REPUBLIC OF KENYA

THIRTEENTH PARLIAMENT

NATIONAL ASSEMBLY

THE HANSARD

VOL. II NO. 17

THE HANSARD

Tuesday, 14th March 2023

The House met at 2.30 p.m.

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

PRAYERS

Hon. Speaker: Serjeant-at-Arms, ring the Quorum Bell for us to attain the necessary quorum.

(The Quorum Bell was rung)

Hon. Members we now have quorum to transact business.

PAPERS

Hon. Speaker: Leader of the Majority Party.

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

Submission of Nominees to Kandara and Samburu East Constituencies from the National Government Constituencies Development Fund Board.

Performance Audit Report of the Auditor-General on Implementation of the Last Mile Connectivity Project by the Ministry of Energy and Petroleum and Kenya Power and Lighting Company.

Monetary Policy Statement for December, 2022 from the National Treasury and Economic Planning.

Reports of the Auditor-General and Financial Statements in respect of the following institutions for the year ended 30th June, 2021 and the certificates therein:

a) Kenya Dairy Board;
b) New Kenya Co-operative Creameries Limited;
c) New Kenya Planters Co-operative Union (NKPCU);
d) Media Council of Kenya; and
e) Kenya Animal Genetic Resources Centre.

Reports of the Auditor-General and Financial Statements in respect of the following institutions for the year ended 30th June, 2022 and the certificates therein:

a) Kenya Social and Economic Inclusion Project No. P164654 IDA Credit No. 6348KE and Grant No. TF0A9527 – National Drought Management Authority;
b) Kenya Youth Employment and Opportunities Project (IDA Credit No. 5812 - KE) - State Department for Youth Affairs;
c) Kenya Italy Debt for Development Programme – Ministry of Education;
d) Kenya Social and Economic Inclusion Project Credit No.6348-KE – State Department for Social Protection;
e) Global Fund Tuberculosis Project Grant/Credit No.KEN-T-TNT-1548 – Ministry of Health;

f) Global Fund Tuberculosis Project Grant/Credit No.KEN-T-TNT-2067 – Ministry of Health;
g) Global Fund Malaria New Funding Model (NFM) KEN-M-TNT-1546 – Ministry of Health;
h) Global Fund Malaria New Funding Model (NFM) KEN-M-TNT-2064 – Ministry of Health;
i) Global Fund HIV AIDS Programme Grant No. KEN-H-TNT GA 1547 – Ministry of Health;
j) National Council for Population and Development;
k) LAPSSET Corridor Development Authority;
l) East Africa's Centre of Excellence for Skills and Tertiary Education in Biomedical Sciences – Phase 1 (Loan No.2100150031997) Project– Ministry of Health;
m) Danida Primary Healthcare (PHC) Support Programme – Ministry of Health;
n) Mombasa Gate Bridge Construction Project (1) Loan Agreement No.KE-P34 – Kenya National Highways Authority;
o) East Africa Trade and Transport Facilitation Project (IDA Credit No.4148-KE) - Kenya National Highways Authority;
p) Arusha-Namanga-Athi River Road Development Project No. P-ZI-DB0-040 - Kenya National Highways Authority;
q) Regional Mombasa Port Access Road Project (Loan No.27459, Credit No.84010 and Grant No.202061919) - Kenya National Highways Authority;
r) Health Sector Support Project – SWAP Secretariat – IDA CR No. 4771-KE and CR. No. 5367-KE – Ministry of Health;
s) Garissa University;
t) Nairobi Western Bypass – Kenya National Highways Authority;
u) Nairobi Southern Bypass Road Project - Kenya National Highways Authority;
v) Upgrading of Kibwezi-Mutomo-Kitui Road Project – Kenya National Highways Authority;
w) State Department for Regional and Northern Corridor Development;
x) Mombasa Special Economic Zone Development Project (I) – Kenya National Highways Authority;
y) GOK/UNICEF Education for Young People Programme – State Department for Early Learning and Basic Education; and
z) State Department for Planning.

Hon. Speaker: Thank you, Leader of the Majority Party. Chairperson, Departmental Committee on Environment, Forestry and Mining.

Hon. Charles Kamuren (Baringo South, UDA): Hon. Speaker, I beg to lay the following Paper on the Table:

Report of the Joint Committee of the National Assembly Departmental Committee on Environment, Forestry and Mining and the Senate Standing Committee on Land, Environment and Natural Resources on the Vetting of the Nominees for Appointment as Members of the National Climate Change Council.

Hon. Speaker: Thank you. Next Order.

NOTICES OF MOTIONS

APPROVAL OF NOMINEES FOR APPOINTMENT
AS MEMBERS OF THE NATIONAL CLIMATE CHANGE COUNCIL

Hon. Speaker: The Chairperson, Departmental Committee on Environment, Forestry and Mining.

Hon. Charles Kamuren (Baringo South, UDA): Hon. Speaker, I beg to give notice of the following Motion:

THAT, taking into consideration the findings of the Joint Committee of the National Assembly Departmental Committee on Environment, Forestry and Mining and the Senate Standing Committee on Land, Environment and Natural Resources in its Report on the Vetting of Nominees for the Appointment as Members of the National Climate Change Council, laid on the Table of the House on Tuesday, 14th March 2023, and pursuant to Article 132(2)(f) of the Constitution, Section 7(4) of the Climate Change Act, Section 3 and 8 of the Public Appointments (Parliamentary Approval) Act of 2011 and Standing Order 216(5)(f) of the National Assembly and the Senate Standing Order 228(4)(f):

(a) approves the appointment of the following persons as Members of the National Climate Change Council:
   (i) Emily Mwendwa Waita;
   (ii) Mr. John Kioli Kalua; and
   (iii) Prof. George Odera Outa.

