

**PARLIAMENT OF KENYA**  
**THE NATIONAL ASSEMBLY**

**THE HANSARD**

Wednesday, 5<sup>th</sup> August 2020

The House met at 2.30 p.m.

*[The Deputy Speaker (Hon. Moses Cheboi) in the Chair]*

**PRAYERS**

**Hon. Deputy Speaker:** Hon. Members, we have the required quorum. Therefore, business will begin.

**MESSAGE**

**Hon. Deputy Speaker:** Hon. Members I have a communication to make regarding proposals to amend sections of the Civil Procedure Act.

Just a minute, Hon. Members. Let me confirm something.

**PASSAGE OF BILLS**

**Hon. Deputy Speaker:** Hon. Members, I will start with a Message from the Senate regarding passage of the County Tourism Bill (Senate Bill No.5 of 2019); The Care & Protection of Child Parents Bill (Senate Bill No.11 of 2019); and the Independent Electoral and Boundaries Commission (Amendment)(No.3) Bill (National Assembly Bill No.35 of 2019)

Hon. Members, Pursuant to the provisions of Standing Order 41, I wish to report to the House that I have received Messages from the Senate regarding its decision on the following Bills:

- (i) The County Tourism Bill (Senate Bill No.5 of 2019);
- (ii) The Care & Protection of Child Parents Bill (Senate Bill No.11 of 2019); and
- (iii) The Independent Electoral & Boundaries Commission (Amendment) (No.3) Bill (National Assembly Bill No.35 of 2019).

Hon. Members, the First Message is in respect of the passage of the County Tourism Bill (Senate Bill No.5 of 2019) by the Senate on July 23, 2020.

The Bill, which was published vide the Kenya Gazette Supplement No.50 of 15<sup>th</sup> April 2019, seeks to provide for, inter alia, “the development, management, marketing and promotion of local tourism by county governments; and the regulation of sustainable local tourism and related activities and services.”

Hon. Members, the Second Message relates to the Care & Protection of Child Parents Bill (Senate Bill No.11 of 2019). The Bill was published vide Kenya Gazette Supplement No.81 of 11<sup>th</sup> June 2019 to, among other things, “provide for a framework for the care and protection of

child parents within counties and to provide a framework through which an expectant child or child parent may actualise their right to basic education and the care of their children.

Hon. Members, the Third and last Message relates to the passage of the Independent Electoral and Boundaries Commission (Amendment) (No.3) Bill (National Assembly Bill No.35 of 2019). You will recall that this was passed by the National Assembly on 19<sup>th</sup> September 2019 and sought to, inter alia, establish a Selection Panel to oversee the filling of vacant positions in the Independent Electoral and Boundaries Commission. The Senate has proposed an amendment to Clause 2 of the Bill to, among other things, reduce the composition of the Selection Panel from the proposed 11 to seven members and to further provide for the qualification of a member of the Selection Panel.

Hon. Members, the Messages convey in part “that the Senate considered and passed the said Bills with amendments on Thursday, 23<sup>rd</sup> July, 2020 and now seeks the concurrence of the National Assembly in accordance with the provisions of Article 112(1)(b) of the Constitution.”

Hon. Members, Standing Order 143(1)(a) requires the Speaker to cause a Bill received from the Senate to be read a First Time upon conveyance of its Message. Accordingly, I direct that the County Tourism Bill (Senate Bill No.5 of 2019) and the Care & Protection of Child Parents Bill (Senate Bill No.11 of 2019) be scheduled for a First Reading during the next sitting of the House. Further, paragraph (2) of Standing Order 143 provides that –

143(3) “Following First Reading, the Speaker shall, within reasonable time, pronounce his or her opinion contemplated under Article 114(2) of the Constitution.”

Hon. Members, the opinion contemplated under Standing Order 143(2) is a pronouncement, by the Speaker, on whether a Bill originating in the Senate is a ‘Money Bill’ in terms of Article 114 of the Constitution. In this regard, I direct that, after First Reading, the two (2) Bills be referred to the Parliamentary Budget Office to offer the Speaker the advice envisaged under Standing Order 143(2). Thereafter, I shall guide the House accordingly on how to proceed with the consideration of each of the two Bills.

Hon. Members, with regard to the Independent Electoral & Boundaries Commission (Amendment) (No.3) Bill (National Assembly Bill No.35 of 2019), I direct the Clerk to circulate the amendments to all Members in accordance with Standing Order 145. Further, the Senate amendments on the Bill are hereby committed to the Departmental Committee on Justice & Legal Affairs for consideration. The Committee is expected to submit its report before the amendments are considered by the House. For the avoidance of doubt, the House is reminded that the National Assembly will only consider the amendments made by the Senate to the Bill and not any other part of the Bill.

I thank you.  
Next Order!

## PETITION

### PROPOSAL TO AMEND SECTIONS OF THE CIVIL PROCEDURE ACT AND THE LAW OF SUCCESSION ACT

**Hon. Deputy Speaker:** Order, Hon. Members! I gave you sufficient time to organise yourselves.

Hon. Members, Standing Order 225(2)(b) requires the Speaker to report to the House any Petition, other than those presented by a Member. I, therefore, wish to report to the House that my

Office has received a Petition from Messrs Ephantus Nyaga Nyaga, Francis Nyaga Njeru, Elias Ileri and Isaiah Njeru Njeru of P.O. Box 56 Runyenjes calling for amendment to section 2 of the Civil Procedure Act and section 3 of the Law of Succession Act to allow a court to, within six months, appoint an administrator or legal representative where a party to a suit is deceased.

In their Petition, Hon. Members, the petitioners argue that the current legal framework does not permit a person/a party to represent the estate of a deceased person unless he or she has received a grant of letters of administration whose timeline is currently not specified. The petitioners aver that this situation stalls progress on property disputes before courts following demise of the owner or administrator of an estate who is party to the case. Consequently, civil cases involving the deceased person's property drag in courts perpetually after the sued or suing party fail to replace the deceased as legal administrator or fail to pursue legal remedy in the appointment of an administrator.

Further, Hon. Members, the petitioners reveal that they are themselves victims of the aforementioned laws and are additionally aware of numerous families that are affected by the said legal bottlenecks.

It is on this premise, Hon. Members, that the petitioners seek the intervention of this August House in amending the Civil Procedure Act and the Law of Succession Act to allow a court to, within six months, appoint an administrator or legal representative where a party to a suit is deceased.

Hon. Members, pursuant to the provisions of Standing Order 227, this Petition, therefore, stands committed to the Departmental Committee on Justice and Legal Affairs. The Committee is requested to consider the Petition and report its findings to the House and to the petitioners in accordance with Standing Order 227(2).

I thank you.

### PAPERS LAID

**Hon. Amos Kimunya** (Kipipiri, JP): Hon. Speaker, I beg to lay the following Papers on the Table of the House:

Legal Notice No.111 of 2020 relating to the Tax Procedures (Tax Agents) Regulations, 2020 and the Explanatory Memorandum from the National Treasury.

Legal Notice No.112 of 2020 relating to the Tax Procedures (Unassembled Motorcycles) Regulations, 2020 the Explanatory Memorandum from the National Treasury.

Legal Notice No.113 of 2020 relating to the Excise Duty Regulations, 2020 and the Explanatory Memorandum from the National Treasury.

Legal Notice No.115 of 2020 relating to the Retirement Benefits (Forms and Fees) (Amendment) Regulations, 2020 and the Explanatory Memorandum from the National Treasury.

Legal Notice No.118 of 2020 relating to the Crops (Horticultural Crops) Regulations, 2020 and the Explanatory Memorandum from the Ministry of Agriculture, Livestock, Fisheries and Cooperatives.

Legal Notice No.120 of 2020 relating to the Crops (Fibre Crops) Regulations, 2020 and the Explanatory Memorandum from the Ministry of Agriculture, Livestock, Fisheries and Cooperatives.

Legal Notice No.123 of 2020 relating to the Tax Procedures (Settlement of Tax Disputes out of Court or Tribunal) Regulations, 2020 and the Explanatory Memorandum from the National Treasury.

Legal Notice No.124 of 2020 relating to the Petroleum Development Levy Order, 2020 and the Explanatory memorandum from the National Treasury.

Annual Report and Financial Statements of the Kenya Bankers Association for the year ended 31<sup>st</sup> December, 2019.

Thank you, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** Very well. Let us go to the Chairperson Committee on Implementation. You had a paper to lay, Hon. Kenta but I cannot see you. Can you press the intervention slot? Yes, I see you now.

**Hon. Richard ole Kenta** (Narok North, ODM): Hon. Deputy Speaker, I beg to lay the following Paper on the Table of the House.

Report on the Petition to reconsider House resolution regarding Implementation Status of the Report on the Crisis Facing the Sugar Industry in Kenya.

Thank you, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** Very well. Let us move on to the next Order.

### QUESTION BY PRIVATE NOTICE

#### *Question No.17 of 2020*

#### NUMBER OF ICU BEDS IN THE COUNTRY

**Hon. Patrick Makau** (Mavoko, WDM-K): Hon. Deputy Speaker, I rise to ask the Cabinet Secretary for Health the following Question by Private Notice.

- (i) Could the Cabinet Secretary provide how many negative pressure Intensive Care Unit (ICU) beds there are in the country and specifically confirm whether there are any such facilities in county hospitals other than Kenyatta National Hospital?
- (ii) Could the Cabinet Secretary provide details on the number of medical personnel and other patients who have been infected with COVID-19 due to lack of the negative pressure ICU beds?
- (iii) Could the Cabinet Secretary further provide details on whether all hospitals have proper oxygen regulators to support the available ventilators and in particular explain whether majority of deaths as a result of COVID-19 are caused by lack of oxygen regulators?

Hon. Deputy Speaker, maybe to explain to you...

**Hon. Deputy Speaker:** No, you will not do that now. You will be given an opportunity to explain in the Committee.

**Hon. Patrick Makau** (Mavoko, WDM-K): Thank you, Hon. Deputy Speaker. I stand guided.

**Hon. Deputy Speaker:** The Question is referred to the Departmental Committee on Health. Since it is a matter that is urgent, they should respond in due time. Member for Mavoko, you will have your opportunity to canvas all the issues that you have and follow up on the explanations.

We now go to the Ordinary Questions. We will start with the Member for Loima, Hon. Jeremiah Ekamais Lomorukai.

## ORDINARY QUESTIONS

*Question No.081/2020*

## STATUS OF CENSUS RESULTS IN LOIMA

**Hon. Jeremiah Lomorukai** (Loima, ODM): Hon. Deputy Speaker, I rise to ask the Cabinet Secretary for National Treasury and National Planning the following Question:

- (i) Could the Cabinet Secretary explain the method used by the Kenya National Bureau of Statistics (KNBS) in Turkana County, and specifically in Loima Constituency, during the 2019 National Population and Housing Census exercise which recorded a 12 percent drop in the population from the population recorded during the 2019 Census despite the area having...

**Hon. Deputy Speaker:** It is 2009.

**Hon. Jeremiah Lomorukai** (Loima, ODM): I think it was an error.

- (ii) Could the Cabinet Secretary explain the method used by the Kenya National Bureau of Statistics (KNBS) in Turkana County, and specifically in Loima Constituency, during the 2019 National Population and Housing Census exercise which recorded a 12 percent drop in the population from the population recorded during the 2009 Census despite the area having recorded a fertility rate of 6.9 per cent and a growth rate of 3.35...

**Hon. Deputy Speaker:** I really want you to be clear on this one, Hon. Ekamais, because it reads: “explaining the reason why the population dropped with regard to the population recorded in 2009.” Remember that there was the census of 2009 and then the one of 2019.

**Hon. Jeremiah Lomorukai** (Loima, ODM): Thank you, Hon. Deputy Speaker for that correction.

- (i) Could the Cabinet Secretary explain the method used by the Kenya National Bureau of Statistics (KNBS) in Turkana County, and specifically in Loima Constituency, during the 2019 National Population and Housing Census exercise which recorded a 12 per cent drop in the population from the population recorded during the 2009 Census despite the area having a recorded a fertility rate of 6.9 per cent and a growth rate of 3.35 on average, which is higher than the national average of 5.9 per cent and 2.9 per cent respectively?
- (ii) Could the Cabinet Secretary explain why the pre-census projection for the population of Loima Constituency indicated a population of 151,935 in 2016; 157,340 in 2017, and 162,807 in 2018 with the population catchment projections estimating 32,334 households with an average household size of 5.9 translating into a population projection of 190,770.6 only for the 2019 Population and Housing Census to record a 12 per cent reduction?
- (iii) Could the Cabinet Secretary provide the formula used in data collection, and the methods applied in the reporting, storage, analysis and data smoothening for the enumeration results of Loima Constituency, and also avail the raw data as captured by the enumerators?
- (iv) Could the Cabinet Secretary further explain why the cross-border population of approximately 9,000 persons was not factored in?

- (v) Could the Cabinet Secretary indicate when the post-census analysis for Loima Constituency will be conducted so as to ascertain the actual population of the area considering that it is a key component for planning and resource allocation?

Thank you, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** That was, indeed, a long one. This will be replied to before the Departmental Committee on Finance and National Planning. Let me reiterate that the Question will be responded to as it appears on the Order Paper in order to take care of the 2009 and 2019 that you indicated.

Next is the Member for Tigania West, Hon. (Dr.) Kanyuithia Mutunga John. He seems not to be in. Let me assume that he is in the holding areas. The next one was to have been asked by Hon. Janet Ong'era. It has been deferred to the next sitting at her request.

*Question No.135/2020*

STATUS OF INVESTIGATION OF GENDER BASED VIOLENCE  
CASES, RAPE AND KILLINGS IN KISII COUNTY

*(Question deferred)*

**Hon. Deputy Speaker:** Next is the Member for Kirinyaga Central, Hon. John Munene Wambugu. I cannot see your name here. I am trying to trace Seat No.49. You can press the intervention slot. If you have a card it will be much easier. You may have to come to the Dispatch Box but it is wrong to come to the Dispatch Box when you have your card. Let me give the Floor to the other Member as I organise to see how to trace you there. We will proceed to the Member for Nakuru Town West in the meantime as we try and locate your seat. I am told Hon. Mutunga is in. So, Hon. Mutunga can ask his Question. Your seat is now showing. So, Hon. Mutunga, proceed if you are in. As you log in, Hon. Munene, proceed and ask yours.

*Question No.149/2020*

MEASURES TO ENSURE HEAVY GOODS VEHICLES  
COMPLY WITH AXLE LOAD LIMITS

**Hon. Munene Wambugu** (Kirinyaga Central, JP): Hon. Deputy Speaker, I rise to ask the Cabinet Secretary for Transport, Infrastructure, Housing, Urban Development and Public Works the following Question:

- (i) Could the Ministry explain why axle load limits are continuously being violated by Heavy Goods Vehicles in the country?
- (ii) What measures has the Ministry put in place to ensure that Heavy Goods Vehicles comply with axle load limits when using Low Volume Sealed Roads?
- (iii) What rules and regulations or proposals, if any, are underway to provide ways and measures to regulate the frequency and rates at which Heavy Goods Vehicles use Low Volume Sealed Roads in the country and in particular in Kirinyaga Central Constituency?

Thank you, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** The Question will be replied to before the Departmental Committee on Transport, Public Works & Housing. Now let us have Hon. Mutunga to ask his Question. As you do, the rest of the Members should know because I know some Members are in the holding areas. Hon. Samuel Arama, the Member for Nakuru Town East will ask the next one. Another one is Hon. Kamoti Mwamkale. So, wherever they are, they should move closest to the Chamber.

*Question No.112/2020*

DELAYED CONSTRUCTION OF MIATHANE-MIKINDURI ROAD

**Hon. John Mutunga** (Tigania West, JP): Hon. Deputy Speaker, I rise to ask the Cabinet Secretary for Transport, Infrastructure, Housing, Urban Development and Public Works the following Question:

- (i) Could the Cabinet Secretary explain why there have been inordinate delays in the construction of Miathane-Mikinduri Road in Tigania West Constituency?
- (ii) Could the Cabinet Secretary consider either ensuring waiver or payment of the Kshs1,200,000 fee levied to the Kenya Roads Rural Roads Authority by the Ministry of Environment and Forestry as compensation for the forest resources to enable the contractor to continue with the construction of the said road?
- (iii) When will the Ministry allocate funds to ensure that the two-kilometre road left out in between the two tarmacked sections of this road is constructed?

**Hon. Deputy Speaker:** Very well. That one will be replied to before the Departmental Committee on Transport, Public Works and Housing. So, is Hon. Samuel Arama in? That is the Member for Nakuru Town West.

QUESTION NO.150/2020

**Hon. Samuel Arama** (Nakuru Town West, JP): Thank you, Hon. Deputy Speaker. My Question is directed to the CS for Environment and Forestry.

- (i) Could the CS explain the cause of the rising water levels of Lake Nakuru, thereby flooding two estates namely, Mwariki Baruti and Muungano Wana Vijiji in Nakuru Town West Constituency next to Lake Nakuru National Park during the month of July 2020?
- (ii) Could the CS consider compensating individuals and families of the persons who have lost their lives, domestic livestock and properties as result of the said flooding of water from Lake Nakuru National Park?
- (iii) Could the CS state whether residents whose land plots and houses have been flooded by the water from Lake Nakuru should be allowed to fish, and if so, what steps is the CS taking to stop the harassments and arrests of the said residents by game wardens and police, as they practice the said fishing commonly referred to as house fishing?

I thank you.

**Hon. Deputy Speaker:** Very well. That one will be replied to before the Departmental Committee on Environment and Natural Resources.

Lastly, is the Member for Rabai. He does not seem to be in the House. So, that Question will be deferred to the next sitting.

*(Question No. 151/2020)*

SHORTAGE OF TEACHERS IN RABAI CONSTITUENCY

*(Question deferred)*

Now, we go to Statements. In this one, we will start with Hon. Omar Mohammed, the Member for Mandera East.

**REQUEST FOR STATEMENTS**

PRESENCE OF FOREIGN SOLDIERS IN BALUWAGO LOCATION

**Hon. Omar Mohamed** (Mandera East, EFP): Hon. Deputy Speaker, pursuant to Standing Order No.44(2)(c), I wish to request for a Statement from the Chairperson of the Departmental Committee on Defence and Foreign Relations regarding the presence of foreign soldiers in Baluwago location, Mandera East Constituency.

Hon. Deputy Speaker, the residents of Mandera have been living in fear as a result of the presence of foreign-armed soldiers, who crossed the border into Kenya from Bula Hawo in Somalia and settled in Baluwago Location, Mandera East Constituency. The said soldiers are allegedly there to provide security to the Minister in charge of Security from the Jubaland Regional Government in Somalia. As a result of their presence, the crime rate and insecurity has tremendously risen, including rape cases. The soldiers are now engaging in illegal trade of the sale of weapons in the local community.

