

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Tuesday, 13<sup>th</sup> June 2017

The House met at 2.30 p.m.

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

PRAYERS

QUORUM

**Hon. Speaker:** Ring the Quorum Bell.

*(The Quorum Bell was rung)*

We can now commence business.

### COMMUNICATION FROM THE CHAIR

#### DELEGATION FROM PARLIAMENT OF UGANDA

**Hon. Speaker:** Hon. Members, I wish to introduce to you a delegation of Members of the Standing Committee on Appointments from the Parliament of the Republic of Uganda. The delegation is seated on the Speaker's Row and comprises of the following:

(i) Hon. Chekamondo Rukiya, MP	–	Leader of Delegation
(ii) Hon. Lowila C.D. Oketayot, MP	–	Member
(iii) Hon. Mwijukye Francis, MP	–	Member
(iv) Hon. Rwakoojo Robinah, MP	–	Member
(v) Mrs. Jane L. Kibirige	–	Clerk of Parliament
(vi) Ms. Glorious Kamayangi	–	Clerk Assistant

*(Applause)*

The delegation is in the country to exchange ideas and share experiences with their counterparts in the Committee on Appointments on issues relating to approval of presidential nominees and also, share experiences on matters of Parliamentary Service Commission, among others. On my own behalf and that of the House, I wish to welcome them to the National Assembly of the Republic of Kenya, and wish them fruitful deliberations during their stay in the country.

I thank you.

**PETITION****IRREGULAR ALLOCATION OF LAND MEANT FOR SQUATTERS**

**Hon. Speaker:** Hon. Members, this is Petition No.24 of 2017. Pursuant to the provisions of Standing Order No.225(2)(b), I wish to convey to the House that my office is in receipt of a Petition signed by three persons; namely, Patrick Muriuki Kirigia, Robert Wanjau Gichohi and Lucy Mirigo Munyi, on behalf of members of Mount Kenya Forest Squatters and residents of Meru County.

The Petitioners allege irregular allocation of land set aside for settlement of squatters. They contend that a total of 930 hectares of land were excised from Mount Kenya Forest in Ontulili area of Meru for settlement of squatters. They further allege that after the conveyance process, the title deed of the Ontulili block of Mount Kenya was irregularly issued to an individual instead of being issued in favour of the squatters.

The Petitioners, therefore, pray that the National Assembly investigates the allocation and ownership of the Ontulili block of Mount Kenya, L.R. No.12234, and inquires into the matter of Ontulili squatters with a view of having the 1,435 families currently living in deplorable conditions settled in the Ontulili block of Mount Kenya, L.R. 12234, gazetted as Legal Notice Nos.68, /1975 and 107, /1977.

Hon. Members, pursuant to the provisions of Standing Order No.227, the Petition stands committed to the Departmental Committee on Lands for consideration. In considering the Petition, the Committee is encouraged to engage the Petitioners.

I thank you. Next Order. Hon. Duale.

**PAPERS LAID**

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

The Public Private Partnerships (Project Facilitation Fund) Regulations, 2017 and the Explanatory Memorandum.

The National Police Service Standing Orders and the Explanatory Memorandum.

The Office of the Controller of Budget Half Year County Governments Budget Implementation Review Report for the Financial Year 2016/2017.

The Reports of the Auditor-General on the Financial Statements in respect of the following institutions for the year that ended 30<sup>th</sup> June 2016, and the certificates therein:-

- (i) Kenya Institute of Mass Communication;
- (ii) Coast Water Services Board;
- (iii) Kenya Maritime Authority;
- (iv) Railway Development Levy Fund (Operations Account) from the Ministry of Transport, Infrastructure, Housing and Urban Development;
- (v) Mechanical and Transport Fund from the Ministry of Transport, Infrastructure, Housing and Urban Development;
- (vi) Lands Limited;
- (vii) Agricultural Development Corporation;
- (ix) Parliamentary Mortgage Scheme Fund; and,
- (x) Petroleum Development Levy Fund.

**Hon. Speaker:** Hon. Members, the Public Private Partnerships (Projects Facilitation Fund) Regulations, 2017 and the Explanatory Memorandum, and the National Police Service Standing Orders and the Explanatory Memorandum are referred to the Committee on Delegated Legislation.

The Office of the Controller of Budget Half Year County Governments Budget Implementation Review Report for Financial Year 2016/2017 is referred to the Budget and Appropriations Committee. Next!

**Hon. Cheboi:** Hon. Speaker, I beg to lay the following Paper on the Table of the House: The Fifth Report of the Procedure and House Rules Committee on Amendments to the Standing Orders.

**Hon. Speaker:** Next Order. Hon. Cheboi.

### NOTICE OF MOTION

#### ADOPTION OF REPORT ON AMENDMENTS TO STANDING ORDERS

**Hon. Cheboi:** Hon. Speaker, I beg to give notice of the following Motion:

THAT, pursuant to Standing Order Nos.264 and 265, this House adopts the Report of the Procedure and House Rules Committee, laid on the Table of the House on Tuesday, 13<sup>th</sup> June 2017 and further:

- (i) Approves the amendments proposed to the Standing Orders as contained in the schedule of the Report.
- (ii) Resolves that the amendments to the Standing Orders shall, upon approval by the House, take effect at the commencement of the next Parliament.
- (iii) In view of the amendments proposed in Standing Order No.212 (b) Committee on Members' Services/Facilities rescinds the decision of the House of 14<sup>th</sup> March 1967 which established the National Assembly Catering and Health Services Committee.

Thank you, Hon. Speaker.

**Hon. Speaker:** Next Order. Member for Kiambaa, Hon. Paul Koinange, had submitted a Statement pursuant to Standing Order No.43. He had indicated that he desired to make that Statement this afternoon. The Member being absent that, statement is dropped.

*(Statement dropped)*

Hon. Members before we proceed to the next Order, allow me to recognise the presence of students and pupils, in the Speaker's Gallery and Public Gallery, from the following institutions in various constituencies and counties:

Loreto Convent Valley Road, Westlands Constituency, Nairobi County; Wellspring Schools, Gilgil Constituency, Nakuru County; St. Francis of Assisi High School, Kitui West Constituency, Kitui County; Karinga Primary School, Kiambu Constituency, Kiambu County; and Yumbisye Secondary School, Kitui Central Constituency, Kitui County. They are all welcome to observe the proceedings of the National Assembly this afternoon.

**Hon. Speaker:** Next Order.

**BILLS****REPORTS AND THIRD READINGS**

## THE STATUTE LAW (MISCELLANEOUS AMENDMENTS) BILL

**Hon. Speaker:** Hon. Members, I confirm that the House quorates. Therefore, I will put the Question.

*(Question proposed)*

*(Question put and agreed to)*

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

**Hon. A.B. Duale:** Hon. Speaker, I beg to move that the Statute Law (Miscellaneous Amendments) (No.2) Bill (National Assembly Bill No. 48 of 2016), be now read the Third Time. I also request Hon. Washiali to second.

**Hon. Speaker:** Hon. Washiali, the Deputy Majority Whip.

**Hon. Washiali:** Hon. Speaker, I second.

**Hon. Speaker:** Hon. Members, the first step was for the House to agree with the Committee of the whole House. We are now going back to normal procedure.

*(Hon. (Eng.) Rege stood up in his place)*

Member for Karachuonyo, you better take your seat. You have given an indication that you are tired with the House. You must now follow the rules.

*(Question proposed)*

Having confirmed that we have quorum, I will proceed to put the Question.

*(Question put and agreed to)*

*(The Bill was accordingly read the Third Time and passed)*

Next Order.

## THE REFUGEES BILL

**Hon. Speaker:** Member for Vihiga, you have put your hands in the pocket and you are walking slowly like you are in Vihiga having become the governor. Take your seat.

Once again, this is for the House to agree with the Committee of the whole House and, thereafter, proceed to the other stages of Third Reading. I, therefore, put the Question for agreement.

*(Question proposed)*

*(Question put and agreed to)*

**Hon. Speaker:** The Mover, Hon. Aghostinho Neto.

**Hon. Oyugi:** Hon. Speaker, I beg to move that the Refugees Bill (National Assembly Bill No. 29 of 2016) be now read the Third Time. I also request, Hon. Onyura, Member for Butula, to second.

**Hon. Onyura:** Hon. Speaker, this is a very timely Bill. I second.

*(Question proposed)*

**Hon. Speaker:** Having confirmed there is quorum in the House, I will put the Question.

*(Question put and agreed to)*

*(The Bill was accordingly read the Third Time and passed)*

Next Order.

## MOTION

### ADOPTION OF REPORT ON THE SECOND SUPPLEMENTARY BUDGET FOR FINANCIAL YEAR 2016/2017

THAT, this House adopts the Report of the Budget and Appropriations Committee on the Second Supplementary Estimates for the Financial Year 2016/2017, laid on the Table of the House on Tuesday, 6<sup>th</sup> June 2017 and pursuant to the provisions of Article 223 of the Constitution and Standing Order No.243 approves—

(i) an increment of the total recurrent expenditure for Financial Year 2016/2017 by Kshs6,493,177,978 in respect of the Votes as contained in the Schedule;

(ii) an increment of the total capital expenditure for Financial Year 2016/2017 by Kshs42,132,984,988 in respect of the Votes as contained in the First Schedule;

(iii) an overall increment in the total budget for Financial Year 2016/2017 by Kshs48,626,162,966 in respect of the Votes as contained in the First Schedule; and,

(iv) further resolves that the First Schedule forms the basis of the enactment of the Second Supplementary Appropriations Act, 2017

“Subject to:

(a) Reallocation of Kshs507 million within the State Department for Irrigation under the ‘Irrigation and Land Reclamation’ programme from Thiba Dam to the National Irrigation Board to clear pending bills in the following projects: Kshs307 million for Bura Scheme Gravity Project; Kshs100 million for

Daua River Flood Water Control Project, and Kshs100 million for Expanded National Irrigation Projects;

(b) Increment of Kshs550 million to the State Department for Livestock under the 'Livestock Resource Management and Development' programme for drought mitigation interventions in ASAL counties; and,

(c) Effecting the consequential amendments to the First Schedule and the total sum approved accordingly.

*(Hon. Musyimi on 8.6.2017)*

*(Resumption of Debate interrupted on 8.6.2017)*

**Hon. Speaker:** Hon. Members, just to refresh our memories about this, the Motion had been moved and debate had been concluded. On Thursday last week, the Chair of the Budget and Appropriations Committee, Hon. Mutava Musyimi, moved some amendments to that Report. He moved them and was seconded. But debate was interrupted by various points of order by Members relating to various sums to be included in the proposed amendments.

The House adjourned so that the various Committees, specifically the Departmental Committee on Justice and Legal Affairs, could consider the proposed increment of Kshs2.5 billion to the Independent Electoral and Boundaries Commission (IEBC), under the management of the electoral processes programmes for initial payment of printing of ballot papers; and the allocation of the sum of Kshs300 million to the National Intelligence Service (NIS) under the National Security Intelligence Programme for security-related interventions. Therefore, we were to hear presentations from the Departmental Committee on Defence and Foreign Relations and the Departmental Committee on Justice and Legal Affairs as to whether they have considered this proposed increment of Kshs300 million and what their views are.

We will start with the Departmental Committee on Defence and Foreign Relations. Let us have Hon. Rasso.