(b) rejects the appointment of Ms. Umra Omar as a Member of the National Climate Change Council.

Hon. Speaker: Thank you, Hon. Kamuren. Next is Hon. Duncan Mathenge.

REGULATION OF GAMING INDUSTRY

Hon. Duncan Mathenge (Nyeri Town, UDA): Hon. Speaker, I beg to move notice of the following Motion…

Hon. Speaker: It is to give notice.

Hon. Duncan Mathenge (Nyeri Town, UDA): Hon. Speaker, I beg to give notice of the following Motion:

THAT, aware that the Betting, Lotteries and Gaming Act Cap.131 Laws of Kenya provides for the regulation of the gaming industry, including the control of betting, lotteries and gaming in the country; further aware that there is an emerging trend of media houses offering their audiences platforms to participate in betting through lottery-style trivia games, trivia shows, polls, contests and other SMS-based gaming; concerned that the trend was initially perceived as a harmless form of entertainment and audience engagement but has since developed into a problem within our communities leading to many Kenyans getting addicted to this form of gambling and that has led to lots of loss; further concerned that there are numerous negative effects of this trend including financial ruin, family break ups, high truancy in schools resulting to high school dropout rates and in some cases suicide; noting that these games target individuals who can least afford to lose money mainly the elderly, the youth and low income earners; cognisant that the Government has the responsibility of protecting citizens from negative social trends, including gambling and that the proliferation of these games is a violation of the Betting, Lotteries and Gaming Act; now therefore, this House urges the national Government, through the relevant ministries and agencies to:

(i) regulate the running of lotteries and other forms of betting disguised as polls, contests and other SMS-based gaming by media houses, and;
(ii) ensure strict operationalisation of the Betting, Lotteries and Gaming Act and increase control and oversight of the betting industry.

Hon. Speaker: Thank you, Hon. Mathenge. Hon. Brighton Yegon.

DEVELOPMENT OF CHILDCARE PROGRAMME
FOR CHILDREN WHOSE PARENTS ARE INCARCERATED

Hon. Brighton Yegon (Konoin, UDA): Hon. Speaker, I beg to give notice of the following Motion:

THAT, aware that Article 53 of the Constitution provides for the rights of children, including the rights to free and compulsory basic education; further aware that Section 22 of the Persons Deprived of Liberty Act and the Childcare Policy provide for a care of a child whose mother is deprived of liberty until the child attains the age of four years; recognising that children above the age of four years still require parental support; further recognising that majority of the children often suffer from emotional distress, social stigma and economic hardships; cognisant of the fact that all children should be accorded a means of maintaining their relationship with their incarcerated parents and noting that children have restricted economic resources available for their support which in turn negatively impacts their lives; this House therefore urges the Government, through the State Department of Social Protection and Senior Citizens Affairs to develop and implement a programme for care of children above the age of four years whose mothers are under lawful custody.

Thank you very much, Hon. Speaker.

Hon. Speaker: Thank you, Hon. Brighton. Hon. Members before I go to the next Order, allow me to acknowledge the presence, in the Public Gallery, of Mwiki Primary School, Ruiru Constituency, Kiambu County and St. Joseph School, Makadara Constituency, Nairobi County. On my behalf and on your behalf, I welcome the two schools to the House of Parliament.

Next Order.

QUESTIONS AND STATEMENTS

QUESTION BY PRIVATE NOTICE

Hon. Speaker: Hon. Jackson Lekumontare has approached the Chair and said he wanted to defer his Question. We cannot do it when the Member is present in the House. So, it is dropped.

Question No.003/2023

NULLIFICATION OF KENYA FOREST SERVICE RECRUITMENT EXERCISE

(Question dropped)

Next Question is by Hon. Peter Kaluma.

ORDINARY QUESTIONS

Question No. 032/2023

EMPLOYMENT OF QUALIFIED TEACHERS IN
HOMA BAY TOWN CONSTITUENCY

Hon. Peter Kaluma (Homa Bay Town, ODM): Hon. Speaker is looking at the Government side. I am still a Member of the Minority side.

(Laughter)

Hon. Speaker, I rise to ask the Teachers Service Commission which is independent the following:

(a) Could the Commission provide details of all primary and secondary school teachers employed during the last recruitment exercise, including the names, ethnicities and counties of origin and confirm whether the recruitment complied with the requirements of Article 232(h) and (i) of the Constitution?
(b) Could the Commission explain the circumstances under which it failed to undertake the recent recruitment ofteachers on "first-to-graduate, first-to-be-employed principle?
(c) Could the Commission consider absorbing all qualified teachers, particularly those in Homa Bay Town Constituency and the larger Homa Bay County who graduated before 2012, in a bid to address the acute understaffing in primary and secondary schools in the said region?
(d) What affirmative action steps is the Commission taking to ensure that qualified teachers hailing from Homa Bay Town Constituency and Homa Bay County, generally, whose employment has been unduly delayed, are employed?

Thank you, Hon. Speaker

Hon. Speaker: Thank you, Hon. Kaluma. Question to be replied before the Departmental Committee on Education.

Question No. 036/2023

EXPLANATION FOR THE SURGE IN
COST OF EXCISE STAMPS

Hon. Speaker: The next Question 036 is by Hon. Hon. Opiyo Wandayi. I received a letter from Hon. Wandayi requesting that Hon. Robert Robert Mbui may ask this Question on his behalf.

Hon. Robert Mbui (Kathiani, WDM): Hon. Speaker, I beg to ask the Cabinet Secretary for National Treasury and Economic Planning, on behalf of the Member for Ugunja Hon. Opiyo Wandayi, the following Question:

Could the Cabinet Secretary –

(a) provide an explanation for the recent surge in cost of excise stamps, despite the fact that the SICPA Security Solutions contract for the Excisable Goods Management System (EGMS) expired last year and the equipment is now entirely owned by the Kenya Revenue Authority?
(b) provide an explanation for the proliferation of counterfeit goods and the resultant loss of revenue to the Government thereof, despite the

implementation of the EGMS, and the measures that have been put in place to address the problem of counterfeit and goods for which duty is not paid?