It is against this background that I seek for a Statement from the Chairperson of the Departmental Committee on Defence and Foreign Relations. In the Statement, the Chairperson should address the following:

- (i) Under what circumstance did the Minister in charge of security from the Jubaland Regional Government in Somalia cross over with over 200-armed soldiers from Bula Hawo in Somalia and settled in Baluwago Location in Mandera East constituency?
- (ii) Under which legal framework were these foreign soldiers allowed into and even settled in Kenyan territory?
- (iii) What is the role of the Kenya Defence Forces (KDF) in regards to the presence and protection of the said Minister and his soldiers within Kenyan territory?
- (iv) What actions is the national Government taking to address security challenges presented by the presence of these foreign forces to the local residents and the country at large, noting that other security arms of Government in the country have been rendered incapable to handle this matter, which is seen to be under KDF?
- (v) When is the said Minister and his soldiers expected to leave the Kenyan territory?
- (vi) What steps is the national Government taking to ensure security and incidents of crime in Mandera East Constituency caused by the presence of the said foreign forces are controlled?

I request this Committee to go to Mandera and see the reality for themselves and the suffering that the people of Mandera are facing.

I thank you.



**Hon. Deputy Speaker:** The relevant committee to handle that. Is the Chairman for the Departmental Committee on Defence and Foreign Relations in? So, the Leader of the Majority Party will follow that and see that it is responded to in due time.

We will move on to a response to a Statement requested by Hon. Yusuf Hassan. The response will be given by the Committee on Implementation. What is it, Hon. Yusuf Hassan because this is supposed to be a response to your Statement?

Just to confirm something, Hon. Yusuf Hassan. Hon. Richard ole Kenta, do you have a Statement that you want to issue or you want to respond to this one?

*(Hon. Richard ole Kenta spoke off record)*

Hon. Yusuf Hassan, what is the issue? I wanted to give him an opportunity to respond. Can you press the intervention slot so that I can locate you. Proceed now.

**Hon. Yusuf Hassan** (Kamukunji, JP): Hon. Deputy Speaker, I had requested the Statement on 16<sup>th</sup> June 2020 on the ban of the importation of *mitumba* and I had not received any response on that particular Statement nor have I been informed by the Committee on Implementation about whether any action had been taken in that regard.

**Deputy Speaker** (Hon. Moses Cheboi): But that is what we are trying to get now because from what I have, Hon. Richard ole Kenta, the Chairperson of the Committee on Implementation wishes to proceed and respond to your Statement, which is okay. Why do we not listen to the Chairperson and then you will raise your issues.

Hon. Richard ole Kenta, you have the Floor.

#### BANNING OF IMPORTATION OF SECOND HAND CLOTHES

**Hon. Richard ole Kenta** (Narok North, ODM): Thank you, Hon. Deputy Speaker. I would like to, first of all, put on record that I had actually reached out to my colleague and spoken to him over the phone. So, it cannot be that the Committee has not responded somehow.

Pursuant to the provisions of Standing Order No.44(2)(c), on Tuesday, 16<sup>th</sup> June 2020, Hon. Yusuf Hassan sought a Statement regarding the banning of importation of second hand clothes, *mitumba*, from the Chairperson of the Select Committee on Implementation. The Request for a Statement was the a statement made by the CS for industrialisation, Trade and Enterprise Development, on 24<sup>th</sup> March 2020, banning importation of second hand clothes owing to the outbreak of the global Coronavirus pandemic.

Hon. Deputy Speaker, the Member alleged that the CS issued the statement amid proposals by the private sector that, the Ministry develops modalities on sustenance and transformation of the apparel and textile industries with the aim of activating the cotton value chain. The Member contested that the action by the CS was in contravention of an assurance given by the CS to the Committee on Appointment during her vetting for the position of CS. During the vetting on Thursday, 20<sup>th</sup> February 2020, the then CS nominee undertook to support small and medium sized enterprises.

It is worthy to note that the assurance and utterances by the then nominee for the position of CS Industrialisation, Trade and Enterprise Development and now holder of the said office, was made in a personal capacity, as a nominee for the position of CS, and prior to her appointment to the position of Cabinet Secretary. As such, it is not tenable for the Committee to exercise its oversight representative mandate, understanding Order No.209 of the National Assembly's

Standing Orders, on account of utterances made by a nominee during vetting and most importantly, prior to the appointment to the office.

As I have said, I have reached out to the Member on this matter and advised him that our Committee can only implement assurances or undertakings by an Executive or a member of the Executive and not a nominee because by the time this assurance was taken or given, the said Cabinet Secretary was not a Cabinet Secretary. It is advised that the departmental committee concerned will be the most appropriate one to deal with this matter. We cannot implement an assurance by an outsider who was not as by then the Cabinet Secretary.

**Hon. Deputy Speaker:** We will start with the Member who requested the Statement. Let us hear from you, Hon. Hassan. Do you have any issues that you want clarified? It is because you did not come with a card.

**Hon. Yusuf Hassan** (Kamukunji, JP): I have my card.

**Hon. Deputy Speaker:** If you have a card, what is the issue?

**Hon. Yusuf Hassan** (Kamukunji, JP): Can I go to the Dispatch Box?

**Hon. Deputy Speaker:** The system is now okay.

**Hon. Yusuf Hassan** (Kamukunji, JP): Thank you, Hon. Deputy Speaker. I communicated with the Chairman of the Committee on Implementation. He expressed those concerns but on the last meeting that we had...

**Hon. Deputy Speaker:** Hon. Hassan, you have just said on record that he did not communicate with you at all.

**Hon. Yusuf Hassan** (Kamukunji, JP): No. I said I had not received a response to my request for a statement. I was about to explain when you said that we should listen to him.

I have communicated with him. However, in our last meeting, he explained to me that he was not able to request the CS to come to the Committee. Nevertheless, he would do that in order to raise that issue with the Committee and that they would do it on 28<sup>th</sup> July. That was the last communication I received from the Committee.

This particular request has already been overtaken by events. On 6<sup>th</sup> July, His Excellency the President gave directives to lift the ban on the importation of *mitumba*. He instructed the Cabinet Secretaries for Industry, Trade and Cooperative and Health to establish protocols for the resumption of the importation and sale of second-hand clothes. At the same time, in a letter to the Mitumba Association of Kenya on 2<sup>nd</sup> July, the CS for Health declared that there was no medical evidence to support the claim that *mitumba* posed a related health risk to the general public. The letter was also copied to the CS for Industry, Trade and Cooperative. To date, the CS for Industry, Trade and Cooperative has not taken any action to restart the importation of *mitumba* nor has she or any of her officers met with the key stakeholders of this important trade sector to discuss and agree on the modalities of the resumption of the importation.

As you are aware, this trade provides an economic lifeline to millions of Kenyans. It also generates millions of shillings in tax revenue for the Government. Already the ban has pushed many Kenyans to the margins of unemployment and poverty. Even when the Ministry gives the go ahead, it will take a minimum of eight to 10 weeks to bring in and clear the first consignment.

I would have thought that in these challenging times, a trade so crucial to our economy would be given the urgency and importance it deserves. I am asking for action on the part of the Ministry of Industry, Trade and Cooperative. I am greatly concerned about this long and unnecessary delay.

**Hon. David ole Sankok** (Nominated, JP): On a point of information, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** That is actually what I was waiting for, Hon. Hassan. The statement you sought was from the Committee on Implementation. I am trying to see what the request was. The Committee on Implementation ordinarily deals with matters that the House has passed to see whether they have been implemented or not. You are raising something that should go to the Departmental Committee on Trade, Industry and Cooperatives.

**Hon. Yusuf Hassan** (Kamukunji, JP) spoke off-record.

*(Loud consultations)*

**Hon. Deputy Speaker:** I will give an opportunity to a few other Members. I wanted that small clarification. I can now give a chance to two or three Members and then we can dispense with the matter. Yusuf, I am trying to get your card but somehow I am not able to.

Proceed, you now have the microphone.

**Hon. Yusuf Hassan** (Kamukunji, JP): Hon. Deputy Speaker, let me clarify. I had raised this issue with the Speaker. The Speaker and I are in the Committee on Appointments. You are also in the Committee on Appointments. This issue of *mitumba* was raised by the Members of Parliament. A concern was raised about it. In her presentation, the then nominee for CS pledged to defend the *mitumba* trade like every other trade in this country. The Speaker suggested that this Question should be referred to the Committee on Implementation. I accepted and presented it to the Committee on Implementation. I expected that that advice from the Committee would have come much earlier because millions of Kenyans are out of jobs because of this ban. It is affecting our economy.

**Hon. Deputy Speaker:** Okay. I hear you now. Let me hear from a few other Members. Your emotions are getting the better of you, Hon. Hassan, for a very good reason. The largest *mitumba* trading area in the Republic is in your constituency. It is acceptable that a Member would fight for his or her constituents.

Members can seek clarifications. Let us start with Hon. Wandayi. I will give an opportunity to a few other Members who want to seek clarification and then we proceed.

**Hon. Opiyo Wandayi** (Ugunja, ODM): Hon. Deputy Speaker, just to pick up from where the Hon. Member for Kamukunji has left, it is not really a matter of whether the Question went to the Committee on Implementation. The issue is why the Cabinet and the Executive for that matter are so lethargic. Do they have to wait for the President to give an edict that the ban on *mitumba* importation has been lifted for them to be seen to be acting? I would have expected that since the COVID-19 pandemic was declared sometime in March - about five months ago – these CSs and principal secretaries would have been putting in place contingency measures to enable the economy to reopen without waiting to be prodded by Parliament and the President.

This is a very serious matter. It does not just concern the *mitumba* sector. It concerns almost every other sector. We want to be assured that the Executive is taking measures to allow the economy to reopen in all sectors including education. Currently, we are being told that schools will be opened in January. We fear that once January comes, we shall be told that because the numbers of COVID-19 infections are spiking, let us push it to April. In the meantime, nothing is being done to prepare the country for reopening. This is a problem that cuts across the Executive. Something needs to be done. I urge the President to crack the whip on these lazy Cabinet Secretaries.

**Hon. Deputy Speaker:** Hon. Wandayi, you are beginning to act like Hon. Hassan by making a general statement. You are no longer seeking specific clarification from Hon. Kenta.

You are sending it out there to anybody who can listen which makes me very uncomfortable. I would rather we do things in a systematic manner and seek clarification from the Chairperson of the Committee on Implementation and then see what he has to say. You have made your point like Hon. Hassan did.

Let us go to Hon. Pukose. I will give an opportunity to a few Members on this one because I can see it is very emotive.

**Hon. Robert Pukose** (Endebess, JP): Thank you, Hon. Deputy Speaker. Hon. Hassan has raised a pertinent issue. I urge you to redirect this Question to the proper committee so that it is handled properly. This is a multibillion trade that many Kenyan livelihoods are dependent on. The Question should be directed to the Departmental Committee on Trade, Industry and Cooperatives.

As the Chair of the Departmental Committee on Trade, Industry and Cooperatives responds to the issues which were raised by Hon. Hassan, we should have protocols on importation of *mitumba* into the country, because the President gave an Executive Order on 6<sup>th</sup> June 2020. What measures have the CSs for both the Ministry of Health and Ministry of Trade and Industry put in place to ensure that traders operate? I will even go further, Hon. Deputy Speaker. The daily briefs by the CS for Health should include the other measures that are being put in place in the various State Departments that are assisting this country to move forward, especially as we seek to open the economy. He should not just be giving us numbers on daily basis. It becomes like a weather forecast. It is becoming tiresome. Nobody wants to listen to what they are doing. They need to be innovative and think outside the box on what other measures they can put in place to assist Kenyans to get back to their normal lives.

**Hon. Deputy Speaker:** Okay. Hon. Baya Yaa.

**Hon. Owen Baya** (Kilifi North, ODM): Thank you, Hon. Deputy Speaker.

*(Laughter)*

**Hon. Deputy Speaker:** Hon. Members, I am wondering if...

**Hon. Owen Baya** (Kilifi North, ODM): Alright. I apologise, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** I want to make it easier for you, Hon. Yaa. Once someone is seated on this Chair, he or she takes charge of it fully. We will allow the titles outside the Chamber. Otherwise, you will find it difficult to address other Members who ordinarily sit here.

*(Laughter)*

**Hon. Owen Baya** (Kilifi North, ODM): Hon. Deputy Speaker, I want to agree with what my Chairman, Hon. ole Kenta, said. I am a Member of the Committee on Implementation. I also want to say something regarding the *mitumba* trade. The *mitumba* traders in this country are the most suffering people during this Covid-19 pandemic because protocols have not been developed for not only importation but also for sale of *mitumba*.

I come from Kilifi County where we have nomadic *mitumba* traders. They have been stopped from selling their *mitumba* and yet we know that this is one of the businesses that caters for very many people in this country. We should tell the CS for Trade and Industry that we need these protocols, so that these people can pay rent and buy food. They cannot do anything because they have stock of *mitumba* in their houses which they had imported but they cannot sell them.

I would like to urge the CS for Trade and Industry to liaise with the CS for Health as soon as possible. We have counties which have been given instructions on how to handle *mitumba* traders, so that they can do their business. People are suffering and they do not have food.

Thank you.

**Hon. Deputy Speaker:** Nominee 001, Hon. Sankok, you have the Floor.

**Hon. David ole Sankok** (Nominated, JP): Thank you very much, Hon. Deputy Speaker. You stole words from my mouth because I wanted to inform Hon. Hassan Yusuf and Hon. Baya Yaa that once you are seated on that Chair, you become Hon. Speaker. Hon. Yusuf called you Hon. Deputy Speaker and then Hon. Baya Yaa followed him.

I want to comment on the Statement from the Member for Mandera. We have to ask the Government whether it is really serious on protecting our territory.

**Hon. Deputy Speaker:** He made a request for a Statement. Hon. Yusuf was being responded to. That is why I gave him an opportunity to contribute. I know that you do not miss something to say about anything always. Say something about this one.

**Hon. David ole Sankok** (Nominated, JP): On *mitumba* trade, re-direct this question to the Departmental Committee on Trade, Industry and Cooperatives. Let us be serious because thousands of Kenyans are suffering. If they are suffering, we cannot accept that this question cannot be responded to by this Ministry and followed up. The work of this House is to protect Kenyans. We have to protect the *Mitumba* multibillion industry.

Thank you, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** Hon. Members, I have heard what the Members have said. We will hear something from Hon. Kenta and then we see whether we are satisfied that something has been done or we will re-direct the question to another committee. I am trying to grapple on whether as a House, we can implement an Executive Order at this stage or we go to the relevant committee.

Hon. Kenta, you have the Floor. The difficulty that we have here is that only six Members' cards can be seen on the intervention area.

**Hon. Richard ole Kenta** (Narok North, ODM): Thank you, Hon. Deputy Speaker. The Members have said it. The question was directed to our Committee wrongly. We regret that. I let the Member know that the question will be taken to the right committee. We suggested that it should go to the Departmental Committee on Trade, Industry and Cooperatives.

**Hon. Deputy Speaker:** If you really felt that is not something that should have come to your Committee, you should have raised it at that point.

**Hon. Richard ole Kenta** (Narok North, ODM): Hon. Deputy Speaker, once the Departmental Committee on Trade, Industry and Cooperatives decides on the question, then we will be ready to implement it. It is not possible to do it now. It will be illegal for us to do so.

Thank you, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** That is fairly straightforward now. In view of the new circumstances, this question should be re-directed now. Initially, it was perfect that it came to your Committee. However, in view of the new circumstances, including the Executive Order to allow part of the importations, it should go to the Departmental Committee on Trade, Industry and Cooperatives. Who is the Chair of that Committee? That must be Hon. Adan. Is there any Member of the Committee here?

*(Hon. Gichimu Githinji stood in his place)*

**Hon. Deputy Speaker:** Please, take this information to your Committee, transact it and talk to your Chairman. The Leader of the Majority Party is also listening.

**Hon. Gichimu Githinji** (Gichugu, JP): Thank you, Hon. Speaker. I am a ranking Member of that Committee since its inception.

**Hon. Deputy Speaker:** What did you say you are? Who is this Member?

**Hon. Gichimu Githinji** (Gichugu, JP): This is Hon. Gichimu, the Member for Gichugu. I have said that I am a ranking Member because I was among the first people to be Members of that Committee after it was formed. So, that makes me a ranking Member. Even the changes that came did not affect my position. I will make sure that the information is relayed to our Chair for action and response.

*(Laughter)*

Thank you, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** Take the information to your Chair that he should respond to the question. Responding within two weeks will be prudent and perfect. The issue of being a ranking and not a ranking Member is something that can be canvassed on another day. You have said that you are a ranking Member because you were appointed when the Committee was first formed. I have been informed and I have reasons to believe that information is absolutely correct. It was on the same day that all the Members of that particular Committee were brought before this House for approvals. So, the issue of rank is something that we will negotiate elsewhere. However, it is good that, at least, you are here, Hon. Gichimu, as a Member of the Committee. We know that the matter is before your Committee.

Let us proceed to the next Order. Hon. Members, it had escaped my mind that there is a document by the Leader of the Majority Party that has come belatedly. We would like to ask him to lay it on the Table of the House because it is extremely important.

## PAPER LAID

**Hon. Amos Kimunya** (Kipipiri, JP): Hon. Deputy Speaker, in addition to the Papers that I laid before this House this afternoon, I beg to lay the following Paper on the Table of the House:

The Report of the Auditor-General on the Central Bank of Kenya for the year ended 30<sup>th</sup> June 2019.

Thank you, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** Very well. We will move on to the next Order.

## PROCEDURAL MOTION

### EXEMPTION OF BUSINESS FROM PROVISIONS OF STANDING ORDERS

**Hon. (Dr.) Rachael Nyamai** (Kitui South, JP): Thank you, Hon. Deputy Speaker. I beg to move the following Procedural Motion:

THAT, pursuant to the provision of Standing Order 256 relating to Exemption of business from Standing Orders, this House orders that the Report of the Departmental Committee on Lands on a Petition on the alleged invasion of LR 5875/2 in Roysambu

Constituency by the Kenya Defense Forces (KDF), which was laid on the Table of the House...

I would like to correct the date. It is on 5<sup>th</sup> of December 2019. It was laid on the Table of the House on Thursday 5<sup>th</sup> December, 2019.

I beg to move that the Report be exempted from the provisions of Standing Order 227 (2) (Committal of Petitions) to allow debate on the Petition.

Hon. Deputy Speaker, I would like to make a few remarks. That aware that Article 199 of the Constitution read together with the Petitions to Parliament Act 2010 gives every person a right to petition Parliament on any matter, it is on that basis that Hon. Waihenya Ndirangu brought a Petition to this House representing a group of petitioners. As it were, this matter was concluded effectively by the parliamentary Committee on Lands and the Report was tabled in this House as indicated.

Further, Standing Order No.277 only mandates the Committee to report to the petitioners, which was also done. However, recognising that this is a matter of public interest and the fact that it has information to be shared with regard to claimants and also the fact that this particular Report talks about pieces of land that were meant to be public utilities, it is in order to have this matter debated by this House. Also, cognizant of the fact that there is need for the House to make a resolution on this Report for it to be implemented effectively.

Without much ado, I would like to move this Motion and request the Hon. Khatib Abdalla to second.