**Hon. Dido:** Thank you very much, Hon. Speaker. The Departmental Committee on Defence and Foreign Relations was able to sit on Friday and deliberate on this matter. Presentation was given by the NIS leadership. We were satisfied with what they presented, particularly the emerging threat in the North Eastern and the Coastal regions that we have experienced over the last couple of weeks which was unforeseen. They thought that it was important that they see this as plugging the gap in what they had requested before in the sum of Kshs900 million.

Secondly, they confirmed to us that the additional funding was requested primarily to ensure that during the election process or the electioneering period, the country has water-tight security, particularly in the area of deploying equipment throughout the country.

Therefore, we were satisfied with what they presented. I request the House to approve the sum of Kshs300 million to NIS.

**Hon. Speaker:** We had some other Members. Hon. Midiwo, although he has--- Let us have Hon. Keynan.

**Hon. Keynan:** Hon. Speaker, I also want to confirm the sentiments of our---We wanted to confirm him as our substantive Chair.

**Hon. Speaker:** Forget about what he is.

**Hon. Keynan:** He has done a lot for the Committee over the last four years. I want to confirm that the Committee deliberated on this particular issue. We all understand the state of security in Kenya and all the neighbouring states. This is an issue that everybody requires. We appreciate the good work that is being done by our officers in the intelligence community. The best we can do as Members is to support what they do because without their vigilance and work, we do not have a country. Therefore, whatever proposal, suggestion or request they make is appropriate and within the budgetary framework. My prayer is that Members will support the increment so that they can attend to all our security needs.

**Hon. Speaker:** Hon. Members, remember I took the liberty to explain the genesis of the current situation so that the Members of those Committees can speak in relation to what Hon. Mutava Musyimi had indicated as the proposed increments before we put the Question. This is because we have to go through the motion of putting the Question on the proposed amendment necessitating those additions and thereafter, proceed to the original Motion, possibly as amended. Having heard from those two Members of the Departmental Committee on Defence and Foreign Relations, unless there is another Member from that Committee who wishes to--- Hon. Kamama, do you want to say something about this?

**Hon. Abongotum:** Thank you very much, Hon. Speaker. I remember we had a very special session with the Cabinet Secretary (CS) for the National Treasury and the CS for Interior and Coordination of National Government on the same. It has come to our knowledge that this country faces quite a number of threats from enemies that we know such as terrorists and other groups like the Islamic State. Yesterday, on the Voice of America, they announced that they will stage attacks during this *Ramadhan* period. I heard this in the morning over the Voice of America. We need to secure this country.

I urge all honourable Members to approve this so that we can secure our country and make our democracy vibrant. That is because a secure country promotes a vibrant democracy which we expect during this electioneering period.

**Hon. Speaker:** Member for Ugunja, are you also a Member of this Committee? I also want to hear from Members of the Departmental Committee on Justice and Legal Affairs.

**Hon. Wandayi:** Hon. Speaker, I wanted to comment in respect to both NIS and the IEBC additional requests.

**Hon. Speaker:** Just deal with the NIS request first.

**Hon. Wandayi:** Hon. Speaker, without being seen to belittle the work of NIS, we know the enormous task that it has on its hands as regards to protecting this country. I still have a serious problem. The reasons being given as to why this additional Kshs300 million is required this late in the day are not very convincing. If we are told that one of the reasons is the matter of elections, we knew from as early as 2013 that elections would be held on 8<sup>th</sup> August, 2017. It cannot be an emergency.

The other issue is the matter of the emerging threats in North Eastern Kenya. Those threats are not new. They have been with us since time immemorial. I am very reluctant to support this amendment. Therefore, I wish to oppose it on account of the fact---

**Hon. Speaker:** Very well.

**Hon. Wandayi:** Hon. Speaker, let me just conclude.

**Hon. Speaker:** No. Just conclude.

**Hon. Wandayi:** Hon. Speaker, we risk creating a situation where we continue to pump money to NIS which we have no capacity to audit and for which they are accountable to no one. That creates an avenue for misuse and, more so, at this time of the electioneering period.

**Hon. Speaker:** Hon. Opiyo Wandayi, why would you want to mislead yourself and mislead others that they are not audited?

**Hon. Wandayi:** I was going to justify my statement, Hon. Speaker.

**Hon. Speaker:** But you cannot be allowed to mislead the House. You can mislead yourself but not the House. If you want to mislead yourself, that is perfectly within your rights. You can go ahead and do so outside the House.

**Hon. Wandayi:** Hon. Speaker, I wish you could allow me to make my point. What I meant is that the National Intelligence Service does not break down their activities in a manner that this House can....

**Hon. Keynan:** On a point of order, Hon. Speaker. Is it in order for the Hon. Member to mislead the Members of this House and the nation at large that NIS accounts are not audited? I was the Chair of the Departmental Committee on Defence and Foreign Relations in the last Parliament. I am also a ranking Member in the current Committee. Therefore, I can confirm that the accounts of NIS are audited. There are issues that are of security nature. It is not in the interest of anybody to politicise or trivialise the accounts or the work and functions of NIS.

Let me put it on record that their accounts are audited, but there is no country in the world – not even in America – where persons other than the officers in charge are allowed to audit issues that are of a security nature.

**Hon. Wandayi:** That is the point.

**Hon. Keynan:** However, there are some financial issues that are audited. If the hon. Member is not familiar with the audit mechanism, the best he can do is to refer to the reports of the Auditor-General and see how the accounts of any security agency, and not just those of NIS, are audited. That applies across the world. There are formats. They are not issues that somebody can play politics with at any time. I want to ask the hon. Member to withdraw his assertion that the accounts of NIS are not audited. They are properly audited.

Some hon. Members have suggested that in the next Parliament, we should have particular Members vetted so that they can access details of NIS accounts, just like it is done in the parliaments of USA, UK, Israel and other countries. That is the only way we can have functional security intelligence units. I urge my good friend, whom I respect so much, to withdraw the assertion that the accounts of NIS are not audited and accept the reality of the dynamics of state security not only in Kenya, but in the whole world.

Thank you, Hon. Speaker.

**Hon. Speaker:** Hon. Wandayi, I am sure this sounds like information that, indeed, they are audited.

*(Hon. Wandayi spoke off record while seated)*

You did not listen. Who are you addressing while you are seated? Are you through?

Hon. Members, all I had said is that we needed to hear comments related to that particular item. It is okay. Hon. Wandayi is entitled to his views however erroneous they may be. Those are nevertheless his views. He represents the people of Ugunja that way.

*(Laughter)*

**Hon. Wandayi:** Let me continue, Hon. Speaker.



**Hon. Speaker:** Continue with what? There is no time. Hon. Members, we said that we wanted to hear the Members of the Departmental Committee on Defence and Foreign Relations, specifically about this issue. The indication is that they sat on Friday and considered the matter as we directed. Can I hear from the Departmental Committee on Justice and Legal Affairs?

*(Hon. Wakhungu spoke off record)*

You have just walked in. Some of you must know that I am always hawk-eyed. I can even tell you the exact time you walked in.

Hon. Olago Aluoch, speak for the Departmental Committee on Justice and Legal Affairs.

**Hon. Aluoch:** Hon. Speaker, arising from your directions last Thursday, the Departmental Committee on Justice and Legal Affairs met with the Chief Executive Officer (CEO) of the Independent Electoral and Boundaries Commission (IEBC) yesterday, with me as the Temporary Chair. One of the two concerns that were raised in the House last week was whether the proposed amendment by Hon. Musyimi was in order according to the law, and whether it would amount to double allocation. The question was whether it was a proper amendment.

We were given a full brief by the IEBC yesterday and we clearly understood that this allocation was passed and recommended by our Committee in Financial Year 2016/2017, but because the date of expenditure falls in Financial Year 2017/2018, it had to come by way of an amendment. The printers of the ballot papers were not willing to go ahead with the contract unless there was a commitment that funds were available, and that is in accordance with the Public Finance Management (PFM) Act. Unless the funds are available, the IEBC cannot commit to start the process. Therefore, as a Committee, we understood the need for the particular amendment. The IEBC needs to have Kshs2.5 billion factored in the Budget of the next financial year. To that extent, the Committee unanimously accepted the explanation and recommends to the House that this amendment be passed.

For the benefit of the Members of this House and the nation, I want to share the sentiments expressed by the CEO of IEBC – that, they are in the last stretch of procuring the ballot papers for the August general elections. If, at this stage, the Judiciary stops the process and delays it by even a week, Kenya will not hold elections on 8<sup>th</sup> August 2017. We understand the independence of the Judiciary, but I wish to urge them to appreciate the circumstances under which we are operating. The process should not be interfered with at this stage. If the Judiciary interferes with the process at this stage, we risk plunging this country into chaos. This is a caution that I wish this House to alert the Judiciary about.

In a nutshell, the Committee recommends that this amendment be adopted by the House.

Thank you, Hon. Speaker.

**Hon. Speaker:** Hon. Members, I wanted to hear Hon. John Olago Aluoch on that issue. He wrote to me yesterday, indicating that the Committee had met and recommended that the amendment be approved. I do not know whether there is another Member of the Departmental Committee on Justice and Legal Affairs who was present, and who would wish to confirm what Hon. Olago Aluoch has said. Your Members have taken leave, Hon. Olago.

Hon. Wamalwa, are you a member of very many Committees?

**Hon. Wakhungu:** Thank you, Hon. Speaker. I have just come from the Peace Conference. I had an opportunity to talk to the Vice-Chair and the CEO of IEBC over the same matter. I want to confirm that what they told me is in agreement with what Hon. Aluoch has said.

We support, Hon. Speaker.

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

**Hon. Speaker:** Is he out of order? If he has spoken to somebody, there is nothing wrong.

*(Laughter)*

He is not out of order to say that. All of you say that you have even seen it. I have heard Hon. Kamama say that he heard something from the Voice of America. There is nothing out of order unless you just want to introduce another matter.

Member for Ugenya, do you want to say something on this matter?

**Hon. Ochieng:** Thank you, Hon. Speaker. I just want to support what Hon. Olago has said because I sit in the Departmental Committee on Justice and Legal Affairs. We agreed that the amount of money for procurement of the ballot papers, as requested by the IEBC, is as indicated in today's Order Paper.

*(Hon. Tong'i walked into the Chamber)*

Hon. Richard Tong'i, please, take your seat. The Member for Bura is a very friendly person. You can sit next to him without any fear of being scratched.

Hon. Members, we need to make progress. The Motion that was moved by Hon. Mutava Musyimi was for those amendments. The indication that we are now getting in the House is that both Committees – which had raised issues – have since met with the spending agencies and agreed, or they have been briefed by the relevant actors from NIS and IEBC. I, therefore, wish to dispose of the first aspects of the Motion which was to incorporate the amendment proposed by Hon. Mutava Musyimi.

*(Question, that the words to be added  
be added, put and agreed to)*

*(Question of the Motion as amended proposed)*

*(Several hon. Members walked in)*

Those who are making their way in, including the Member for Seme, please, take your seats.

*(Hon. (Dr.) Oginga and Hon. (Ms.) Nyasuna walked into the Chamber)*

The two elderly Members who are making their way in, please, take your seats.

*(Laughter)*

Hon. Members, let me just explain again. Having disposed of the amendment by Hon. Mutava Musyimi in the manner that the House has, what remains of the original Motion was merely to put the Question. I, therefore, now proceed to put the Question.