(c) clarify whether the KRA-SICPA contract has been transparently executed, and if so, what actions have been taken to guarantee transparency?

(d) provide a detailed report on the funds collected and the value for money obtained from the KRA-SIPCA contract?

Hon. Speaker: Thank you, Hon. Mbui. The Question to be replied before the Departmental Committee on Finance and National Planning.

The next Question is by Hon. Mbui.

Question No.037/2023

COMPENSATION FOR LAND ACQUIRED BY GOVERNMENT IN KATHIANI

Hon. Robert Mbui (Kathiani, WDM): Hon. Speaker, I beg to ask the Cabinet Secretary for Lands, Public Works Housing and Development the following Question:

(a) Following compulsory acquisition of land by the Government in 1985 from eight land owners to accommodate the expansion of Kathiani Level 4 Hospital, why has the Government compensated only five of them, and neglected the valuation and compensation of the remaining three land owners, namely Mr. Mwilu Mwema Kalondu and Mr. John Musyoka Telela, joint owners of Mitaboni/Kathiani/135, and Mr. Masuva Mweu of Mitaboni/Katiani/139?

(b) When does the Cabinet Secretary intend to pay this long overdue compensation to the distressed land owners?

I thank you, Hon. Speaker.

Hon. Speaker: Question to be replied before the Departmental Committee on Lands.

Thank you, Hon. Robert. Next Question 038 is by the Hon. David Kiplagat, Member for Soy. Does anybody know where the Member is?

Question No.038/2023

STATUS REPORT ON SUBSIDIZED MAIZE FLOUR PROGRAMME

(Question dropped)

Next Order.

STATEMENTS

DEMISE OF THE FIRST FEMALE MEMBER OF KISUMU CONSTITUENCY

Hon. Speaker: Statement by Hon. John Machua, Member of Parliament for Kiambu.

Hon. John Waithaka (Kiambu, UDA): Thank you, Hon. Speaker. I rise pursuant to Standing Order 259D to pay tribute to the late Hon. Grace Onyango, a distinguished Member of this House who passed away on 8th March 2023 at the Jaramogi Oginga Odinga Teaching and Referral Hospital while undergoing treatment…

Hon. Speaker: Hon. Members, the Statement being made by Hon. Machua is a very important one. The late Hon. Grace Onyango has the distinction of being the first woman ever to be elected to the House of Parliament.

(Applause)

So, once the Statement is made, I will accommodate a few comments from interested Members to salute this gallant woman of our republic.

Hon. John Waithaka (Kiambu, UDA): Hon. Speaker, the late Hon. Grace Onyango was born on 26th June 1924 in the then Nyanza Province. She attended Ngi'ya Girls High School and later joined Vihiga Teachers Training College where she studied to be a teacher. After completing her studies, the late Hon. Grace Onyango returned to her *alma mater*, first to Ng'iya Girls High School where she worked as a teacher and later to Vihiga Teachers Training College as a trainer.

Hon. Speaker, popularly known as *Nya Bungu* (Daughter of the Bush), the late Hon. Grace Onyango was a woman of many firsts. She was the first female to climb up the ranks of the political system paving the way for women in leadership in Kenya; the first Kenyan female Mayor for Kisumu, a position she assumed following the passing on of the then incumbent Mathias Ondiek in 1965; the first woman to sit in the Hon. Speaker's Chair, albeit as Temporary Deputy Speaker; the first woman to serve as Secretary-General of the Luo Union (East Africa); the first woman Assistant Commissioner of the Girl Guide Association; and the Chair of Child Welfare Society, Kisumu District. She was also one of the founding trustees of the National Fund for the Disabled of Kenya in 1980.

Hon. Speaker, in 1969, the departed former Member first vied for Kisumu Town Constituency Parliamentary seat in a male dominated-race, which she won and diligently served in three successive Parliaments (the 2nd, 3rd and 4th Parliaments) from 1969 to 1983. She was an astute legislator whose contributions in committees and plenary were invaluable. Her colleagues held her in high esteem. She served as a Temporary Deputy Speaker and a Member of various parliamentary committees, among them the Parliamentary Select Committee that investigated the murder of JM Kariuki in 1975 and the House Business Committee.

Hon. Speaker, in her death, we celebrate a life of a women's rights defender and a vocal advocate of the rights of women and children. She laid the foundation for participation of women in elective politics in this country. We mourn the passing on of Hon. Grace Onyango at a time when the House is seized of a proposal by H.E. the President to Parliament to amend the Constitution on the composition of Parliament as provided for in Articles 97 and 98 of the Constitution in order to attain the two-thirds gender principle and entrenchment of the National Government Affirmative Action Fund.

I, therefore, urge the House to fully embrace the proposals and support every plausible initiative to create a more inclusive society that will give women an equal platform in elective politics in honor of the contributions of the late Hon. Grace Onyango to the country.

Hon. Speaker, on my own behalf, I wish to extend my deepest condolences to her family, the people of Kisumu County, and the women fraternity who are reeling from the loss of a remarkable public servant and leader.

Through you, Hon. Speaker, I beseech that the leadership of the House mobilizes Members of this House and by extension the Government, to step in and assist the bereaved family to accord our departed colleague a decent sendoff by extending the necessary assistance towards her funeral expenses.

Finally, Hon. Speaker, with your indulgence, may I request that we all stand to observe a minute of silence in honor of our departed colleague.

Hon. Speaker: Order, Hon. Members. Will you, please, stand up?