**Hon. Deputy Speaker:** Hon. Khatib Abdalla Mwashetani, you may proceed.

**Hon. Khatib Mwashetani** (Lungalunga, JP): Thank you, Hon. Deputy Speaker. I rise to second the Motion requesting the Report to be debated by Members of Parliament. This Report has serious public interest. It will be prudent enough for Members to, at least, go through the Report so that they can understand what is going on in our Ministries. This is because, the Report involves serious Government institutions like the KDF, the Ministry of Defense and the Ministry of Lands and Physical Planning.

Therefore, I stand to second. Thank you very much.

**Hon. Deputy Speaker:** Very well. Hon. Members, it should be clear that if this is carried, then, obviously, Hon. (Dr.) Nyamai should be preparing to give Notice of Motion.

*(Question proposed)*

*(Question put and agreed to)*

So then, Hon. (Dr.) Nyamai, just for agreement, there was actually the issue of the dates that you indicated that could have been wrongly placed there. I think that is not the true position. If you realise, I have actually proposed and put the question stating those particular dates. It had lapsed then and it was brought back. I think there should be no major issue with that. That is the position. You need to give Notice of Motion.

Hon. (Dr.) Nyamai, since you have indicated that you are preparing your documentation for purposes of giving Notice of Motion on the Report of the Committee on the Petition, we will proceed to the next order. But once you are ready you will simply tell us so that we give you an opportunity to place the notice.

Next order!

**MOTIONS**AUDITED FINANCIAL STATEMENTS OF THE  
COMMODITIES FUND FOR FY 2015/2016 & 2016/2017

THAT, this House adopts the Report of the Special Funds Accounts Committee on its consideration of Audited Financial Statements for the Commodities Fund for the years ended 30th June, 2016 and 30th June, 2017, laid on the Table of the House on Tuesday, October 29, 2019.

**Hon. Deputy Speaker:** On this one, what remained was for the question to be put and I have confirmed that within the Chamber and in the holding areas, we have sufficient number of members to form a quorum. So, I will proceed to put the question.

*(Loud consultations)*

Order Members! Hon. Aladwa, please take your seat.

*(Question put and agreed to)*

INQUIRY INTO ENCROACHMENT  
OF THE RIPARIAN AREAS IN KENYA

THAT, this House adopts the Report of the Departmental Committee on Environment and Natural Resources on its Inquiry into the Encroachment of the Riparian Areas in Kenya, laid on the Table of the House on Thursday, September 19, 2019.

**Hon. Deputy Speaker:** Again, I will put the question.

*(Question put and agreed to)*

Next order!

**BILLS**

*(Second Reading)*

## THE PARLIAMENTARY PENSIONS (AMENDMENT) (NO.3) BILL

**Hon. Deputy Speaker:** Is that by Hon. Mwadime? Hon. Mwadime, I am trying to locate your sitting area. I can see your hand but I cannot see your seat number. What number is that? And I am beginning to think that... Just do it, you have the microphone now.

**Hon. Andrew Mwadime** (Mwatate, ODM): Thank you. Hon. Deputy Speaker.

Hon. Deputy Speaker, I beg to move that the Parliamentary Pensions (amendment) No.3 Bill (National Assembly Bill No.57 of 2019) be now read a Second Time.

Hon. Deputy Speaker, the principal objective of the Bill is to amend the Act to align it with the new Constitution. It also seeks to amend the Act, Cap.196 to bring it to conformity with the provisions of the Constitution and provide for the Act to apply to both Houses.



Further, the Bill seeks to bring Cap.106 into conformity with the directions of the Salaries and Remuneration Commission (SRC) in regard to retirement benefits due to MPs as SRC is established under Article 230 of the Constitution. It is empowered under Article 230(4) to set and regularly review the remuneration and benefits of State officers. Members of Parliament, both the National Assembly and the Senate, are State officers.

Let me cite a few clauses to be amended. Clause 8 of the Bill deals with Members of Parliament serving their first term in relation to getting their gratuity as set by the SRC. Clause 17 mandates the Parliamentary Service Commission to oversee the welfare of Members and be part and parcel of the Act.

I request Members to be very serious on these amendments as they are for them. Being a Member of the Parliamentary Pension Management Committee from 2013, I have seen Members suffering especially the ones who served earlier than us. We should know that we are not to be in this Parliament forever. So, I request Members to bring many amendments to the Act so that they can take care of us.

In the amendments, I have included what happens to a Member in terms of his benefits in case a Member of Parliament becomes ill and cannot campaign again. There was a controversy if a Member of Parliament serves one term and there is a break in between then he comes back. Normally, there was a huge interest they used to pay in order to come back to the pensions scheme. Members, as I am talking and our colleagues who may not be in the Chamber at this moment, kindly, take a look seriously at these amendments and add the ones you feel can assist.

I do not need to speak much because it is self-explanatory. I call upon ....

**Hon. (Dr.) Otiende Amollo** (Rarieda, ODM): On a point of order, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** What is it, Hon. Dr. Amollo, Senior Counsel?

**Hon. (Dr.) Otiende Amollo** (Rarieda, ODM): Thank you, Hon. Deputy Speaker. It is not my intention to interrupt Hon. Mwadime while he is moving this Motion, but the Motion I have got from the Table Office does not seem to suggest all the good things he is talking about. This is in respect of two things. One, in saying that this is to take care of us as Members. The Motion I have seems to be historical. Two, he is talking of a medical cover. Unless there is an amendment, which I am not aware and I will be happy to have it, it does not appear that the Motion is in tandem with the Mover of the Motion.

Hon. Deputy Speaker, thank you.

**Hon. Deputy Speaker:** Hon. Mwadime, I realise you were actually winding up but ....

**Hon. Andrew Mwadime** (Mwatate, ODM): I can expound. To respond, I have said that Members should bring amendments because I have captured some and some have not yet been captured. That is why I am telling Members to have a serious look at the amendments.

**Hon. Deputy Speaker:** Then it seems that Hon. Dr. Amollo was right. I do not want you to go in that direction because you will be anticipating amendments by Members. So, leave it at that. You have moved it. I would like to know who your Secunder is.

**Hon. Andrew Mwadime** (Mwatate, ODM): I stand guided. I, therefore, beg to move. I request Hon. Wanga to second.

**Hon. Deputy Speaker:** Hon. Wanga, proceed.

**Hon. (Ms.) Gladys Wanga** (Homa Bay CWR, ODM): Thank you very much, Hon. Deputy Speaker.

Hon. Deputy Speaker, I beg to second the Parliamentary Pensions (Amendment) No.3 Bill (National Assembly Bill No.57 of 2019).

I thank Hon. Mwandime very much for carrying the amendments on behalf of the Pensions Management Committee of Parliament.

To respond to what Hon. (Dr.) Otiende raised, there are three Bills amending the Parliamentary Pensions Act. The first one is Bill No.1 which was carried by Hon. Mbadi, which we completed in the morning that was dealing with the Members of Parliament who served from 1984 to 2001. Then there is Bill No.2 which belongs to Hon. Ruth Mwaniki which had the same effect as Hon. Mbadi's Bill, and now that Hon. Mbadi's Bill was carried, it is probably going to be redundant. Then there is Bill No.3 which is what we are dealing with right now carried by Hon. Mwandime on behalf of Parliamentary Pensions Management Committee. So, I think, Hon. Otiende might be holding in his hands the amendment No.1 which belongs to Hon. Mbadi and that is why he was talking about history. What we are dealing with now is Bill No.3. I wanted to clarify that so that Members are sure that they are holding the correct amendment Bill because we had three in 2019.

This Bill, for avoidance of doubt, was brought for First Reading on 24<sup>th</sup> July 2019. It was on the papers on 1<sup>st</sup> of August and we met with the National Treasury on 5<sup>th</sup> of March 2020. We have also received submissions from the Parliamentary Service Commission.

To give a brief background, the Parliamentary Pension Scheme is a contributory Scheme governed by the Parliamentary Pensions Act, Cap.196. It is a defined benefit Scheme. Unlike a defined contribution scheme, a defined benefits scheme is not based on performance of the scheme. I am saying this because members of the public are saying that Members of Parliament were conferring upon themselves money that they have not earned. We are dealing with the Parliamentary Pensions Scheme. It is a contributory scheme. You only get as far as you contribute to your pension.

Currently, serving Members contribute at the rate of 12.6 per cent and the Government contributes 25.4 per cent to this Scheme. Section 8 of the Act provides that for you to get into the pension scheme, you have to have an aggregate period of reckonable service of two terms and you have to have attained the age of 45 years.

I have barely begun because I was responding to the issue of Hon. Otiende. I beg for just a few more minutes.

**Hon. Deputy Speaker:** You will have to really move fast because you chose to respond rather than second which is still okay because you have clarified a few things. So, you will have a little time.

**Hon. (Ms.) Gladys Wanga (Homa Bay CWR, ODM):** Thank you, Hon. Deputy Speaker.

The Bill has 17 Clauses. Mainly, what the Bill seeks to do, as Hon. Mwandime mentioned, is to align the Parliamentary Pensions Act to the advisory by the SRC, which is that no State officer should benefit from pension and gratuity from the same public service employer for a similar period. I am just trying to scheme through it now. Apart from redefining the age of a child, which this Bill changes from 16 years to 18 years, there is also further amendment to bring it to 25 years for children who are still in full time study.

Under Clause 4, the Bill proposes that when Members come into Parliament, they can make a choice on whether they want to go for gratuity or pension scheme. If a Member chooses the gratuity scheme, there is no contribution expected from him. However, if one chooses the pension scheme, one will pay the 12.6 per cent and the Government will put in the 25 per cent.

The other amendment that is being made is that if you go through the gratuity scheme, there will be the 35 per cent of your basic salary. This is being amended because the previous Act had all the allowances listed, which include constituency allowance, responsibility allowance,

house allowance and other allowances. However, the SRC has since separated the salary into two to have 60 per cent as basic salary and 40 per cent as allowances. So, you will get 31 per cent of the basic salary at the end of your five-year term as gratuity. However, if you continue on pension scheme and you do your second term, you will continue to earn, as it has been said,  $\frac{1}{3}$ . So, if you give an example of the current situation, those who have served the last term and this term, their monthly basic pension will be Kshs126,000 after getting a lump sum of about Kshs7 million at the completion of the term.

I just want to finish because you have given me some extra time. I would like to talk about the pension buyback scheme.

**Hon. Deputy Speaker:** No! No! I have not given you any extra time.

**Hon. (Ms.) Gladys Wanga** (Homa Bay CWR, ODM): I am sorry. The timer light has turned yellow.

**Hon. Deputy Speaker:** You have already enjoyed it. So, you should be winding up.

**Hon. (Ms.) Gladys Wanga** (Homa Bay CWR, ODM): Hon. Deputy Speaker, I just wanted to mention the pension buyback scheme, which Hon. Mwadime was referring to. If you are on the gratuity scheme and you got paid your gratuity but you managed to come back to Parliament and you would like to buy back your pension, you will need to pay back the gratuity that you were paid. In this regard, there is an amendment that is being proposed so that the interest rate is not prohibitive for Members who want to buy back their pensions once they had already been paid their gratuity.

There is an important point around the issue of those who fall sick...

**Hon. Deputy Speaker:** I will add you one minute now because you can see that the timer is going to the red zone. You only have one minute. Please, summarise.

**Hon. (Ms.) Gladys Wanga** (Homa Bay CWR, ODM): Hon. Deputy Speaker, in the one minute, I would like to say that it is important that if you fall ill, you get your pension or gratuity before you hit the age of 45 years. Those who will get out of Parliament before one year ends will now get full salary for the 12 months.

With those many remarks, I beg to second.

**Hon. Deputy Speaker:** Okay.

*(Question proposed)*

Hon. Members, it is very difficult for me to know who are interested to speak to this one because top on the list see Hon. (Prof.) Oduol. Do you want to speak to this debate?

**Hon. (Prof.) Jacqueline Oduol** (Nominated, ODM): Not this one, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** So, we will move on to the Member for Kitui Central.

**Hon. Makali Mulu** (Kitui Central, WDM-K): Thank you, Hon. Deputy Speaker. I want to make my contribution to this important Bill. I must thank Hon. Mwadime and the Departmental Committee on Finance and National Planning for this important Bill.

This Bill, in terms of amendment, has actually taken too long. As you can see, we are aligning this important Act to the new Constitution. The new Constitution is already 10 years old. So, it means that we have been very unfair to Members of Parliament because we are doing this after 10 years. I want to challenge Hon. Members...

*(Loud consultations)*

Hon. Deputy Speaker, if you could direct that consultations be done in low tones...

**Hon. Deputy Speaker:** Order! There is this *kamukunji* by some eminent lawyers here. I do not know what some two eminent lawyers are doing with a seasoned medical doctor. Now, we can keep it low. I can see there is even another lawyer again ahead of them. I will not mention their names.

**Hon. Makali Mulu** (Kitui Central, WDM-K): Hon. Speaker, I hope I will get additional minutes as compensation for the few minutes they have taken from my time.

I really want to challenge ourselves, as Members of this House, because we have been very quick at aligning other laws with the Constitution yet this one, which touches on our welfare has taken 10 years. So, it has finally come and we are debating it. There are two important things in this Bill. First, there is the issue of the SRC involvement.

Hon. Deputy Speaker, I want to remind you, because I served with you during the 11<sup>th</sup> Parliament. If you look at the Kenya Gazette of 2013 which listed the benefits to MPs, you will find that there was the issue of the gratuity of 31 per cent. It was saying that after you have served your full term of five years, you will be entitled to earn 35 per cent of your basic salary as gratuity. I want to go on record. Members who came back for a second term did not get that money. I raised this matter with the Speaker and we had several discussions with the Treasury. I am still convinced, even as we debate this Bill that it is unfair to the MPs who managed to come for a second term. So, that is a matter we really need to look into as we discuss this Bill.

The other one is the issue of pension being contributory. It means that, as a Member, you contribute and then the Government also contributes. Currently, a Member contributes 2.5 per cent and the Government contributes 25 per cent. If you have been contributing for five years and the Government has also been contributing the 25 per cent, then when you are out of Parliament, you should be paid your money. I like the idea of changing so that you get it when you attain the age of 45 years. As an economist and financial expert, I know that there are risks associated with getting your pension too early because pension is supposed to take care of you during old age. When you get it at the age of 45, unless you are a very good financial manager, you will experience some challenges during your old age.

I just want to remind Hon. Members that we should be good financial managers to make sure that by the time we hit 60 years, we still have some savings. The truth of the matter is that the more you continue aging, the more the diseases and other health issues continue attacking you and you will need your savings to take care of the health issues. If you have exhausted your savings and the pension is also not there, then you are likely to have challenges.

As we debate this Bill, the unfairness in terms of the Members serving their second terms not being paid their gratuities is a matter we cannot let go. It is important that we pick it up with the National Treasury so that those Members who managed to come back to Parliament for a second term can get the money they are entitled to.

With those remarks, I support the Bill.

**Hon. Deputy Speaker:** I now want to see the Members who want to contribute from this side. Let us have Hon. Tuitoek, the Member for Mogotio.

**Hon. Daniel Tuitoek** (Mogotio, JP): Thank you, Hon. Deputy Speaker, for giving me an opportunity to also say that I support the Bill. It is a very important Bill. I listened to Hon. Wanga outline that this amendment is towards enriching the Parliamentary Pensions Act, which is already operational. We have a contributory pension scheme where we contribute around 12 per cent while the Government contributes 25 per cent.

I think it is also in order that we know any time elections come, about 70 per cent of the Members do not return to Parliament. We do not want to go to the case like in the morning where we were trying to do some sort of mitigation measures to support our Members who left between 1994 and 2001 whereby we had to give them some reasonable pension. It is wise that this House says anybody who has served in this House is entitled to a pension, whether you have served one term or two. I see this Bill does not address that part. I would think the Committee should bring an amendment on that so that we capture Members who have even served one term. I know it has an element of saying maybe we are giving ourselves an additional benefit but, if 70 per cent do not come back to Parliament, what happens to these people? They do not even get jobs. They are no longer attractive to the market out there. So, these people end up struggling to make a living. So, I want to ask this House that we make sure that this amendment involves giving first-timers or those who serve five years in the House a decent pension so that they can live and continue their lives, so that they do not go out there and become beggars.

I can see there are so many things which we are trying to align here, including giving powers to the Parliamentary Service Commission (PSC) to oversee the welfare of Members, including the pension. I think this Bill is very good. I like the idea that we welcome more amendments so that we can make sure it becomes a Bill which serves us for a long time.

With that, I beg to support.

**Hon. Deputy Speaker:** I see from here so that I get indication. Hon. Mbui, you would want to speak to this one. Okay.

**Hon. Robert Mbui** (Kathiani, WDM-K): Thank you, Hon. Deputy Speaker, for the opportunity. I also rise to support this Parliamentary Pensions (Amendment) Bill.

I want to begin by saying that we are already under attack as the National Assembly. I have seen it in the media. There is talk and pre-empting of discussion on this because we had a similar Bill in the morning. The public is already up in arms that this House wants to benefit itself. Just allow me so that I correct this situation. Let me put myself on the crosshairs of the public. First and foremost, I think Kenyans need to understand that even Members of Parliament are employees like anybody else. They also make contributions to this pension schemes just like anybody else.

*[The Deputy Speaker  
(Hon. Moses Cheboi) left the Chair]*

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

But, the minute it is about the elected leaders, suddenly it becomes a tall order and people have all sorts of things to say. Kenya is a developing nation. The truth is this, that the major needs of our people cannot be met by Government. What happens is that when people are elected into these offices that we hold, suddenly, all the needs of the public come to them. When they have no food, they come to you; when they need medical care, they come to you; when there is COVID-19, like now and people are unemployed, they come to you for jobs; when their business collapse, they come to you for assistance. So, what happens is that in the five years one serves as a Member of Parliament, the salary they earn and even any other investment they may have is spent. Most of that is spent taking care of Kenyans because we are in a poor nation where the State cannot really take care of its people. So, it is important to note that once one leaves office, they obviously have to leave the office in a dignified manner. Recently, I saw a report about a former president in one

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of the countries in Africa. It was newsworthy because they were showing that this man was living in abject poverty, having been Head of State of nation. It is the same thing. You can find a Member living in abject poverty after representing a constituency. I would hate to meet a former Member who represents a constituency that I represent who is living in poverty because that would mean that even the public has failed him.

I wish to support and say that it is important we support ourselves and ensure that we give ourselves the best possible pension scheme so that we do not have Members begging in the corridors of power going into the future.

Thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Let me have the Member for Emuhaya, Hon. Milemba Omboko.

**Hon. Omboko Milemba** (Emuhaya, ANC): Okay. Thank you, Hon. Temporary Deputy Speaker, for this chance. I want to appreciate the Motion moved by Hon. Mwadime and seconded by the Chair, Wanga, who seems to have a lot of information. It is just time that made her not bring out the real Motion the way it was.