*(Question of the Motion as amended put and agreed to)*

*Resolved accordingly:*

THAT, this House adopts the Report of the Budget and Appropriations Committee on the Second Supplementary Estimates for the Financial Year 2016/2017, laid on the Table of the House on Tuesday, 6<sup>th</sup> June 2017 and pursuant to the provisions of Article 223 of the Constitution and Standing Order No.243 approves—

(i) an increment of the total recurrent expenditure for Financial Year 2016/2017 by Kshs6,493,177,978 in respect of the Votes as contained in the Schedule;

(ii) an increment of the total capital expenditure for Financial Year 2016/2017 by Kshs42,132,984,988 in respect of the Votes as contained in the First Schedule;

(iii) an overall increment in the total budget for Financial Year 2016/2017 by Kshs48,626,162,966 in respect of the Votes as contained in the First Schedule; and,

(iv) further resolves that the First Schedule forms the basis of the enactment of the Second Supplementary Appropriations Act, 2017

“Subject to:

(a) Reallocation of Kshs507 million within the State Department for Irrigation under the ‘Irrigation and Land Reclamation’ programme from Thiba Dam to the National Irrigation Board to clear pending bills in the following projects: Kshs307 million for Bura Scheme Gravity Project; Kshs100 million for Daua River Flood Water Control Project, and Kshs100 million for Expanded National Irrigation Projects;

(b) Increment of Kshs550 million to the State Department for Livestock under the ‘Livestock Resource Management and Development’ programme for drought mitigation interventions in ASAL counties; and,

(c) Effecting the consequential amendments to the First Schedule and the total sum approved accordingly.

“Subject to:

(i) Increment of Kshs300 million to the National Intelligence Service (NIS) under the National Security Intelligence Programme for security related interventions;

(ii) Increment of Kshs2.5 billion to the Independent Electoral and Boundaries Commission (IEBC) under the ‘Management of Electoral Processes’ Programme for initial payment of printing of ballot papers;

(iii) Reallocation of Kshs90 million within the State Department of Arts and Culture from General Administration, Planning and Support Services as follows: Kshs50 million to the Kenya Film Commission and Kshs40 million to the Kenya Film Classification Board under the ‘Arts Programme’ for payment for contracts for ongoing international and local marketing campaigns and procurement of censorship suite, respectively.

(iv) Effecting the consequential amendments to the First Schedule and the total sum approved accordingly.”

**Hon. Speaker:** Effectively, it means, Hon. Mutava Musyimi, you may proceed to have Supplementary Appropriation Bill prepared for consideration by the House.

Next Order.

ADOPTION OF THE TWENTY FIRST REPORT OF PIC

THAT, this House adopts the Twenty First Report of the Public Investments Committee (PIC) on the Audited Accounts of State Corporations, laid on the Table of the House on Thursday, 18<sup>th</sup> May 2017.

*(Hon. Keynan on 7.6.2017)*

*(Resumption of Debate interrupted on 7.6.2017- Afternoon Sitting)*

**Hon. Speaker:** Hon. Keynan, had you finished moving this Report?

**Hon. Keynan:** Thank you, Hon. Speaker. I wish once again to continue from where I left the other time.

The 21<sup>st</sup> Annual Report of the PIC has closely examined and scrutinised audited financial statements of 41 State corporations. In its examination and scrutiny of the audited financial statements of various State corporations, the Committee's primary approach was to elicit background information as to why particular financial or management actions were or were not taken, while keeping in mind the relevant public financial management principles, public finance regulations, public procurement and asset disposal legislation, public procurement regulations, international...

*(Loud consultations)*

Hon. Speaker, may I plead with the Members to consult in low tones.

**Hon. Speaker:** Hon. Member for Mbita, I appreciate that you are in the mood of addressing the electorate but, please, they are not those ones. Allow the Member for Eldas to move this Motion. Consult in low tones.

*(Hon. Ochieng and Hon. Wandayi consulted loudly)*

Member for Ugenya and Member for Ugunja, consult in low tones. I appreciate you are neighbours and one constituency was hived out of the other. You may be having very touchy issues but, please, lower your decibels. Proceed.

**Hon. Keynan:** Thank you, Hon. Speaker. I was talking of public finance regulations, public procurement and asset disposal legislation, public procurement regulations, international public sector accounting standards and international financial reporting standards relevant to the commercial State corporations. The Committee was also guided by the mandate and the strategic objectives of each of the State corporations.

The following is a summary of the Committee's general observations and recommendations as per the findings of the audited financial statements of the 41 State corporations whose accounts we have had an opportunity to interrogate.

The first thing that we noted is non-remittances of statutory deductions. The Committee observed with a lot of concern that some State corporations were not remitting statutory deductions such as PAYE, NSSF, NHIF and SACCO deductions. We realised that, that has become a trend for so many parastatals and State corporations to the extent that it has caused challenges to those institutions that are expected to implement how those statutory deductions are utilised. A notorious one is the Coast Water Services Board (CWSB), which failed to remit statutory and other deductions totalling Kshs48,414,090 and Kshs122,792,740 to the Paymaster General and Ukulima SACCO, respectively. We realised that this was a big challenge and,

therefore, our recommendation is that those organisations must remit those statutory deductions timely and operate within the law. What the Committee recommends is that those State corporations should settle all their statutory deductions in a timely manner as provided for in the relevant legislation and financial regulations.

Our second recommendation is that the Inspector-General of State Corporations should ensure that all pending statutory deductions with the various State corporations that are yet to be paid are settled within three months of the adoption of this Report.

The third recommendation is that all the accounting officers, that is, chief executives of those State corporations should ensure that this anomaly is addressed as a matter of urgency.

The other issue we realised is that of land and buildings. The Committee observed, with a lot of concern, that several State corporations did not process title documents for the various assets that they own, including land and buildings. The Auditor-General has noted that the Postal Corporation of Kenya has close to 68 prime properties all over Kenya that have not been properly documented. Therefore, our recommendation is that the Cabinet Secretary (CS) for Lands, Housing and Urban Development and the Chairman of the National Land Commission (NLC) should put caveats on all those parcels of land belonging to different State corporations so that those properties are protected from land grabbers.

The second recommendation is that the CS for Land, Housing and Urban Development should, within six months of the adoption of this Report, compile a credible report and submit it to the National Assembly and the Speaker for all parcels of land held by various State corporations across the country as the first step towards taking stock of land assets held by different State corporations.

The third recommendation is that the Judiciary should also consider prioritising the conclusion of all cases relating to illegal allocation and acquisition of land belonging to various State institutions and, in particular, land that was set aside for research purposes like the Kenya Medical Research Institute (KEMRI), the Kenya Agricultural Research Institute (KARI) and a number of other critical State institutions.

The fourth recommendation is that the accounting officers of those particular State corporations should ensure that they have proper asset registries for all their lands and any piece of land that is in the hands of individual grabbers should be properly accounted for and repossessed.

The third issue that we captured in the process of analysing the audited accounts is the expenditures beyond approved budgets. The Committee observed that several State corporations were spending beyond their approved budgets in the financial year. We found this as a worrying trend because we have the Public Finance Management (PFM) Act and the Constitution. Therefore, if every entity will be allowed to spend as they wish, then the issue of budgetary control mechanism will be a waste. Institutions like the University of Eldoret and Kibabii University have spent a lot beyond their approved budgets. This is a worrying trend and, therefore, the recommendation is that the heads of those organisations should put measures in place to ensure that those organisations operate within their approved budgets.

The second recommendation is that if the Postal Corporation of Kenya budget is denied, the chief executive of that organisation for a particular financial year should be held accountable and the Ethics and Anti-Corruption Commission (EACC) should initiate investigations and report back to the National Assembly within six months after the adoption of this Report.

The third recommendation is all State corporations must also seek timely approval of their budgets so that they can always operate within the Constitution, the State Corporation Act,

the PFM Act 2012 and other regulations. This is the only way we can operate within a disciplined financial mechanism.

The fourth issue that we realised is irregular payments of board sitting allowances. Boards of different organisations have disregarded even the provisions of the State Corporations Act, the PFM Act and, more recently, the provisions of the *Mwongozo* rules, which somehow offered guidance on areas where there was a *lacuna* on certain pertinent issues relating to their day to day mandate. Therefore, those issues must also be addressed and the Committee recommends that the accounting officers of various State corporations must, at all times, ensure that Section 10(1) of the State Corporations Act, Cap.466 of the Laws of Kenya as amended under the Statute Law (Miscellaneous Amendments) Act of June 2002 is fully complied with.

The other issue that we realised was that of procurement of goods and services. The Committee observed that several State corporations continued to violate the provisions of the procurement law and regulations in their procurement of goods and services. This is also a worrying trend because the Constitution is explicit on how all State agencies are supposed to carry out their procurement processes. This issue has been disregarded and the Government continues to lose billions and billions of shillings in fraudulent procurement processes that are not properly structured and implemented.

Therefore, the recommendation of the Committee is that the National Treasury and the Public Service Commission (PSC) must ensure that qualified and competent personnel are seconded to strategic departments and parastatals so that they can have officers who understand finance, procurement and human resource from the inception of those organisations. That is because, at times, there have been excuses that immediately a new entity comes into being, the officers use the excuse that they do not have competent and qualified staff and, therefore, that is why they had to do certain omissions.

The second recommendation is that the EACC should, within one month after the adoption of this Report, investigate those anomalies and report to the National Assembly.

The third recommendation is that the Director-General of the Public Procurement Regulatory Authority (PPRA) should, pursuant to Section 41 of the Procurement and Asset Disposal Act, follow up those cases and ensure that the taxpayers get value for their money.

The fourth recommendation is to debar any individual or company--- These days, there are individuals called “tenderpreneurs”. Their work is just to fleece the taxpayers of their money through fraudulent procurement processes. Therefore, if any individual, entity or company has participated in such fraudulent procurement processes, those individuals must be debarred for a certain period of time so that they can repent and make sure that taxpayers also get value for their money.

The sixth issue that we realised in the audit of those organisations is the delay in availing of documents to the Auditor-General’s Office. The Auditor-General’s Office is a critical independent institution under Chapter 15 of the Constitution. Therefore, we found out that different parastatals have used lame excuses and frivolous reasons to the auditor’s office for delay in giving critical information that is necessary for the preparation of their audited accounts. We also found this trend worrying. Therefore, the Committee recommends that the executive officers, that is, the accounting officers must, at all times, comply with the audit timelines as specified in Section 68 of the PFM Act 2012 and must take appropriate measures to resolve any issues arising from the audit as required by Section 68 (1) of the PFM Act 2012.

The second recommendation is that the accounting officers must submit those reports to the Auditor-General’s Office without delay.

The third recommendation is that the officers must also submit audited documents. Those who fail to submit audited documents must be individually held liable and surcharged for such delays because they cost taxpayers a lot of money.

The fourth recommendation is, three months after the end of this financial year, the Auditor-General should publish and publicise the names of State corporations that have not submitted their complete financial statements as required. The Auditor-General is, by law, required to submit audited statements within a specific time. Therefore, if any State entity does not comply and fails to assist our auditors in meeting this particular objective, then its name must be published so that every Kenyan knows the Chief Executive Officer (CEO) who does not give information to the Auditor-General's office

The fifth recommendation is that the Auditor-General should not accept any document submitted after the end of six months at the end of each financial year and instead submit the audited statements to the National Assembly as stipulated in Article 229(4) of the Constitution.