(Hon. Members stood in their places and observed a minute of silence)

Hon. John Waithaka (Kiambu, UDA): May her soul rest in eternal peace. I thank you, Hon. Speaker.

Hon. Speaker: Thank you, Hon. Machua.

Before I open the Floor for comments, allow me to welcome and recognise a delegation of staff from the Human Resource Department of the Parliament of Uganda, seated in the Speaker's Gallery. They are welcome to observe the proceedings of the House. Those who want to comment on this, please, press the intervention button.

Hon. Martha Wangari, Gilgil Constituency. I will give two minutes to each speaker.

Hon. Martha Wangari (Gilgil, UDA)**:** Thank you, Hon. Speaker.

I want to thank Hon. Machua for being a leader and for seeing the late Hon. Grace Onyango not just as a regional leader and teacher, but also as a national icon. I support that Statement that she should get a State funeral because she opened many doors not only for women but also for teachers.

She was a great balancer of life. She was the first Mayor with six children. Nowadays, as professional women, we only get two children and then hang our boots. She became a Temporary Speaker. She is an icon. As girls, women and leaders, we have learnt from her that one can achieve anything that one desires. I want to thank Hon. Machua for being a He-for-She. He is the one who has brought this very important Statement to this House.

The day Hon. Grace Onyango died was of significance. She took a bow on the International Women's Day. Even when you do not want to recognise her, you are forced to because she is the one who opened very serious footprints for the women of this country. There is a time we only had one woman elected Member of Parliament, but now we are 28 in number. She sat in the Speaker's Panel that some of us now sit. She sat in the seat that was previously held by the late Hon. Laboso and, currently, occupied by Hon. Gladys Boss. She was a woman of firsts and we recognise and honour her. We thank Hon. Machua for making sure that this House acknowledges and accords her the respect she deserves.

May she rest in peace.

Hon. Speaker: Martin Owino. Ndhiwa.

Hon. Martin Owino (Ndhiwa, ODM)**:** Thank you, Hon. Speaker.

I also want to add my voice by conveying my condolences on behalf of the Ndhiwa Community.

This was an iconic lady and a role model. The late Hon. Grace Onyango was a pioneer in championing women's affairs. You could not see her as a woman because she knew how to handle the affairs of men and still remain respectful. My message to all the ladies, especially the young ones, is that the late Hon. Grace is gone physically but what she stood for spiritually should stay with us. Let us uphold the principles and integrity that she stood for so that we can remember her in a very good way.

May God bless and strengthen her family and give them the comfort that they deserve.

Thank you, Hon. Speaker.

Hon. Speaker: Leader of the Majority Party.

Hon. Kimani Ichung'wah (Kikuyu, UDA)**:** Thank you, Hon. Speaker.

Let me begin by thanking the Member for Kiambu, Hon. Machua, for this Statement and appreciating this great lady. It says that she comes as first amongst many, not just being the first lady Member of Parliament from Kisumu but in the country; the first to sit on the Chair that you are sitting on today, Hon. Speaker; and also, the first Councillor and Mayor of Kisumu.

You all know that Kisumu is not an easy place to run for a seat. For her to have won in the election of 1969, in a male dominated race, it speaks volumes about the kind of lady she was.

This Statement has been brought by the Member for Kiambu. I have been looking around the Chamber to see whether the Member of Parliament for Kisumu, Hon. Rozaah Buyu, is present. Indeed, I am rather ashamed and embarrassed that her being the only female Member of Parliament from Kisumu, she is not here to eulogise this great lady. I know they are busy…

(Loud consultations)

Hon. Speaker, other than Hon. Caroli Omondi, Hon. Nyikal, and the great man from Homa Bay Constituency, Hon. Kaluma, other Members of Parliament from Luo Nyanza…

Hon. Speaker: Your time is up.

(Laughter)

Hon. Julius Melly. You have two minutes.

Hon. Julius Melly (Tinderet, UDA): Thank you, Hon. Speaker.

I concur with my colleagues that the late Hon. Grace Onyango scored first among female leaders in this country. She leaves a trail of firsts in all that she did. Being the first female Councillor and Mayor, the first female Member of Parliament, and having served as Deputy Speaker are quite good achievements. It is something that all female leaders in this country need to emulate. They need to know that it is not about gender. Every other person can achieve anything at any level in this planet, whether female or male. Even females who are aspiring to be presidents can achieve it. The late Hon. Grace Onyango showed that.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Onyango K'Oyoo, Muhoroni Constituency.

Hon. James K'Oyoo (Muhoroni, ODM): Thank you very much, Hon. Speaker for giving me this opportunity.

I was informed of her death with a lot of bitterness. She was my inspiration. When I was going to school as a young man, she was the Member of Parliament for Kisumu Constituency, which was then very large. It comprises four constituencies today.

She was able to run her portfolio very well both in Parliament and at home. Her efforts inform me to defy this nonsense of two-thirds gender rule because she was able to defy the political landscape at that time. I saw many people, both educated and the moneyed, coming together to fight her but she ended up defeating them politically. I saw another lady Member from Eldoret North and Hon. Anarita Karimi from Meru fighting for their respective seats and winning. This nonsense of 'we must reserve some two-thirds seats for women' makes me reluctant…

On my behalf and that of the people of Muhoroni, I send my condolences to the family and fraternity of the late Hon. Grace Onyango. May God rest her soul in eternal peace.

Hon. Speaker: Hon. Makali Mulu.

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

On my behalf and that of my family, people of Kitui Central Constituency, and the entire Lower Eastern, I take this opportunity to convey my sincere condolences to the family of the late Hon. Grace Onyango.