The Government was trying to launch what we call the Public Service Superannuation Scheme. This is a pension scheme that tries to change the entire framework of pension scheme for workers of Kenya, like teachers and civil servants. It changes from a defined benefit plan to a defined contributory system. Parliament had been ahead because it is already operating on a contributory system like the Chair of the Departmental Committee on Finance and National Planning put. Also as we debate this, we shall as Parliament have to be very cautious. That is why, possibly, the last speaker talked about other people in Kenya or the people who keep asking “what about our pension?” It comes a time when other workers also have a challenge getting their pension. For example, we have teachers of 1997 and civil servants who have not been paid. That is why, as I was leaving the House and Hon. Mbadi was moving the Motion, I got a message on my phone saying “I can see you guys talk about pension. What about our pension?” So I must bring to the House that as we deal with our pension, it is very important that we also deal with the pension of all other workers who are outside there and suffering because of the system of pension that we have been having in the country.

Having said that, I must say this is a good law and ask the House that this will enable the Member of Parliament, as he leaves, whether he has served for one term or two terms, to have a fair life outside there. One thing that the pension scheme that Parliament has is having as a week point - I did study that – is the issue of medical cover. It is so little. Possibly, in the amendments that we shall bring, we could also, Chair, allow Hon. Members, after they leave, to continue being part of that medical scheme so that they can have something that can cover them when they are out.

*(Applause)*

That is what is more important when you have left Parliament. So, I want to support this Bill. I think I will go back to my table to do a lot of amendments because it is an area that I tend to deal with given my background in trade unionism.

Thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Very well, the Member for Emuhaya. You are very welcome. As you know the procedures of the House, you know what to do. Let me have the Member for Rarieda now that he had sought intervention and having been informed by Hon. Wanga. Member for Rarieda, Hon. (Dr.) Otiende Amollo, senior counsel.

**Hon. (Dr.) Otiende Amollo** (Rarieda, ODM): Hon. Temporary Deputy Speaker, with your indulgence, could I reserve my right of speech to after maybe three or four people because I am combing the Bill thoroughly? Just shortly, in maybe 20 minutes.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): You are combing the Bill. Let me have the Member for Tongaren as you make a decision. Hon. Simiyu Eseli.

**Hon. (Dr.) Eseli Simiyu** (Tongaren, FORD-K): Thank you, Hon. Temporary Deputy Speaker, for this chance.

Before I came to Parliament, it always bothered me when I saw Ex-Members of Parliament or former Members completely unable to make ends meet and living in abject poverty. I never realised that they had no pension until I got to Parliament when I realised that the salary that people hype as being high in Parliament ends up going to social services in the constituency, including whatever else you can make. This puts our politicians in a very difficult situation. Not just Hon. Members, but even members of the county assemblies and former councillors. They are put in a very difficult situation that by the time they leave service, in fact, I dare say that many do not get back after one term mainly because by the time they go back for their campaigns, they are flat broke and they cannot make it. This contributes to the high turnover of Members of Parliament. It is shocking that Kenyans do not realise that former Hon. Members live a difficult life and they deserve pension.

I have seen some comments made that I feel are a bit inhuman. Members of Parliament are also human beings. In this case, this is a contributory scheme. I believe that one will be lucky to be employed if he leaves as a young Member of Parliament and does not make it back to Parliament. Many employers do not want to employ former Members of Parliament and members of county assemblies yet people still call upon them to help. I have seen people who left Parliament and are still being called upon to attend *harambees* and do various things. They are still called upon to contribute and that puts them in a difficult position. This system is a contributory scheme. In the United States of America Congress, Congressmen leave with a pension after serving one term. So, it is not unique to the Kenyan Parliament.

What I want to look at is how this scheme is managed. That is what bothers me. Before I came to Parliament, I had occasion to be a senior lecturer at the University of Nairobi (UoN). At the time I left, my age could not allow me to be pensionable but my benefits were there. The UoN benefit scheme kept on investing that money. By the time they called me for it, to transfer it to a fund manager, it was quite substantial. But, when I look at the percentage we are contributing in Parliament of 12.5 per cent and the Government's contribution of 25 per cent, it is a substantial pool of money. I do not think we are managing this money well to grow it. By the time you leave, your pension should be much higher than what you were told it will be. The management of that scheme needs to be relooked at. We need to invest that money, so that it grows before a Member leaves Parliament. At the time he leaves, the pension will be higher, it would have grown higher. The pensions committee needs to relook at the management of these funds to grow the money, so that people who retire get decent income in their retirement.

Thank you.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Very well. Thank you for sharing that experience. I am sure the Committee has listened to your thoughts. The Nominated Member, Hon. David ole Sankok.

**Hon. David ole Sankok** (Nominated, JP): Thank you, Hon. Temporary Deputy Speaker. From the outset, I support this Bill. It is good for us to put the records straight, so that Kenyans understand that this scheme has got nothing to do with greed. It is a welfare issue of State officers,

including Members of Parliament who are entitled to pension. They contribute to the pension scheme. It is not free money. It is a contributory pension scheme. Sometimes, it is pathetic when you see the responses we get and what we are branded, as Members of Parliament. To be a Member of Parliament in Kenya is expensive. The expensive lifestyle is contributed by the same citizens who question anything earned by a Member. When members of the public are fundraising, you will never hear any of them inviting a District Officer, a County Commissioner, a Principal Secretary or a Cabinet Secretary. They run to their elected leaders.

Some of us who are Nominated Members who do not have any kitty like the National Government Constituencies Development Fund (NG-CDF), sometimes go into our pockets to try and assist those we represent. I represent one of the largest constituencies of six million Kenyans with disability. Sometimes they come to my home, some of them crawling because of lack of wheelchairs and I do not have any kitty. I have to go to my pocket, this is not from my salary, but from my life savings from my businesses to assist them. I cannot allow somebody who crawls to my compound to crawl out of the same compound; I have to assist them. In 2022, I will retire from politics. It is too expensive and difficult to be in this House yet we are branded many names, including “M-Pigs.” This House is our work station. We are here on Tuesdays, Wednesdays and Thursdays. On Mondays and Fridays we do committees’ work. I was not trained as a lawyer, ---

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Order! Hon. Sankok. There is intervention from the Member from Mavoko, Hon. Makau.

**Hon. Patrick Makau** (Mavoko, WDM-K): Hon. Temporary Deputy Speaker, I was trying to catch your eye. I want to contribute.

*(Laughter)*

*(Hon. Peter Kaluma’s phone rung)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): If you want to contribute, then you are on the wrong Order. Hon. Kaluma, I thought that was a new way of intervening. Please, your phone is interrupting the business of the House. Hon. Sankok, carry on.

**Hon. David ole Sankok** (Nominated, JP): Hon. Temporary Deputy Speaker, the Hon. Member from Mavoko has all the rights to catch your attention. As I was saying, we are here on Tuesdays, Wednesdays and Thursdays because this is our work station. On Mondays and Fridays we have committees’ work. I am not a trained lawyer, therefore, on weekends I have to research and study laws, so that when I come to this House I am able to contribute sensibly. So, we work seven days in a week, 24 hours in a day and 365 days in a year. We work with zeal and give our best. Why should I not be given what I have contributed and is entitled to me? Why are Kenyans not questioning Cabinet Secretaries and Principal Secretaries who drive fuel guzzlers fueled by the Government, having drivers paid by the Government and having several bodyguards? Members of Parliament who drive their own cars, bought using their own money are being questioned when they ask for pension. It is our entitlement and I support it 100 per cent.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Hon. Members, I see a lot of interest on this Bill. It is important that you plan your five minutes of contribution. When the substantive Deputy Speaker, Hon. Cheboi left the Chair, he had given a direction that we allow Hon. Rachael Nyamai to give Notice of Motion on the Report of the Committee on a Petition. So, we will interrupt business to give her an opportunity to give Notice of Motion. Hon. Nyamai, you have the Floor.



**NOTICE OF MOTION****ADOPTION OF REPORT ON ALLEGED INVASION  
OF LAND IN ROYSAMBU CONSTITUENCY BY KDF**

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Thank you, Hon. Temporary Deputy Speaker. I beg to give notice of the following Motion:

THAT, this House adopts the Report of the Departmental Committee on Lands on its consideration of the petition of the alleged invasion of LR No. 5875/2 in Roysambu Constituency by the Kenya Defence Forces (KDF), laid on the Table of the House on Thursday, 2<sup>nd</sup> July 2020.

Thank you.

*(Resumption of Debate)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Very well. Order Hon. Kaluma! It is important that Members know that, that is Notice of Motion that has been given. We are going back to debate on the Parliamentary Pensions (Amendment) Bill. We will have the Member for Tharaka before the Leader of the Minority Party.

**Hon. George Gitonga** (Tharaka, DP): Thank you, Hon. Temporary Deputy Speaker. I rise to support this Bill by Hon. Mwadime, which seeks to amend the Parliamentary Pensions Act to deal with the retirement benefits of Members of this House.

I have keenly listened to Hon. Mwadime and the seconder, Hon. Gladys Wanga, and I am in full agreement that it is vitally important that this House looks at the various provisions of the Parliamentary Pensions Act with a view to streamlining them and bringing them to accord with our Constitution. Important to say, we are 10 years down the line and we still have many laws, including this one, which do not comply with our Constitution.

Most importantly, I have observed the lives of former Members of Parliament and the situation is pathetic. Members of Parliament who founded this House at Independence in 1963 and the subsequent ones live in abject poverty and they move around begging in the villages. This is absolute disgrace. It is high time citizens realised that Members of Parliament do represent them and their interests in the country. And those Members of Parliament must also be taken care of, especially in their old age. And it is right to say that when a Member of Parliament is elected the first time, you will choose as to whether you want to get gratuity at the end of your term or you want to get into a pension scheme. But we must also encourage the pension scheme because it is more durable in taking care of Members especially during old age. I urge Members to pass this Bill, with the necessary amendments that we are going to make.

We also have other Kenyans who are looking at us and saying, "Look at those greedy Members of Parliament talking about their own pensions and not thinking about us." Those claimants are former councillors. We have councillors who served this country diligently for many years but nobody seems to care about them. Every time this matter is brought up, we are told there is no money. This House should have moved in to enact a law to take care of our former councillors. This is important. As we do so, I remind this House that in the year 2018, we did pass a law where we said basic administrators in any government are the village elders. And we passed a Motion that the Government should consider remunerating village administrators. They are also

looking at us. They are saying, “Look at them again. They are talking about themselves and not talking about us.” Since the Government failed to implement a Motion of this House, we are now possibly going to move to an Act of Parliament. We will pass an Act on remuneration of village elders. As we pass this law, let us also think about the claimants out there who are entitled to a decent living and some stipend or remuneration which they are not getting.

Hon. Temporary Deputy Speaker, with those remarks, I beg to support.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): The Leader of the Majority Party.

**Hon. Amos Kimunya** (Kipipiri, JP): Thank you, Hon. Temporary Deputy Speaker. I rise to support this Bill. I thank the Parliamentary Pensions Committee and Hon. Mwadime for bringing the Bill to align the current Act to the requirements of the Constitution. The current Act still talks of the National Assembly and ignores the fact that there is the Senate. So, trying to align the Act to the Constitution is a major advancement to make sure that we are talking of Parliament rather than the National Assembly.

The second thing is obviously the issue of Members making a deliberate choice. Let me say something at the outset, because I heard Hon. Eseli comparing the parliamentary pension scheme with the university pension scheme. There are two pension scheme models. There is a defined contribution scheme, where it is defined how much you contribute and the money is then invested with fund managers. What you get at the end is based on your contributions plus the growth and the risks. You could get less or more. On the other hand, there is a defined benefits scheme, where your monthly benefits are defined upfront. The contributions are then worked backwards to guarantee that benefit. Parliament opted for defined benefits scheme. So, let us not give the Parliamentary Pensions Committee a lot of work as they try to crack up the figures you get as benefits because we opted for a defined benefits scheme. It does not matter how much they invested. In fact, they do not invest. The money is put in the Consolidated Fund and you are paid a defined benefit on retirement. Given that situation, Members can opt for that defined benefit for life when you retire, subject to serving for two terms and being 45 years old. Or you could decide you want your money upfront because you are a better manager for yourself than what the Consolidated Fund can do for you. But you must make that decision upfront, so that you do not wait until after five years and then you say you would rather have the gratuity rather than the monthly pension. The pension managers need to plan. I think that flexibility is a positive thing. I would like to urge Members to just be careful. The Ksh126,000 may look small, but it comes in handy when you are out there after the two terms. At least it guarantees to pay your power bills and other bills on a monthly basis when you are still figuring out what to do with the rest of your life. If you get everything upfront, especially after campaigns, you are likely to start consoling yourself and invest in some businesses and yet you have never been a businessperson. The next thing you are here asking us to buy you some tea, as we have seen from some of our colleagues who have left in the past.

In this Bill, there is now a provision for early exit. If you do not hit the 10-year threshold, either because of sickness or some other reason, the Bill provides that exit opportunity which is not there in the present Act. That is a good thing and we support it. There is also a provision that allows payment to widows or widowers should a Member pass away, because it is your money. It is your defined benefit and it should not stop with your death. Your spouse and children should continue being supported by your pension. That is now provided for in this Bill.

I would like the Mover to look at Clause 8(4) of the Bill. When we come to the Committee of the whole House, we should know the interest rate of the gratuity because that has not been

captured right now within the Bill. It may have been a typo. I did not hear the Mover or Seconder correcting what is in the Bill. I hope Hon. Otiende Amollo has also picked it up with his thorough combing. I combed quickly and realised there was something missing. There is a rate quoted but not actually stated. We need to have that included in the Bill for completeness.

Hon. Temporary Deputy Speaker, again, most of this Bill is about compliance with the Constitution. It is about aligning. A number of these clauses basically change including changing “National Assembly” to “Parliament”. These are fundamental clauses and I am really happy about it. Yes, let us allow Members that choice to either get a gratuity or a pension but, I would advise Members that pension is always better than a gratuity. The lumpsum is good if you are a good financial manager but most of us are not and unless you want to pay Hon. Mbadi and me to help you with what to do with that money, I would rather you keep it and enjoy the pension into long-term between 45 years and the time you pass on at the age of ninety something. If you aggregate that money, it is actually quite something compared to how much you have put in during your 10 years. I do not necessarily spend the rest of my time. I wish to stop there.

I beg to support.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): You beg to support. I am sure the owner of the Bill who has been moving it has heard some important comments. Hon. Wangwa, who is the seconder, is also in the House. I now give the opportunity to the Leader of the Minority Party, Hon. Mbadi, who also has priority, to speak in Parliament.

**Hon. John Mbadi** (Suba South, ODM): Thank you, Hon. Temporary Deputy Speaker. The discussion around the amendments to the parliamentary pensions scheme has confused us a lot but we need to understand, as Hon. Wangwa said. I was actually watching from my office and I can say that the one we dealt with in the morning was very restrictive. It was dealing with those former Members of Parliament. We are now on a totally different Bill which has been ably moved by Hon. Mwandime on behalf of our Parliamentary Pensions Committee.

Since we are dealing with a country where people like sensationalising things even without taking time to understand, I have been receiving many calls from the media who seem to have not understood my Bill which was pretty simple. This one will be misunderstood even much more. We need to be very clear and explain these facts so that those who want to hear or those who want to listen may do so and understand exactly what we are doing.

First, the way the Act is today, Members of the Senate are so disadvantaged. If one wanted to talk about a Member of the Senate who would be getting pension after serving two terms, it would be problematic because the law talks about National Assembly and not Parliament. So, if you are a Member of the Senate, it would be a challenge. I think the correction of the definition from “National Assembly” to “Parliament” is very easy to understand. That is one of the things that this Bill is trying to do.

Two, and with the benefit of being in this House for a while now, I want to just explain one fact around this amendment especially, on Clause 8 and that is the justice I want to do to this Bill. The others can pick other things.

When we reported here in 2013, the Salaries and Remuneration Commission (SRC) decided to write to Parliament and actually gave Members of Parliament gratuity at the rate of 31 per cent. That letter is there. The SRC has approved that Members of Parliament should get gratuity at the rate of 31 per cent of your basic salary; same to any other public office holder. That principle is there. Where the confusion comes in is that we are in a parliamentary pensions’ scheme which is guided by law and the Constitution is clear that you cannot vary pension to the disadvantage of the pensioner. Again, this is a contributory pension scheme, as Hon. Kimunya mentioned. So, you

cannot give me gratuity yet I contributed without asking where my contribution is. Therefore, we are trying to harmonise these two: That yes, every public officer is entitled to gratuity if you have a defined term of employment like ours of five years. Again, yes, we are also in an existing pension scheme where we are contributing 12.6 per cent of our salaries every month. So, the question we are trying to resolve here should be understood in the context of the fact that Parliament is trying to avoid double awarding of these benefits to Members.

You will hear out there that probably, we are trying to give Parliamentarians more. It is far from it. In fact, given the fact that the SRC had already given Members of Parliament gratuity at 31 per cent, we could even insist and demand that we get that and get pension because it is there but, Parliament is trying to clarify it and make it clear that you can only get either/or. This is what this Bill is trying to do. So, if you get gratuity, then you can only get your contribution to the pension scheme together with interest earned but, the Government's contribution will not come to you. If you chose pension, then you get pension. I think that is what this Bill is saying. I wanted to make that matter very clear because I know how in this country sometimes people are lazy when it comes to trying to analyse and understand what is going on.

Having said that, there is this debate about what happens to Members of Parliament who have served one term. This is a debate that you cannot run away from because it could have been that actuaries who calculated it, felt that for this scheme to be sustainable, you must serve for 10 years or more but, it is a kind of argument that cannot hold because why 10 years and not five? That is a question that this House has to debate and talk about. Even if you serve for five years, you have served Parliament. You have been a leader in this Parliament. I do not know anywhere in the world where senior citizens are treated with the kind of disdain that this country treats its own citizens. Members of Parliament are also falling in the category of senior citizens when you retire.

So, the way I understand it is let us not look negatively at retirement benefits of an individual, whether that person is a Member of Parliament or not. In fact, we should look at even other public officers and see how to improve. We can talk about our economy but the amount of money we steal in this country, if we left it to be spent wisely on senior citizens, it would be enough. Something that I think we have been avoiding but is more important than even pension is the issue of medicare to people who are retiring and more particularly, Members of Parliament. I am thinking of how we can bring an amendment to this Bill. Even if you leave out issues of pension, but just think about the medical cover for Members who leave the service, that would be fine. This is because as you grow old, you will need more medical attention.

Hon. Temporary Deputy Speaker, eight years ago, I could go for two years without coughing or sneezing but nowadays if I take two days without exercise, I will be taken to hospital the following day because the whole body will be paining.

This is because age is catching up with us whether we like it or not. I have been fighting it. My children keep on reminding me that I am becoming old, I do not want to accept it but that is the reality. Therefore, despite having an umbrella body, the former Members of Parliament are struggling to convince the National Hospital Insurance Fund (NHIF) to give them a medical cover. It is painful that we are fundraising almost daily to offset medical bills of people whom we were looking upon and admiring in those days. The other day when Hon. Ocholla Ogur died, we had to contribute towards a bill of Ksh1.5 million.

There is a Member of Parliament I never imagined would suffer in this country called Ojwang' Kombudo, famously known as 'Mar Chieth'. I do not want to translate that because you may not like the meaning. If you see the gentleman today you will not know that he is the great

former Member of Parliament for Nyakach who demanded *Omweri* to be taken back to Nyakach. He is in deep problems and yet he is a person who served this country with dignity. I personally have pension having served for three terms. I am just fighting for others.

