required. Once you summon them before the Public Accounts Committee, they start to fumble around and give them to the Office of the Auditor-General. Occasionally, you will find the Office of the Auditor-General saying that the matter is resolved. Audit is a process. The Audit Act is very clear on the timelines and, therefore, if you fail to provide something at the end of the timeline, then it means that you have breached the provisions of the Audit Act as well as the Public Finance Management Act.

This country is very rich and capable of running its affairs without having to go outside the country to beg or look for donors. This country can run its affairs without having to borrow any money. The Chairman has clearly stated that the court cases and the awards that are being given against the Government and penalties are mind-boggling. The amount that we pay through penalties as a result of court cases and delayed payments can run this country for a full financial year without having to go and ask for money elsewhere. In my view, this is by design. They delay to pay deliberately and tell the contractors: “*Wewe nyamazia tu hapo. Enda kortini.* We will sort out the matter and you give us our cut”. They negotiate and award contracts while knowing that they do not have money. In the same vein, the issue of unwarranted budget cuts under Supplementary I, II or even X does not make sense.

Hon. Temporary Speaker, it does not make sense to undertake a budgetary cut where a bill has already been incurred and the work is in progress. Procurement has already been done. The contractor is on site. We are punishing Kenyans. There was a contractor who stripped naked last year in one of the Government offices in Kisumu. Within three months, he was dead. He was either buried in Ugenya or Bondo. His daughter is married in my constituency. This is the amount of stress that those people go through. In some cases, a training institution takes foodstuffs from *mama mboga*, hustlers and other small business people. Since 2019 and 2021, a bill of Ksh20,000, Ksh30,000 or Ksh300,000 has not been paid and there are no plans to pay at all. It becomes a pending bill which is supposed to be the first charge. However, the

accountants tell you that when they were planning to pay, they were told to do budget rationalisation. So, they could not pay. It is a wasteful system that we, as a country, need to re-look at. We are living beyond our means. Consequently, there is waste of resources which we must tame immediately. We call upon all the oversight committees like Public Investments Committees (PIC) and Public Accounts Committee (PAC) to come out very hard on the issue of pending bills and delayed payments.

We have seen a very interesting matter in procurement and construction works. The Public Procurement and Asset Disposal Act requires that variations should not exceed 25 per cent. The technocrats in the Ministries, Departments and Agencies (MDAs) circumvent the process and have variations of 24.96 per cent. The stadiums that were being built in the Financial Year 2020/2021 were subjected to that kind of an arrangement of 24.96 or 24.36 per cent.

I can see my time is up. I request you add me one minute to conclude. Finally, there is lack of capacity - or it is deliberate - that there is no monitoring of the implementation of the projects.

**The Temporary Speaker** (Hon. David Ochieng’): I add you one minute so that you can conclude and second.

**Hon. (Dr) Ojiambo Oundo** (Funyula, ODM): Hon. Temporary Speaker, I will give an example. It was alleged that officials from the Ministry of Mining, the Blue Economy and Maritime Affairs restocked various fish ponds in Kenya, as part of the aquaculture process. One of the places they said that they had stocked with fingerlings was a fish pond in my constituency. When I saw the Report, I went there. However, the manager told me he had never seen any officials from the Ministry for almost seven years and yet, the Report given to the accounting officer indicated that they had been stocked.

As I conclude, we need to be vigilant and save this country from wanton loss and wastage of public funds that are designed for corruption purposes.

Thank you, Hon. Temporary Speaker. I second the Motion

**The Temporary Speaker** (Hon. David Ochieng’): Thank you.

*(Question proposed)*

**The Temporary Speaker** (Hon. David Ochieng’): Member for Soy.

**Hon. David Kiplagat** (Soy, UDA): Thank you, Hon. Temporary Speaker. Allow me to contribute and support the Report of the PAC that has been moved by our able Chairman, CPA Hon. John Mbadi, who is very committed. We congratulate him for a Report well done. I call upon the Members to support it. As members of the PAC, we unanimously agreed on it. We call upon Members on both sides of the House to agree with the Committee, so that we can pass it.

The amount of leakages within Government MDAs is alarming. I will mention a few cases. We sign contracts with donor partners who give us funds and some money also come from the Government of Kenya. The contract is designed by the donors to suit them. Our Government officers agree with them knowing very well that they cannot raise the counterpart funding. The contract says that the project can only begin if the Government contributes its fair share. What happens? The money from the donor lies in the Central Bank of Kenya (CBK) because the project cannot proceed. The contractor cannot proceed to the site leading to interests on delayed payments.

We need to investigate the interests on delayed payments. In some circumstances, the amount due and interest on payment are the same figure. There is a contractor who has a pending bill of around Ksh1.5 billion, and then the interest on delayed payment is Ksh1 billion. If you sum total, you realise that this country might be losing up to around half a trillion in

delayed payments. That is why we call upon all those agencies concerned to investigate the matter and escalate it further. When the Government has money, it can negotiate with the contractors and get a favourable value for delayed payments. If the delayed payment is Ksh1 billion, then they can negotiate and only pay up to 25 per cent, which is fair.

We have circumstances where Government officials enter into contracts, the contractor takes a loan, does the job and when it is time for payment, he is not paid. The bank sells all his assets because of failure to pay pending bills. We know that every time a new government comes into place, it investigates pending bills, which is good. However, let us not delay payment of pending bills because of the investigations that are going on. The committee that has been given the mandate to investigate them should have a time-frame that is not more than one year. The Government should look for money and pay the genuine pending bills. I propose that they can float a Eurobond on pending bills, so that all the contractors can be paid to avoid creating poverty among Kenyans. We have genuine Kenyan businessmen who have rendered their services, but they have not been paid. That is something that we need to take seriously.

Another mongrel that we realised is the issue of the Auditor-General and the courts. Sometimes, I wonder whether this is engineered and, maybe, we need to investigate. This is because failure to do something small, a litigant goes to court and is awarded damages worth millions of shillings. Looking at the contingent liabilities alone, you will be shocked at the amount of money that this Government needs to pay in legal fees. There was a case of a State agency which went to the Supreme Court. I do not want to mention its name because it is in the Report. They went there to seek advisory opinion and their lawyer gave them a bill of about Kshs500 billion. This is a pending bill which we are supposed to pay. One wonders if they designed this when they were hiring him.

**Hon. Emmanuel Wangwe** (Navakholo, ODM): On a point of order, Hon. Temporary Speaker.

**Hon. David Kiplagat** (Soy, UDA): What is out of order, Hon. Wangwe? You are my friend!

**The Temporary Speaker** (Hon. David Ochieng’): Order! Go ahead, Hon. Wangwe.

*(Laughter)*

**Hon. Emmanuel Wangwe** (Navakholo, ODM): Thank you, Hon. Temporary Speaker. I rise on a point of order that you compel the Member to tell us who went to the Supreme Court. This is because the right to information is enshrined in our Constitution. If he conceals it, he will be part of the team that is unwilling to help this country. Let him tell us who it is, so that Members can benefit from him as a Member of PAC.

**The Temporary Speaker** (Hon. David Ochieng’): Hon. Kiplagat, are you reading from the Report or this is a story from somewhere else?

**Hon. David Kiplagat** (Soy, UDA): Thank you, Hon. Temporary Speaker. This is not a story. I thought Hon. Wangwe read the Report. Maybe, he did not have time to at look it and yet, it is a public document. The National Land Commission (NLC) went to the Supreme Court seeking an advisory opinion and they hired a lawyer called Ojiambo; if my memory serves me right. His bill amounted to Kshs500 billion.

*(Hon. John Mbadi spoke off the record)*

Sorry! His name was Ojienda.

**Hon. (Dr) Ojiambo Oundo** (Funyula, ODM): On a point of order, Hon. Temporary Speaker.

**Hon. David Kiplagat** (Soy, UDA): What is out of order, Hon. Oundo?

**The Temporary Speaker** (Hon. David Ochieng’): Hon. Oundo, what is out of order?

**Hon. (Dr) Ojiambo Oundo** (Funyula, ODM): Thank you, Hon. Temporary Speaker. I do not know whether this is a slip of the tongue of my good friend and member of the Committee. He has mentioned Ojiambo and this name is famously from my constituency. This imputes wrong motive to my people of Funyula Constituency. Can he be explicitly clear which lawyer he is referring to? I know he is known.

**Hon. David Kiplagat** (Soy, UDA): Hon. Oundo, if you were listening to the Chairperson, he clarified it is Ojienda.

*(A Member spoke off the record)*

Sorry! A law firm called Ojienda. I think that is clear because names from western are a bit confusing. It is a law firm. In some instances, there is engineering of documents during procurement. There was a case of a tender that was awarded, but the certificate of registration and personal identification number (PIN) were obtained and registered after the contract had been awarded. So, saying that we need to follow the procurement procedure is, sometimes, a hoax. They say this to fool us. If you look at that Report, you will realise that there...

*(Hon. David Kiplagat’s microphone was switched off)*

**The Temporary Speaker** (Hon. David Ochieng’): Give him 30 seconds to wind up.

**Hon. David Kiplagat** (Soy, UDA): Thank you, Hon. Temporary Speaker. There were too many interruptions. As I finish, there are so many leakages in Government. If we address the challenges which the Chairperson has stated, we shall save this country billions of shillings. We might not need to borrow more money for development purposes. I support the Report and call upon the House to support it so that we can fix the leakages. Further action needs to be taken as per the recommendations, so that we can restore the sanity in those ministries.

Thank you, Hon. Temporary Speaker.

**The Temporary Speaker** (Hon. David Ochieng’): Thank you. Member for Navakholo Constituency.

**Hon. Emmanuel Wangwe** (Navakholo, ODM): Thank you, Hon. Temporary Speaker. I rise to support the Report by PAC. This is our parent watchdog committee which oversees the national Government spending. I want to thank the Chairperson because most of the issues he has raised are similar to those we experience in the Public Investments Committee (PIC), especially on poor accounting standards. I feel as if this is usually intentional. No one rises to a high level in finance or accounting department without being qualified. Yet, at the end of the day, there is mediocracy in whatever they present before us. This makes accountability difficult because resources are lost and the people entrusted to guard them just go in circles when reporting.