Listening to the Statement by the Member, she was a first in everything she did. It is just a challenge to our daughters and mothers that she did all she did and became a first in everything. By then, we did not have what we now call the two-thirds gender rule yet she managed. It is a challenge and we must all rise up and try our best to get leadership positions. In my region, we respect women leadership and I want to encourage other regions in Kenya to give women a chance and not just through the two-thirds gender rule. This is because they are competent and they can do it.

With those remarks, may her soul rest in eternal peace.

Hon. Speaker: Hon. Mishi Mboko.

Hon. Mishi Mboko (Likoni, ODM): Asante sana, Mhe. Spika. Mimi pia nitoe risala zangu za rambirambi kwa familia ya aliyekuwa dada yetu, Mhe. Grace Onyango ambaye kule Nyanza alijulikana kama *Nya' Bungu* yaani 'Daughter of the Bush'. Mwanamke huyu amekuwa kielelezo chema sana katika uongozi wa akina mama haswa uongozi wa kisiasa. Alikuwa mwanamke wa kwanza kuwa Meya katika Kaunti ya Kisumu baada ya kumrithi Mathias Ondiek. Alikuwa Spika kwa muda mfupi. Aidha alikuwa Naibu Spika kwa muda mrefu. Tunajua alikuwa katibu mkuu wa Muungano wa Waluo. Kwa hivyo, mama huyu alikuwa mfano bora kwa akina mama. Alionyesha kwamba tunaweza kuingia katika uongozi. Wakati wake kama kiongozi, akina mama walikuwa hawaonekani kabisa katika nyanja za uongozi tena katika kiwango cha kufanya maamuzi ya kisiasa.

Mama huyu alijitosa katika ulingo wa siasa kupambana na akina baba. Wakati huu tunayo *affirmative action* ambayo imewekwa kusaidia akina mama. Wakati huo ulikuwa mgumu kwani tamaduni na dini zetu zilikuwa zinapinga kabisa uongozi wa akina mama. Lakini yeye alikuwa kielelezo na akaweza kuingia katika uongozi. Hakika, wasifu wake una sifa nzuri nzuri. Kama akina mama, tutauendeleza wasifu wake na tunajua vizazi vyetu vinavyokuja pia vitaelewa kuwa uongozi ni wa jinsia zote mbili; kike na kiume. Tunajua kuna mambo mengi yanayomkumba mama.

Hon. Speaker: Hon. Fatuma Mohammed from Migori County.

Hon. Fatuma Mohammed (Migori County, Independent): Thank you, Hon. Speaker, for giving me this opportunity to contribute. I thank my brother who has brought up this matter. I am very grateful that it has come from a man and not a woman. That confirms that there are so many men who are feminists. We are proud of them. We loved the late Grace very much. We respected and adored her. Truly, we are walking in her footsteps. With all these difficulties that we are going through, I must say that the men of Madam Grace's time were better than the men of today. These men of today are busy pointing fingers at us as they stand to say good things that the late Grace did. That should tell you that, truly, the men during her time were better. I wish I was born at that time. I want to tell our brothers that you can still change and be better men than those who elected the late Grace Onyango.

Bwana Ichung'wah, I want to inform you that Hon. Rozaah Buyu is not here because she is away. She is also mourning because she comes from the same constituency as the late Grace.

Hon. Richard Yegon (Bomet East, UDA): On a point of order, Hon. Speaker.

Hon. Speaker: We have a point of order from Hon. Richard Yegon.

Hon. Richard Yegon (Bomet East, UDA): Thank you, Hon. Speaker. Is the Member who has just sat down in order to say that we are not good men? Can she tell us whether she is married or not?

(Laughter)

Hon. Fatuma Mohammed (Migori County, Independent): I have a mouth and I can answer that. My answer to you is this: Dear Hon. Member, if you want to propose, there is a better ground not here.

Hon. Speaker: Order, Hon. Members. Marriage is not a qualification to come to Parliament. Let us have the Deputy Speaker.

Hon. Gladys Boss (Uasin Gishu County, UDA): Thank you, Hon. Speaker, for the opportunity to pay tribute to Hon. Grace Onyango. A woman who was amazing and a superwoman of her time. A great woman leader! A woman who was a century ahead of her time. A woman who cleared the treacherous way for women like me. Otherwise, I would have been devoured before I got to Parliament.

Hon. Speaker, together with the women of Kenya, we are personally indebted to this woman, Hon. Grace Onyango. Without her, we would not have had the opportunity to dream of becoming women leaders.

(Applause)

Even though we know that her legacy is secure and will remain forever in the history books and the hearts of Kenyans and the women of Africa, I just have one request: even though she was not a head of state, we are seeking that she be laid in state here at Parliament Buildings. This is because she was the head of state of the women of Kenya and Africa. We hope that you will indulge us in these regulations.

On behalf of myself, the people of Uasin Gishu, the women of Kenya, and the women of Africa, may her soul rest in eternal peace.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. (Dr) Wilberforce Oundo, Member for Funyula.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): I have no apologies to make.

Thank you, Hon. Speaker, for giving me this opportunity to contribute to the Motion. I want to inform the Leader of the Majority Party that I have no apologies to make for taking a very good political stand. I also stand here today to join the family of the late Grace following her untimely demise. When we were growing up, we read the history of Kenya and we always found the name of Grace among the women trailblazers and pioneers. Her achievement is commendable. She laid the foundation for the achievement of women leadership in this country. And because of what she did, the people of Funyula Constituency, which by then was Busia Central, were the first to elect a woman leader in the entire *Mulembe* nation. She did not need the two-thirds gender rule for her to be elected. I always challenge women leaders and aspirants to go out there and slug it out for themselves because quite a number of men are weak candidates. Do not fear them! As the County Woman Representative for Migori County has clearly stated, it is doable. It is a testimony to the likes of the Temporary Speaker, Hon. Martha. It is only men who hang their boots because ladies do not have boots.