Hon. Temporary Deputy Speaker, just add me one more minute.

Those who are serving this House for the first term are not sure whether they will be coming back. It is upon us to support your cause. Kenyans will not like it but anyway...

**Hon. T.J. Kajwang'** (Ruaraka, ODM): (*Off record*)

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Order, Hon. Kajwang'! You cannot refer to the Leader of the Minority Party as 'her' and yet he is wearing a very nice suit. I will give you one more minute.

**Hon. John Mbadia** (Suba South, ODM): I was saying something which I know many people may not say, especially those serving their first terms. It is upon those of us serving a second and third term to tell the Government. I know this matter will be blown out of proportion. Tell the people of Kenya that there is no crime in serving the people of this country in this House. Let us also consider and work on that formula and bring an amendment to include that formula so that those who have served for 60 months can also qualify for some modest pension which can help them buy some drugs when they grow old. It is not asking for too much. Right now, the amount of money being stolen in the Government is running into billions of shillings. On the contrary, when it comes to something that we procedurally give to Members who have served in this House, it becomes a hot debate. Those stealing, please, stop stealing so that there can be enough money for public officers, including Members of Parliament, to also earn some decent living after leaving office.

Thank you, Hon. Temporary Deputy Speaker, I support.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Very well. Thank you for your wisdom. We appreciate your leadership.

Let me have some wisdom from Hon. Kaluma. It is on record that you do not have your card. Please, give him the microphone.

**Hon. Peter Kaluma** (Homa Bay Town, ODM): Thank you, Hon. Temporary Deputy Speaker for the grace to speak to this one. Due to time, I will not dwell on the things that the Leader of the Majority Party and Leader of Minority Party have tackled. It is important for the public out there to know that we have this amendment in order to bring Members of Parliament serving in the Senate within the bracket of parliamentary pension scheme. As the Leader of the Minority Party said, if the pension given to any Member of Parliament serving in the House of Senate were to become a subject of challenge before a court of law, it would be a very difficult situation for them to defend. This is because the Parliamentary Pensions Act still talks of the National Assembly and not the Senate. So that is to be clarified.

Hon. Temporary Deputy Speaker, I support this Bill but with a raft of amendments. This is because I still see confusion in terms of entitlement to gratuity against entitlement to pension. In both literal English and law, pension is a social security benefit calculated on some rate and given to you when you meet the requirements like age specifications and others. I want to challenge any of you to go to your phones and Google the word "gratuity". It comes from the word "*gratis*", which means "grace". It is a gift in money form. It is a tip. It is something given to you and people who qualify for it are people who have served for some specific term. If you look at the law on gratuity, whether you go to the United Kingdom or United States of America, it is a tip for defined areas of service. It is a salutation that you have served in a place of honour. It is a way of telling you, "You have served well, we thank you with this." That is why during previous parliaments

such as the Ninth and Tenth Parliaments, Members were getting gratuity at the end of their terms. Those who qualified for pension are also getting their pension today. So, I have a problem. Hon. Mbadi, has confirmed that he got his.

So, my problem with this Bill is that it seeks to merge two labour-based entitlements that deal with separate things. Social security is not a thankyou for having served in a House of Parliament. It is something that the team which has brought this Bill, assisted by Hon. Mwadime, Hon. Wanga and others, must help us define. Members need to look at the Gazette Notice that defines the terms of service when we came here in 2013. The 31 per cent gratuity is available to all public servants in the Executive and the Judiciary, and it is still the same today. It is available to all commissioners and independent office holders. It is still provided for in the Gazette Notice.

Hon. Temporary Deputy Speaker, you will remember that when the Gazette Notice that provided for Members' gratuity was amended and all the benefits maliciously removed, Members went to court, through the Parliamentary Service Commission. I thank them for that. The court nullified the Gazette Notice that removed those entitlements. It means the entitlement for gratuity still remains at 31 per cent. The entitlement for pension under the Parliamentary Pensions Act also remains intact. So, it would be a mistake for us to merge the two. This is something we are going to propose to look at afresh because the two deal with separate things. I am one person who never shies away from the law and the truth. For those of us who are in the 12<sup>th</sup> Parliament and are entitled to gratuity, which we have not been given, whether people like or not, I will be instituting my own action to seek our gratuity because it was a gazetted entitlement and it is a lawful entitlement.

Two things have been said by the Leader of the Majority Party and the Leader of the Minority Party, which we also need to look at. Can we define what we are going to apply for, whether it is gratuity and pension? It is very sad to see a person who has served in this House, making great contributions to Bills, being unable to meet his medical bills in old age. Many are sad times when you read in newspapers that a former Member of Parliament cannot sustain kidney dialysis and diabetes treatment.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Nobody cares. There is so much interest in this Bill by Members. Allow me to give the Floor to the Member for Mavoko.

**Hon. Patrick Makau** (Mavoko, WDM-K): Thank you, Hon. Temporary Deputy Speaker for giving me this chance. At the outset, I appreciate the passion that the Mover and the Seconder have exhibited on this Bill. It is very serious and it touches the hearts of the Members of this House. I want to remind Members that by discussing this Bill, I do not know why we are feared. It should be known that the moment you are voted in there is a culture and tradition of voters starting to hate you. So, when we are here to discuss our pension all Members must be alive to this because it is contributory.

I do not understand why when we contribute towards our pension and discuss on ways to make it better this makes anybody feel bad. I concur and support Members who feel like me that, the SRC gazetted that Members who served in 2013 would get a gratuity of 31.5 per cent. If SRC does not give that money to us this is fraud and should be said so. So, as we grapple with this Bill SRC should be reminded that they owe us a lot of money.

Secondly, I have heard the Leader of the Majority Party talk about a defined pension. I want to tell this House that history has been made since we got new officials of Parliamentary Savings and Credit Cooperative Society (PACOSO). Every Member of the housing SACCO of Parliament is today a proud owner of plots and we will build for them houses.

It is very painful for a Member of Parliament to be poor yet, he or she was once a high-ranking person in this country. I want to encourage Members who are not members of PACOSO to join immediately because you do not know about tomorrow, and you should save here. Today, members of the housing SACCO can smile all the way. They have plots which we bought for only Ksh1 million and are now going for Ksh3 million. By the time you leave here, that plot will be about Ksh5 million.

Parliament agreed that we have a defined pension. Unless we go the way of Hon. Eseli regarding the pension scheme and I can see Hon. Wanga is here, why are we not thinking of investing this money? The way PACOSO pays you dividends every year and makes even better investments with your shares, we should start thinking. We are investors and I do not see why we should keep hanging on the Kshs.106,000.

We can engage the pension scheme to start investing so that contributors can have more money in future. You know the higher the risk the higher the return. We cannot keep hanging here because of that money. Yet, our money is sitting somewhere in the bank.

**Hon. (Ms.) Eve Obara** (Kabondo Kasipul, ODM): On a point of order, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Order, Hon. Makau! You have one point five minutes and I will reserve them. There is a point of intervention by the Hon. Obara Akinyi, Member for Kabondo Kasipul. What is out of order?

**Hon. (Ms.) Eve Obara** (Kabondo Kasipul, ODM): On a point of order, Hon. Temporary Deputy Speaker. There is confusion and we need to be clear on what we are talking about. I have heard Members talking about defined contribution yet, I believe what we have here is defined benefit.

So, I am calling upon the Chair or Mover to clarify because I believe it is defined benefit and not contributory. So, can we be very clear on what we are talking about. Am I clear? If you look at the Amendment Bill you can clearly see there is a formula being used and the benefit is defined at the end, as what you are going to get.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Hon. Obara wants to be told the difference.

**Hon. (Ms.) Eve Obara** (Kabondo Kasipul, ODM): I am saying I believe it is defined benefit but I am hearing many of my colleagues talking about defined contributory.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Order! Hon. Makau you have one point five minutes. There is a proposal to inform you and I am sure the Mover who is in the House is taking note of that. Hon. Obara do you want to be informed by the Leader of the Minority Party because I can see him taking note of this.

**Hon. (Ms.) Eve Obara** (Kabondo Kasipul, ODM): *(off-record)*.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Please be on record because this is a House of record and rules.

**Hon. (Ms.) Eve Obara** (Kabondo Kasipul, ODM): Can we be very clear?

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Do you want to be informed by the Leader of the Minority Party?

**Hon. (Ms.) Eve Obara** (Kabondo Kasipul, ODM): Yes, I do.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Leader of the Minority Party can you please inform Hon. Obara on the same.

**Hon. John Mbadu** (Suba South, ODM): Thank you, Hon. Temporary Deputy Speaker. Hon. Eve Obara is very right. The pension scheme we have is not a defined contributory scheme.

It is a defined benefit scheme. Your benefit is defined and worked by the number of months you have served this Parliament divide by 300 months which is determined as the maximum. Then multiplied by your basic salary in the last 12 months and the formula goes on by multiplying by 3.75.

If you come to my office, I can give you the full details. I think that is where confusion is arising. After that defined benefit our actuaries worked on how to sustain that scheme. They came up with a contribution that a Member must put every month. So, as Members of Parliament we contribute 12.6 per cent but this does not make it a defined contributory scheme. We make contributions to sustain the defined benefit scheme. I hope this is a bit clear.

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): On a point of order, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): So, in a nutshell it is defined benefit scheme. That is information from the Leader of the Minority Party to Hon. Obara.

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): On a point of order, Hon. Temporary Deputy Speaker. I am very happy because in this House we have different skills. Hon. Mbadi is speaking from a finance perspective. I will speak from a legal perspective. When talking as a lawyer...

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Hon. Millie Odhiambo, are you on a point of order or you want to inform further?

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Yes, I am on a point of order but I have to give a background to it.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): I thought you wanted to inform Hon. Obara further.

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Yes, it is part of the informing but as a point of order.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Hon. Millie Odhiambo please be specific. What is out of order or are you informing?

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): My point of order is that Hon. Mbadi who is seeking to inform us has not done so. So, I need him to be clear. I want to give a background of when you have a system that is contributory and the same time fixed. As a lawyer that is a mongrel. What we need for purposes of us documenting is to be very clear even in his information on the system we have. This is because the system we have is a mongrel.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Hon. Mille Odhiambo allow me to save you. I know you are a senior Member in the House. Are you on a point of information or are you further informing that the Leader of the Minority Party is misinforming the House? As I intervene Hon. Leader of the Minority Party, Hon. Millie is seeking your clarification and you need to satisfy her. It is on notice that you were informing Hon. Obara.

**Hon. John Mbadi** (Suba South, ODM): Hon. Temporary Deputy Speaker, I hope this will be the last time. I understand the dilemma of Millie. Let me clarify it simply that, even in defined benefit schemes, they usually define what a Member is supposed to get and work backwards on how much should be contributed towards that defined benefit scheme. So, this does not imply that Members cannot contribute. Members can contribute or not depending on the kind of the scheme.

Let me just finish by saying that defined contributory scheme is where you define what a Member is supposed to contribute. Then, based on that you work how much that will generate to be given as pension. So, you are starting from contribution to benefit. The other one you work from benefits backwards. I hope it makes some sense.



**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Thank you, Leader of the Minority Party. You already made your contribution by informing Hon. Obara. I am sure you have heard Hon. Millie. But knowing the procedure of the House she will still have a chance to speak and inform other Members. With that information, I give back to Hon. Makau.

**Hon. Patrick Makau** (Mavoko, WDM-K): Thank you, Hon. Temporary Deputy Speaker. Yesterday I had a chance to watch Senate proceedings. This topic of points of order arose. There are many Members who were intervening on points of order yet they want to contribute. This is a House of rules and regulations. If a Member is rising on a point of order, they must state it as it is in the Standing Order. Do not just allow someone to say “point of order” and he or she is not stating...

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Hon. Makau, now you have one minute.

**Hon. Patrick Makau** (Mavoko, WDM-K): Hon. Temporary Deputy Speaker, when a Member is contributing and so many points of order, which are not even pointed at him...

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Order! Hon. Makau, you cannot direct the Speaker. You are actually out of order yourself. You have one minute.

**Hon. Patrick Makau** (Mavoko, WDM-K): Thank you, Hon. Temporary Deputy Speaker. It is important for Members to support this Bill. As I said, we should fear being poor. We must invest and pursue that line of SRC that they pay us as per the Gazette Notice that was issued by SRC. We should not forget that especially for you and me who are affected by such.

Again, let me remind Members. It is true and very unfortunate that as we contribute, we fear what Kenyans will say. This is our own contribution and welfare. I think we should put it the way it is. We should speak it the way it is. We have all seen how former Members of Parliament are suffering out there. Even as speak now, the medical scheme of this Parliament is so meagre. An outpatient cover of Kshs300,000 per family is so minimal. So, we should also even insist on our medical scheme being improved since with this COVID-19, diseases are eminent and we need to be medically covered. I support.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Order, Hon. Members. Allow me to make the communication that every Member seeking to stand on a point of order, please I direct that you should be able to tell the House under which Standing Order you are standing. Hon. Makau, we have points of information. There are different points of order. So, Hon. Members, please familiarise yourselves with your own Standing Orders. We only have two years to go. Otherwise you will be ruled out of order. I give this opportunity to the Member for Tinderet, Hon. Kibiwott Melly.

*(An Hon. Member stood up at his place)*

Order! The Member upstanding, the Floor belongs to the Member for Tinderet.

**Hon. Julius Melly** (Tinderet, JP): Thank you, Hon. Temporary Deputy Speaker. I think...

**Hon. Ibrahim Ahmed** (Wajir North, ODM): On a point of order, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Member for Wajir North, now that he is already on record that he is the Member on the Floor, let me hear what your point of order is.

**Hon. Ibrahim Ahmed** (Wajir North, ODM): Hon. Temporary Deputy Speaker, I rise on Standing Order No. 95. Going by the mood of the House, every Member is supporting this issue

regardless of the language they use to support. So far I have not seen any Member opposed to this Bill. Hon. Temporary Deputy Speaker, will I be in order to ask the Speaker to call upon the Mover to reply?

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Order, Hon. Members! Hon. Melly, as far as the procedures are concerned, when a Member is on the Floor, you are supposed to resume your seat. The Member for Wajir North is quite in order procedurally. The Speaker can only put the Question for the House to take the matter. So, I do put the Question.

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

We carry on. Hon. Melly, proceed.

**Hon. Julius Melly** (Tinderet, JP): Thank you, Hon. Temporary Deputy Speaker. I rise to support this Bill. I think today this House has done a lot of justice to former and current Members, especially in the two Bills that we dealt with in the morning. I just want to say that the Parliamentary Pensions (Amendment) (No. 3) Bill that is before this House is doing a lot of justice especially on Members' retirement benefits. As Members have just put it, the Bill that we discussed in the morning mainly discussed issues that affected former Members. Even in the precincts of this Parliament, we have seen retired Members who are actually living from hand to mouth. Many of them cannot even afford medical bills. They cannot even afford their own basic needs like rent, fare and many others. Today, I think the 12<sup>th</sup> Parliament will go down as having been considerate especially of the former Members who served in the 1980s, 1990s up to very recently.

Hon. Members, on this other Bill, I think the pensions committee has done a good job. However, there is need to have this Bill very clear. It should be very clear especially on the two terms that I have seen the Leader of the Minority Party and the other legal experts in this House trying to actually come out with. They have come up with a very clear pension scheme that is contributory and one that is going to be earned as a result of the organisation, that is, the Kenya National Assembly paying. This Bill is very important because after every Member leaves this House... It is common to all Kenyans that every Member of Parliament is also a social security individual. He is a moving social security individual. Wherever he is, he is supposed to pay for funeral expenses, medical bills and do all manner of social security in the society such that at the end of his 5, 10 or 15-year term, that particular individual has not invested anything for himself. So, without this Bill, most of us will retire paupers. It will be very difficult for a number of us here today in the next 10 or 15 years to pay for their own bills. They cannot even afford the medical bills that they are supposed to have. Hon. Mbadi had put it very clear. From 50s to 60s, a number of us are getting old and by that, you need to have a very good medical scheme.

I just want to ask the pensions committee to relook at this issue of medical scheme for Members of Parliament. I am saying so because currently we have a very good medical scheme but immediately your term is over, the only place a Member of Parliament can afford is the county referral hospital or county dispensaries. We need to really look at this because here is a man or woman who has served with dignity in this House. He has passed a number of laws and held a position of responsibility for some time. Therefore, like other countries in the world, he needs to have a very good medical scheme.

Therefore, I propose that the pensions committee will look at it so that we have a very good medical scheme for these Members. At the same time, there is also the issue of retired councillors. If you look in our municipalities and villages, many of them cannot even afford food and fees for

their children. It is time for us to look into that. I support and ask the Members to also support. Thank you.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Now let us get the Member for Rarieda, Hon. Otiende Amollo.

**Hon. (Dr.) Otiende Amollo** (Rarieda, ODM): Thank you, Hon. Temporary Deputy Speaker. I have now combed through this Bill and it is a unique day because we have had to consider three Bills on pensions, two in the morning. I suspect most of us were not there, given the rotational nature of Parliament. We have considered one in the afternoon.

Hon. Temporary Deputy Speaker, having considered this Bill, I stand to support it. First of all, it should be understood that one of the things that this Bill seeks to cure is an illegality. Until this Bill becomes law, any Member of the Senate who gets any benefits under the Parliamentary Pensions Act would be benefitting from an illegality because that Act only refers to Members of the National Assembly. To the extent that this Bill changes the words “National Assembly” to “Member of Parliament”, it enables Members of the Senate, who have served for two terms and beyond, to benefit lawfully.

Secondly, and I have agonized about this for some time, it is possible that we will be accused of breaching Article 116 (3) of the Constitution to confer a benefit to ourselves. This is something that we must make very clear. As I understand this Bill, it merely seeks to give an election. As Members of Parliament serving for one term, you are entitled to a gratuity. The same gratuity that you are entitled to if you serve in offices like the Ombudsman, in which I served, at the end of six years, you get a gratuity. But, this Bill seeks to give you the opportunity to make an election between a one-off gratuity and a delayed pension spread over time. To that extent, not only is it not necessarily a financial burden, it is not a benefit, it is a conversion. It is very important that we get the terminology right.

Speaking to what the Leader of the Minority Party was talking about, whether it is a defined benefit scheme or a defined contributory scheme, I would urge that we adopt the words “defined contributory scheme”. If you adopt the words “defined benefit scheme”, you are already falling into the trap of saying that you are conferring a benefit on yourselves. That is not something we need to go into. Let us be clear that we are making an election. Instead of the one-off gratuity, we are spreading it into a pension. And for that reason, it is not anything that would contradict Article 116.

Hon. Temporary Deputy Speaker, under Article 116, it is a direct pecuniary interest that we are barred from conferring on ourselves. If we do, then it can only take effect after the next election. Where it is a conversion, where you are voluntarily determining that, instead of getting a gratuity, let us spread it over to a pension, it does not affect Article 116 of the Constitution. Is it an issue of conflict of interest? Of course not because, first of all, we are covering former Members of Parliament who are not here to speak for themselves. Secondly, we are covering Senators who are not in the National Assembly.