I am happy with the recommendations in the Report. If the National Treasury implements them, they will go a long way. The buck stops with them because those who report are their employees. They get resources from the national Treasury with the left hand and want to leak with the right hand. This is improper and they should train their employees.

During the budget-making process, why are the accountants so timely and to the point but, when it comes to spending and reporting, they have challenges? Let those two scales measure up to each other. The recommendations by PAC are good and we should all appreciate them.

On the issue of late submission of documents, this is where they end up sabotaging the whole process. They do not want to present what transpired. Eventually, one is unable to determine what happened and how much money was lost. Those people always present

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documents after the process is completed. In my Committee, we end up with two witnesses exchanging painful words. This is because they gave the auditors their documents, but they were not submitted. During the first meeting they are briefed but, at the end, nothing is presented. After they are reminded, they present the documents. So, the buck stops with the National Treasury. They should be put to the task about such situations so that they can correct them.

Hon. Temporary Speaker, I thank the Committee for pinpointing and concurring with the Office of the Auditor-General on outstanding works, stalled projects and how they were started. I want to veer from the Report and go to a case which happened recently, where a witness stated that a project cost was Ksh3.9 billion but initially, it was Ksh900 million. A whopping 340 per cent increment in variation! What informed this variation? How come the law was violated to that extent? Where is the Inspectorate of State Corporations? We need to bring all those persons on board.

Looking at the Committee's recommendations, I wish to thank my party Chairman, Hon. John Mbadi. This is the way to go. Let us push it so that the buck can stop with the right person. The Public Accounts Committee does not have the teeth to investigate thoroughly and engage organisations like the Directorate of Criminal Investigations (DCI) through the Office of the Director of Public Prosecutions (ODPP), which have the mandate to present the witnesses before the courts of law. I appreciate that together with Ethics and Anti-Corruption Commission (EACC), various recommendations have been made. The challenge we have is what happened in the past. Has the past been resolved? No! I ask the various agencies, EACC and DCI, to support each other because this is our country. If the Public Accounts Committee has all the papers and has tabled to start off the case, why can they not pick it up immediately we vote on this Report? Let them arrest those people. Once two or three culprits are brought to book, it will be a definite sign that any other person doing so shall take the same journey. Many officers will shy off from doing things in the hope that the money they get can buy their freedom. For instance, you will find someone has made an error or committed an offence but does not care. As long as they have the money, they will get the best lawyer, make their way out and survive. He is on the streets. You will make noise but they are walking, eating and are happy. It is my prayer that, through you Hon. Temporary Speaker, the agencies that are charged with this responsibility should take up these cases and bring them to book.

Finally, the Committee has observed the issue of one-third of Kenyans' salaries. It is true that whereas taxation is good, can we look at how we are lawfully imploring? Why should we overtax one's payslip? Once we do that, the payslips will have to reduce. As the Committee puts it, let us help our officers who are working within the Government and the entire country by observing the one-third rule instead of pushing Kenyans beyond what they can survive on. Otherwise, this is a good Report which is long overdue. I appreciate the Chairman and the membership. The Report warrants a reading by all agencies and Kenyans.

Thank you, Hon. Temporary Speaker. I support.

**The Temporary Speaker** (Hon. David Ochieng'): Very well said. Next is the Member for Kinangop.

*(Hon. Gonzi Rai spoke off the record)*

**Hon. Kwenya Thuku** (Kinangop, JP): Kinangop? Thank you, Hon. Temporary Speaker.

**The Temporary Speaker** (Hon. David Ochieng'): This one has a 'P' at the end.

**Hon. Kwenya Thuku** (Kinangop, JP): Yes. There is always that confusion between Kinangop and Kinango and, interestingly, we are both in the House. I thank you for this opportunity and wish to support this Report by the Public Accounts Committee that is led by

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his highness the nominated Member and a former elected ranking Hon. Member of this House. This is a very important report. I want to very brief...

**The Temporary Speaker** (Hon. David Ochieng'): Hon. Thuku, a Member is a Member however he becomes one.

**Hon. Kwenya Thuku** (Kinangop, JP): He is but he is a ranking Member. He has been in this House for long enough and we are taking cue from him in many aspects.

As I support this Report, I briefly want to point out two issues. One is the issue of budgeting and two, is the issue of pending bills. Many times, we have passed budgets in this House and thereafter, ministries and departments present their procurement plans and start implementing the same based on the passed budget. They continue procuring with the hope that they will fulfil their contractual obligations to the contractors. But in the middle of the implementation of the budget, we have budget cuts which have become quite common. There are budget cuts in the midst of implementation when procurement has been done and contracts have been signed. By the end of the financial year, as much as there is proper planning by the Ministry, they are frustrated by the National Treasury. This is due to gaps in the National Treasury that need to be addressed through proper forecasting of revenue raised and the kind of projects to be implemented. There is a sudden change of heart in the middle of the budget cycle. As much as we want to blame ministries and departments for these pending bills, it may not be their own making. Not to say they do not have a role to play in it because, in the midst of budget implementation, they realise that they misplaced their priorities. They then find themselves procuring things that are not within their procurement plans. Pending bills means that we are flouting the Public Finance Management Act (PFMA) and the Public Procurement and Disposal Act whereby one is not supposed to procure what is not within the budget. You are not supposed to engage in procurement unless you are sure that money is in your coffers.

Additionally, I want to address the issue of projects that are counter-funded. Some are funded by our coffers while others are funded by external lenders and loans from other development partners like the World Bank. It becomes difficult to know how the money was allocated. At times, the money is borrowed and projects are not implemented. At the point where the ink meets the paper and signatures are appended, the money that has been borrowed starts earning interest on commitment fees and the principal amount. It is high time that this country thought before taking debts because, today, so much money has been borrowed but it is yet to hit our coffers. We are paying commitment fees while the money is still in the lender's pocket. It is like borrowing money from a bank and start paying commitment fees before it hits your pocket. We need to put the debt management office on the spot so that they are not happily borrowing money that we are not spending.

Hon. Temporary Speaker, allow me to digress to current issues that raise a lot of questions for Members' representatives. Schools are an issue that we need to bring to the fore. Our students are registered in the National Education Management Information System (NEMIS). During disbursement of capitation, you find that a school has a capacity of 500 students registered in NEMIS, but the money that hits the account is half the amount of the number of the registered students. Where is the rest of the money going? When the school managers ask these questions, they are told that the numbers are high. I am asking this because I have heard many head teachers and principals of secondary schools complain that, indeed, those are the numbers that are registered but, what they are getting is not commensurate. We need to get to a level where our schools will no longer be managed by the school principals or head teachers. Let the National Treasury employ bursars as competent school managers and pay them directly. This will enable them run the schools and be a link between the National Treasury, who is the holder of the purse in this country, and the Ministry of Education.

On court awards, why do we have so many litigations as far as contracts are concerned? Every time there are litigations, the Government loses. A large share of the whopping awards

that are awarded to the litigants goes to lawyers and advocates who represent them. We should hold this matter dearly because it is the easiest route for corruption.

*[The Temporary Speaker (Hon. David Ochieng') left the Chair]*

*[The Temporary Speaker (Hon. (Peter Kaluma) took the Chair]*

We cannot have contracts with questionable stipulations that are designed to fail. Some contract designers do a shady job, then rush to court and get the tender awards. It is high time that we stamped our authority as a House and have standard documents to guide the tendering process. As it is, some of those documents are tailor-made with an end in mind.

On the issue of sticking to procurement plans, we should ensure that once we pass a Budget here, we should not come back to do supplementary budgets. This distorts the purpose of the procurement plans that we put in place. A good example of this is every time we reach out to the NG-CDF Boards for money, they ask us for procurement proposals. We stick to those proposals to the end. If we want to make changes, we have to write to the Board seeking permission. Why is this not happening within ministries? Why do we have to abandon some of the projects and bring in new projects? We should not be happy passing the supplementary budgets. Let us have a full-cycle Budget that should be used for the entire financial year. By this, we will solve the issues of pending bills and new projects that are initiated in between the implementation of budgets.

Moving forward, I believe it will be easier for the Public Accounts Committee (PAC) to go through these audit reports. Otherwise, this is going to be the circus year-in, year-out, and every regime will have to form task forces to evaluate the pending bills.

Finally, Parliament has a constitutional mandate of budget-making and oversight. We must live up to our mandate and the dream of Kenyans. We must protect their rights by passing effective budgets and not because a few of us have interests therein.

Thank you, Hon. Temporary Speaker.

**The Temporary Speaker** (Hon. Peter Kaluma): Next is Hon. (Dr) Wilberforce Oundo, the Member of Parliament for Funyula.

*(Hon. (Dr) Ojiambo Oundo spoke off the record)*

Have you made your contribution?

*(Hon. Ruku GK consulted loudly)*

Hon. Ruku, you will not be the Speaker, especially when I am in this seat. Have you contributed to this?

**Hon. Ruku GK** (Mbeere North, DP): No.

**The Temporary Speaker** (Hon. Peter Kaluma): You may proceed.

**Hon. Ruku GK** (Mbeere North, DP): Thank you, Hon. Temporary Speaker. As I support this Report, it is important to note that this Audit Report is for the 2020/2021 Financial Year. This Report vindicates those Kenyans who disagreed with those who were running the previous Government in August 2022. The Report paints a picture of how the public affairs were managed by the previous administration. It points out poor accounting and the general incapacity of the accounting units, which was the order of the day within the entire Government.

As a leader of government, you must ensure that things are running properly. This can only be achieved if the accounting officers and the government departments take their work

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seriously. Those officers should ensure that there are no late submissions of necessary documents that show how they are implementing different projects in their departments, and that they do not have stalled projects. This Report says that there are many stalled projects in the 2020/2021 Financial Year. It also points out weak internal audits. Strong internal audits are critical functions for all Government departments, parastatals or organisations. It seems that the then administration was not keen on ensuring that there were strong internal audits.