The other issue that we noted is delay in appointment of board members. This is a worrying issue. It is one issue that many CEOs have taken advantage of. The appointment of board members is clearly stipulated under the State Corporations Act and, therefore, the appointing authority, whether it is the President, the Cabinet Secretary or any other official, must ensure that at any given time, should there be a vacancy, Kenyans who are highly qualified, must be appointed. The existing lacuna allows some individuals to fleece taxpayers' money and mess the finances of critical State corporations. Therefore, our recommendation is that the CEO should ensure that imprest advanced to the board members is recovered within the stipulated time.

The other recommendation is that CEOs must immediately take the necessary measures to ensure that outstanding imprest is paid. We also realised that since many individuals from different backgrounds are appointed to sit on boards of State corporations, some of them join with the agenda of fleecing the organisations. They neither surrender imprest nor account for it. Whatever they do, it is like they have become a law unto themselves. This issue must be addressed as a matter of urgency.

This country has come up with critical documents, for example, the *Mwongozo* document. The provisions in the *Mwongozo* document have been disregarded and that is worrying. Therefore, our recommendation is that the Government should ensure that State corporations operate within the law and where there is a lacuna in the law, they should follow the strict interpretation of the *Mwongozo* rules.

The other thing we realised was the issue of pre-arrears audit queries. The Auditor-General has had challenges with regard to this matter. We recommend, just like we had done in our 20<sup>th</sup> Report of State Corporations Accounts, that the Auditor-General ensures that until an audit matter is satisfactorily resolved, it should continue to appear in the subsequent audit reports of the Auditor-General on financial statements of the respective State corporations. The Committee, following consultations with the Auditor-General, recommends that matters that have been exhaustively addressed by the Committee and recommendations made, should not recur in the subsequent reports of the Auditor-General. For example, the Auditor-General continues to issue a number of organisations with clean audit accounts and yet there are issues that have been sorted out and others are still pending. What we are recommending is that the issues that have been satisfactorily resolved or comprehensively addressed by the Committee should be excluded from the subsequent audit reports so that the organisations books are not bogged down by audit issues that were resolved long time ago.

Finally, this Committee continues to play a very important role in the examination of audited statements of different State corporations. I want to take this opportunity to thank your office and you individually as the Speaker of this House. I also want to take this opportunity to thank the Clerk of the National Assembly. I also want to thank the secretariat of this Committee headed by Susan Maritim and all other members of staff who worked day and night to ensure that this Committee not only generates some of the most conclusive and in-depth reports, but also addresses the backlog in the audit statements of State corporations. I hope this House will adopt this Report. This Committee has looked at almost 200 audited statements of different State corporations.

The reason the framers of our Standing Orders decided to have two critical legislative committees in the name of Public Accounts Committee (PAC) and Public Investment Committee (PIC) was to allow, under the leadership of the minority parties, diligent and proper oversight on taxpayers' money which is utilised by different State agencies. I appreciate that at one time you were the Chairman of the PIC and so you understand the critical role that this Committee plays in the oversight of accounts of various State corporations.

To this end, I want to thank all those who supported us, as a Committee. I want to thank all the 27 Members of PIC. Over the last four years, we have come up with unanimous reports. We have generated critical reports. We have worked day and night to make sure that taxpayers get value for their money. I want to wish them well. I know quite a number of them are still active. Out of the 27 Members, four of them are vying for gubernatorial seats. I wish them well and I know that this Committee has given them an opportunity to prepare adequately. They now have the requisite financial, administrative, procurement and management skills. So, once they are elected, they are unlikely to be faced with the challenges that their predecessors continue to encounter even under the current Parliament. I know that quite a number of them have secured their party nominations. I also wish them well. These were some of the best brains I have ever worked with in my legislative history. I commend them. I pray that all of them be re-elected. This was a wonderful team.

I would now like to ask Hon. Olago Aluoch to second the Motion. Thank you, Hon. Speaker.

**Hon. Speaker:** Hon. Olago Aluoch.

**Hon. Aluoch:** Thank you, Hon. Speaker. I have had the privilege and honour of serving in this Committee as a ranking Member and I wish to draw the attention of this House to the fact that the 21<sup>st</sup> Report contains reports on 42 State corporations as set out between page 3 and page 4 of the Report. I want to commend our Chairman, Hon. Aden Keynan for having provided the leadership that we required in this Committee. Sometimes it was very difficult to get the information we wanted. He always went out of his way to ensure that the Committee was properly facilitated and even able to get proper witnesses from the State corporations. Some of the corporations that we were dealing with were hostile to the Committee and were not willing to disclose some of the information that was required. I want to address two issues that have been mentioned in the Report.

One, is the *Mwongozo* Regulations by the Government and the appointment of CEOs and board members under the State Corporations Act. In this Report, you will notice that for long periods of time many of these State corporations have been operating without boards of directors. The effect of that is that CEOs had a free hand to deal with finances of corporations as and when they wanted. This is not proper because it opens the management of these corporations to pilferage and theft of public funds.



In this report, we have emphasised that whether the appointing authority is the President or the Cabinet Secretary in charge of the docket, their responsibility under the law is to ensure that vacancies in State corporations are filled expeditiously. We have also recommended that in appointing board members, the appointing authorities should ensure that the appointments are staggered so that members of the board do not leave at the same time. The risk of all members leaving at the same time is that no board member remains within the corporation that has got the institutional memory that can help in guiding the corporation. So, in staggered appointment, it would be possible to have some going out and some remaining to mentor new board members.

The second aspect that we are dealing with in this report as you will notice in the majority of the 42 State corporations is the issue of title deeds for parcels of land and other fixed development that belong to State corporations. Many of them do not have title deeds. When this happens, we expose public property to theft and misuse. With the disease of land grabbing in Kenya, it becomes very tempting for those in authority to steal public land where there are no title deeds. For example, the KRA in Mombasa has got fixed property whose value is in excess of Kshs1.5 billion; several properties in Kwale, Kilifi and Mombasa Island. Some of these properties were inherited from the former East African Common Services, but they do not have title deeds. You can imagine the temptation that some people in authority could have to steal from an institution that has property worth Kshs1.5 billion but does not have title deeds.

We have recommended very strongly that the National Land Commission (NLC) together with the Attorney-General's office and the Commissioner of Lands should ensure that title deeds are issued to these State corporations. We have also made it clear that in cases where there is evidence of theft of public land, the NLC and the AG's office should move fast to ensure that cases that are filed in court are expeditiously disposed of.

One of the examples comes from the Lake Basin Development Authority (LBDA), a State corporation that is close to my heart. We noticed that property of LBDA, not just at the headquarters in Kanyakwar but also in Milimani in Kisumu, have been taken away by those who are entrusted to maintain them for the sake of the public. In these cases, the LBDA Board has taken cases to court and reported some to the Ethics and Anti-Corruption Commission (EACC) but no action is being taken. So, the thieves of this land still remain free.

We are recommending in this report that where there is evidence of theft of public land and the EACC has been notified, they need to move with speed, ensure that investigations are completed, arrests are made and the thieves are prosecuted. Some of the thieves of public land in this country are the ones in authority. They use the same assets to protect themselves from prosecution. That is not right.

Again, there is Sunset Hotel in Kisumu. From 2008 to 2009, the hotel was operating without a board of directors. The effect of this was that those who were managers pilfered funds to the extent that the hotel was not able to operate at all; it was brought down to its knees. It pains me as a Member of Parliament from Kisumu County that this State investment has been brought down to its knees. Only last week, auctioneers were at the hotel to attach its properties because it was not able to pay taxes and remit deductions from staff. All these are happening because of the inability of the appointing authority to appoint boards of directors who have authority, experience and capacity to manage the assets of State corporations.

If the recommendations in this report are taken seriously, then we, as members of PIC, will feel gratified that our recommendations have helped make Kenya a better country. Our recommendations will have helped make Kenya a country where those in authority are accountable to members of the public.

Hon. Speaker, I second this Report and urge the House to adopt it.  
Thank you.

*(Question proposed)*

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

**Hon. Maanzo:** Thank you, Hon. Speaker, for giving me an opportunity to contribute to this enormous Report by the PIC on the audited statements of State corporations. There are a number of State corporations in the country which hold a big share of wealth. This is especially where land is concerned.

Recently, there were allegations of grabbing of land that belongs to Kenya Airports Authority (KAA). In fact, it had been allocated and sold to Kenyans around Mlolongo. It was painful when there was a decision to bring down the properties of innocent Kenyans who had been allocated that land that originally belonged to a State corporation.

State corporations have a lot of wealth. Some of them generate wealth, part of which is never accounted for. There is also a lot of stealing in some of the State corporations. The country had recently come up with an idea of reducing the number of State corporations or lumping them together, especially the ones in the State Department of Agriculture. I do not think that has been successful. The more we try to reduce the corporations the more we keep on passing laws forming new ones in the country. It seems it is an area of government we cannot avoid to look at and make sure that it is audited for the benefit of the rest of Kenyans.

This Report is quite voluminous. I want to thank the committee for a job well done, especially being a Committee largely composed of Members from the minority side of the House. It is quite an effort. I believe the departments of the House assisted the Members to go through 42 State corporations, some of which, as has been said, were not very cooperative.

These corporations include universities which have serious budgets. Ordinarily, the Government is not supposed to trade or make money for the nation, but many times there is that that borders on the same, especially with the Department of Agriculture. What some of the corporations do should be able to generate A-in-A, including universities. It is an area which was re-looked during the last Budget. Many changes were made by the respective ministries. Some of the corporations were not happy with them because they were stringent measures to make sure that the monies with them are utilised properly. Some of them, like the universities, were not happy with the move because their independence was being taken away through a resolution of the House. They tried their best to be assisted with the budgets but it was not possible. This was done so that the corporations could be monitored closely.

The move that has been made by the Committee is good so that we can look at the future of Kenya, especially the recommendations on proper use of land, proper protection of public land, public utilities, public investments and the developments on that land, like the rents collected by some corporations which lease out their properties. Some of them own land which has no title deed.

The recommendation that the NLC, and the AG move with speed to ensure that titles are secured is very important because it will benefit the country.

So, this is a very good report with good recommendations and I believe it will be implemented. Once that is done, Kenyans will operate better and our state corporations will be efficient. More importantly, we will safeguard land which is at a risk of being looted by people

who connive with others who do not mean well for the country. State Corporations must be given land that belongs to them.

I support this Report and urge other Members to do so.

**Hon. Speaker:** Let us now hear the Member for Turkana.

**Hon. (Ms.) Emanikor:** Thank you, Hon. Speaker for giving me this chance. As I support this 21<sup>st</sup> Report of the PIC on the Audited Accounts of State Corporations, I appreciate Hon. Keynan and his Committee for the good work they have done in the 11<sup>th</sup> Parliament. It is not easy to scrutinise the accounts of different organisations.

Hon. Speaker, I support the recommendations put forth by the Committee. Looking at the different challenges that State corporations face, including failure to submit statutory deductions, they should not be allowed to accumulate these debts as this is what has increased their debts.

There is the issue of protecting assets of State Corporations because they are public assets. There is a tendency by senior officials of State corporations and board members to illegally acquire the assets. There is need to devise mechanisms of protecting those assets.

With regard to the issue of expenditure beyond approved budgets, as we look forward to the 12<sup>th</sup> Parliament, there should be strict measures of doing thorough rationalisation in State corporations even if it means reducing the staff so that we remain with a few who are productive. It means that the Government will have to fund retrenchment. If that will save our State corporations, then that should be done. The anomalies in procurement procedures are very common, and we should surcharge officers who engaged in these anomalies.