Lastly, it is a matter of necessity because only Parliament can make law. As long as you are dealing with any law on gratuity and pension, we cannot take it to the Cabinet to pass it. We cannot take it to anyone else. We must make it here ourselves.

Indeed, this Bill also seeks to cure a discriminatory abnormality that, if you have served as Member of Parliament for two terms and beyond, then you are entitled to a pension; I believe it is Ksh300,000 or something. But, if you serve for one term, you are not entitled to any such thing. It does not make sense. I believe that it is okay if you serve for one term to be entitled to a pension *pro rata*. If you have served for two terms or more, you get more and that is fine. But, if you serve

for only one term, get what is due to you *pro rata*. There is nothing illegal about that. It is all very rational.

In closing, the Mover will have to look into two things. One, is the question of transition. From when does this take effect? Does it mean that if it becomes law, then all of us make that election now as if we had made it at the beginning of our term or does it take effect in 2022? Secondly, in Section 9 that seeks to amend Section 8 (1) (b), it is Section 8 (1) (b) that talks of two terms. But, in this Motion, they only seek to delete Section 8 (1) (a) and not Section 8 (1) (b). If you do not delete Section 8 (1) (b)...

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): The Member for Kiambaa, Hon. Paul Koinange.

**Hon. Paul Koinange** (Kiambaa, JP): Thank you, Hon. Temporary Deputy Speaker. I really want to congratulate Hon. Andrew Mwandime for the Bill. I know it takes a lot of courage to do that because I know there are very many people out there who are opposed, especially the media both mainstream and social media.

I have only a few things to say. One of them, as I support this Bill, is actually to note that even in other countries like the United States of America (USA), United Kingdom (UK) and Canada, they have a similar programme for their parliamentarians. So, this is good. It is worth noting that there are currently three amendment bills under consideration in the National Assembly addressing more or less the same subject matter. They include this Bill by Hon. Andrew Mwandime namely, the Parliamentary Pensions (Amendment) (No. 3) Bill (National Assembly Bill No. 57 of 2019); the second one by Hon. John Mbadi namely, the Parliamentary Pensions (Amendment) Bill (National Assembly Bill No. 45 of 2019) and finally, the one by Hon. (Ms.) Wangari Mwaniki namely, the Parliamentary Pensions (Amendment) (No. 2) Bill (National Assembly Bill No. 56 of 2019). I would like to request you to give directions on how we should consolidate these three Bills in order to harmonise them. I think many Members have mentioned the same. So, you can guide us on that, if it is possible to consolidate these three Bills, harmonise them, and come up with a better Bill, rather than split the three Bills.

I thank you.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Very well. This is a House of debate and I am sure the Members are here and in regard to such, that can always be communicated officially through the Office of the Speaker. But for now, we have the Bills as they are in the Order Paper.

The Member for Seme, Hon. (Dr.) James Nyikal.

**Hon. (Dr.) James Nyikal** (Seme, ODM): Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity.

I rise to support this Bill. What this Bill does is to amend the parliamentary pension scheme, so that it is aligned with the Constitution and the requirements of the Salaries and Remuneration Commission that provided that Members of Parliament get gratuity, even if they are in Parliament for just one term. The further benefit that accrues in this Bill is that it recognizes the special social circumstances of Members. The working conditions of Members are unique. Even in labour law, there are what are called compensable factors. So, if your working circumstances are such that you spend a lot arising from your own income, that is a compensable factor. If you have responsibilities that take your time and resources, which you would otherwise use for your own use, that compensable factor should be compensated for and this Bill does that.

This Bill does about four things. One, it allows payment to the first-time Members. It provides that they can do this either in form of gratuity or as pension. Hon. (Dr.) Otiende Amollo

delineated that. There is need to describe it as either gratuity or pension in order to remove the issue of conferring benefits to ourselves. Therefore, it would be dictating that this be implemented much later.

This Bill also recognises that Parliament consists of the National Assembly and Senate. There is a lot of bureaucracy that has been removed from the mother Act. Clause 16 seeks to amend Section 21 which stated that before any payment was made, there was need for the Auditor-General to approve. That is a huge bureaucratic problem. The removal of that will make things much easier.

Clause 17 seeks to amend Section 22 which stated that if there were to be actuarial studies to assess the viability of the pensions programme, that request would need to come from the President. I cannot understand why that was necessary. The Bill amends that section and now the request would come from the Parliamentary Service Commission (PSC). That is how it should be.

It also amends the composition of the tribunal so that Members of Parliament or the PSC are included. To that extent, I find that this Bill has been well thought-out. It takes care of Members so that when they retire, they live a decent life.

It also provides for widows and widowers of Members to receive payment. It also defines that the Constitution dictates that a child is somebody below the age of 18 years.

The bigger issue that the country should look at is social security. The issues of Members of Parliament are just heightened by our condition and the work we do. All members of the society need to be looked after. That is why the social security policy in this country should be implemented far beyond the cash transfers that we give thinking they are a big thing.

Health is an important factor that has not been included here...

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Very well. Let us have Hon. Millie Odhiambo-Mabona, Member for Suba North, making her official contribution.

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity. I support the Bill.

As Hon. Otiende was looking at it with a fine-tooth comb, unfortunately, I am not able to because I forgot my glasses. However, I will do so for purposes of ensuring that I have not left anything out because this is something that concerns us.

Nonetheless, I want to respond to the issue that the Chair of the Departmental Committee on Transport, Public Works and Housing - I cannot remember if it was him - has talked about. This issue of the three different Bills before the House. If the content is similar, I suggest that the committee where Hon. T. J. Kajwang' sits looks into it. Hon. T. J. Kajwang' was complaining that the committee he sits on does not have a lot of work. You have a lot of work one of which is to amend the Standing Orders so that we can have co-sponsorship of Bills because that has become a challenge. If we have co-sponsorship of Bills we will not have this issue.

The work of a Member of Parliament is in public service. Being in public service is not supposed to enrich us. Nonetheless, it is also not supposed to make us paupers. It is supposed to enable us to get by and when we retire, we are not supposed to be paupers begging people on the streets. A lot of people have the fallacy that being a Member of Parliament unduly enriches us. I encourage Members using the Kiswahili phrase, "*tenda wema, nenda zako*". It does not matter what you do, people will always complain. Currently, there is an area in my constituency that was complaining that I have not built a school. I decided to build four classrooms at once. What is their current complaint? Materials have been put in the middle of the school. People will always complain. If it is not that, they will ask why there is no toilet. Do your work as a Member of Parliament but be guided by certain principles which I see in this Bill despite not having my "eyes".

One of the principles that I support in this Bill is the issue of constitutionality. Hon. Otiende raised the issue of Article 116 (8) which states that we cannot confer direct pecuniary interest until the next elections. If we can translate this to mean that there is direct pecuniary interest that will be conferred to us, we must find wording that cannot confer direct pecuniary interests now. The primary word is “direct”. We will have to say whether there is direct pecuniary interest. If there is no direct pecuniary interest, it can be passed and be effected immediately.

There is also the issue of equality. In the principle of equality, the National Assembly cannot benefit while the Senate is left out. We are all Members of Parliament. We are following the principle of equality in the Constitution.

There is also the issue of non-discrimination. I have heard many Kenyans complain whenever we say anything to do with remuneration of Members of Parliament. However, when you look at officers in the Executive that rank equal to us, they earn much more. Assistant Cabinet Secretaries earn more than us. I was one of the people who came up with the Constitution. Assistant Cabinet Secretaries are not supposed to rank at the same level with us. They earn more and are given more because of that position yet we are the ones who work directly with the public. That is why I am never apologetic because at the end of the day, whatever I get in and outside of Parliament goes directly to Suba North. I have no apologies.

My time is almost up. I am happy with the harmonisation with the Children Act which provides that a child is one who is 18 years of age and also includes children up to 25 years old.

We also need to include former councillors. As I was coming here, Councillor Odiyo who is the Chair of Councillors of Homa Bay told me that he is happy that we have added widows and widowers and have removed the discrimination against unmarried girls.

With those few remarks, I support the Bill.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Very well for the legal minds. Hon. Kajwang’, you are top on my list. You had walked out for consultations a few minutes ago. As you settle, allow me to give a chance to the Member for Kitutu Masaba, Shadrach Mose. You are next on the request list.

**Hon. John Mose** (Kitutu Masaba, JP): Thank you, Hon. Temporary Deputy Speaker for giving me an opportunity to add my voice to this very important Bill.

From the outset, I support the Bill. The aspect of a pension programme for Members of Parliament is a thorny issue out there.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Let me cut you short. There are Members, including Hon. Kajwang’, who wanted to speak to the Report of the Public Investments Committee. It is important to note that I have 10 requests but it is a mixed list of Members who want to speak to the Report of the Public Investments Committee and others who want to speak to this Bill. Members should be patient. You will get time to speak to this.

Very well. Carry on.

**Hon. Shadrack Mose** (Kitutu Masaba, JP): Thank you, Hon. Temporary Deputy Speaker. When we talk about this, it arouses a lot of concern out there. The members of the public that we serve always look at us very negatively, particularly today which was a unique day in that we discussed this matter in the morning and afternoon. Many other stakeholders are also affected and would want to hear what we are saying about this.

I am delighted that first, this Bill seeks to align itself with the Constitution. Indeed, it has taken us too long before we bring this into action. There are salient issues that arise. I am impressed because Clause 2 of this Bill states that the provisions of this Act shall apply to any person who is a Member of Parliament on or at any time after the commencement of this Act. Clauses 3(a) and

7 of this Bill shall apply to a person who was a Member of Parliament on or after 28<sup>th</sup> March 2013. That tells us that our Members of Parliament who left the House after 28<sup>th</sup> March 2013, together with the Bill that we discussed in the morning which was very specific, would be beneficiaries after we pass this Bill. I am sure all of us have had a chance to interact with former Members of Parliament. When you meet them out there, you will not believe that they were the role models that many of us admired. When they made their contribution and participation in legislating for this country, they did a splendid job. However, when you meet them, the manner in which they dress.... They are unable to meet their medical bills. Some of them are unable to live a reasonable life, pay rent and get sustenance. This commends that we should move with speed and ensure that we pass this Bill. This Bill will enable us to give perk to those role models whom we admired so much, to ensure that they also lead a reasonable life.

There is also the aspect of the medical bill or cover for retired Members of Parliament. That is something that we also need, as we legislate, at the stage of the Committee of the whole House to move serious amendments. There is also one thing that I want to agree with Hon. Kaluma. I urge him to seriously bring that amendment. The pension which we are speaking about in this Bill should actually be distinguished from gratuity which is something that is earned by civil servants and members of the Judiciary out there. However, we, as Members of Parliament, are disentitled. We need to come out very clearly, define it and ensure that as a Member of Parliament, you earn that gratuity and then we deal with the pension the way it is.

I can see that my time is up and I can see my colleagues like Hon. T. J. Kajwang'. We need to invest seriously in this Bill, so that other beneficiaries like the councillors and civil servants who have retired and are not benefitting become beneficiaries.

With those remarks, I support the Bill.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Very well. Let me have the Member for North Noor, Hon. Ganya Chachu.

**Hon. Chachu Ganya** (North Horr, FAP): Thank you, Hon. Temporary Deputy Speaker. I want to join my colleagues in supporting this Bill. I really want to thank Hon. Mwadime and the Members of the Parliamentary Pensions Management Committee for very good work. We had another Bill this morning which will support the former Members of Parliament who served in this House before us. We are also trying to ensure that the current and future Members will be entitled to their right. I strongly believe that for those who have worked in the public service, pension is a right, and not a privilege.

We should not be afraid of making laws. We are parliamentarians. We are the law makers in this country. By amending this Act, we are trying to align it with the Constitution 2010 which is our mandate or job which we should do. It is unfortunate that it took us 10 years to do this while we have considered all other Acts that have been aligned with the Constitution 2010 today. I really want to commend Hon. Mbadi for moving the Bill that we passed in the morning and which will be assented to by the President. I hope that he will do it. The former Members of Parliament who served in that period are entitled to a pension. They get very little amount. They should get, at least, something decent to support them for the rest of their lives.

I support this Bill strongly. Members of Parliament who were fortunate to only serve in this House for only one term should be entitled to a pension. Even in the neighbouring country, Uganda, United States of America (USA) Congress and United Kingdom (UK), Members of Parliament are entitled to a pension. The Members of the House of Representatives in the USA Congress serve for two-year terms and they are entitled to a pension. It should be done on a *pro rata* basis depending on the years they served. If you are lucky enough to have served like the

former President, Hon. Mwai Kibaki, for 50 years, you should be entitled to a pension for that period. If you have served for five years and 15 years like me and others here, it should be the same.

I hope that the Committee will come up with that amendment to enable first-termers to benefit which is not in this Bill. Hon. Mwandime and Members of his Committee are here. I really hope that they will ensure that amendment will be brought at the Committee of the whole House. Members of Parliament who are in their first term are the majority here. Please, stand up for yourselves. We will support you and ensure that we pass that amendment. If it takes us to override the veto of the President by two-thirds majority, we will stand up to the occasion and do what is right for ourselves and future Members of this House. It is upon us to defend the dignity of this House now and in future.

The medical scheme for the former Members of Parliament is genuine. We should look into ways that we will do it in a very modest way. We should not make it too expensive. It is their right. This scheme should enable the former Members of Parliament to access adequate medical care in their sunset years.

There is a clause which says that our spouses—widows or widowers—will be supported in future. That is a good clause. It is really important for them to get that benefit. Even in other sectors in the public service and corporate world, they are entitled to those benefits, when one spouse passes on.

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

*[The Temporary Deputy Speaker  
(Hon. Patrick Mariru) took the Chair]*

Madam Temporary Deputy Speaker, as I wind up, I want to support the Members of...

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Chachu, be careful. It is not Madam Speaker.

**Hon. Chachu Ganya** (North Horr, FAP): Hon. Temporary Deputy Speaker, I am well guided. As I wind up, I really want to tell the Members of the Committee to take a keen look at this Bill and ensure that all the necessary amendments are made and we do what is right for this House now and for posterity.

I support the Bill.

**Hon. Zachary Thuku** (Kinangop, JP): On a point of order, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): What is your point of order, Hon. Kwenya Thuku? You are seated in a pretty unusual place.

**Hon. Zachary Thuku** (Kinangop, JP): From 8<sup>th</sup> March 2018 when there was the handshake, we mingle freely. We sit anywhere and we are happy.

I rise on Standing Order No.95. I have read the mood of the House. We still have a lot of business to transact and we only sit once a week. I request that the Mover be called upon to reply.

*(Loud consultations)*



**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Kwenya, the truth of the matter is that you cannot read the mood of the House. It is only the Hon. Speaker who can do that. He is guided by the Members. Because Hon. Kwenya has raised it, I am obligated to confirm the mood of the House.

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

Shall we have Hon. Oundo Ojiambo?

**Hon. (Dr.) Wilberforce Oundo** (Funyula, ODM): Thank you, Hon. Temporary Deputy Speaker, for this opportunity. We are a House of debate and we must be allowed to debate the Bills before us without any intentions of short changing anybody.

I stand here to support the Parliamentary Pensions Amendment Bill No.3 of 2019 sponsored and presented in this House by Hon. Mwadime. I must take this opportunity to thank him for having spared the time to come up with these amendments. I want to start by making two important statements in respect of this matter.

First of all, Article 41 of the Constitution of Kenya requires that each person should be accorded fair labor practices. While it is granted that Members of Parliament offer the public service, the Constitution is expressly clear that a Member of Parliament can only hold that position and cannot be allowed to hold any other gainful employment, and then the provisions of Article 41 should prevail in this respect.

Eventually after working, you will have to retire. At one point or the other, you will have to stop working either by retirement or by being dismissed as a worker or by ultimate or untimely death, where you leave your spouses and all the people you supported. So, this is the genesis of this amendment. Those who have spoken before me have made strenuous efforts to draw a distinction between defined benefit schemes and defined contribution schemes. One of my colleagues has raised a question that in passing this Bill will it be conferring indirect benefits to us, contrary to the provisions of the law or not?

Technically speaking, here we have a scheme that more or less, marries the two. There are contributions that are clearly defined in terms of percentage but most importantly, there are benefits clearly defined in the Act. So, I would request the committee to really look at it very clearly and come up with a terminology that prevents or safeguards the interest of this House and the purpose of this Bill.

Hon. Temporary Deputy Speaker, again, the line must be drawn very clearly on the issue of gratuity and that of pension. While the Act seems to provide for a choice or a decision to be made by an individual, from where I stand and what I understand, gratuity and pension are two separate issues. They should not be confused. Typically if you work, your employer can decide to give you a gift on Christmas Day. That gift should not be deducted from any benefits that you will gain for having served your employer. We want the public, the Government of Kenya and the Parliamentary Service Commission (PSC) to treat us the same way. Obviously, we then need to be very clear that this decision to choose either to go for gratuity or pension is going to cause a lot of confusion and might actually deny Members of this House their due benefits.

The third issue that seems to be a problem here is what happens to first timers; those who do not make it. If you look at Clause 6 of the Bill, it attempts to define reckonable service yet, when you go to Clause 8 of the Bill, it seems to jumble matters which will require addressing and clarity.

I know my time is up and as I conclude we must also look at the Members of the County Assemblies (MCAs) and the former councilors. They served in public service and they are suffering out there.

With those few remarks, I beg to support.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Very well. Shall we now have Hon. (Ms.) Sophia Noor?

**Hon. (Ms.) Sophia Noor** (Ijara, PDR): Thank you, Hon. Temporary Deputy Speaker, for this chance to add my voice to this very important Bill. From the onset, I want to support the Bill. What we are doing is common practice in the Commonwealth countries. I have interacted with many Commonwealth parliamentarians and listened to them. I have shared some of our experiences as a country like what our former MPs are going through. The information that they shared with me was that what our country was doing to former MPs was not just and it was not portraying a good image to our country.

We know what our former parliamentarians are going through. It is a fact. As I was listening to many Members contributing, they have all alluded to the fact that there is a problem that is affecting these former MPs. The developed countries have welfare systems where every less fortunate member of the society is covered. As a country, we do not have that welfare system that can address issues that affect former MPs. I am happy that the Committee on Pensions has realized the importance of addressing a crucial problem that affects our founders: People who founded; people who have struggled; and people who have given themselves and a lot of their time to this country, which is a lot sacrifice.

Hon. Temporary Deputy Speaker, there are countries where senior citizens are given a lot of respect. They are given tokens, welfare and medical covers. But in our country, we know of people who have died: our senior citizens, people who fought for the independence of our country because they could not afford *Panadol*. I think this will cover a wider area of representation and we will look into all other people who have not benefited in terms of pensions in our country.

Medical care is very expensive in our country. We have seen people auction their houses, land, farms and animals and today they are destitute because they cannot take care of their loved ones in hospitals. Because of that, we will ask the committee that when they are looking at the Bill, they should consider and think critically about the medical cover for former MPs.