We have talked about the issue of pending bills over the years. They are a big elephant in the room and a big concern for every Government. Even this Government has inherited the problem. Hopefully, we will sort this out once and for all. The cabinet secretaries and their principal secretaries held a second retreat to harmonise their work and ensure that some of the issues that are reported here will not be the case when the audit report for the 2022/2023 and 2024/2025 financial years will be tabled in this House. The retreats that are organized by the President will ensure that what has been reported here will be a thing of the past.

This Report points out Executive Orders which established some Government units which lacked total support. It also indicates very poor liability management of the Republic of Kenya. Through such reports, we call upon the current Government to ensure that the National Treasury properly manages public liabilities. This will ensure that we do not get into a hole that we cannot pull ourselves out of.

Hon. Mbadi has laid a good Report that vindicates the Kenyans who woke up early in August 2022 and made the right decision. We ask the current Government to take note of this and go through some of these reports for them to put their act in order. For sure, I know that this is being done.

Hon. Temporary Speaker, it has been reported that there was a serious under-performance by the Exchequer in the financial year 2020/2021 in terms of releasing money from the National Treasury to different Government departments. It is a thing which is also affecting the current Government. If there are people who need to be held accountable and seriously overseen by this House, it is the technocrats who work at the National Treasury. If there are cartels in this country, you are likely to find them at the National Treasury.

Principal Secretaries from other ministries queue at the National Treasury for Exchequer release. Therefore, the incapacity to correct the Appropriations-in-Aid (A-in-A) from different Government bodies should be looked into in a serious manner. Today, the Ethics and Anti-Corruption Commission (EACC) collects money from the proceeds of crime. The Anti-Corruption and Economic Crimes Act 2023 does not give EACC powers to treat monies collected from the proceeds of crime as A-in-A. That money should be taken to the Consolidated Fund so that the Government can use it to implement different projects. There are quite a number of budgetary under-performances as reported in these reports. We hope some of these things have been addressed in the first and the second retreats that were organised by the President because, as you know, it had never happened in the previous administrations. Instead, the President then used to lecture everybody, including his cabinet secretaries, Members of Parliament as well as principal secretaries. So, they worked under fear and probably that may be one of the reasons as to why we have got a very bad report for financial year 2020/2021.

With those many remarks, I support.

**The Temporary Speaker** (Hon. Peter Kaluma): Thank you, Hon. Ruku. Next is Hon. Omondi Caroli.

**Hon. Caroli Omondi** (Suba South, ODM): Thank you very much, Hon. Temporary Speaker. I also want to add my voice in support of the Report, but with a few caveats and some recommendations. I have not had the advantage of going through the entire document and, therefore, some of the things I may say may actually be in the Report but, nonetheless, let me say them.

I want to begin by talking about this issue of interest being charged on pending payments due from Government contracts. If you understand the way Government contracts are negotiated and priced, you will realise that the Government actually pays double interest on its contracts. This is because when people bid for Government tenders, they already price the prospect of delayed payment, which is regarded as one of the commercial risks in the contract. The fact that there will be delayed payment is already priced in the contract. When the delay occurs, there is a further re-calculation and additional funds to be paid for the delayed payments. So, we actually end up paying double. This is a matter that needs to be addressed. There has been attempts to address it but not very effectively.

In the Public Procurement and Asset Disposal Act as well as the Public Finance Management (PFM) Act, there is a requirement that you cannot contract if you do not have a source of funds that is clearly marked and ring-fenced. Yet, we still end up not paying simply because we do not follow our budgets. The solution to this problem is effective implementation of that particular requirement in the PFM Act as well as the Public Procurement and Asset Disposal Act by holding responsible the officers who sign the contracts or those who are supposed to make the payment but do not do so.

Most importantly, we need to find out how to ring-fence debts that are due and payable on Government contracts from arbitrary budget cuts. We need to hear from the Committee what their recommendations are on that particular area. The Committee should also come up with some very innovative ways of managing Government debt. In the private sector, we have something called 'factoring' where debts are sold at discounted rates instead of keeping them in their books. The Committee should investigate how some element of factoring can be introduced to Government debts, which would then be sold out to those who are willing to pay them at a discounted rate that is supported by issuance of long-term Government papers in terms of Treasury Bills to support whoever has been able to take up those debts.

Secondly, I would like to point out that there is the misconception that the Office of the Attorney-General is responsible for commercial terms on Government contracts. I did spend the first nine years of my life there. The responsibility for commercial terms in Government contracts lie with the National Treasury. So, the institution that we need to deal with to get reasonable commercial terms is the National Treasury. How should we do that? If you look at our Constitution, under Chapter 12, we have some framework for public finance. However, we do not have a legislative framework for Government commercial terms. It is time that the Committee took up this matter and helped us to develop the reels of what constitute reasonable commercial terms. They can come up with some legislative amendments to the PFM Act so that when they are entering into a contract, the National Treasury will be bound by some parameters in achieving a reasonable commercial term. The Attorney General does not have that responsibility.

Thirdly, there has also been a lot of complaints on what we call commitment charges. I think there is also lack of understanding in this area. Commitment charge is a norm in commercial contracts and Kenya cannot run away from it, and even us as individuals when we go to the banks. What is the basis? Once you go to a lending institution and they commit to lend you money, they reserve it. In other words, they take it out of their daily use and cannot lend it to somebody else. There is a cost to that. You are required to pay some commitment if you have not made a draw-down. That commitment charge is supposed to be an incentive for you to fulfil the condition precedent for effectiveness of your loan agreement. The challenge is not with the commitment charge but the borrower. They are supposed to timeously implement the conditions of effectiveness, implement the project in a timeous manner and make draw-downs so that they do not pay commitment charge.

I think the solution is dealing with the National Treasury and the line ministries that are implementing donor-funded projects. It is the same thing with power purchase agreements

where people have a lot of problems with what we call ‘take’ or ‘pay’ principle or availability charge. These are normal commercial terms that are supposed to incentivize the parties to be timely in the execution of the projects that are underlying in their contracts. If I have built a power plant, made it available and you are not off-taking my power and yet I have a capital investment, you pay for that. That is why it is separated from energy charge.

Let me also talk about the issue of strengthening the office of the Auditor-General. We really need to do this. I hope the Report has made some very serious recommendations on how to empower the Office of the Auditor-General with modern tools. In audit, the most effective tool is the ability to trace the money. I hope in that Report, if it is not there, they will think of how to empower the Office of the Auditor-General, not necessarily by adding additional staff but by Information Technology (IT) – tools that will enable it to trace the movement of money. You will clearly get a lot of information, and further, empower the Auditor-General by ensuring that the legal framework gives him or her the right to access to information anywhere, including the private sector and not just the public sector. I hope there are some recommendations in that regard.

While I support the Report, I am a little surprised because I expected some heavy scandals to be exposed, but I have only heard of Ksh6 million and Ksh300 million. I thought there would be more scandals, but I have not seen them in the Report. I hope there are some heavy-hitting scandals that we can talk about.

With those few remarks, I support the Report. I acknowledge the good work that has been done by my good brother, the Chairman, and members of the Public Accounts Committee.

**The Temporary Speaker** (Hon. Peter Kaluma): Hon. Gonzi Rai.

**Hon. Gonzi Rai** (Kinango, PAA): Ahsante sana, Mhe. Spika wa Muda, kwa kunipatia nafasi hii ili nitoe maoni yangu na kuiunga mkono Hoja hii iliyo mbele yetu.

Tunapozungumzia Ripoti hii ya ukaguzi wa hesabu, ni muhimu tujifahamishe kuwa Bunge hili hutenga pesa nyingi sana na kuzipatia wizara tofauti ili pesa hizo zitumike kuwasaidia wananchi ama kuleta maendeleo katika nchi yetu. Mara kwa mara, miaka nenda miaka rudi, imekuwa desturi kuwa tunazipokea ripoti hizi lakini matokeo yake mara nyingi sio ya kusaidia nchi hii kwa sababu pesa nyingi hupotea na wakati mwingine tunashindwa kujua jinsi tutakavyoziokoa.

Hili ni jambo la kusikitisha kwa sababu tunaambiwa kila siku kuwa pesa zitapatikana. Kuna pesa zinazopotea kila mwaka. Sijui tutatumia lugha gani ili tusahihishe mambo kiasi cha kuwa tuiokoe nchi hii kutokana na watu ambao lengo lao kubwa ni kutafuta kazi ili kujinufaisha wao wenyewe.

Mbali na kuwa Ripoti hii inawasilishwa hapa bungeni, kuna haja ya kubadilisha mtindo. Kwa mfano, siku ambayo Ripoti ya Mkaguzi-Mkuu huwasilishwa katika nchi ndogo ya Zanzibar, huwa ni *public holiday*. Wakati Mkaguzi-Mkuu anapokuja kuisoma Ripoti hiyo, kila atakayehusishwa na ufiada huwa anakabidhiwa kwa mkuu wa polisi ili awe mgeni wake na kufahamishwa mashtaka atakayojibu. Akishindwa kujitetea, atakuwa mgeni wa polisi ili tulinde haki zetu. Lakini hapa Kenya, tumekuwa tukipokea Ripoti hizi na baada ya kuzijadili na kuzipitisha, hakuna hatua yoyote inayochukuliwa. Ni jukumu letu kama Wabunge kupata hatua mwafaka ili Ripoti hizi zinapopitishwa, kuwe na nafasi ya kuzisukuma kwa vile vitengo vinavyohusika na maswala ya ufujaji wa pesa ili tuhakikishe kuwa sheria inawaandama wafisadi.

Pia, tuhakikishe kuwa baada ya kupitisha Ripoti hiyo na kuipeleka kwa vitengo vya upelelezi kama tume ya *Ethics and Anti-Corruption Commission (EACC)* ama *Directorate of Criminal Investigations (DCI)*, tupate kujua hatua ambazo wamechukua na matokeo yake. Bila ya hayo, itakuwa kazi bure. Tukumbuke kuwa pesa hizi zinatoka kwa kodi ya wananchi. Wananchi hao wanategemea Nyumba hili na viongozi walio hapa kuhakikisha kuwa tunalinda mali yao.