Finally, I would like to speak to the issue of appointment of board members. The Committee has correctly said that it should be timely because the lacuna that is created before the next board is appointed usually is a recipe for malpractices by the management. So, the appointment of board members should be timely but also staggered so that we have the institutional memory.

However, for regional State corporations, the appointment should consider the regions of jurisdiction. A good example is Kerio Valley Development Authority (KVDA) where we have about 10 directors. The Authority covers six counties only and yet some of the counties under its jurisdiction are not represented in the Board. Board directors who come from the region can do a better job. Turkana, for instance, is left out and yet it accounts for 80 per cent of the area that KVDA operates. So, this is another thing that we need to seriously look at in the coming Parliament.

Thank you, Hon. Speaker.

**Hon. Speaker:** Let us have the Member for Narok South.

**Hon. ole Lemein:** Thank you, Hon. Speaker for giving me this opportunity. I support this Motion. However, I beg to move an amendment to the Motion:

THAT the Motion be amended by inserting the following words immediately after the word "2017"-

“subject to:

- (i) deletion of the Committee’s recommendation under paragraph 14 appearing on page 378 of the Report.”

**Hon. Speaker:** One second, please. Hon. Lemein, do you have an amendment you want to move?

**Hon. ole Lemein:** Yes, Hon. Speaker.

**Hon. Speaker:** But the Hon. Speaker is not aware of it? An amendment should be brought to the Hon. Speaker.

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

Very well. Proceed, Hon. Lemein.

**Hon. ole Lemein:** Thank you, Hon. Speaker.

I beg to move:

THAT, the Motion be amended by inserting the following words immediately after the word “2017”

“subject to:

- (i) deletion of the Committees’ recommendation under paragraph 14 appearing in paragraph 278 of the Report,
- (ii) deletion of Committee’s observation and recommendation under paragraph 15 appearing on page 379 of the Report; and
- (iii) deletion of committee’s observations and recommendations under paragraph 16 appearing on page 382 of the Report”.

The reason for the proposed amendment is that the targeted sections are inaccurate and inconsistent with the body of the Report.

Hon. Speaker, I wish to invite Hon. Keynan to second.

**Hon. Speaker:** He is the Mover.

**Hon. ole Lemein:** Hon. Speaker, I beg to move.

**Hon. Speaker:** Who is seconding the amendment? Hon. Wamunyinyi, you are part of the Committee.

**Hon. Wamunyinyi:** Hon. Speaker, thank you very much for the opportunity to second this amendment. It is a straightforward amendment merely correcting typos and ensuring that the Report is clear.

The PIC, in its efforts to ensure that we undertake the oversight role, has had a number of State corporations and parastatals go through its processes. I would like to take this chance to express my gratitude to you and the officers of Parliament for the support that the Committee received in the course of doing its work.

Hon. Speaker, I am certain that the PIC did a commendable job.

**Hon. Speaker:** You know this amendment is a dilatory Motion.

**Hon. Wamunyinyi:** Hon. Speaker, should I speak on the main Motion.

**Hon. Speaker:** No! We want you to second the Motion as amended.

**Hon. Wamunyinyi:** Hon. Speaker, I second.

*(Question, that the words to be added be added, proposed)*

*(Question, that the words to be added be added,  
put and agreed to)*

**Hon. Speaker:** Debate on the Report will continue as amended. As people debate this Report what is appearing in paragraphs 14, 15 and 16 on pages 378, 379 and 382 respectively are deleted. Hon. Korei ole Lemein, you want to contribute on the main Report? Very well.

**Hon. ole Lemein:** Thank you, Hon. Speaker. I rise to support the Report as amended. As a ranking Member of the PIC, I wish to thank the Chairperson Hon. Keynan and the Hon. Members for working extra hard to ensure that they have examined over 190 parastatals.

As highlighted by the Chair and the rest of the membership there are a number of observations and recommendations which are of immense importance to the respective corporations. I believe that the PIC of the 11<sup>th</sup> Parliament has set high standards as far as examination of accounts is concerned. I believe those who will be privileged to serve in this Committee in the 12<sup>th</sup> Parliament will have a tall order as far as running and examining the accounts of the various parastatals is concerned. I have enjoyed working with this team and I want to appreciate the entire membership, staff, the Speaker's and Clerk's office. We had a wonderful time as a Committee in ensuring that we deliver our best for the benefit of the people of Kenya.

I arise to support the Motion as amended.

Thank you, Hon. Speaker.

**Hon. Speaker:** Member for Matayos.

**Hon. Odanga:** Thank you, Hon. Speaker. I also rise to support the Report as moved by Hon. Aden Keynan who has done very well during the 11<sup>th</sup> Parliament. I believe he will continue playing this role in the 12<sup>th</sup> Parliament and I hope all of us will come back here. Parastatals are State organisations which are run for the benefit of the people of this country and their good management is very important to all of us. I am very happy that PIC has been following up on the running of these institutions to ensure that it is smooth. Unfortunately, it has been reported that there is some hostility from the management of some of these institutions.

In future, we need to come up very clearly on what should happen to State Corporations whose leadership does not co-operate with institutions like the Oversight Committee of this House and other institutions including the Office of the Auditor-General. If those leaders are not co-operating, then we need to give teeth to the House of Parliament, Committees and the Auditor-General to ensure that these people are arraigned and steps are taken to ensure they are not given any other appointments in the running of State Corporations. This is very important and we do not think that there should be anybody running any organisation of the Government should stand in the way of an Oversight Committee such as PIC.

It has been said that sometimes a lacuna arises when the term of a board comes to an end and there is an appointment of another board. This should be clearly and properly done in a standardised manner so that, at least, when board members terms expires there are those who remain to keep the institutional memory and to ensure that the CEO does not have a field day to do whatever he/she wants. Unfortunately, these State Corporations have been used as cash cows in this country and this is something we need to bring to a stop because it means they are not able to provide services to Kenyans as they required and were created to.

Some of them do not remit their statutory deductions to the National Hospital Insurance Fund (NHIF) and the National Social Security Fund (NSSF). Nowadays, we are using Integrated Financial Management Information System (IFMIS) and the National Treasury is controlling everything. It is prudent for the 12<sup>th</sup> Parliament to make some laws so that these statutory deductions are done from the source and directly remitted instead of going down to the State corporations. Sometimes, I know the leadership also faces many problems and maybe the little finances they have are used as they wait for other funds. The NHIF penalties are very high and these State corporations continue to suffer. While we blame them we also need to establish why they do not remit those statutory deductions on time so that we do not just blame them for the sake of it.

Hon. Speaker, I support.

**Hon. Speaker:** Member for Nakuru Town East.

**Hon. Gikaria:** Thank you, Hon. Speaker, for giving an opportunity to support the 21<sup>st</sup> Report of the PIC. It is a little bit unfortunate because when the Mover and the Seconder were debating they lamented about a few issues. I thought it was important for them to have given proper recommendations. I belong to the Committee on Implementation and after this Report has been adopted by the House, it will come to our Committee so that we can start following up the recommendations.

Some of these recommendations need to be precise and point to specific individuals so that action is taken. I appreciate the good work that has been done by the Chair, Hon. Keynan and his team. It talks volumes regarding State Corporations. This country needs to reduce the number of State Corporations and privatise some of them. It is sad that every time we want to privatise some of them there is a lot of politics and we continue pumping in huge sums of money from the public coffers and at the end they go down the drain and do not fulfill the purposes they were meant to. We have seen success in a few of the corporations which were privatised. It is high time that this country started looking at each corporation on a case by case basis so that we analyse them. There was a report on the privatisation of some State corporations. I say this because we have a few within our jurisdiction. This Government has continued to pump a lot of money into some of these corporations without success. They keep coming back wanting more money.

A case in point is the Tana and Athi Rivers Development Authority (TARDA). As a Committee, we visited the place after a community petitioned Parliament regarding the overflow of the dams. When we checked what TARDA requested, we found that to date, it has never been given the mobilisation to clear the issues that the Committee recommended.

That notwithstanding, I want to start by talking about the prior years' audit queries. As recommended by the Committee, it is important that prior audit queries which have been exhaustively addressed by the Committee need not--- As an accountant, those are international accounting standards. You make an audit look as if it is so huge yet some of those things have been addressed by this Committee. It is important for the Auditor-General to follow the recommendations which have been given by the Committee. According to the Report on page 9, you had a meeting with the Auditor-General where you agreed that some of those things need not recur in every other financial year. Those are prudent and important international accounting standards.

At the same time, those queries need to be exhaustively addressed by the relevant authority so that we do not just have an Auditor-General who just audits and makes queries and then they are not acted upon. It is important for the respective Government agencies which are supposed to undertake the recommendation of the Auditor-General to take their work seriously so that we do not have this.

The other issue regards the non-remittance of statutory deductions. It is very sad that workers are deducted those statutory deductions from their monthly pay slips for a long time yet there is no remittance. At the end of the day, if the recoveries of the NSSF and the NHIF are not done on time and remitted to the respective institutions, it means that if a Kenyan got sick and his NHIF remittance is not remitted--- Those are some of the issues. We will take seriously the recommendations of the Committee on Implementation that the respective accounting officers in various State corporations be held to account for getting money yet those monies are already in the budgets. They get the money; deduct them from the salaries of the workers and they do not remit it. At the end of the day, it is the same worker who ends up going back to his or her pockets to try and solve some of those issues.

The other issue is lack of title deeds. This is one of the issues that gives land grabbers an opportunity for them to--- If they go to any land registry at the local level and they realise that a State corporation--- When the Committee on Implementation went to Mombasa it found that people have encroached on the airport land because the Kenya Airports Authority (KAA) had not acquired a title deed. As recommended by the Committee, we ask that the National Land Commission (NLC) and the Ministry of Lands assist those State corporations to acquire title deeds so that they can stop the dangerous issue of land grabbing. You will find that in most places, they might even know that the land belongs to a certain State corporation, they corruptly acquire a fake title then they go to the bank and use the same title to get money. This is also killing most of the financial institutions. It is important that the Ministry of Lands and the NLC hasten the acquisition of title deeds by the various State corporations.

As indicated by the Chair, there is a delay in availing documents to the Auditor-General. Failure to avail documents is one of the gravest offences that any accounting officer or CEO can commit. Not availing documents, and rightfully as the Committee has pointed out, gives room for corrupt individuals and CEOs in various State corporations to be corrupt. We try to stop corruption. At the end of the day, it is the President of the Republic who is always charged with issues of malpractice and corruption in the country while it is a specific individual who is responsible. It is important that where there is a delay in availing documents for purposes of audit, the CEOs are held to account and compelled to give the documents. If they do not do that, action should be taken.

Lastly, is the issue of outstanding imprest. I have seen it runs into millions of shillings. As a Member of Parliament, we travelled the other day. When I was late accounting for the imprest, I was flashed some regulations that I have to bring back my imprest within seven days. Those financial regulations should be followed by everyone.

With those few remarks, as the Committee on Implementation, we look forward to the adoption of the Report so that the recommendations can be undertaken and followed.

I support the Motion.

**Hon. Speaker:** Let us have the Member for Butula.

**Hon. Onyura:** Thank you, Hon. Speaker for this opportunity. I rise to support the Report as amended. I also commend the Committee for a job well done that has resulted in this voluminous Report covering nearly 400 pages and examining about 41 parastatals. That is not an easy task by any chance.