One other important thing that this Bill is treating which I feel is important is the issue of equality. The law was looking at the National Assembly, but this Bill is including Parliament which covers our colleagues in the Senate. That gives legality whereby you do not leave out a whole group of serving Kenyans. Of late, for the last two weeks, they have been great to the country in discussing the formula for revenue allocation to counties. So, when we legislate, it should be broad based to cover the future by addressing problems we will be facing.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Sophia, I am afraid your time is up. Before I give a chance to Hon. Hassan Maalim, Hon. Jessica, do you want to speak to this one or the next one?

**Hon. (Ms.) Jessica Mbalu** (Kibwezi East, WDM-K): Thank you. I want to speak to both.

Hon. Temporary Deputy Speaker, thank you for giving me an opportunity to add my voice to this debate. I support the Bill that was moved by Hon. Mwadime. As a Member who is serving a second time, I have seen life after Parliament for former Members of Parliament. I have in mind Mr. Mboko, who served the people of Kibwezi at large. He served the people with a lot of passion. I also have in mind former councillors – the likes of Councillor Kyalo Laiti and Councillor Kasiku. As much as I look ahead to the Motion of the Public Accounts Committee (PAC) Report, I want

to add my voice that I support the Bill. Let us not leave out the Senators. Most Members have spoken about amendments they would wish to bring at a later stage. Let us not forget our medical cover after we leave this House.

When you come to this House, you leave behind a lot of enemies out there. You create a lot of enmity as you come to Parliament. This is a House of fights. Always 70 per cent of Members fail to make it back to this House in a subsequent general election. It is important to note that during the 11<sup>th</sup> and 12<sup>th</sup> parliaments, we have had very young Members, many of whom were about 35 years old. It is important to consider them for some pensions when they get to 45 years. Previously, some politicians used to come to retire in Parliament. That is why we have great brains in this House. Issues to do with pension, through the Chair and the Mover, have been captured through amendments. I look forward to the Report of PAC that is ahead of us.

I support.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Kajwang', do you want to speak to this one? Please, say something. Why is your Chair saying that you should say something small?

**Hon. T.J. Kajwang'** (Ruaraka, ODM): I will take five minutes. He knows how brief I can get when I put my mind to it. I would have saved the House so that every Member has something to say about pension.

Immediately you finish your elections, you are a former Member. This is what everybody must know. The moment you are voted in, you must consider yourself a former Member of Parliament. So, if you are in this House and you think there is a problem, or there is some element of guilt within you that makes you unable to say that we should have pension, you are in the wrong forum. We are in the business of politics. In the business of politics, some people win while others lose. The probability of losing is actually 90 per cent for everybody, and not just for first term Members. The attrition rate is worked out by the democracy that we have.

My father is a retired teacher. He has many problems with me because I joined politics – that I left a thriving legal practice for politics. Why? It is because he has looked around and has hardly seen any evidence of any person who left Parliament and had anything for himself, including people in my home town who were Cabinet Ministers. I had a Minister for Health, who perished. The other day he was burying his spouse in deplorable conditions. I have had former Members who are now deceased.

Hon. Okuku Ndiege and Hon. Tom Mboya are people who have done more than anybody in this House will do in the combined time. But looking at life after their demise, I can only say that my father was right when he said that he could not see any reason why I should leave a thriving legal practice to come and put my time here. So, since I have the opportunity, the Floor and the power to make law, I will make law such that the people who will come after me will know that the practice of politics is really about giving back to society but you are also not getting poor.

The only thing I have found confounding in this discussion is why people should mix gratuity and pension. Those are different things. I am waiting to hear from Hon. Mwadime even as I have heard from other colleagues. At least, from my background understanding of law, gratuity is out of a contractual while pension is a social service. Those two things are different. If you have an employment and at the end you get a gratuity of so-much per cent, or that you will get this or that, that is your term of service.

On the other hand, you get pension because it is a social benefit for having worked for the people. People must take cognisance of the service you have given to the public. It is a social benefit. I heard the Leader of the Majority Party say that if you take gratuity, then you should

consider foregoing pension. I do not see where that confusion is. In fact, it is that confusion that has faced the PSC. People who were first term Members in previous Parliaments have been lining up here looking for their gratuity. I see no reason why they should not be paid.

You hear the PSC saying that they are waiting for a word from the Salaries and Remunerations Commission (SRC). Why should they wait for a word from the SRC? This is gratuity. It is in contract-based. It is known that once I have served even one term, I get my gratuity and go home. Even today, I am entitled to it except, of course, when I get another term that gratuity is commuted because it will be calculated for two terms rather than one term. On pension, I save for it and the Government also saves for me. I do not see why there should be confusion.

Hon. Temporary Deputy Speaker, we must make it very clear that gratuity is a contract term we are entitled to while pension is a social benefit I am working towards and the Government is giving something in recognition of the service I am giving to the public.

With those remarks, I support this Bill.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): I had mentioned Hon. Hassan Maalim.

**Hon. Omar Mohamed** (Mandera East, EFP): I want to speak to the next one.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): You want to speak to the next one. That is fine. Shall we have Hon. Savula?

**Hon. Ayub Angatia** (Lugari, ANC): Thank you, Hon. Temporary Deputy Speaker. I like the spirit of this Bill that seeks to align the pension under the new Constitution and seeks to cure the deficit that has been there between the National Assembly and the Senate. The Senate was being left out.

Hon. Temporary Deputy Speaker, I would like Hon. Members to know that we are treading on a very dangerous ground by putting the annex between this good Bill with poverty facing some of the Members who were here. We are abusing the public direct. Let us use this Bill to directly address the constitutional aspects that were missing. Let us not discuss issues of poverty in relation to this Bill. We are creating a war between this House, the Senate and members of the public. Members of the public are listening to us.

We need to create an environment where social and health aspects are catered for in institutions that will even cater for Members of Parliament. If you are a Member of Parliament and you have retired, or you have lost an election, you are a member of the public. Why should you be treated in a special way? You are a member of the public. Three quarters of us do not retire from politics. We are just defeated in elections. Three quarters of MPs here go to an election to contest with intention of winning, but the mood out there becomes different and that is why you see MPs losing their seats.

We need to have structures where, and we do not need to impoverish MPs. One of the things that impoverish MPs is funeral contribution. An MP becomes a mobile bank in the village. Why can we not have a benevolent fund created by the Government to sort out that mess? Why can we not have a fund? It is not a theory. We are talking of things that can be implemented. We are a growing economy. We are not going backwards, but addressing the poverty that our former MPs are facing.

Coming to Parliament is a matter of public service. You are not looking for employment, my brothers. It is public service. You can either serve for free or get benefits from that. However, what we are trying to do is to cure the unconstitutionality. That is what we should be debating about and not the poverty facing our former MPs.

We are here on a contract of five years after which we go back to an election and we come back for another contract of five years. We are okay with that. If we are given benefits equivalent to a CS, we will serve our constituencies effectively through the structures I have talked about: the benevolent and health scheme for us, our families and our people. However, let us not take ourselves as special. Thirty million Kenyans live below poverty line, my brothers. When we are debating this, let us be sensitive about those people because this thing will come and haunt us in future. Let us stick to the matter of the Constitution.

Thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Very well. We shall have Hon. Ibrahim. That Member may intend to speak to the next order or he is absent. Hon. Ibrahim, do you want to speak to the next order? I can tell.

**Hon. Ibrahim Ahmed** (Wajir North, ODM): Actually, Hon. Temporary Deputy Speaker, I do not want to speak to this one, but my feeling is that we have debated on this subject for almost four hours. Cognizance of that fact, it is only fair that we observe time.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Order, Hon. Ibrahim! The House has just made a decision on that. There is nothing unfair with a Member debating. This House made a decision just a few minutes ago that they want to speak.

*(Hon. Ibrahim Ahmed spoke off record)*

Order, Hon. Ibrahim! Do not be... There are just a few Members remaining who want to speak to this. Actually, they should be two. There is a provision of time. In fact, we may not have very many Members because this Report has also a limitation of time. So, we shall have Hon. Murungi Kathuri.

**Hon. Kathuri Murungi** (South Imenti, Independent): Thank you, Hon. Temporary Deputy Speaker. Together with my colleagues in the Public Investments Committee (PIC) we were lined up for Order Nos. 12 and 13, but since I have been here from 2.30p.m., I want to make some good contribution and also to take care of my time this afternoon. I really appreciate that this Bill has a lot of interest from Members, and I have relaxed Order No. 3. It can be carried forward to maybe next week. However, I want to put my few remarks on this Bill.

There should be good clarity, as my colleagues have put, about pension and gratuity. The Members who were in the 11<sup>th</sup> Parliament have really walked up and down this building near the Pensions Building because they want to be paid their monies. It has been very difficult for them to get that money because there is no clarity between pension and the gratuity. I remember even when the SRC which was then headed by Ms. Sarah Serem reduced the salaries for MPs. The reason she gave was that MPs serve on a five-year term; therefore, if you serve for five years and then the salary is reduced, you are either to take it or stop being an MP by not contesting in another election. Although we are in a contract of five years, she could not explain why the MPs are not paid their gratuity, yet anybody on a contract of five or six years like it happens should be paid gratuity. So, this Bill, as Hon. Mwandime puts it, should have good amendments so that all these issues can be aligned properly.

On the issue of the first term MPs who are the majority in this House, it is high time that they should take this opportunity to address it because we do not know what will happen in 2022. Maybe majority of them will come back or fail to come back. So, it high time they made sure that they put this Order in place.

As we do this, we should not forget the Members of the County Assemblies who are also elected leaders. We also have pension cases of former councilors. If you go to the villages, you will find that these people are really suffering. They have been following up their monies since 10 years ago, and up to date, they have not been able to get their money. It is unfortunate that Hon. Savula has left. We should not leave it at that because it is very difficult for a developing country like Kenya to have free healthcare for all and free education for all our children and dependants.

Since that is not possible and the MPs are not many, it is good to have their pensions well streamlined so that even if you serve... We are serving Kenyans. We are not here because we do not have anything else to do. We are here to serve. When these Hon. Members serve, they should also retire honourably. Even after retirement, the many cards that we receive for *Harambees* and hospital bills will continue following us.

So, it is important that we take care of these Hon. Members through this Amendment Bill. I hope Hon. Mwadime has taken a lot of notes so that he can streamline this Bill to cater for the issues raised by the Members.

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

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Members, I just want to remind you on the House resolution dated 28<sup>th</sup> July 2020 that such agenda will have a time limit of two-and-a-half hours. This item started at 3.42 p.m. If you add two-and-a-half hours, it should end at 6.12 p.m. We must allocate time for the Mover to reply. In that case, for the other Members who wanted to speak to this, unfortunately, you will not have that space. Luckily, they are just a few. Quite a number are actually waiting for the next item. So, in the circumstances, we will have the Mover to reply.

Proceed, Hon. Mwadime.

**Hon. Andrew Mwadime** (Mwatate, ODM): Thank you, Hon. Temporary Deputy Speaker. I thank Members who have contributed to this Bill. However, you should take note that it is for all of us. Therefore, if individually, you feel that you have an amendment, please you can go ahead before the Committee of the Whole House.

Otherwise, I beg to reply.

Thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Very well, Hon. Mwadime. We shall defer putting the Question on that.

*(Putting of the Question deferred)*

Next Order!

## MOTION

### AUDITED FINANCIAL STATEMENTS FOR STATE CORPORATIONS

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Let us have, the Chairperson, PIC.

**Hon. Abdullswamad Nassir** (Mvita, ODM): Asante sana, Mhe. Naibu Spika wa Muda. Kwanza nachukua fursa hii kuishukuru Afisi ya Spika, Afisi ya Karani wa Bunge, Wanakamati wenzangu 18, Wafanyakazi tofauti walio katika Kamati yetu na Wabunge wote kwa jumla. Hii leo

wataweza kuipitisha Ripoti hii ya kurasa 600. Nina imani ya kuwa tangu tulipoileta hii Ripoti na kuiteleka katika Bunge, Wajumbe wameweza kuisoma. Leo kuna jambo muhimu. Naongea kama Mkenya mmoja ambaye alichaguliwa na maelfu ya wanamvita. Naongea kwa niaba ya wenzangu 18 ambao wamechaguliwa na wenzao katika maeneo yao. Bunge hili likiweza kupitisha Ripoti hii, nina imani ya kuwa sauti ya Kenya itakuwa imewika.

Kamati imefanya kazi yake. Naomba, kwa unyenyekevu, sekta zote za Serikali, kwasababu...Ndani ya Ripoti hii tumetaja watu ambao ni lazima Ethics and Anti-Corruption Commission (EACC) iwafungulie mashtaka. Tumetaja watu ambao hawastahili kushikilia nyadhifa katika mashirika tofauti tofauti ya Serikali. Tumezungumza hapa na kutaja ya kuwa baadhi ya mashirika yachunguzwe, wakiwemo watu ambao wanafaa kwenda mbele ya mahakama. Tumetoa amri kwa Directorate of Criminal Investigations (DCI) wahakikishe ya kuwa wale wamepora mali ya umma waende mbele ya mahakama wakajitetea huko. Hii ni kwa sababu Kenya tunayotaka ni ile haina hali yoyote ya ufisadi.

Hii Ripoti pia imeweka wazi yakuwa licha yakuwa kila Mbunge anatoka chama tofauti, mimi kama Mwenyekiti wao nikiwa ni wa chama cha Orange Democratic Movement (ODM) hakuna hata siku moja mmoja wetu hapa alipigiwa na kinara wa chama chake nakuambiwa yakuwa lazima...

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Chair, I know you know. But, just to remind you, please remember that you have 10 minutes in moving. I know you know. It is just to remind you. I can tell you can remember.

**Hon. Abdullswamwad Nassir** (Mvita, ODM): Asante sana, Mhe. Naibu Spika wa Muda. Bila shaka, kama Mbunge mkongwe.

Nilikuwa nasema tu yakuwa Kamati iliendeshwa bila msukosuko wowote wa kisiasa. Nataka tu kuzungumza kwa uchache kwa sababu nataka wenzangu wazungumze natukamilishe ili iwe sheria leo. Leo hii tukiweza kumaliza, iwe sheria. Mashirika ambayo tumeweka katika Ripoti hii ni 48. Naisihi National Land Commission (NLC), kamisheni ambayo iliwekwa katika Katiba, kuhakikisha kwamba mambo ya ardhi yametatuliwa kisawasawa. Itoe *title deed* kwa haya mashirika ya Serikali hususa yale ambayo yamenyakuliwa na mabepari. Ardhi lazima irejeshwe ili iwafae Wakenya wote.

Pia kuna mashirika ambayo yalikuwa yanateta bila kuelewana yanadaiana. Tumetoa amri kwayo kuwa badala ya watu kupelekana kortini na kulumbana, ni lazima *head of public service*, ambaye ni mkuu wao, awakalishe chini ili ajaribu kutatua hili jambo bila ya kupoteza fedha. Hilo ni jambo ambalo linahuzunisha Wakenya wengi.

Kuhusu ununuzi, nawasihii wenzangu wakubali kupitisha hii Ripoti. Hivyo, waliofanya ufisadi wa aina yoyote kwa mambo ya *procurement* katika mashirika haya 48 wachukuliwe hatua za kisheria ili hii Kenya ijue yakuwa Bunge lina meno yakuuma. Limeuma na halitaweza kuwacha suala la vita dhidi ya haya mambo yaliyoko ya *corruption*.

Kuna mambo mengine tumekataa. Wenzangu watakubaliana na mimi. Siwezi kuletewa Ripoti kisha ukiangalia ile Ripoti baadaye unaambiwa ya kuwa mashirika fulani kama Kenya Power (KP), Kenya Electricity Generating Company (KenGen), Kenya Rural Roads Authority (KeRRA) yakuhusika na barabara, Kenya Rural Roads Authority (KURA), kwa muda wa miaka sita au saba, hayajaweza kukosa hata jambo lolote moja. Tukiangalia katika vyombo vya habari na kusoma magazeti, unaona wazi ya kuwa ufisadi umekithiri ndani ya mashirika haya.

Kwa hivyo, tumetoa amri kama Ripoti iliyopita. Tunasema katika Ripoti hii kuwa kwa yale mashirika ambayo tunayashuku na tumepata fununu zozote, ni lazima tupate *internal audit* zao. Aidha tupatiwe ripoti yenye kuhusika na *management response na management letters*. Hivyo,

tutaweza kutoa uamuzi, kama Kamati, iwapo ni kweli vyombo vya habari vimezua au kulikuwa na ukweli fulani katika masuala yale.

Nikimalizia, kuna jambo lingine ambalo mashirika yanaweza kuchezea. Ni hili jambo la riba, *interest*. Unapeana kandarasi kwa mtu, unaamua kutomlipa yule mtu kwa muda unaofaa. Ndani ya hii Ripoti kuna wale ambao tuna waambia “Ikiwa watu watadai riba kwa njia yoyote, ni lazima *Board of Directors* na *management* wapelekwe mbele na kusema ni kwa nini wanalipa riba.” Ukisoma hii Ripoti, mabilioni ya pesa, sio mamilioni, ambayo yangeweza Kulipa madeni ya nchi hii yanalipwa kwa wanakandarasi kwa sababu ya riba. Kisa na sababu? Kuna mmoja anaamua yakuwa hataki kulipa ili watu wale rushwa ile riba ikiongezwa.

Mwishowe, tumezungumza hili katika Ripoti iliyopita ya 22 na Rais akakubali. Tunamsihi tena kuwa yale mashirika ambayo *Board of Directors* na wale *Managing Directors*, ikiwa kuna wale ambao hawajapewa nafasi zile muafaka wateuliwe ili tusiwe na watu walioko katika mamlaka na hawajui hatima yao iko vipi. Nina imani kuwa wale walioko hapa wataliunga jambo hili na Ripoti hii mkono.

Asante sana, Mhe. Naibu Spika wa Muda.

Namuomba ndugu yangu, Naibu Mwenyekiti, Abdi anikubalie katika jambo hili.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Ibrahim.

**Hon. Ibrahim Ahmed** (Wajir North, ODM): Thank you, Hon. Temporary Deputy Speaker. I rise to second the adoption of this 23<sup>rd</sup> Report of the Public Investments Committee (PIC) on the audited financial statements of 48 State corporations today.

As you are aware, under Standing Order No. 206, this Committee is mandated to examine the reports and accounts of public investments, examine the reports of the Auditor General if any and, examine in the context of the autonomy and efficiency of the public investments, whether the affairs of public investments are being managed in accordance with sound financial or business principles and prudent commercial practices.

I want to thank the Members of the Committee because we had 90 sittings to examine the accounts of these 48 State corporations. With a lot of dedication, the Committee managed to produce this wonderful Report devoid of any misinterpretation. I want to go straight into the general issues that are crosscutting a number of State corporations as raised by the Chair. One is the aspect of ownership of property, land and equipment. This was also contained in the 21st and the 22nd Reports that were presented to this House. Now, it is in the 23rd Report that is before this House. A number of State corporations have got no ownership proof of land or property. They have no title deeds. A good example is Kenya Wildlife Service. It has 222 pieces of land and only 48 pieces have title deeds. Others are: South Eastern Kenya University; Kenya National Highways Authority (KeNHA); Kenya Airports Authority (KAA); National Housing Corporation (NHC) and Kenya Broadcasting Corporation (KBC). To date, a number of State corporations have no proof to show that the pieces of land that they have belong to them. If land does not belong to you, you cannot undertake any kind of development on it. That notwithstanding, there are a number of court cases that are consuming a lot of money of these State corporations.