Baadhi ya wenzetu huzunguka katika wizara tofauti tofauti ili kukagua jinsi pesa zetu zinavyotumika. Juzi nilisikitishwa kujua kuwa Kamati moja ya Bunge ilienda katika *institution* fulani na kupata kuwa pesa zilizokusudiwa kutumika kwa mradi fulani ni Ksh90 milioni na zimeongezeka kuwa Ksh300 milioni. Kama hali hii itaendelea kwa namna hii, itakuwa ni kama tunawatungia *budget* wale ambao hawatosheki na kile wanachokula na wanataka pia cha kuweka. Biblia inatuambia: ‘Itanifaidi nini kuupata ulimwengu wote kisha maisha yangu yawe hatarini?’ Watu hawa wamesahau kuwa kuna Mungu na watu huishi hapa duniani na kuondoka. Nyumba hii imekuwa na Waheshimiwa waliokuwa wazungumzaji wazuri lakini mwishowe waliondoka. Kwa sababu hawajarudi, tuna matumaini kuwa walikokwenda ni kuzuri na pengine wanaona mambo mazuri. Je, mbona tunahatarisha maisha yetu kwa sababu ya kutotaka kufanya yale ambao tunastahili kufanya?

Langu ni kuomba kuwa wakati mwafaka upatikane ili tuiunde sheria na kuhakikisha kuwa Mkaguzi-Mkuu wa Serikali anapofanya kazi na kuleta ripoti yake, tunaijadili, tunaipitisha na kuielekeza kwa vitengo vya upelelezi ili tujue jinsi ya kuregesha fedha zilizopotea. Leo tutatangaziwa kuwa fulani kaharibu pesa na kesho, bajeti italetwa, atapewa pesa na kufanya vile vile bila kuguswa kwa sababu pesa alizoziiba ndizo anazotumia kuendeleza na kulinda maisha aliyoyazoea.

Wazungu walisema kuwa mno ni mno ama *enough is enough*. Kuna yule aliyesema wakati mmoja kuwa punda amechoka. Nasi tunasema kuwa ni muhimu tupate njia mbadala ya kulinda pesa zetu za kodi. Tunataka maendeleo. Kuna wale ambao wanajua tunataka maendeleo lakini kazi yao ni kusubiri na kuiba pesa. Wanauliza: “Watanifanya nini?” Kwa sababu pesa zitakapokuja, watafanya vile wanavyotaka.

Tukizungumzia habari za *tender*, huwa kuna uhusiano fulani unaoendelea kati ya wale ambao wanazitengeneza *tender documents* na wale watakaofanya kazi hiyo kiasi cha kwamba anaambiwa kuwa akiufanya mradi huo na ufike kiwango fulani, alete *variation document*.” Jamaa huyo anajua kuwa atapata pesa ambazo si malipo ya kazi ila ni zake za kuweka mfukoni. Mwishowe, pesa zinakosekana au mradi haukamiliki.

Nashindwa ni kitu gani kinachosababisha miradi inayoitwa *while elephants* kwa sababu miradi ilianza lakini haikamiliki. Ninavyojua sheria, kabla mradi haujakuwa *tendered*, ni lazima tuhakikishe kuwa kuna pesa za kutosha. Inakuwa vipi pesa ziko lakini mradi haukamiliki mpaka pesa ziongezwe? Ni lazima tujue tutaendelea kwa njia gani. Nilikuwa ninafikiria kuleta Mswada hivi karibuni, ambao utapingwa vikali lakini ni afadhali hivyo. Mtu anashikwa na kupelekwa kortini kwa sababu ametumia njia za mkato. Mwishowe, korti inatangaza kuwa mashahidi hawakuenda kortini na kesi imetupiliwa mbali. Eti vitengo vyote vya Serikali vinavyoshughulikia usalamu vinashindwa. Kwa nini shahidi hakuja mahakamani? Serikali huenda ikapata hasara lakini tusikose kumchukulia hatua yule shahidi anayejua kilichofanyika na kutoa *statement* ili mfidadi huyo ashtakiwe. Hivi sasa, anakaidi kwenda mahakamani kwa sababu amepewa pesa.

Labda tunapaswa kuwatisha *prosecutors* na kuwaambia kuwa wanapotupeleka kortini na tunashinda kesi, tuna haki ya kuwashtaki kwa kutupeleka mahakamani bila ushahidi. Tutatetea hali na mali yetu kwa sababu ni lazima tujue sehemu ambazo tunapunjwa mali.

Tumekuwa tukipata pesa za *National Government Constituencies Development Fund (NG-CDF)* nyakati za mwisho baada ya kupeleka pesa upande mwingine tukidhania kuwa maendeleo yatapatikana, lakini pesa hizo zinaharibika kule. Tumeambiwa kuwa pesa za *NG-CDF* zinapaswa ziende kwa *county Governments*. Nimeona faida katika muda mfupi ambao nimekuwa Bungeni. Shule za upili zilikuwa sita ndani ya Kinango na za msingi zilikuwa 58. Kwa sasa nina shule 32 za upili na 187 za msingi. Kusema kweli, haki iwe ngao na mlinzi kwa sababu sisi ndio tuliopewa majukumu haya. Ni sisi tuangalie kuona kwamba tunatumia majukumu yetu vizuri ili tujue kwamba tumekamilisha kazi zetu kwa ujumla.

Ahsante sana. Naunga mkono.

**The Temporary Speaker** (Hon. Peter Kaluma): The Hon. Charo Kazungu, Member of Parliament of Ganze.

**Hon. Kenneth Tungule** (Ganze, PAA): Ahsante sana, Mhe. Spika wa Muda.

Nami nachukua fursa hii kujiunga na wenzangu ndani ya Bunge hili katika kuunga mkono Ripoti hii ya Mhasibu-Mkuu wa Serikali. Napongeza Kamati iliyofanya kazi hii kwa sababu imefanya kazi nzuri sana. Kusema kweli, Kenya ni nchi tajiri sana kirasilimali hata kama ina matatizo mengi. Tumepitia wakati mgumu kama taifa kwa sababu ya ufujaji wa pesa za Serikali. Mara nyingi, wale walipewa nafasi kufanyia Serikali kazi wanachukua hatua za kujinufaisha hao wenyewe. Hawaangalii vile mwananchi wa kawaida anaweza kufaidika kutokana na mapato ya Serikali.

Ukiangalia miradi ambayo Serikali imeanzisha, haianzishwi kwa lengo la kumnufaisha mwananchi. Mara nyingi, inaanzishwa ili watu fulani wafaidike. Utashangaa ni kwa sababu gani miradi ya Serikali, ambayo huchukua wakati kupangwa na Serikali iliyo na watu wengi walio na masomo na ujuzi wa kutekeleza miradi, huachwa baada ya muda mfupi iwe *stalled projects* ama *abandoned projects*. Hii ni kwa sababu hii miradi ilianzishwa bila wananchi kuwa walengwa. Miradi hii ilianzishwa ili watu wapate *kick-backs* zao. Baadaye, miradi inaachwa. Ukitembea nchini utapata Serikali imepoteza pesa nyingi sana. *There has not been any value for money*. Hakukuwa na faida ya ile miradi hii nchi imefanya. Ni kwa sababu miradi imeanzishwa alafu inawachwa baada ya muda mdogo. Serikali imepoteza pesa nyingi sana. Nashukuru vile hii Ripoti ya Mkaguzi-Mkuu wa Hesabu za Serikali imeleta picha kamili ya yale yanaofanyika kule mashinani.

Kama Bunge, ni lazima tuunde mikakati ya kuhakikisha kwamba mambo kama haya hayafanyiki tena kwa sababu Wakenya wanaumia. Pengine miradi hii ingewasaidia katika maisha yao ila imeishia katikati ama kuwachwa. *Priorities* zimebadilika. Mradi wa Serikali unawachwa na watu wanafuata shughuli nyingine. Ni kutia shime ili Bunge lihakikishe kwamba tunaweka mkazo zaidi kuhakikisha kwamba wahusika ambao walipewa jukumu na Serikali hii, kuhakikisha kwamba miradi inafanyika, wafuatiliwe pia. Ni lazima wachukuliwe hatua. Haiwezekani mradi wa Serikali uanzishwe alafu uachwe katikati bila Serikali kuchukulia hatua yoyote dhidi ya watu ambao wamefanya makosa.

Hii Ripoti inagusia mambo ya madeni. Ni ukweli kabisa kwamba hii Serikali ina madeni mengi sana. Nikisema madeni namaanisha zile *pending bills*. Kuna watu wanaumia kule nje kwa sababu wametoa huduma kwa hii Serikali lakini wamekaa miaka nyingi bila kulipwa. Kuna wale ambao wamekuwa *auctioned*, wale wamefungwa kwa sababu pengine walikuwa wamekopa pesa mahali halafu hawakuweza kulipa, na kuna wale ambao biashara zao zimetatizika kiasi kikubwa. Ni kwa sababu walitoa huduma kwa Serikali na hawajalipwa. Suala hili halijatatiza *national Government* peke yake bali hata mashirika mengine ya ki-Serikali na *county Governments*.

Najua watu wawili au watatu ambao wamepoteza mali yao yote kwa sababu ya kuwa *auctioned* kwa sababu wamefanyia Serikali kazi, wamefanya *supplies*, na wamefanya *contracts*, ila hawajalipwa. Mimi ni kuomba tu Serikali iangalie kwa sababu hawa ni Wakenya na wana haki ya kufanya biashara kama Mkenya mwingine yoyote yule. Si haki mtu afanye kazi halafu akae bila kulipwa kwa miaka mitatu au minne. Wengine wamekaa hata miaka kumi wakidai hii Serikali. Hayo ni makosa hata mbele ya Mwenyezi Mungu.