Skimming through the Report, you find that there are all manner of irregularities. For example, running through the whole Report are issues of irregular payments of allowances; irregular procurements; matters of mismanagement of imprest; non-return of the imprest; improper disposal of assets; non-remission of statutory deductions, including in some cases members' funds like those going to the cooperatives. The list goes on, just to mention a few.

I have seen that the recommendations range from further investigation and prosecution to surcharges. What I am not sure about is whether any actual action is ever taken, because such reports are produced year in year out. Sometimes they cover the same organisations and the same management teams in those organisations, but we do not see anything happening. That is part of what promotes impunity. I do not know what mechanism we have, as a House, to ensure that these recommendations are implemented. Otherwise the whole effort just ends up in futility. The reports end up in the shelves and business goes on as usual.

Hon. Speaker, personally, I would advocate for faster privatisation of some parastatals, particularly parastatals engaged in proper business or commerce. Such parastatals should be

privatised very quickly because the Government has no business engaging in business. Business should be left to players in the private sector and private investors. Kenyans can be encouraged to participate in business. Investors from outside the country can be invited to participate so that we do not end up sinking taxpayers' money trying to rescue some of these parastatals. No matter how much money is injected into some of these parastatals, they will never be revived. They are dying or they are in Intensive Care Unit (ICU) or they are dead. This reading of parastatals makes a very sad story. The Government should concentrate more on regulatory activities and ensures that there is a conducive environment for business. It should not be involved in business.

In order to minimise impunity where people mismanage parastatals, loot their resources and dispose of their assets haphazardly, we should start seeing prosecution, naming and shaming of individuals. I wonder because some monitoring and regulatory organisations have been in existence. There used to be the Efficiency Monitoring Unit and the Parastatal Advisory Committee among others. I do not know whether they still exist and if they do why they allow this kind of mess to go on in parastatals.

The most important thing is to ensure that the job that this Committee has done, leading to these very good recommendations, is not in vain. These recommendations should be implemented so that they can serve this country better.

With those remarks, I support the Motion.

**Hon. Speaker:** Member for Seme.

**Hon. (Dr.) Nyikal:** Thank you, Hon. Speaker, for giving me this opportunity. Let me start by saying that I rise to support this Report. Let me also appreciate the work that has been done by the Committee. Going by the volume of this Report, it is clear that a number of institutions have been audited. The Committee has gone through all the audit reports. They have done a commendable job.

They have raised issues that question the objectives of starting our corporations. Of course, we know that one of the reasons we started them is to offer services that would otherwise not be available if left entirely for the private sector. An example is the Kenya Airways Authority. We also know that some state corporations support and promote development. We have the development authorities like the Tana and Athi River Development Authority (TARDA), the LBDA, the Kerio Valley Development Authority (KVDA) and the Kenya Sugar Board. These are extremely important entities in terms of promoting agriculture.

The issues that have been raised make one wonder whether we are really serious about attaining the objectives of these state corporations. To begin with, they have indicated that there are delays in appointment of Boards of Directors. Therefore, we have state corporations that are being run without Boards of Directors for long. It is obvious that if there is no Board, you leave the whole corporation to the whims of the CEO. Such lacuna exposes the corporations to a lot of exploitation. No wonder many CEOs seem to view State corporations as their personal firms. If there is no serious oversight, that is a problem.

When it comes to appointment of members of Boards of Directors in this country, the sad reality is that such appointments are seen as a form of reward for political loyalty. Once they are viewed that way, instead of being viewed as areas where we need expertise that would help to steer state corporations to achieve their objectives, we have problems being witnessed. State corporations in this country have been described as 'cash cows' from which people earn a living, earn some extra cash or enjoy after retirement from public service. This must be avoided. We know that in many instances, State corporations have been used as conduits. No wonder if your appointment is meant to reward you for your loyalty, you then see it as your time to get back



whatever investment you put in, whether it is in terms of time or cash prior to that appointment. Obviously, we cannot afford to continue looking at state corporations in that way.

For the same reason, if such appointments are seen as reward, people will see State corporations as places where they can employ their relatives and friends. Such scenario leads, without doubt, to skewed employment such that people get employed in State corporations, to a large extent, depending on who they know within its Board or management. We know that this has been the main problem. We must start viewing boards of management as entities established to steer State corporations towards profitability and success.

The Report has also raised the issue of security of assets. Again, this maybe something that is as a result of negligence. Sometimes I wonder whether the managements of State corporations do not deliberate why they stay with property like land without securing titles and without having proper maps showing demarcations. Eventually, such land is grabbed by the same people. You wonder why title deeds were not sought and proper documentation done. We know the problem, for example, of the Kenya Railways land. There are still issues being raised many years after the Kenya Railways land became public, and was discussed. There are many issues around it.

Just recently, we were discussing the need to get some money to bail out the Lake Basin Development Authority (LBDA). The title deed of its land had been used in some undertaking that does not seem to be very clear thus jeopardising the ownership of one of its large investments. The report also indicated that there was non-remission of statutory deductions. In my view, that is carelessness and negligence. Officers make deductions on paper and fail to remit the money and, therefore, underestimate the actual emoluments. This is extremely detrimental to the staff who miss on their savings at the end of their employment. So, with regard to the NSSF, the NHIF and co-operative societies, people suffer because of carelessness of a few individuals. There is need for regular auditing of State corporations. That way, boards and their chief executive officers (CEOs) will, perhaps, realise their responsibility and obligations.

Looking at this Report, whereas all of us agree that the Committee has done a good job, the size of the Report tells you that even scrutiny by Parliament is made difficult. I am sure the Committee had to work extra hard. We probably need to find a way of performing scrutiny more regularly and in a much better way. The Report talks of outstanding imprest. I do not understand why this should happen because imprests have clear purposes, clear timeliness and are given to people who are salaried. So, if they fail to surrender it, it is clear that, within a given time, it should be recovered from their salaries. Why should it take so long to recover imprest from the culprits? There are cases where some people even leave employment while still holding imprest. That is simply negligence. We need to be stricter with auditing.

I end by saying that all these things keep recurring because of lack of implementation of recommendations. Firm action should be taken against the culprits. There should be clear indication on what should be done if somebody is caught in such a mess. The matter should be forwarded and the culprits prosecuted. Let there be recovery at any cost, even if it means attaching the properties of board members and the CEO for as long as the law allows.

I support the Report as amended.

**Hon. Speaker:** The indomitable Member for Emurua Dikirr.

**Hon. Kipyegon:** Thank you, Hon. Speaker. I am humbled by the great name you have given me. Obviously, this Parliament is coming to an end. We have been very great friends in this House. I know you will be coming back again as the Speaker. Obviously, the Member for

Emurua Dikirr will also be coming back as a Member of the National Assembly. We will meet again.

I wish to thank the Chairman of the PIC, a Committee that I respect. We sit together and work together regardless of party affiliations. This is the only Committee I felt comfortable serving in because we were not coerced when carrying out our duties. We would discuss matters, deal with them and dispose of them. There was no arm-twisting either from State House or the Capitol Hill. We did our job as is required by law. I must thank the Chairman because this is the last Report we are dispensing with as Members of the 11<sup>th</sup> Parliament. My Chairman is now in Jubilee and I do not know whether he will be a Chairman in the next Parliament. He is coming back and I do not know whether Jubilee will be in the Opposition so that he could remain a Chairman. I would wish to serve under him, but of course, we are praying for every other competitor. We are praying for either Jubilee or NASA to win because after all, we are all Kenyans.

I must thank the Chairman for his splendid work. He served as the Chairman without partisanship. We also served diligently as Members. I can see the Chairman is sitting with my great friend from Narok, Korei ole Lemein, who I am also wishing well that he comes back to this House. I must thank all the Members that I sat together with to deliberate important issues. We looked at audit reports from several parastatals. You acknowledge that PIC is equal to the Public Accounts Committee (PAC) which focusses on ministries. The PIC deals with parastatals. As you know, we have so many parastatals in this country. When we come back, we need to re-look into the composition of our parastatals and how they are run.

In this 21<sup>st</sup> Report, we looked at 41 parastatals and came up with recommendations. Among the issues which came up is the question of non-remittance of statutory deductions. It is affecting almost all the parastatals and so, it is something that needs to be addressed seriously.

The other issue which obviously was a thorn in the flesh is the question of land. Remember land in this country has been exaggerated to a level that people will kill to get even one-quarter of an acre especially in Nairobi. I do not know whether this country will one day address the question of land. In my view, a situation should be created where land is devalued. Competition for land in this country is alarming. The rate at which people compete to get land is very alarming. A situation should be created where land is devalued in order to allow for development. That way, we will prosper. Most parastatals' parcels of land have been grabbed by people who are serving in the Government or by private developers.

As my colleague said, appointment of managing directors (MDs) and directors to serve in parastatals is done by the State. People who are appointed to these positions are those who lost in elections or helped the Government of the day in one way or the other to win elections. They occupy these positions not by virtue of qualifications, but because they played a certain role during campaigns. For that reason, they are easily influenced by the State. They are people who when approached by Government operatives to surrender certain things, especially land, they would not resist because they are appointees of the State.

On the issue of land, we must strive to recover land that has been grabbed and revert it to the rightful owners, namely, parastatals. Many land cases have lasted several years in court and there is no hope of returning the land back to the parastatals. The heads of these parastatals do not wish or do not want to push to get back their land, either because they collude with the people who grabbed those pieces of land or probably, the court itself is reluctant to settle the matters once and for all.

We looked at several parastatals which lost land. Even in this Report, many parastatals have lost their land and nobody is dealing with it. We recommended, as a Committee, that the CS

for Lands, Housing and Urban Development should put caveats on suspicious land, which we know has been grabbed. When you look at most parastatals land like the Agricultural Development Corporation (ADC), the Kenya Pipeline Corporation (KPC), the Kenya Power and Lighting Company (KPLC) and others which are not in this Report, cases have been going on forever and people have developed the parcels of land. You find somebody has built storeys of houses and flats. Some people have built their own homes and still the cases are in court. Courts must also up their game by putting caveats on those particular parcels of land. The cases which are in court must be expedited and done away with so that the land can be taken back by the parastatals which owned them.

The other issue was that of titles. We found out that most of the parastatals do not have titles for the land their buildings are on. They should be given their titles. The properties should be given titles.

Another issue is that of appointments especially of managing directors. We need to pass a law that these positions should be filled competitively by the Public Service Commission (PSC) so that we do not have a situation where people are just being appointed by one person and no vetting is done. We can agree that the State can appoint CSs and Principal Secretaries (PSs). Those ones can be vetted by Parliament, but these others should go through the PSC so that we can get the best people to work in parastatals.

There is a system which the Independent Electoral and Boundaries Commission (IEBC) introduced and we are not happy about it. I wish they had introduced the same system on appointment of managing directors to parastatals. The IEBC introduced a system where people apply online, especially presiding officers and clerks. They apply online and they want to be appointed nationally. That is the work of the returning officer in the constituency level. Why should they surrender their position to the IEBC? That should be done at the constituency level so that people cannot manipulate the system and people from the particular areas can have a chance. That was just by the way.

The other issue that we looked at is about land that is owned by parastatals and the over expenditure which, of course, the managing directors engage in, procurement procedures and employment. Managing directors and officers who serve in particular parastatals---

**Hon. Speaker:** Member for Kwanza.

**Hon. F. K. Wanyonyi:** Thank you very much, Hon. Speaker, for giving me the opportunity. I support this Report. There are too many problems in parastatals and State corporations.