Thank you, Hon. Speaker.

Hon. Speaker: Thank you. Member for Kamukunji. Please, give the Member the microphone.

Hon. Yusuf Hassan (Kamukunji, JP): Thank you, Hon. Speaker, for giving me this opportunity. I want to thank Hon. Machua from Kiambu for bringing this particular Motion to Parliament.

First of all, I want to pass my condolences to the family of Grace Onyango, a remarkable trailblazer who had scored so many firsts in her political activities. Having grown up and gone to school in South Nyanza, I am proud of her achievements in Kisumu: first as a Mayor and later as a Member of Parliament. In fact, if you look at her record, you will see that she was a woman of high achievement. She was an incredible woman who was able to beat the odds at that particular moment. We are very grateful to her for setting the pace.

As a progressive Member of this Parliament, I feel that we have not reached the full potential of our women as representatives and political leaders but we are thankful for what she has done and the memories she has left. This extraordinary smart woman has been able to put on record what women could do at that particular moment when there were so many obstacles for the ordinary women. I wish her family well and may she rest in peace.

Hon. Speaker: Thank you, Hon. Hassan. I will give the Floor to Dorothy Ikiara.

Hon. Dorothy Muthoni (Nominated, UDA): Thank you, Hon. Speaker. On behalf of the teachers of Kenya and on my own behalf, I take this opportunity to mourn this great lady. She was a great teacher, an astute debater, and a lady who wore many hats. It is important to note that Grace Onyango started teaching at the age of 27. She taught in the same primary school she attended. She had a lot of confidence as a teacher and at one point when there was no Mayor in Kisumu, she used to multitask – she would teach during the day and attend to her duties as a substantive Mayor in the evenings.

It is also important to note that as the first female parliamentarian, out of 158 Members of Parliament, she used to dominate most of the debates. She was also very keen in every assignment that she was undertaking. At one point she was elected to be among the Members of Parliament who were investigating the death of JM Kariuki and when she realised that the report of the committee had been doctored, she quickly submitted…

Hon. Speaker: Hon. James Nyikal.

Hon. (Dr) James Nyikal (Seme, ODM): Thank you, Hon. Speaker, for giving me this opportunity. On behalf of the people of Seme and my family – particularly my mother, wife, and daughters, in respect for women – I stand here to pass my condolences to the family of the late Mama Grace Onyango. She was a trailblazer in the society not as a woman in this context, but as a person. It is because at that time we did not have the issue of women empowerment and affirmative action. She saw herself as a person and a member of the society. In that way, she was a trailblazer. She became a councillor, an elected Mayor for the first time, a Member of Parliament, a Deputy Speaker, and later on Secretary-General of Luo Union.

Hon. Speaker, I will ask for your indulgence for an additional one minute. This was a leader. Having been here for 10 years, I have seen the difference between a leader and an elected politician. Leaders blaze the trail. They go to areas where people fear even if they are going to lose elections. These people make a difference.

As I thank Hon. Machua, you would have thought that this would come from Dr. Nyikal…

Hon. Speaker: Dr. Nyikal, we have heard you. Thank you very much. Hon. Julius Sunkuli.

Hon. Julius Sunkuli (Kilgoris, JP): Hon. Speaker, let me add my voice to that of other Kenyans who are mourning the late Grace Onyango. We may not have met her but as our compatriot, she is definitely a tower in the history of our land. I only listened to her voice on television sometime back in her old age. She told the women of Kenya to stop relying on affirmative action and instead fight for their space. Our women should take that as the best example. It is not what you get from the hand of a man or anybody, but what you fight for. The women of Kenya are not lesser creatures. They can fight for themselves. I look forward to a time when we will not need to do affirmative action. Our women have come of age. Look at our Deputy Speaker. She can stand on her own. Why should anybody say that we want more women in the House? Grace Onyango said it is not necessary. She was a woman of substance and we all mourn her and we look forward to having more women like her.

Hon. Speaker, I beg to mourn together with others.

Hon. Speaker: I will give two more Members then we close. Hon. Wanyonyi Ferdinand, Kwanza Constituency.

Hon. Ferdinand Wanyonyi (Kwanza, FORD-K): Thank you, Hon. Speaker, for giving me the chance. On my own behalf and on behalf of the people of Kwanza and Trans Nzoia in general, I say *pole* to the family of the late Grace Onyango. Because of what she has achieved as a lady in this country, the Governor of Kisumu should name one of the roads after her in recognition of her achievements and in support of what she did for the people of Kisumu and Kenya in general. We will remember her through that. Grace Onyango was, indeed, a lady that each of us recognises in our lives.

My condolence to the family and Members here who are associated with the late Grace Onyango. Thank you.

Hon. Speaker: Members, allow me to give a chance to three women MPs who are here: Hon. Umul Kheir Kassim, followed by Hon. Faith Gitau, then Hon. Ruweida Obo and we close.

Hon. Umul Kheir Kassim (Mandera, UDM): Thank you, Hon. Speaker, for this opportunity. I would like to thank the male Member who thought it wise that we celebrate this trailblazer, Hon. Grace Onyango.

Much has been said on the role she played. It is unfortunate that in this day and age, we are still scrambling for the affirmative action seats. I want to say that the men then were more considerate than the men we have now. We need to do better than the 28 constituency seats that women are holding currently and, maybe, double it to around 60. The role women play in our society is very well documented and known. Hon. Grace Onyango will forever live within the hearts of many Kenyans in terms of the leadership qualities she displayed. We pray that many women will take up her role and be courageous as she was and that men will support women in leadership. Thank you.

Hon. Speaker: Hon. Faith Gitau.