Kwa Kamati inayoshughulikia mambo ya *pending bills*, naomba tupate suluhisho la kudumu na la haraka iwezekanavyo kwa sababu hii ni dhuluma kwa Wakenya. Kama sote tunapania uchumi wa Kenya ukue, ni lazima pia tusaidie wale wanaoshughulika kwa njia kubwa kuhakikisha uchumi wa Kenya unakua. Biashara peke yake ndiyo itakuza huu uchumi. Kama Serikali inadhulumu wanabiashara, sioni ni kwa njia gani tunaweza kusimama hapa ndani ya Bunge na tuseme uchumi wa Kenya unakua ilhali wananchi wanaumia kule kwingine.



Tumetangulia kwa kusema kwamba ufisadi uko hali ya juu katika idara za Serikali. Hayo ni mambo ambayo hii Ripoti ya Mkaguzi-Mkuu imeangazia. Ni kweli ufisadi uko kila mahali. Kupata huduma kwa kila *department ya county government*, ni lazima utoe kitu kidogo na mambo kama haya.

*Project* za Serikali zinakuwa *inflated* kwa bei zisizo zake ili watu wafaidike. Kitu ambacho pengine tumeona hakijatiliwa mkazo ambacho hii Ripoti pia imetaja ni mambo ya *internal controls* ambapo *internal auditors* hawapewi nafasi ya kufanya kazi yao katika hii Serikali. Najua *external auditors* hawatakuwa na kazi ngumu *internal controls* zikiwa sawa. Hii ni kwa sababu iwapo ufisadi wowote unafanyika, *internal audit department* ina uwezo wa *kuflyag out* ama kuona na kurekebisha. Ni lazima tuhakikishe kuwa *internal audit departments* zinakuwa *empowered* vizuri kama tunataka kumaliza ufisadi ndani ya idara za Serikali na ndani ya Serikali yetu yote. Tukifanya hivyo, nina hakika hata *external auditor* atakuwa na kazi rahisi kwa sababu ripoti za *internal audits already* zitamwambia matatizo yaliyoko. Inakuwa haraka kwake kufanya kazi yake na mambo yanakuwa rahisi.

Nataka kukomea hapo nikisema ninaunga mkono hii Ripoti. Naipongeza Kamati iliyohusika kufanya kazi iliyo kuntu kabisa.

Ahsanteni sana.

**The Temporary Speaker** (Hon. Peter Kaluma): Hon. (Dr) Makali Mulu.

**Hon. (Dr) Makali Mulu** (Kitui Central, WDM): Thank you very much, Hon. Temporary Speaker.

I want to start by thanking Hon. Mbadi and his Committee for bringing this Report. I was here when he was moving the Report. I listened to the cross-cutting issues. I am sure you are very much aware that you, Hon. Mbadi, Hon. Wangwe and I, have been here for a long time. I was trying to compare what we are hearing with what we have been hearing when we get these reports presented. It is very frustrating. As a House, we need to consider the fact that almost 80 per cent of all those cross-cutting issues have been captured in all the past reports. The question is whether we are just doing this for the sake of doing it. Is this House acting in vain?

If you look at the papers for the last two weeks, you will realise that the Auditor-General has been coming out very strongly to indicate areas where public resources are being misappropriated or misdirected. Even as this Committee does this excellent job, we need to think about how we implement these important recommendations to save this country from this kind of waste. I am sure that most Kenyans agree with me that we will have no reason to borrow in this country if we spend our resources prudently. Our problem is wastage. There is so much wastage as those who engage in that wastage just move around scot-free.

For example, when you look at the Report, it says that we have accounting officers or chief accountants who cannot keep books of accounts. These are just simple records of accounts. A chief accountant is somebody who has a CPA (K) in this country. I believe those are some of the people who have CPA (K) on paper but, in reality, they have not earned the papers. That is why the Public Service Commission said that this country has a lot of people with fake degrees and fake academic papers. Time has come where we will have no choice but to sack somebody who we have given a mandate to be in charge of a Ministry as the chief accounting officer or the chief accountant and they cannot prepare simple books of accounts, so that they can go home and do other things. We cannot be sitting here every other time and see Kenyans losing money. This is taxpayers' money; the money me and you are being squeezed to the last cent to contribute.

Imagine a small business man in Homa Bay Town who has been taxed – we are talking about taxation here – and after getting the tax from the old business man or an old mama and a hawker, we give the money to the Treasury and then the best an accounting officers can do is what we are seeing in this Report. They cannot keep books. We cannot continue

accommodating this. If you look at the issue of the pending bills, it is a matter we have discussed in this House many times. Our business people, entrepreneurs and people who are in the service industry go to banks to borrow millions of money and invest to produce goods and services that they sell to the Government. After they sell to the Government, it takes a year before they are paid. Yesterday's paper was saying – if you look at the Report by the Parliamentary Budget Office – that Kenya owes its own business men about Ksh796 billion in unpaid bills. These are our fathers, mothers, sisters and brothers. What is happening now is that some of them are getting sick because of high blood pressure, some are dying of stress and others are committing suicide because they cannot manage their debts and the Government is here clapping.

As a House, we need to make a firm decision to push the Executive. I agree with the Member who proposed that we borrow this money through infrastructure bonds or through another Eurobond and we pay our own people. There will be one advantage with that. The advantage is that the business men and women will engage in economic activities and spur growth in the economy because their economic activities will trigger demand and the demand will trigger production and, at the end of the day, there will be economic growth and we will collect more money from the same Kenyans. When you do not pay them, the same problem will recur and it will become a vicious cycle. We want the economy to grow and we are not empowering our people to do economic activities. What will happen is that the economy will stagnate.

The other point that is important is the public debt. When Hon. Mbadi was moving debate on this Report, he said something which is very worrying. Some Ministries, Departments and Agencies went out there to sign and contract loans, and got the loans committed. For the last five to ten years, they have not drawn a single cent on those loans. What is the Government doing? The Government is paying commitment fee. If my memory serves me right, in our last Report as the Public Debt and Privatisation Committee, the last figures showed that for the last six months of last year, the Government had paid Ksh580 million as commitment fee. Can you imagine how many classrooms and dispensaries can be constructed using that money? We are paying that money because somebody somewhere sat and signed for a loan that was not properly appraised and that loan is now being committed. We are paying for a loan we are not using. Why should such an accounting officer be in office? Why should we pay salary to such a person? These are the major issues. Even as Hon. Mbadi tables this good Report with very clear recommendations, we need to decide as a House. If our Committee on Implementation could be working excellently – we need to strengthen that Committee – these are some of the recommendations that it should take and run with. We will save this country so much resources that there will be no need to float a Eurobond. We will get enough money to sort out our people.

There are situations where we borrow loans, but there is a problem in their application. I want to give a very good example. When the current Eurobond was taken, Hon. Wangwe, Hon. Mbadi and I were here in 2014. All along, the Auditor-General has been saying that she was not sure where that money was applied. You can see it now. We do not need any evidence. We borrowed that money 10 years ago. If we had invested it in a productive activity, the loan would be repaying itself. We have now gone out to Eurobond again to take another one to pay back the one of 2014. What does it mean? The money was not used in any economic activity, so that it could support repayment of the loan. You do not borrow to consume but to invest. Anybody who goes out there to borrow must invest. We should hold people responsible. If you go out and commit Kenya to a loan which is not used for investment, you should pay it alone. In that case, accounting officers will be more serious in terms of prudent management of public resources. This country will go to where it should be.

Kenya should not be a low middle-income country with the resources we have and resilience of our economy. It should be a middle level income country generating enough resources and possibly giving loans to other countries. However, we are not there because of the same reason. At times, you become annoyed after listening to presentations on some of these reports. You ask yourself whether you are worth being in this country. We pride ourselves to have the best brains.

Hon. Temporary Speaker, you know that because when it comes to legal matters, you are one of those top brains in this country. We have top economists, engineers and accountants. Despite all these top brains sitting in offices, look at where we are.

Hon. Mbadi has told us that we have not been doing anything for the last 10 years. We will continue generating these reports. We know who he is. We saw what he was able to do as Leader of the Minority Party. I urge him, in consultation with Hon. Speaker of this House and anybody who matters, to implement this Report and see heads rolling. Once this happens, Kenyans will have trust in this House. They will know that we are doing a good job for this country.

**The Temporary Speaker** (Hon. Peter Kaluma): Hon. Makali, you need more minutes. You have earned three more minutes.

**Hon (Dr) Makali Mulu** (Kitui Central, WDM): Thank you very much, Hon. Temporary Speaker. Let us push for the implementation of this Report. For example, there is the issue of variation of contracts. When Hon (Dr) Oundo was seconding the Motion, he said they witnessed a situation where, because the law requires you to only vary a contract by 25 per cent, many people have gone to an extent of varying contracts by 24.96 cent. In such a situation, what evidence do you need to take such crooks to court because they are just manipulating figures, so that they take away the money?

If we do not address corruption in this country, it will eat all of us. It will be a ghost that will swallow all of us and we will remain with no country. I urge our colleagues in the Kenya Kwanza Coalition, and we have said many times that this is not the time to talk. We have heard enough stories on eradication of corruption. We want action. We want to see heads rolling and jailing of accounting officers, principal secretaries and chief accountants. At the end of the day, everybody will be like in the Bible, "*Kila mtu atabeba msalaba wake.*"

If we go in that direction, we will help this country. The oversight committees like Public Accounts Committee (PAC) and Public Investments Committee (PIC) do excellent jobs. How I wish we can implement these reports. How I wish we, as Kenyans, can gang up and say those who have been picked out in these reports for being responsible for the mistakes must leave office. We need to introduce this. There is the issue of stepping aside for us to carry out investigations and then you come back, if you are clean. That is a part we need to push harder. If you are mentioned in a Report like this one, you must step aside and earn 50 per cent of your salary. Once you are cleared, you come back. If you are not cleared, you are taken to court. Kenyans will see the need for being straightforward and having a high-level of integrity. So, at the end of the day, we can build this country for future generations.

Hon. Temporary Speaker, with those many remarks, I support this Report. My plea is that we move to the next level of implementing recommendations.

Thank you for the extra time.