Recommendation was made last time that the accounting officers of these State corporations must move fast and ensure that they liaise with the relevant Government agencies to get ownership of these lands. The National land Commission has been slow on this issue. It is our hope that the relevant accounting officers will liaise with them to ensure that they get the relevant documents. We recommended that the Cabinet Secretary for Lands, Housing and Urban Development and the NLC Chairperson put caveats on all parcels of land of State corporations, so that we do not lose them. This recommendation was in our previous recommendations. There is a

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gap on implementation. Last time we requested the Judiciary to consider giving priority to these cases, so that there is a speedy conclusion of them. That has not been implemented.

On the aspect of procurement and management of contracts, a number of State corporations have undertaken procurement processes irregularly contrary to provisions of the Public Procurement and Asset Disposal Act. There is delay of appointment of accounting officers and an aspect of financial performance and sustainability of State corporations; delay in availing documents to the Auditor-General contrary to Section 62 of the Public Audit Act, 2015; and unqualified opinion – State corporations are given unqualified opinion and the internal audit shows that there are a lot of issues. A good example is the Kenya Power and Lighting (KPLC). We had a meeting with the Auditor-General yesterday and we exhaustively discussed this matter.

On implementation of Committee's recommendation, we are repeating the same thing every now and then. Last time we recommended that ---

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): You cannot have an extra minute. You will have a few seconds to finalise that thought.

**Hon. Ibrahim Ahmed** (Wajir North, ODM): I want to conclude. There are many issues, but I second.

Thank you.

*(Question proposed)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. T.J. Kajwang, you will get a chance after Hon. Ndindi Nyoro.

**Hon. Ndindi Nyoro** (Kiharu, JP): Thank you very much, Hon. Temporary Deputy Speaker for the chance. I rise to give my comments in regard to this Report by the Public Investments Committee. First, I want to commend the Chair and Members for coming up with such a robust Report of around 600 pages. That is a great deal. I say that because I have sat in the Public Accounts Committee (PAC) before and we do more or less the same kind of job. I know the kind of dedication that one needs to put to this work.

Audit is part of the budget-making process. It is actually the process that comes at the tail end. After we allocate money in this House to various Government departments, the departments allocate money to various State corporations, semi-autonomous Government agencies (sagas) and parastatals, we have to work at the tail end in terms of audit by checking how the money that we expended to Government departments and corporations has been spent. That is important. I have heard the Chair – he spoke in deep Swahili – and the seconder of the Motion. I concur with them on many areas. One, there is a lot of corruption in Government. I say this because I have come across it firsthand. Most of the corruption in this country does not happen directly in the Government departments. Most of our money and the services that are offered by the Government nowadays are offered by corporations and almost autonomous bodies. It behooves all of us to keep a keen eye, especially on corporations. Part of the corruption that is there in the corporations is lethargy. In this House, I am sure all Members have come across such kind of corporations, especially in giving service to people.

We are not in this House because of friendship; we are here to talk the truth. I want to register my disappointment on one of the State corporations that is letting Members down. That is the Rural Electrification and Renewable Energy Corporation (REREC). We have a very good Principal Secretary in the State Department of Energy, Eng. Joseph K. Njoroge. I am sure in this

House, all Members have disappointment from the former Rural Electrification Authority (REA). We have projects going on in our constituencies, but hardly any is complete. When they have transformers, they do not have poles. When they have poles, they do not have conductors. They need to do their work coherently, so that they finish at least a few projects instead of having hundreds of projects ongoing in our constituencies. The service of such kind of utility only makes sense when a bulb is lit in a house and not when you have electric posts all over.

Two, in regard to the whole issue of State corporations, the Chair can bear me witness that in this country we have close to 260 State corporations. Some of them bring cash. Very few make money. Some are in sectors that are highly profitable, for example, we have Government of Kenya owned banks, majority owned or stake owned, which are making loses in a sector that is making money. We need to go back to Abdikadir's Report, consolidate State corporations to have few of them, then make their management efficient. That will make sense.

Lastly – I can see my time is over – is the issue of land. On this, I want to go against the Chairman and the seconder of the Motion. I have come across funny transactions, for example, KeRRA buying land from a public university. These kinds of transaction do not make sense. When a government entity needs land for public use, we do not need to subject ourselves to transactions as if we are selling land; we are only transferring. My take would be that all government land should be on one title.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Ndindi, your point is made. Hon. TJ Kajwang'.

**Hon. TJ Kajwang'** (Ruaraka, ODM): Hon. Temporary Deputy Speaker, Hon. Ndindi Nyoro and I are former members of PIC. Of course, you know that Hon. Ndindi Nyoro is a backbencher. Now I have been given the task to join PIC to see if we can add value to it. I just want to make two points. One, I want to appreciate the Chair and the Committee for being very hard against people who have been cited for corruption and people who have not done what they are supposed to do in various sectors. These gentlemen are from the Minority side of the House, but there is this thing called the Handshake which has been touted for too long. People think that there is handshake in corruption or that if you are a member of the Minority side and you are in the Handshake, then you should shy away from your oversight duty under Article 95 of the Constitution. You can see that Members from the Minority side, who are deeply in the Handshake, have come out very clearly and have said things which are anti-government authorities. That is how it should be. If there is something wrong, we will say it. We are here as Parliament under Article 95 of the Constitution. Handshake is another matter which we engage in when we leave the Chambers. So, I want to congratulate you. And I want to tell you that I am joining you. And you will see a lot of energy. If there is anything wrong, we will say it on the Floor of the House. We will also put it in reports and we will make sure that it is implemented.

Two, legal disputes. Lawyers are making money with Chief Executive Officers (CEO) and legal departments out of disputes. They create disputes and arbitrations so that people can make legal fees and CEOs can make money. I like what His Excellency the President said the other day. I saw a circular in which he said disputes between government entities should all be withdrawn from the courts and taken to arbitration. I would like to see corporations reviewing their dispute portfolio. You find that a very small matter goes to the Court of Appeal and the Supreme Court, so that a dispute of a few thousand shillings becomes one of millions of shillings just because of legal fees and interests. And the time taken to pay a contractual dispute is 10 or so years. By the end of the day when you pay it with interest, you pay billions of shillings instead of the thousands that were involved.

The Office of the Auditor-General needs to be strengthened to have a legal department to look at the dispute portfolio of State corporations and decide how the cases should be resolved. And when the matter comes to us, we will recommend that the cases should be taken out of the cause list, because we are paying lots of money out of interest earned by collusion of these people. That way we will stop the financial haemorrhage in many corporations. Here we are not citing anybody. We have no evil intentions. We come in good faith because we want to protect the Kenyan populace. So, any CEO who will find us hard on him should know that it is not because you can buy us or because we are against you. This is bona fide. It is all in good faith. We will expect that the recommendations we have made in this Report are implemented. And we will follow through with the Committee on Implementation to ensure that all these recommendations are implemented.

Thank you, Hon. Temporary Deputy Speaker. I support the report.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Osotsi.

**Hon. Godfrey Osotsi** (Nominated, ANC): Thank you, Hon. Temporary Deputy Speaker, for the opportunity to also make my contribution to this very important Report. First, I thank the Committee for a job well done. I think the Chair of the Committee, Hon. Abdullswamad, is up to the task. And that confirms that you are ready to be the Governor of Mombasa.

When you read this Report, which I have done, it reads like what is wrong in this country: issues of corruption, land grabbing, inefficiency and wastages in public organisations. It is a sad state of affairs. And action needs to be taken. This Parliament issues reports but the people who are supposed to implement these reports are sleeping on their work. If you read the entire Report, you realise that we have serious problems with the management and ownership of land belonging to State corporations. Most of the State corporations have land which is not in their titles. For example, the KWS have up to 222 pieces of land but only 45 pieces have titles. What is happening? The same scenario obtains at the KeNHA, KAA, NHC and KPC. The list is long. These issues have been coming up in every big report. So, where is the NLC to deal with these issues? Clearly, the leadership of these State corporations are also sleeping on their work. This cannot just be about inefficiency. This is inefficiency for the purpose of corruption, because the same people end up grabbing these pieces of land. I would like to highlight the case of KPA, where money was even issued to fence the airport and it has not been accounted for. The former CEO of KPA should be brought to book. Millions of shillings were taken from KPA but no work was done.

We also have issues of delayed appointment of accounting officers and CEOs. Why would someone act as a CEO for six years? That is another problem. The PIC had recommended that the maximum period for acting in a position should be 12 months. But in most of these parastatals, you find people acting in positions for ever. Something has to be done about it. We also have issues of financial performance. I picked the example of KWS, which made a deficit of Ksh680 million in the 2016/2017 Financial Year. To date, KWS has an accumulated deficit of Ksh4.4 billion. Clearly, there is a problem. This Report confirms that the Government has no business doing business. Business should be left to the private sector. All these State corporations do not make any business sense. They need to close up or they should be privatised.

Most importantly, as I finish, is the issue of implementation of recommendations of parliamentary committees, particularly this Committee. The issue of Mitihani House is a case in point. This particular project was 60 per cent done. Ten years later, we are still talking about it and we are still looking for money to complete it. Something is wrong. The DCI and the EACC have not acted on most of these reports. Something has to be done about this issue.

Thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Very well. Good promise, Hon. Osotsi. Let us have Hon. Gichimu.

**Hon. Gichimu Githinji** (Gichugu, JP): Thank you, Hon. Temporary Deputy Speaker for the opportunity. I rise to support the Report by PIC. Their effort cannot be underestimated having come up with such a long report for 48 parastatals. It is not a mean achievement.

One of the areas that need to be looked at when we look at the audit reports for these State corporations is their viability. In fact, we have seen so many State corporations which are now looking for the Government to boost them for a restart. This is because they have not been able to even pay their workers. They have not even been able to do what they are mandated by the Acts which created them through Parliament. Such corporations include Telkom and Postal Corporation of Kenya. It is only yesterday that we got a report from Teleposta SACCO that they have not been able to pay their workers for the last four months. They have eaten into the members' SACCO savings. They have not been able to remit deductions that have been from the employees themselves, which is criminal. As a Committee, in a different angle, we are also investigating that.

That begs the question whether we should have State corporations which are not doing their work. We have seen that it is very hard for Government to do business in this country. It is high time such corporations were identified and their assets rounded up and sold off so that the Government can get out of the business completely and leave business to private investors.

I support the arguments and contributions by my colleague, Hon. Ndindi Nyoro; that indeed, we have State corporations like REA, which are making us suffer as Members of Parliament. This is because they have numerous projects that have been left hanging. Actually, you find that contractors have been paid and nothing has happened. Actually, everyone in the village is asking us so many questions that we are not able to answer. These are some of the things that should also be followed up to establish whether money that has been spent has really helped or has reached beneficiaries who were supposed to benefit.

As I wind up my contribution, I must say that the State corporations that should be left are those that safeguard the interests of the citizens and those that are exclusively advisors of Government on technical issues. Anything to deal with business should be left for private investors. I thank the Chair and the Committee for the good work they have done. Keep it up. Let them also venture into all the other parastatals. Instances of corruption should be brought to the attention of this House so that we can punish whoever is found culpable.

With those remarks, I support.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Hassan Mohamed, kindly take the Floor.

**Hon. Omar Mohamed** (Mandera East, EFP): Thank you, Hon. Temporary Deputy Speaker for giving me the opportunity.

I sit in the PIC and I wish to state at the outset that it has not been easy coming up with this Report of the 48 parastatals. There are five or seven common elements in all the 48 parastatals. One of them is the issue of procurement. Ninety-five per cent of these State corporations do not adhere to the Public Procurement and Asset Disposal Act. They have no procurement plans. They haphazardly advertise for projects and tender for projects knowing very well that they may not have the financial capability to complete such projects. It is very disturbing to see a project whose tender is awarded to a particular contractor only for the contract sum to be varied by over 300 per cent a year later. So, the issue of variation of project contract sums is a common element that is in these parastatals. Most of the road parastatals have this problem.

Another problem is failure to adhere to the Public Finance Management Act. It is disturbing to note that accounting officers take the Public Finance Management Act lightly. Many senior managers are in acting capacity. This is by design. The appointing authorities must take their responsibilities seriously to make sure that they appoint substantive CEOs and senior managers to these parastatals. A case in point is the Kenya Pipeline Corporation, where 95 per cent of the senior managers have been serving in acting capacity for five to six years. This is so disturbing.

Another disturbing aspect is that contractors are not paid in time. It is by design that a contractor completes a project but he is not paid. He goes to court and the court awards him damages in terms of interest due to delayed payments. So, in the long run, a contractor is paid over and above the amount tendered for in that particular project.

It is my prayer that the recommendations in this Report are adopted and followed up by the Implementation Committee of this House so that future or current CEOs can know that it is not business as usual; that, as a country, we are fighting corruption and wastage of public resources. The adoption of this Report should make the people mentioned therein to serve as an example. The Committee's mandate was to be investigative, and it has done its best in terms of identifying the real problems in these State corporations.

I, therefore, request that this House takes this Report, PAC Reports and other Committee Reports seriously and pursue their recommendations to their logical conclusions. Committees like PIC are just investigative. They are on a fact-finding mission, after which they table reports in this House. I request Members to support this Report. I request that once this Report is adopted, the Implementation Committee takes over.

With those remarks, I beg to support.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Makau, Member for Mavoko. That Member took leave. Hon. Kamket, are you speaking to this one or the next one?

**Hon. Kassait Kamket** (Tiaty, KANU): I will be speaking on the next one.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Rono, have the Floor.

**Hon. Daniel Rono** (Keiyo South, JP): Thank you, Hon. Temporary Deputy Speaker for giving me an opportunity to support this Report.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Chepkut, you wanted to speak but you have not put on your card. I cannot tell if Members want to speak unless they put their cards in the request gadget and those cards are reflected on my screen.

**Hon. Daniel Rono** (Keiyo South, JP): Hon. Temporary Deputy Speaker, maybe you need to remind my Hon friend and neighbour that we have not been on this matter for four hours that he alleges to have put his card.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Chepkut will get his chance. It is your chance now.

**Hon. Daniel Rono** (Keiyo South, JP): Meanwhile, Hon. Temporary Deputy Speaker, what has come out clearly is that there are thieves in this country. These parastatals have been run down badly. I want to support a Member who came up with the idea that parastatals need not do business. Business should be left for the private sector. Look at our sugar industries, for example. The unfortunate thing is that we embrace politics in parastatal. When a parastatal wants to be privatised we play politics on it for years.

The Government, for example, has always wanted to privatise the sugar industry but has been blocked by the politics. In the process our people have suffered. Although some people are persecuted politically for being in wrong parties, or wrong state with the ruling party, we do not

want to use such reasons to persecute Managing Directors. Credit must be accorded to those who have done a good job while those who have done a bad job must be held culpable.

I was privileged to serve in the PIC and PAC before we were thrown out for being Members of *Tangatanga* team. We want these reports to be taken seriously

**Hon. Ibrahim Ahmed** (Wajir North, ODM): On a point of order.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Order, Hon Rono. What is out of order Hon. Ibrahim?

**Hon. Ibrahim Ahmed** (Wajir North, ODM): Hon. Temporary Deputy Speaker is it in order for the Member to insinuate issues of the *Tangatanga* or targeting of certain CEOs where the findings of a Committee have been presented to this House?

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): The issue of CEOs Hon Ibrahim is completely in order to argue the way he is arguing, but Hon. Rono, do not introduce strange entities like *Tangatanga* and the likes. They are not known to the House. We do not know what happens outside the door. You seem to know other things that happen outside the door, but we are here now.

**Hon. Daniel Rono** (Keiyo South, JP): Hon. Temporary Deputy Speaker, between you and me it is well known. *Tangatanga* and *Kieleweke* is well known. It is also well known that we have been thrown out for being Members of that outfit. Meanwhile, I want to thank you for this opportunity you have given me. What I wanted to mention is that PIC and PAC Reports should be taken seriously. What they mention and recommend must be followed up and implemented. These Committees take time to write their reports in retreats. Making these reports is not a joke and yet at times it is rubbished. It gathers dust in our offices. That is not fair. This House should come up with measures to see to it that these reports are implemented.

Lastly, we want these parastatals not to be selling land to each other. Idle land should be put to use by those parastatals which are in need of land.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Very well, let us have Hon. Chepkut.

**Hon. William Chepkut** (Ainabkoi, Independent): Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity. At the outset, I support the PIC, PAC and the Special Funds Accounts Committee. They have mandate to examine and investigate books of accounts of various institutions in this republic. Therefore, I support with the following reasons:

First, sound and prudent financial management is required in all institutions particularly the State corporations. The 48 corporations that the son of a reknown former Minister of this republic, Hon. Sheriff Nassir...Like father, like son and so you are a great man as well.

I want the Public Finance Management Act to be adhered to; Procurement and Asset Disposal Act must be followed fully. CEOs of various State corporations in this republic must be competent human resource people. I require all of them to follow processes and rules. They have to be professionals. I have heard a lot of complaints. Nevertheless, accountability or the end of accounting is the beginning of auditing. Auditing is only to examine books of accounts. Therefore, all we want is value for our money. Accountability is the basis for any meaningful achievement, according to Article 95 of our Constitution. Roles of Members of Parliament are as follows: Oversight, legislation, representation and budget-making process. Those are our key roles and so we are entrusted with huge responsibility.

We are here on serious issues of making laws that will protect and uphold. In the first speech of His Excellency the President, he said that we must at all times protect and uphold the supremacy of the constitutional institution and its institutional independent bodies. Therefore, our

role as Chairmen of PIC, PAC and Committee on Special Funds is to examine books of accounts, whether the institutions in this republic are following laws of the Public Procurement and Asset Disposal Act.

That is what is required.

I humbly urge the Auditor General to move with speed and examine all books of accounts and come up with lessons learnt. I want His Excellency the President to issue an Executive Order to institutions in this Government...

Let the Attorney General call and harmonise all of them according to Article 157 of our Constitution. I like Hon. Noordin Haji; he is a top-notch professional. I like the EACC. I like Kinoti and the Inspector-General both of them are top-notch. Let us give them support. Parliament is very key to giving them key support.

Hon. Temporary Deputy Speaker, I beg to support. Thank you for giving me an opportunity.

**The Temporary Deputy Speaker** (Hon Patrick Mariru): Hon. Members, it is now 7.00 p.m. A number of Members still wanted to speak to this. The good news is that this Order will still find its way back to the Floor of the House. So, Members will have further opportunities to speak to this very important item.

#### ADJOURNMENT

**The Temporary Deputy Speaker** (Hon Patrick Mariru): Hon. Members, the time now being 7.00 p.m., this House stands adjourned until Wednesday, 12<sup>th</sup> August 2020, at 10.00 a.m.

The House rose at 7.01 p.m.