First of all, I agree with the recommendations made by the PIC. For example, parastatals alter their budgets. I happen to have been a CEO of two parastatals in this country. In line with the regulations, budgets are approved by the line Ministries or, at least, there is a discussion between the State corporation that is involved and the line Ministry. Apparently, that practice is dead. That is why we have budgets that are not even budgets. I think the CEO, the finance manager and a few other people come up with a budget which they cannot sustain. Therefore, I quite agree that State corporations must have their budgets discussed with line Ministries.

The other thing that I have seen here is that of appointment of CEOs. The CEOs are not being appointed competitively. They are appointed either through nepotism or political expedience. Some of these CEOs are not up to the task. They are neither qualified nor exposed. I can tell you that if the trend continues as it is, we will have a lot of problems in parastatals.

I have also heard my colleagues talking about appointments of board members. I do not know how a State corporation can operate without board members. The appointing authority is in

a hurry to appoint board members. The MD and the management operate without board members. That is why we have so many problems because nobody checks what is happening. For example, we have had a case in the Department of Agriculture, where the Agriculture, Fisheries and Food Authority (AFFA) is operating without a board for no reason. If you ask why they have not done that, nobody tells you why the board has not been appointed. The CEO has no idea what is happening. You cannot blame the CEO. He will do what he wants without the board's approval because nobody is there to check him or her.

The other thing that has been highlighted by the Committee is the fact that some of these parastatals or State corporations have a lot of debt burdens. Some of them are not able to meet their obligations. The CEOs are appointed and when they go to the parastatal, there are no boards. The problem of imprest has been highlighted by the Committee. Imprests are not surrendered every day. We have had cases where auctioneers even invade parastatals. I had a case when I was a CEO in the Lake Basin Development Authority. It was hide and seek where you have debts and those who want the debts to be recovered bring auctioneers to the parastatal. Some of the money is used to bribe the auctioneers because they are always there looking for the debts. So, multiple problems emanate from the fact that the structures in most of these parastatals are not properly laid down.

I have not seen this problem in the Report. In the Office of the President, we have the Monitoring and Efficiency Unit, which, in some cases, could be compromised. Some of these things should be detected when officers go around to monitor what is happening in parastatals. We have 21 of them here. Most of them are just common things which should have been detected by the MEU in the Office of the President. That is a problem.

The other issue that I have noted is that of title deeds. I agree with the previous speaker who talked about pressure on land. Indeed, we have a lot of pressure on land. Some of these chunks of land that most parastatals occupy are being encroached because of pressure on land. Most of these problems are just our own making. I agree with the general recommendation by the Committee that one has to get clearance within six months from the adoption of this Report. That way, things will be done properly.

As it is now, we are groping in darkness. I do not understand how a State corporation can operate without a board for, say, three years. A board is a vehicle that is supposed to check on some of the issues that have been raised in this Report. God knows what is happening with the issue of recovery of imprest! If the CEO is not checked, he could easily fail to surrender imprest. The people who are involved in the running of parastatals and the appointing authorities must come out clear on this matter. We need to appoint people who can effectively run the operations of our State corporations. In my opinion, it is the Government of the day that should be blamed. You cannot blame anybody else. Somebody in the Government is sleeping on the job and that is why we have so many problems. I am sure this is just a tip of the iceberg and we will be getting more of these sad stories as the Committee visits other areas.

Many cases are pending in court and we may not know what is happening in some of them. People bribe their way out of some of these cases. Ours is a sad case and the recommendations that have been made by the Committee should be adhered to immediately so that we can arrest the situation.

I support the Report.

**Hon. Speaker:** Member for Nambale.

**Hon. Bunyasi:** Thank you, Hon. Speaker for giving me a chance to contribute to this Report. I support the Report by virtue of the amount of effort that has gone into it in terms of

attempting to understand what goes on in the world of parastatals and without which State corporations would become rogue. Despite the Auditor-Generals' annual reports and the Committee's consolidated reports every couple of years, it looks like the issues continue unabated. That should be a cause for worry because the parastatal sector, in many ways, is important to the nation. Parastatals engage in strategic business that would easily turn into a major risk if left to be handled by private hands. Parastatal services are very important indeed. They include postal services, maritime services and so on.

It bothers me that parastatals are grappling with basic things such as remitting statutory deductions meant for the NHIF and the NSSF. This is bound to affect employees in the event they fall ill and we know people get ill during their lifetime. I know of people who have had a lot of hardships after they fell ill. For them to get the NHIF card was a tall order. It was discovered that their money had never been remitted. Parastatals still hold on to the funds. I would expect the punishment for such an offence to be much more severe than it is now. Non-remittance of money deducted from employees to the statutory bodies should be punished severely. There are many cases of people retiring only for them to realise that their contributions do not necessarily match the employers' contributions.

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

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

For the average person, retirement time is the lowest time in terms of income flow. Once you retire, you probably are going to make no more than 30 per cent what you were earning before. So, when you find that your own savings in NSSF have not been remitted, it is big blow. In my view, that is a serious offence on the part of the employer.

*(Hon. (Eng.) Gumbo consulted loudly)*

**The Temporary Deputy Speaker** (Hon. Cheboi): Order Hon. Gumbo. You are interfering with the concentration of the Speaker.

**Hon. Bunyasi:** Thank you, Hon. Temporary Deputy Speaker. I was saying that the punishment ought to be very severe. In some Governments, for example, the USA, things grind to a halt if budgets are not approved. There is no reason for operations of a parastatal to grind to a halt unless the heads of that parastatal mismanage the funds allocated to them. If it is lack of remittance from the Treasury, then they ought to be accountable for it.

Doctors have been on strike and now it is the nurses. People's lives are in danger. Kenyans continue to bear huge losses occasioned by some of the parastatals. There is no reason for some the parastatals to assume that they exist in perpetuity even in the face of mismanagement. I like the Report for hinting and showing the direction. I hope that the interventions that are proposed will be far reaching, more substantive, and a lot thorough because they will look at the detail so that these parastatals do not get away with mismanagement.

Many people have become very rich simply because they entered the Government. One typical way in which they have become rich is by acquiring properties that were in the first place, public property, for instance, land. I could give an example of the Postal Corporation of Kenya where large tracks of land were valued generously by the public valuer at close to Kshs1 billion.

The land was then taken over by individuals. I think this manner of back-entry enrichment of individuals must be strongly condemned. We should not allow people to take over public assets and make them their own yet nothing is done about it. A lot of these cases have been referred to the Ethics and Anti-Corruption Commission (EACC). I believe the Director of Public Prosecutions (DPP) can aggressively take over the cases and prosecute the culprits

One of the most stringent laws we have in this country is the Public Finance Management (PFM) Act. That law says that if you take imprest you should surrender it within 48 hours. It is amazing that there are senior persons who can tolerate the issue of imprest not being surrendered. We know that there are people who use imprest as a form of a loan advanced to them. They are aware that once they retire or leave the institution, nobody would follow them up. Sometimes people die and the institutions say that they cannot recover the money. Nobody talks about the estate of the person who failed to surrender imprest. The issue of imprest is not a small one. In fact, it shows a fundamental weakness on the part of users of imprest and the managers above them. They skew the law by not enforcing what is a fairly straightforward matter. I think some punishments need to include not just the imprest holders, but also the managers who do not manage it well. In many cases, there is weakness in making a follow-up because the bosses themselves are culprits. As a way of ensuring discipline in public finance management in the parastatal sector, part of it need to be tightened so that CEOs know that in the end, their only valuations will be determined by how well they have managed the resources under them. So far, that has not worked very well.

Parastatals or the EACC should not be waiting until Parliament makes a report of this nature to begin, perhaps, to make a move. We have annual reports on parastatals by the Auditor-General. These parastatals submit them. I hope they can go right ahead and begin to put pressure on parastatals. The reason is that Parliament, even with the best efforts, is still looking, in some cases, into accounts dating back to 2009. We have gone up to 2015 in many cases, which is commendable. I hope that in future, by the time parliamentary committees get to look at such reports, the issues will be resolved. If they have not and are waiting for the issues to get to Parliament, we will be creating a loophole and people will steal and loot public resources with great impunity, without anybody worrying about any measures taken against the culprits.

In the report, I do not notice the complaints of the Auditor-General that sometimes getting documents from Government departments is a tall order. You have to make requests over and over. It is the same problem with parastatals. This must be punished. I do not know if there is a law to cure this, but under the PFM Act, one is compelled to provide information that is required. It would look like they do so reluctantly. We have seen cases where parastatals appearing before a certain Committee say that they have given their annual accounts to the Auditor-General. When asked when they did that, they say only last week. That is probably two weeks to the end of a financial year. There is a general sense of laziness. They are shrewd. They do not provide information on time and so, it cannot be analysed critically by the Auditor-General. It will go beyond Parliament with nothing, but a slap on the wrist. In many cases, the misappropriation of funds cannot be discovered in time because of that.

If we have to tolerate the parastatal sector - I say tolerate because there are many cases where some of them have to be liberalised especially if their mandate is no longer relevant - we need to rationalise that more, so that resources can go into the productive sectors of the economy without being whittled away through bad governance.

I know of a major parastatal that operated without a board for years. The Central Bank did not have a board for more than a year. They only had a chair.

**The Temporary Deputy Speaker** (Hon. Cheboi): Very well, your time is over. Hon. Olago Aluoch. He has already spoken. Lastly, let us have Hon. (Eng.) Kiragu, the Member for Limuru.

**Hon. J.K. Chege:** Thank you, Hon. Temporary Deputy Speaker. First, I would like to support this Report. In doing so, I would like to thank this House and my colleagues in the PIC for the opportunity to serve in this Committee that has given me a lot of experience, particularly in looking at the huge number of parastatals where public funds have been invested.

My experience is worrying that the economy of this nation has a major effect on how we perform through parastatals. My experience is that there is poor management in most parastatals and delay in making crucial decisions, like in tendering systems. Decisions on timely completion of projects have cost this nation a lot of money which in fact would have gone into more useful use other than paying variations due to pending bills.

One of the other things that I have realised is that we need to strengthen our technical capacity, even in this House, because of the various reports that are brought before the House. It is important to understand that it is not only the financial side of management of parastatals that is important, but also the technical side. As an engineer who has worked in parastatals, I realise that a lot of resources have been wasted due to poor technical capacity. I reflect, for example, on the collapse of what we used to call one-metre gauge railway and I realise how public resources were disposed of as if we were not going to invest in railway again. Recently, this country had to invest a lot of money into the SGR, which is a wonderful project for this nation. If such a parastatal was working well, maybe the investment in SGR would be much less. We cannot also forget the experience we had to go through in Telkom Kenya. Resources were just sold to foreigners.

As we look forward, we must have professionalism in the running of our parastatals. Appointment of top managers should not be on political grounds or ethnic or any other interests. We must know that such organisations are important for the economy of this nation. I believe if the parastatals are not working well, they drag development of this nation. If they were working well, we could easily move much faster.

The issue of theft of public funds, a conspiracy that starts from tendering system to execution and litigation, is something that needs to be broken. One of the things that we have also experienced is that there is no follow up legal processes to make sure that the interest of the public is taken care of. As we go forward, it is also important to develop capacity, particularly in the office of the Auditor-General. We should provide adequate resources to make sure that the office provides the necessary staff and capacity to make sure that they follow up on these parastatals.