**Hon. Temporary Speaker** (Hon. Peter Kaluma): Thank you, Hon. (Dr) Makali Mulu for sharing your deep expertise on matters finance and integrity.

Hon. Liza Chelule, Member for Nakuru County.

**Hon. Liza Chelule** (Nakuru County, UDA): Ahsante sana, Mhe. Spika wa Muda, kwa kunipatia nafasi hii nichangie Ripoti ambayo imeletwa kwenye Bunge la Taifa na Mwenyeketi wa Kamati ambayo imesimamia ukaguzi wa pesa. Nimesikiliza kwa makini sana akitoa Ripoti

yake ambayo imechukua karibu masaa mawili. Ametuelezea mambo ambayo yamefungua macho ya wananchi.

Ingawa Mwenyekiti ametumia lugha ya Kizungu, ningependa sana kama angetumia lugha yetu ya Kiswahili, ili kila mtu kule nyumbani aelewe. Nachukua nafasi hii kupongeza Waheshimiwa wenzangu ambao wameketi nyuma yangu kwa kuchangia Ripoti hii kwa lugha ya Kiswahili. Hii ni kwa sababu Wakenya ambao wanatupigia kura ndio wanaangalia miradi ya Serikali kama shule, hospitali, ofisi ya chifu, maji ama barabara.

Ufisadi unaumiza nchi na wanaoumia sana in watoto na akina mama wetu. Kwa nini nimewataja akina mama? Hii ni kwa sababu, kama hospitali inafaa kujengwe ama madawa yanatakikana na kandarasi hiyo ipatiwe mtu mfisadi, haitajengwa na madawa yatakosa. Watakaoumia sana ni watoto na wamama.

Katika Katiba yetu wamama, vijana na walemavu wamepatiwa nafasi ya kupewe kandarasi za Serikali. Lakini hawapewi kwa sababu ya mawazo, vitendo na tabia za wale hupeana hizo kandarasi inaonyesha hawana haja na watu. Vijana wakipatiwa kandarasi wanaenda kwa benki kuchukua *loan* ndio waweze kuifanya ile kazi lakini wakimaliza, hawalipwi. Watalipa ile *loan* na nini? Hii imefanya vijana wetu wakose imani na kandarasi za Serikali yetu. Ndio maana umaskini uko juu, kwa sababu ya ufisadi katika taifa letu.

Idadi ya watu walio wengi hapa nchini ni akina mama na vijana. Ufisadi unaumiza nchi na nina imani kwamba Serikali ya Kenya Kwanza itatatua shida hii. Hii ni kwa sababu Rais wetu amekua akisema kwamba tutamaliza ufisadi. Ninamwamini kwa sababu amejipanga na ataweka mikakati ya kuhakikisha kwamba ufisadi umemalizwa katika nchi yetu. Ufisadi ni ugonjwa mbaya sana ambao umekaa hapa nchini kwa muda mrefu sana. Mpaka wakati mwingine ukionekana hujajipanga kuiba ni kama hujui chochote na wewe ni mjinga.

Ningependa kumshukuru sana Mwenyekiti, Bw. Mbadi, na wanakamati wake kwa uchunguzi ambao wamefanya. Ripoti waliyoleta hapa Bungeni ni kubwa sana na tutaisoma kwa makini. Tunataka tupekue na tuangalie kwa umakini. Na amefikisha hiyo taarifa wakati Wabunge wamekua wachache kidogo. Lakini nina wazo kwamba pengine taarifa hii itaongelewa wiki ijayo kwa sababu hii taarifa imefungua macho yetu kama viongozi na pia imefungua macho ya wananchi wa Kenya.

Nataka kusema hivi kwa wananchi ambao wananisikiliza na hasa wale wa Nakuru. Kama kuna kandarasi mahali fulani, ni jukumu la mwananchi wa nchi hii kuiangalia. Hawatafikani kuomba ruhusa kwa mtu yeyote. Kama ni barabara, waulize ni nani anatengeneza na ni pesa ngapi iliwekwa. Kama ni kujenga hospitali, waulize ni nani amepatiwa kandarasi na pesa ngapi ziliwekwa. Ni jukumu la mwananchi kuangalia kila mmoja ambaye alichaguliwa kutoka juu mpaka chini. Ni kazi ya wananchi. Na hiki ndicho kitu wananchi wa Kenya hawajui.

Tungependa kuchukua nafasi hii tena kuomba Serikali yetu kwamba siku za usoni, ipange vile tutaelimisha wananchi wa Kenya mambo ya Katiba kwa sababu ilipokuwa ikitengenezwa miaka kumi iliyopita, ilikuwa ikisemekana kuwa wananchi wa Kenya watafunzwa jinzi ya kutumia hiyo Katiba. Unaweza fikiria kwamba mambo yanafanyika vizuri hapo nyumbani lakini shule haijajengwa vizuri na wazazi wanaona na hawajui pia ni jukumu lao. Mambo yataharibika hapo na sisi sote tutaumia. Kwa hivyo, hii tarifa imetufungua macho. Imenifungua macho kama kiongozi kutoka Nakuru na ninapongea sasa, ninapitisha taarifa kuwa wananchi wa Kenya wajue pia ufisadi ni ugonjwa mbaya sana na ndio umemaliza nchi yetu na ndiyo umetuumiza na wale wameumia sana ni akina mama.

Mhe. Spika wa Muda, ningependa kuendelea kuongea lakini kwa sababu masaa yanayoyoma, ningependa kufikisha hapo na niseme ahsante sana.

**The Temporary Speaker** (Hon. Peter Kaluma): Thank you very much. Hon. Ruweida Obo, Member of Parliament for Lamu East.

**Hon. Ruweida Mohamed** (Lamu East): Ahsante Mhe. Spika wa Muda kwa kunipatia nafasi hii nami nizungumzie kuhusu hii Ripoti. Mwanzo, nimpongeze Mhe. Mbadi kwa kutupatia sisi hii nafasi kusoma Ripoti na kufungua macho kama wengine wanavyosema. Ni hakika kwamba miradi mingi imeachwa bila kukamilika Kenya nzima. Kwangu Lamu Mashariki ni mojawapo. Katika eneo ninaloliwakilisha, kila kijiji kuna miradi ambayo haujakamilishwa. Inasikitisha sana kwa sababu mradi ule ulikuwa unajengwa kusaidia wananchi. Lakini ukijengwa na kuachwa katikati, basi ile sababu ya kujengwa haitapatikana.

Kwangu kuna Kijiji kinaitwa Mwajumali. Sisi watu wa Lamu ya Mashariki tuko kwenye visiwa na tatizo letu kubwa huwa ni mambo ya ngome. Ngome kwa lugha ya Kimombo ni *seawall*. Sasa kuna vijiji vingi vina matatizo hayo. Kijiji kimoja ni Mwajumali ambapo ngome ilipewa mwanakandarasi. Mwanakandarasi nafikiri pesa aliyopewa ni kutokana na *Equalization Fund*. Lakini mwanakandarasi alienda kujenga pahali padogo kisha akakimbia. Sasa huwa ni hasara kwa Serikali kwa sababu ya pesa ambayo imetumika. Maji bado inaingia mbele na kuvunja mpaka ambapo pesa ilitumika. Hiyo ni hasara kwa Serikali na wananchi wetu bado wanapata shida. Jambo hilo linasikitisha. Maji ikiingia, inaenda hadi kwa jiko, inabeba sufuria na inaenda nazo baharini kwa sababu mtu alipewa pesa na hakumaliza kazi. Kisha unashangaa mpaka sasa hujamwona mwanakandarasi huyo, hayuko kortini wala haujui mahali alipo. Hata ukiulizia kwa Wizara, hiyo *project*, unaambiwa haijulikani na kitu kilijengwa na dhibitisho liko kwa sababu kuna kipande nusu. Lakini itakuwa vizuri kwa Ripoti hii kuhakikisha kwamba yule ambaye alipokea pesa au kama Serikali itajenga tena, ihakikishe imejenga kwa njia ambayo itadhibitishi kile kipande kidogo kilichopo ili kisiharibike.

Mhe. Spika wa Muda, kijiji kingine ni Kizingitini. Huko kuna ngome lakini ngome ni nusu. Shule zinabebwa na maji kwa sababu ya mwanakandarasi au pesa iliyotolewa haikuwa kamili. Kwa hivyo, hii Ripoti ikipelekwa kwa Kamati ya Utekelezaji, ihakikishe imefuata hii miradi ambayo haikukamilishwa ili miradi yote iweze kukamilishwa.

Mhe. Spika wa Muda, kuna kijiji kama Faza, pia kimejengwa vya kusikitisha. Kwa nini mradi usijengwe kikamilifu ili watu wapate kusaidika? Utaona kila kijiji miradi ni nusu, na haijakamilika na wananchi wanasumbuka. Ie nusu iliojengwa haisaidii. Ikiakamilishwa ndio itasaidia. Itakuwa ni muhimu hata hii Kamati ya Utekelezaji izunguke Kenya na iangalie hiyo miradi ambayo Ripoti inaangazia kuwa haijakamilika.

Miradi ingine inafanywa kwa hadhi ambayo si sawa na jinsi ilivyo kwenye vitabu. Utasikitika kuwa pesa ya Serikali inajenga mradi na kwa miezi mitatu, huo mradi umeharibika. Kwa mfano, kwetu kuna mradi wa ngome ambao ulifanywa Mkokoni. Watu wanashangaa nazungumzia ngome sana na hawaelewi. Ngome ni *seawall* ambayo inazuia bahari isiende ikasomba kijiji ikaenda nayo. Kuna ngome ambayo imejengwa, na baada ya miezi mitatu, imeanguka. Inaonyesha pesa hapo zimefujwa. Kwa hivyo, hii Ripoti pia iangazie mambo kama hayo na Mwenyekiti yuko hapa afuatilie.