Hon. Faith Gitau (Nyandarua, UDA): Thank you, Hon. Speaker, for this chance to celebrate our trailblazer, Grace Onyango. She is a very good example of a bottom-up leader because she started as councillor and became Mayor and reached even more higher positions in society. I want to celebrate her because we would not be where we are as women of Kenya were it not for Hon. Grace Onyango and others. She created a way for women to walk through and, therefore, she was a great fighter. She believed in her course and herself. When we look at her and her life, we want to be like her. Because of her, women of this country will go very far. I have faith and hope that one day, we will have a woman President. Thanks to Grace Onyango.

Thank you, Hon. Speaker.

Hon. Speaker: Member for Lamu East.

Hon. Ruweida Mohamed (Lamu East, JP): Asante Bwana Spika, kwa kunipa nafasi ya kutoa rambirambi zangu kwa niaba yangu, watu wangu wa Lamu East, na familia yangu, kwa familia ya Grace Onyango. Kwa kweli, Bi. Grace alikuwa mfano mwema.

Mwanzo, ningependa kumpongeza Mbunge wa kiume ambaye ni rafiki wa wanawake. Inaonyesha kuwa kuna wanaume ambao ni marafiki wa wanawake. Lakini kuna wale ambao ni maadui wa wanawake ilhali hawawezi kukaa bila wanawake. Wakija hapa, wanaanza kutupiga. Hawawezi kukaa bila wanawake lakini wanapinga *affirmative action*.

Tunavyo hivi viti 47 mkononi. Wanaume, msijisumbue kuvitoa. Hatuwezi kuwachilia kile tunacho ili tutafute kingine. Tumeona umuhimu wa *affirmative action seats*. Wengi wetu tulianza na *affirmative action seats* ndiyo tukaweza kupigania ubunge. Kwa hivyo, hakuna haja ya kujisumbua. Wale wanaume ambao wamesaidiwa na *handbags* hapa Bungeni wajifunze. Wakati mwingine wanatokwa na makamasi na hawana kitu cha kujifuta nacho kisha wanatolewa *handkerchiefs* au *serviettes* vinawasaidia. Wajifunze.

Hon. Speaker: Thank you, Hon. Ruweida. I have been solicited by the Member for Bonchari to give space to the Woman Representative for Kisii County and I have acceded. Let us hear if you have anything different to say.

Hon. Dorice Donya (Kisii County, WDM): Thank you, Hon. Speaker. Rest in peace, Grace Monica. I know about her other name, Monica, which you did not. Grace Monica Aketch Onyango was the true definition of the saying that women are vanguards of social change. To our great brother, Hon. Sunkuli, you do not know that with regard to the affirmative action seats that are offered to us, some men go to the Independent Electoral and Boundaries Commission (IEBC) to request to contest for the seat of Woman Representative.

Thank you very much.

Hon. Speaker: Hon. Members, we will end there. To Hon. Machua and other Members who are interested, the Speaker will allow you to rally your colleagues to do a small check-off to support the family as you had requested. You can go ahead and do so. You can check with the Office of the Clerk. They will advise you on what to do. We rarely do check-offs for non-parliamentarians, but this lady was a colossus in the politics of our country. Hon. Members, if you feel generous – and you should – you are invited to do a check-off to support the family.

Thank you, Hon. Machua, for being sufficiently patriotic to bring this Statement to the House. I am sure my good friends from Nyanza appreciate you even more for doing what they should have done.

Hon. Members, allow me to acknowledge the presence, in the Speaker's Gallery, of Koru Girls High School from Muhoroni, Kisumu County. On my behalf and that of Members, I welcome the school to the House of Parliament.

(Hon. James K'oyoo stood up in his place)

Hon. K'oyoo, you know how to attract the Speaker's attention. You do not have to stand up. This school is from your constituency. I will give you one minute to welcome the students.

Hon. James K'oyoo (Muhoroni, ODM): Thank you very much, Hon. Speaker. I am sorry I was overexcited and may have defied the rules. I want to formally welcome Koru Girls to this House. This is a very serious school in my constituency. In the last Kenya Certificate of Secondary Education (KCSE) examinations, they fielded 304 students and the last student got a C (Plain). She will have to enrol for a diploma, but the rest qualified for admission into public universities. It is a very serious school. It was the Alliance Girls High School of our time and the girls are very well-behaved. Feel welcome to the National Assembly.

Thank you very much, Hon. Speaker, for giving me the opportunity.

Hon. Speaker: Thank you, Hon. K'oyoo. The next Statement is from the Chairperson of the Departmental Committee on Housing, Urban Planning and Public works, Hon. Johana Ng'eno.

CONSTRUCTION OF HUNDRED AFFORDABLE HOUSING
UNITS AT THE CONSTITUENCY LEVEL

Hon. Johana Kipyegon (Emurua Dikirr, UDA): Hon. Speaker, pursuant to the provisions of Standing Order 44(2)(d), I rise to make a Statement as the Chairperson of the Departmental Committee on Housing, Urban Planning and Public Works regarding construction of 100 affordable housing units at the constituency level.

Article 43(1) (b) of the Constitution provides that every person has the right to accessible and adequate housing, and to reasonable standards of sanitation. That is a provision of the Constitution which was promulgated in 2010. Currently, around 80 per cent of Kenyans live in houses that do not fit that category of the constitutional provision. Despite the above provision of the Constitution, Kenya has myriads of challenges on issues of land and settlement because of affordability. Many Kenyans cannot afford to even have a reasonable house to live in. This is because of the high cost of land. In some cases, land is not even available. That is why we have many conflicts in this country. Around 80 per cent of the conflicts in the north, Lamu and many other areas in this country are because of land and settlement issues, which have not been settled for many years. This is because there has been insecurity in terms of land. Around 50 per cent of the conflicts that I have seen can be solved if we were to ensure that Article 43(1)(b) of the Constitution is actualised.