It is important for all of us to know that when you are given public responsibility, we must do it not only for us, but also for our children. The work that has gone into looking at the reports during the time of this House, particularly by the PIC, has been a lot. I thank our Chairman for the leadership, and all my colleagues in making sure that we set a new record of all the other reports that have been done by previous sittings of this House.

I believe the PIC is an important Committee in ensuring that this sector of our economy is streamlined. It is important for all of us to make sure that the reports that have been done are looked at seriously and the relevant organs of the Government take action on the recommendations made. The people who have been given the mandate to run these organisations should not just look at these reports as mere opportunity for appearance before the PIC, but as a serious conversation towards making sure that we streamline this sector for the welfare of this

nation. I know we are almost coming to the end of this Session. I, however, believe that we will come back and I can do that with a very independent mind.

Thank you. I support.

**The Temporary Deputy Speaker** (Hon. Cheboi): I now call upon the Mover to reply.

**Hon. Keynan:** Thank you, Hon. Temporary Deputy Speaker. I take this opportunity to thank all the Members who have contributed to this important Report. The parastatal sector is the engine to realising meaningful development and industrial take-off. Without this sector being properly and efficiently run, we will continue to have many sectors of our economy ailing thus lagging behind in sphere of development. There are a number of parastatals that have, over the years, been making huge losses at the expense of taxpayers. When we interrogated this, we realised that the Government also contributes to some of the challenges that parastatals are faced with. The appointment of CEOs is at times not done professionally or ethically. If you want a professional entity or *quasi* Government agency to be run competently, the best you can do is to hire a competent and highly qualified CEO regardless of his or her ethnic, political, or regional affiliations.

I remember in 1997 when I was first elected, I was appointed to the Departmental Committee on Finance, Planning and Trade. The first benchmarking tour we made was to Malaysia. At that time, I was a very young legislator and was very excited to hear that Malaysia was one of the emerging great economies. I also learnt that there were other emerging great economies like Indonesia, Thailand, South Korea and Hong Kong. I really wanted to know how they attained that status. I realised that they had adopted a policy of zero-tolerance to corruption. We are lacking in this policy.

When we first visited Malaysia, we concentrated on investments by Government-controlled parastatals. We had an opportunity to chat with a senior official from the Malaysian National Assembly. The first document that he gave us was one they had borrowed from Kenya in 1974. You can imagine the time lapse between 1974 and 1988. It is the same document they borrowed from us that they used to turn around their economy. It was at the time when Kenya was a donor nation. Kenya would make donations to South Korea and other struggling economies at that time. Over the years, we have been bragging that we are a regional economic hub, but that title is long gone. You only need to look at the recently released World Bank Economic Index where Ethiopia emerged as the biggest economic hub in East and Central Africa and also the Horn of Africa. That tag on us is no more.

Four years ago, every business activity between Kenya and Tanzania was in the favour of Kenya, but in another two years, unless we change, Tanzania will be the economic hub of the East African Community (EAC). Why am I saying so? We do not take what we are doing seriously. We talk and we do not implement. In this sector, there has been serious mismanagement. Boards are not appointed on time and if they are appointed, cronies are appointed who do not have the requisite financial, technical and managerial expertise to run parastatals. In the process, they run them down. These fellows just appear for meetings to get allowances, create trips and so on. At the end of the day, an entity that was supposed to be profit-making degenerates into one of the most despised loss-making entity. Who contributed to this? It is the appointing authority who is the President, the CS, the PS or other corporate entities.

I will give an example of the NSSF and compare it to its equivalent in Malaysia and Tanzania. The NSSF in Kenya is not the one we envisaged. This is not the NSSF that Kenyans wanted. This is a cash cow for the politically correct. If the NSSF was properly run, it would easily become one of the greatest Government agencies in terms of funding. Just look at what is



happening in Tanzania. On the contrary, year in year out, we have an NSSF that is controversy-ridden. It has become another tag for corruption. We must deal with the situation at hand. In terms of legislation, we have some of the best legal frameworks, but they are not adhered to.

Two years ago, His Excellency the President released the *Mwongozo* rules, but none is being followed. What happened to that report that we expected would have collapsed so many parastatals into some key profit-making parastatals? I believe it was beaten because the cartels, tenderpreneurs and experts in looting do not want to see a vibrant functioning independent profit-making parastatal sector. Over the years, they have lived off the parastatals. I am afraid even the SGR, if not well managed and saboteurs ruthlessly dealt with, might a few years down the line become just another project like the Kenya Airways, Mumias Sugar Company, Uchumi, Telkom Kenya, Kenya Railways and the Rift Valley Railways. These issues must be addressed collectively and head on. That is the only way we can safeguard our title as a premier nation, not only in East Africa, but in Africa. Unfortunately, other countries are now catching up with us.

We must stand for the tag of being a premier nation, which our forefathers zealously fought for. It is our time as leaders to stand firm and protect these *quasi* Government entities that we have created. At times I ask myself if, indeed, we are prepared to take this country to the next level of development.

I am privileged to have also served as a Member of the Parliamentary Service Commission. Two weeks ago, we advertised for some positions and you saw the long queues. I was shocked to see thousands of Kenyans queue outside Parliament in search for employment opportunities. That tells you the level of unemployment and displeasure by our youth. It is a challenge to the leadership of this country. We must stand firm for the interest of the youth because a country that does not believe in the protection of the young generation, will never grow. It is the youth who cause monumental changes when it comes to voting. You heard what happened in the UK. Those who caused the unexpected are the youth. They decided to go to the ballot to vote and the unexpected happened!

I want to challenge the leadership of this country, regardless of whether one is in the Opposition or the Government, to stand firm for the right of the youth in particular those indicated as unemployed because they are the ones who will safeguard the interest of this country.

As I conclude, I want to appreciate my colleagues' sentiments. I have had the privileged of being the Chair of this very important Committee and this is not a mean realisation. I want to thank the 27 Members who have given me that opportunity. I have had the tag of being among the few Chairs who were reelected unopposed. I do not take that for granted. I want to thank them for the confidence they have shown in my leadership and promise them that *Inshallah* in the next Parliament, I will continue. I appreciate and thank the people of Eldas and Wajir West because without them, I would not have come to this Parliament. I have confidence that they will reelect me on 8<sup>th</sup> August. God willing, I will continue to contribute to the development of not only the legislative agenda, but this country's as a whole.

This House is not a conveyor belt. I want to urge those who will be privileged to be appointed to serve in the Committee of Implementation that they must take their work seriously. The moment a Report is adopted by the House, it must be actualised, domesticated and translated into facts. That is the only way as truly the democratically elected representative of the people we will go forward. Looking at the provisions of Article 1, when the framers of the current Constitution equated sovereignty to representation, they knew the monumental task elected

representatives of the people of Kenya had. Therefore, my plea is let us change our status and stand firm for the rights of our electorate.

One of the things we have endeavored to do as the Committee is to clear the backlog. Looking at some of the accounts, they date back to 1988, 1999 and 2000. That was our desire. Those who will be privileged to serve in this Committee in the next Parliament will have their work cut out just like Hon. Khalwale did in the last Parliament. *Inshallah*, I will be in Government and the next Membership should be ready because their work is already cut out. Tomorrow, we will do something unprecedented. We will be tabling the exit report of this Committee, so that those who will be appointed will also get a diary of reference which they will use to refer to all the activities of this Committee for the last five years. I am sure they will enjoy their time in the next Committee.

I beg to reply and urge the House to adopt the 21<sup>st</sup> Report of the Public Investments Committee on the Audited Accounts of State Corporations as amended laid on the Table of the House on Thursday, 18<sup>th</sup> May 2017.

Thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Cheboi): At this point in time, I would have put the Question, but obviously, I can see we do not have the necessary numbers. Therefore, we will proceed to the next Order.

*(Putting of the Question deferred)*

## MOTIONS

### ADOPTION OF SESSIONAL PAPER NO.3 OF 2016 ON THE NATIONAL HOUSING POLICY

THAT, this House adopts Sessional Paper No.3 of 2016 on the National Housing Policy, laid on the Table of the House on November 15, 2016.

**The Temporary Deputy Speaker** (Hon. Cheboi): We do not seem to have the Chairperson of the Departmental Committee on Transport, Public Works and Housing. So, that will be handled in the next Sitting.

### ADOPTION OF SESSIONAL PAPER NO.5 OF 2016 ON NATIONAL CLIMATE CHANGE FRAMEWORK POLICY

THAT, this House adopts the National Climate Change Framework Policy Sessional Paper No.5 of 2016, laid on the Table of the House on Thursday, December 20, 2016.

**The Temporary Deputy Speaker** (Hon. Cheboi): Again, we do not seem to have the Chairperson of the Committee on Environment and Natural Resources.

## BILL

### *Second Reading*

### THE NATIONAL COHESION AND INTEGRATION (AMENDMENT) BILL

**The Temporary Deputy Speaker** (Hon. Cheboi): Again, we do not seem to have the Chair of the Departmental Committee on Justice and Legal Affairs.

## MOTION

### ADOPTION OF REPORTS OF KENYA DELEGATIONS TO THE ASSEMBLIES OF IPU AND RELATED MEETINGS

THAT, this House adopts the Reports of the Kenya Delegations to the Assemblies of the Inter-Parliamentary Union (IPU) and Related Meetings as follows:

(i) Report of the 129<sup>th</sup>, 130<sup>th</sup> and 131<sup>st</sup> Assemblies of the Inter-Parliamentary Union (IPU) and Related Meetings held in Geneva, Switzerland from 7<sup>th</sup> to 9<sup>th</sup> October, 2013, 16<sup>th</sup> to 20<sup>th</sup> March, 2014, and 12<sup>th</sup> to 16<sup>th</sup> October, 2014 respectively, laid on the Table of the House on Thursday, December 4, 2014;

(ii) Report of the 133<sup>rd</sup> Assembly held in Geneva, Switzerland from 15<sup>th</sup> to 21<sup>st</sup> October, 2015, and the 134<sup>th</sup> Assembly held in Lusaka, Zambia from 19<sup>th</sup> to 23<sup>rd</sup> March, 2016, laid on the Table of the House on Thursday, 16<sup>th</sup> June, 2016; and,

(iii) Report of the 135<sup>th</sup> Assembly held in Geneva, Switzerland from 21<sup>st</sup> to 27<sup>th</sup> October, 2016, and the 136<sup>th</sup> Assembly held in Dhaka, Bangladesh, from 1<sup>st</sup> to 5<sup>th</sup> April, 2017, laid on the Table of the House on Wednesday, 7<sup>th</sup> June 2017.

**The Temporary Deputy Speaker** (Hon. Cheboi): Do we have any Member moving this Motion? Again, same fate.

## BILL

### *Second Reading*

### THE CONSTITUTION OF KENYA (AMENDMENT) BILL

*(Hon. Katoo on 24.5.2017)*

*(Resumption of Debate Interrupted on 8.6.2017)*

**The Temporary Deputy Speaker** (Hon. Cheboi): This is supposed to be resumption of debate interrupted on Tuesday 6<sup>th</sup> June 2017. I see no Member interested in contributing to this one. When it next comes before the Floor, the Mover will reply.

## ADJOURNMENT

**The Temporary Deputy Speaker** (Hon. Cheboi): Order, Hon. Members! We do not seem to have any other business left. The time being 5.32 p.m., this House stands adjourned until tomorrow, Wednesday 14<sup>th</sup> June 2017 at 9.30 a.m.

House rose at 5.32 p.m.