Mhe. Spika wa Muda, kuna tatizo lingine kwa walio kwenye mamlaka. Kama ni vinara wa kamati au wale wa ofisi za Serikali, miradi inaenda kwa walio wengi. Hilo ni tatizo kubwa. Sisi wa Lamu Mashariki, hata huu mgao wa National Government Constituencies Fund (NG-CDF), watu wakisikia hapa, Lamu Mashariki ndio inapata kidogo zaidi. Lakini utaona kuwa mtu ambaye yuko kwenye kamati, au kwenye nyadhifa za katibu ama waziri, pesa zinapelekwa sehemu zao. Ikipelekwa sehemu zao, sisi kule tunazidi kukaa nyuma.

Kwa mfano, ni kama upande wa utalii. Pesa zinapelekwa sehemu nyingine hadi unashangaa. Ukiangalia katika Bajeti, pesa zinaenda kwa utalii katika sehemu hakuna utalii. Ukiangalia Lamu, kuna mambo mengi yanayoweza kuvutia utalii wetu na watalii waje wengi. Lakini kwa kuwa hakuna waziri huko, basi pesa haiendi kule ili kuvuta watalii waje wengi. Sisi Lamu, tuna sehemu nyingi ambazo zinaweza kuvutia utalii. Kuna sehemu unaweza kwenda na usahau kurudi kwenu na nyingine unaweza angalia *dolphins*. Kuna sehemu Lamu pekee unaweza ukaenda asubuhi kwa bahari huko *deep sea fishing* na mchana au jioni ukaenda

kuangalia wanyama wanaogelea, na ni kweli kuna wanyama kama simba wanaogelea. Kwa vile ni lazima wavuke zile *creeks*. Kwa vile hatuna watu wetu kule, utalii kwetu hauinuki. Hii ni kwa sababu watu walioko pale wanafikiria kwao tu na sio kama Wakenya.

Ukiangalia NG-CDF, ilikuwa mwanzo ikigawanywa sawa kwa sababu maeneo mengine yalikuwa yameachwa nyuma. Mwajua, kwa historia, maeneo yalikuwa yamewachwa nyuma. Ili kuyaleta yale maeneo kuwa sawa na mengine, ilikuwa imewekwa iwe sawa ili kule nako kuinuke kuwe kama maeneo Bunge mengine. Lakini utaona watu wanatukanyaga kwa kuwa hatuko wengi. Mimi ni Mbajuni pekee yangu hapa. Lakini mimi ni Mkenya. Yafaa Wakenya wengine hapa watufikirie maana hili Bunge ndilo linatengeneza bajeti na kuangalia vitabu vya akaunti. Ikiangalia, yafaa kurekebisha lakini kwa kuwa nambari zetu ni chache, lazima tuje hapa kushukuru kwa kile tunachopata kwa *NG-CDF*. Haki ya Mungu, hamtufanyii haki. Hii ni kwa sababu pesa za Wakenya zinatumiwa zaidi katika upande wa usalama. Mnatukataza kutekeleza miradi kwetu Lamu lakini pesa hizo zinakuja Lamu katika upande wa usalama. Ukosefu wa usalama haumdhuru mkaazi wa Lamu pekee yake. Magaidi wakipita Lamu wanaweza kufika Nairobi. Mngeamua kuwa kwa sababu tunapata *NG-CDF* kidogo, basi tusukumiwe miradi mingine. Lakini huwezi kuona mradi mkubwa kwenye Ripoti isipokuwa ile ya Lamu Port-South Sudan-Ethiopia *Transport (LAPSSET) Corridor Project*.

Mradi wa LAPSSET ni wa Kenya nzima, si wetu pekee. Msihesabu pesa zilizotengewa LAPSSET. Watu wetu wanatatizika kule Lamu Mashariki, kwa sababu hakuna barabara wala ngome, lakini LAPSSET inahesabika kama ni ya Lamu. Mpaka sasa, haijamsaidia mkaazi yeyote wa Lamu. Kwa hivyo, kuna haja ya sisi kusukumiwa miradi mingine kama ujenzi wa barabara, ngome, maji na umeme. Mpaka sasa, hatujaunganishwa na Wakenya wengine. Tuko kivyetu. Kile kinachowaunganisha Wakenya ni barabara. Alhamdulillah tunashukuru kuwa Serikali hii imezindua barabara.

Kile kinachowaunganisha Wakenya ni ile *national grid*. Mpaka sasa, tunatumia majenereta kule kwetu. Sijui kama Kamati hii imezingatia kuwa yale mafuta yanayotumika katika majenereta kule Lamu Mashariki yanafanya bei ya umeme iwe ghali. Laiti mnggekubali kutenga Ksh300 milioni ili Lamu Mashariki iunganishwe kwenye *national grid*...

**Hon. John Mbadi** (Nominated, ODM): On a point of order, Hon. Temporary Speaker.

**The Temporary Speaker** (Hon. Peter Kaluma): What is out of order, Hon. John Mbadi?

**Hon. John Mbadi** (Nominated, ODM): Thank you, Hon. Temporary Speaker. I rise under Standing Order 96 which states that a Member who wishes to postpone to some future occasion further discussion of a Question which has been proposed from the Chair may claim to move "That, the debate be now adjourned."

I beg to move that Motion because the Report of the Public Accounts Committee is very important and critical. This is a voluminous Report. I moved it when there were a few Members present, but I still request that this House allows for further debate on this Motion, possibly next week on Tuesday, so that Members who are probably busy with the Budget Policy Statement can also have an opportunity to give their input.

I beg to move and request my colleague, Hon. Wangwe, to second the Motion.

**The Temporary Speaker** (Hon. Peter Kaluma): Hon. Emmanuel Wangwe.

**Hon. Emmanuel Wangwe** (Navakholo, ODM): Thank you, Hon. Temporary Speaker. I second the Motion as presented by the Chairperson of the Public Accounts Committee. This is the only Report that informs Kenyans what is happening. Therefore, let us entertain as many contributions as possible so that various divergent views can enrich the Report and help the Government of the day to correct the mistakes of yesterday.

I beg to second.

**The Temporary Speaker** (Hon. Peter Kaluma): Oversight is one of the three core functions of Parliament. Hon. Mbadi, I note that most Members of Parliament are engaged in

the consideration of the Budget Policy Statement. A Report of this magnitude should elicit comments from chairpersons of departmental committees. However, it is not my decision to make.

*(Question, that debate be now adjourned, put and agreed to)*

*(Debate adjourned)*

**The Temporary Speaker** (Hon. Peter Kaluma): Next Order.

## **BILLS**

### *Second Readings*

THE STATUTE LAW (MISCELLANEOUS AMENDMENTS) (No.2) BILL  
(National Assembly Bill No.68 of 2023)

*(Moved by Hon. Kimani Ichung'wah on 6.12.2023 – Morning Sitting)*

*(Resumption of debate interrupted on 6.12.2023 – Afternoon Sitting)*

**The Temporary Speaker** (Hon. Peter Kaluma): This is a resumption of debate. Hon. Nicholas Ng'ikor, do you want to speak on this? I have seen your request. Hon. (Dr) Makali Mulu and Hon. Emanuel Wangwe, do you want to speak on this? Is the Mover of this Motion in the House? The Leader of the Majority Party is not in. For those already stated reasons, this Order will be stepped down to the next time the House Business Committee will schedule continuation of debate.

*(Bill deferred)*

Next Order.

THE NATIONAL DISASTER RISK MANAGEMENT BILL  
(National Assembly Bill No.24 of 2023)

**The Temporary Speaker** (Hon. Peter Kaluma): Mover. Again, this is by the Leader of the Majority Party, Hon. Kimani Ichung'wah. For the reason stated, he is engaged in other parliamentary businesses outside the House. This one will be stepped down for future consideration and debate in the House.

*(Bill deferred)*

Next Order.

THE EMPLOYMENT (AMENDMENT) BILL  
(Senate Bill No.11 of 2022)

**The Temporary Speaker** (Hon. Peter Kaluma): Mover. Are we on Order No.13? The Chairperson of the Departmental Committee on Labour. Again, for matters relating to the

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Budget Policy Statement, he is absent from the House. This will also be stepped down for future consideration.

*(Bill deferred)*

Next Order.

THE NATURAL RESOURCES (BENEFIT SHARING) BILL  
(Senate Bill No.6 of 2022)

**The Temporary Speaker** (Hon. Peter Kaluma): The Chairperson of the Departmental Committee of Environment, Forestry and Mining. This is Hon. David Gikaria. He is not in the House. I know he is also somewhere on other parliamentary engagements relating to matters of the agencies under the Committee's charge. That will also be stepped down for future consideration.

*(Bill deferred)*

Next Order.

THE PETITIONS TO PARLIAMENT PROCEDURE) (AMENDMENT) BILL  
(National Assembly Bill No.51 of 2022)

**The Temporary Speaker** (Hon. Peter Kaluma): This is to be moved by the Deputy Speaker who is the Chairperson of the Procedure and House Rules Committee. For reasons known to the House and due to those other engagements, the Deputy Speaker is not before the House to move this Order. It will be stepped down to a future occasion that the House Business Committee will schedule.

*(Bill deferred)*

Next Order.

THE REGIONAL DEVELOPMENT AUTHORITIES BILL  
(National Assembly Bill No.7 of 2023)

**The Temporary Speaker** (Hon. Peter Kaluma): For reasons known to the House, the Mover, who is the Chairperson, Departmental Committee on Regional Development is not there due to matters of oversight and consideration of the Budget Policy Statement which is scheduled, and is strictly guided by the Constitution and the laws. That Order would be stepped down to a future date. The House Business Committee will schedule it for consideration by the House.

*(Bill deferred)*

Next Order. Mover, the Chairperson, Public Investments Committee on Social Service, Administration and Agriculture, Hon. Emmanuel Wangwe.



## MOTION

### ADOPTION OF REPORT ON NON-COMPLIANT STATE CORPORATIONS

**Hon. Emmanuel Wangwe** (Navakholo, ODM): Hon. Temporary Speaker, I beg to move the following Motion:

THAT, this House adopts the Report of the Public Investments Committee on Social Services, Administration and Agriculture on its consideration of the Report of the Auditor-General on 23 non-compliant State corporations.

**The Temporary Speaker** (Hon. Peter Kaluma): Hon. Wangwe, I am being reminded that you have an hour to speak. I think they are taking you to the range of the late Hon. Martin Shikuku and, therefore, take all your time.

**Hon. Emmanuel Wangwe** (Navakholo, ODM): Hon. Temporary Speaker, immediately after our Committee was constituted, we were handed over a list of 109 parastatals to consider and examine the accounts and financial statements for the various years to synthesise and see how compliant the various parastatals were. We came across 23 parastatals which did not comply with the statutes as it is supposed to be.

Hon. Temporary Speaker, as a lawyer, you know that an organisation can be incorporated as a State corporation from three perspectives, namely, Parliament, Executive Order and legal notice. The 23 State corporations had various challenges; including that they still operate under the control of the parent ministries or State departments as directorates. Despite them having a life of their own, they still operate under State departments. Despite the parastatals being on their own, the budgets of some of the State corporations are still managed by the parent ministries or even other State corporations. The other challenge that we encountered, and would want to report to the House, is that some of the State corporations were never operationalised even after their establishing Acts were assented to, and their commencement date realised.

Some of the entities operated under the control and management of other State corporations. Article 226 of the Constitution, for the purpose of the House, puts us in three perspectives. It orders that: "An Act of Parliament shall provide for—

1. The keeping of financial records and the auditing of the accounts of all Government and other public entities and prescribe other measures for securing sufficient and transparent physical management.
2. The designation of an accounting officer in every public entity at the national and county level of government".

Section 2 of the Article lets us know that the accounting officer of a national public entity is accountable to the National Assembly for its financial management. It provides that the accounting officer of a county public entity is accountable to the county assembly for its fiscal management. Section 3 provides that the accounts of the Government and State organs shall be audited by the Auditor-General. That being the case, we read it together with the Public Finance Management Act, 2012, especially Section 68(1), which provides that an accounting officer of a national Government entity, the Parliamentary Service Commission and the Judiciary shall be accountable to the National Assembly for ensuring that the resources of the respective entity for which he or she is the accounting officer are used in a way that is lawful, authorised, effective, efficient, economical and transparent. Section 68(2)(b)(c) and (k) of the Act states that in the performance of a function under Section 68(1), an accounting officer shall ensure that the entity gives financial and accounting records that comply with the Act, ensure that all financial and accounting records the entity keeps in any form, including in electronic form, are adequately protected and backed up and the accounting officer shall prepare annual financial statements for each financial year within three months after the end of a financial

year, and submit them to the Auditor-General for audit. In the case of a national Government entity, the accounting officer shall forward a copy of the financial statement to the National Assembly.

In this Report, the Committee makes policy recommendations and, at the same time, recommends specific actions against specific officers. It recommends further investigations of certain matters by competent investigative agencies such as EACC and DCI. Reference to the PFM Act, the Constitution and the Public Audit Act in respect of those 23 parastatals is because all of them did not comply. Even though they were created and are in existence, they did not file financial reports to the Auditor-General. They were never audited. They received resources from the Exchequer, but the resources were never utilised by themselves. That is the reason why I am highlighting the clauses in earnest so that Members can be alive to that fact.

The first Report of the Public Investments Committee on Social Services, Administration and Agriculture contains examination of 23 non-compliant State corporations. In its examination and scrutiny of evidence adduced by the accounting officers of the various State corporations, the primary approach of the Committee was to understand the background information as to why particular course of financial or management actions were or were not taken. This was done under relevant laws, including the Constitution, the PFM Act, the Regulations, the Public Audit Act, 2015, the State Corporations Act, 1986 and the Public Procurement and Asset Disposal Act, 2015.

In considering the audit accounts of State corporations, the Committee was guided by the Constitution of Kenya, statutes and declarations. There are numerous statutes which we have referred to. We made general observations and recommendations which cut across all the 23 State corporations. I may cite a few in the interest of time. In the consideration of the management submissions of the various State corporations, the Committee noted cross-cutting matters. The Committee was guided by Article 95 of the Constitution on the role of the National Assembly as well as its mandate under the National Assembly Standing Order 206(b) and strategic objectives that each of the State corporations is expected to achieve. The Committee was further guided by Section 15(2) of the State Corporations Act, 1986 which states that the Chief Executive Officer of a State corporation may be summoned by the Public Investments Committee to answer, on behalf of the board, any question arising from a report, including a special report of the Auditor-General concerning the State corporation.

Hon. Temporary Speaker, cross-cutting issues were lack of autonomy in budgeting, appropriations and budgetary controls. The Committee observed that Article 226(1)(b) of the Constitution and Section 67(3) of the Public Finance Management Act (PFM) of 2012 provide that the Cabinet Secretary for the National Treasury shall ensure that there is an accounting officer in each national Government entity. Most of the 23 State agencies did not have a designated accounting officer against that rule of the Constitution.

Firstly, the operating State corporations have been receiving funds as itemised in the budgets in the line ministries rather than receiving grants directly. The entities lack the autonomy to control their budgets as payments are made by the line ministries as and when a need arises. That is not accounting. Having gone through the PSC Report, the position an accounting officer takes in any organisation is very vital and goes to the root of running the organisation.

Secondly, we noted lack of accountability of public funds and a failure to prepare and submit financial statements to the Auditor-General for audit. Whereas the establishing Acts provide that an entity shall present the financial books of accounts to the auditor for audit, those organisations did not have any statement to present to the Auditor-General. Therefore, we found it necessary that we report to the House that those parastatals have erred in law and we have all the reasons to present them as non-compliant.

The Committee noted with concern that all the corporations listed below, and which I would want to read, failed to prepare and submit financial statements to the Auditor- General for audit:

1. Clinical Officers Council;
2. Counsellors and Psychologists Board;
3. Physiotherapists Council of Kenya;
4. Public Health Officers and Technicians Council;
5. Kenya Health Human Resource Advisory Council;
6. Kenya Health Professionals Oversight Authority;
7. Tobacco Control Board;
8. Kenya Nutritionists and Dieticians Institute;
9. Kenya Consumers Protection Advisory Committee;
10. Estate Agency Registration Board;
11. Kenya Fish Marketing Authority;
12. Kenya Fishing Industry Co-operation;
13. Valuers Registration Board;
14. National Heroes Council;
15. Animal Technicians Council;
16. Health Records and Information Managers Board;
17. Kenya National Commission on Culture and Social Services;
18. Refugees Appeal Board;
19. Universal Services Fund Advisory Council;
20. Media Complaints Commission;
21. Mathari National Teaching and Referral Hospital;
22. Agriculture Information Resource Centre; and,
23. Kenya Sports Authority.

Hon. Temporary Speaker, the above are the parastatals that failed to comply with the relevant regulations, laws and the Constitution of Kenya.

Thirdly, there was failure to prepare and submit statements for unspent money repaid into the national Exchequer account. This is a requirement that you need to prepare and submit a statement of unspent money. You do not just draw funds from the Exchequer and keep change. This is not somebody's pocket money. That was happening with those organisations and that is why we put them under that category.

The next issue that we picked was the failure by the parent ministries to operationalise the State corporations. Those are corporations born out of existing ministries. Just as it is cultural that a parent settles his sons or daughters wherever they are, it is their responsibility to operationalise those corporations. The parent ministries failed to operationalise the State corporations. We have recommended that the relevant cabinet secretaries be reprimanded for failing on their duties to help the young corporations take off.

The other issue is on State corporations established through Executive Orders, but lack clear mandate. We noted that whereas the Executive Orders established some of them, they did not have very clear mandate in terms of their role and what they are supposed to do. For instance, the Cabinet Secretary for the Ministry of Mining, the Blue Economy and Maritime Affairs failed to operationalise the Kenya Fish Marketing Authority and the Kenya Fishing Industries Corporation. However, the Fisheries Management and Development Act, 2016 that established the Kenya Fish Marketing Authority was declared invalid for want of public participation by the court in a judgment delivered on 15<sup>th</sup> November 2022. Despite the claims of stay order, the Authority did not avail before the Committee any court evidence or ruling of stay of the said judgement. This was part of the observations that we picked.

The Ministry of Agriculture and Livestock Development failed to operationalise the Animal Technicians Council and Agriculture Information Resource Centre. The various ministries, as discussed herein above, have all their claims on this.

There are also State Corporations that lack substantive accounting officers. As I had said earlier, the epicentre of any organisation is the accounting officer in both receiving and expending the resources, and in terms of documentation. Section 67 (3) of the Public Finance Management (PFM) Act, 2012, provides that:

“The Cabinet Secretary shall ensure that, at any time, there is an accounting officer in each national Government entity”.

The Act talks about the cabinet secretary which simply refers to the Cabinet Secretary for the National Treasury, but not just any other. That is why we will hold him accountable. We will hold him purely to have been in charge of this because he failed to do what is provided by the PFM Act.

There was also failure by the State corporations to keep financial and accounting records that comply with the PFM Act. As I had said earlier, the main issues that are in this Report are on reporting. That is because they got the resources, but they did not have anywhere to report. They were expended by word of mouth. We cannot tell how they were expended, in terms of the law. All the principal secretaries appeared before the Committee and explained. However, the documentation does not hold water in terms of what they are supposed to do, once a corporation is established. In the 11<sup>th</sup> Parliament, the Leader of the Majority Party cautioned the various cabinet secretaries and principal secretaries not to enact various laws in their boardrooms. The law can only be made in this House, but not any other place.

There are various recommendations which we put down, after what we observed. For instance, there are various organisations whose recommendation touch on the core. For instance, we propose that within three months after tabling and adoption of this Report, the cabinet secretary and accounting officer of the...

**The Temporary Speaker** (Hon. Peter Kaluma): Order, Hon Wangwe. That part of the Report requires a firm beginning, but not a rush. When the House resumes debate on the Motion, you will have 40 minutes.

## ADJOURNMENT

**The Temporary Speaker** (Hon. Peter Kaluma): Hon. Members, the time being 7.00 p.m., this House stands adjourned until Tuesday, 27<sup>th</sup> February 2024, at 2.30 p.m.

The House rose at 7.00 p.m.

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