Land in Kenya and urban areas has become extremely expensive to the rural poor to acquire causing sprouting slums. A very big percentage of city dwellers, especially in Nairobi, Kisumu, Mombasa, Nakuru, and Eldoret are living in slums. That means that they cannot afford to live in modern houses as specified in the Constitution. Nairobi has the biggest slum in East and Central Africa called Kibera. Up to date, there have been many efforts to ensure that we upgrade those slums, but we have had many challenges to the extent that currently, many people are still living in those slums.

There are many other slums in Nairobi. Those people live in very deplorable conditions. There is no proper sewerage system, no water, no electricity, no roads, no schools, no toilets and many other things. That phenomenon is spreading to rural areas and is threatening to turn our rural areas into slum cities. We used to think that only Nairobi has slums. Currently, slums are now coming up in our villages. Slums are coming up closer to our cities, towns and urban areas.

Kenya's Vision 2030 – which was based on an economic blueprint – committed the Government to build at least 150,000 housing units per year. However, that was hampered by several issues, among them, financial constraints, consumer affordability and high speculation on land. We have not been able to manage the 150,000 housing that the framers of Vision 2030 thought about. The current regime introduced the affordable housing programme to try and ensure that the citizens of this country have access to affordable, modern and decent housing. That is the reason there was a directive to deliver 250,000 houses per year to mitigate the needs. The current house shortfall is over 2 million in the country. The market now produces only 50,000 homes, which means we have a very big deficit. In the current market, the private sector or people who just build their homes and people who build to sell, only give us 250,000 houses. The 250,000 houses that the Government had thought of is falling short of 200,000 houses. The Government plans to restructure housing finance schemes like the National Housing Fund and the Co-operative Social Housing schemes that will guarantee off-take from private developers. I know Members must have seen the President launching affordable housing in most areas in Nairobi. That programme was under public-private partnership (PPP).

Hon. Speaker: Hon. Johana Ng'eno, when you are given an opportunity to give a Statement to the House, read the Statement and do no more.

Hon. Johana Kipyegon (Emurua Dikirr, UDA): Exactly, Hon. Speaker. That is what I am doing.

Hon. Speaker: You are berating your Statement.

Hon. Johana Kipyegon (Emurua Dikirr, UDA): Thank you for the guidance. I am not finished.

(Laughter)

Hon. Speaker: Yes, Hon. Omboko Milemba. Give Hon. Milemba the Floor.

Hon. Omboko Milemba (Emuhaya, ANC): Thank you, Hon. Speaker. I thought we had a similar challenge last week. All this is coming under the Statements by the Chairman, which is provided for in the Standing Orders. Somewhat, it is as if the Statements were not approved by you, because they end up debating them. Thank you because you have directed accordingly that the Statement should be read as approved by the Hon. Speaker.

Hon. Johana Kipyegon (Emurua Dikirr, UDA): Well guided, Hon. Speaker.

Hon. Speaker: Hon. Johana, the Hon. Speaker approved your Statement. My expectation and that of the Standing Orders is that you read the Statement as it is. You are spent when you finish. You are in no capacity to debate your Statement.

Hon. Johana Kipyegon (Emurua Dikirr, UDA): Well-guided, Hon. Speaker. I have not finished. I have not even debated. I am just reading.

Hon. Speaker: Okay.

Hon. Johana Kipyegon (Emurua Dikirr, UDA): The Affordable Housing Programme is one of the priority areas listed. In the Government's manifesto, Housing and Settlement is number three. The policy direction under priority number five is to deliver 250,000 homes. Presently, the market produces about 50,000 homes. The strategy is to deliver an additional 200,000 homes annually.

In addition, the Government plans to restructure affordable long-term housing finance schemes, including the National Housing Fund and Cooperative Social Housing schemes that will guarantee off-take of houses from developers. This is expected to grow the number of mortgages from 50,000 to 1 million by enabling low-cost mortgage of 1 million and below. The Affordable Housing Programme has overarching objectives as follows:

(i) Catalyse the affordable housing sector by undertaking projects on public land.
(ii) Increase the number of mortgages from under 30,000 to 1 million.
(iii) Integration of the Micro, Small and Medium-Sized Enterprises (MSMEs), and the *Jua Kali* sector in the supply-chain using ring-fencing strategies.
(iv) Creating opportunities for alternative action groups, especially projects where public land is utilised.
(v) Creating local area employment opportunities for Kenyans where projects are allocated.

Given the positive and additive impact the programme will have, the State Department for Housing and Urban Development through the Departmental Committee on Housing, Urban Planning and Public Works…

(Loud consultations)

Hon. Speaker, protect me from the great ladies around me.

(Laughter)

Hon. Speaker: Hon. Johana Ng'eno, I give you two minutes to wind up.

Hon. Johana Kipyegon (Emurua Dikirr, UDA): Well guided. You approved this Statement. I have to finish it.

Through the Budget and Appropriations Committee, my committee requested for a budget of Ksh6 billion in the Supplementary Budget of 2022/2023 to catalyse housing construction and achieve quick wins during the first phase of the programme. Through the Budget and Appropriations Committee's Report on the Supplementary Estimates I, the House adopted to allocate about Ksh1 billion as seed money towards this project. It is to start the project to create new home-owners at the local level.

Under the Affordable Housing Programme, the national Government will work with the National Assembly to fund the construction of 100 housing units per constituency targeting new home-owners at constituency level. With 290 constituencies nationwide, this is a potential of 29,000 housing units representing the potential to create a new generation of homeowners at the local level.

The programme will require Members of this House or the National Assembly to identify suitable Government land for the project so as to reduce the final cost of homes to buyers. Additionally, since the programme has a broader aim of local area economic recovery, it will require Members of Parliament to assist in the organisation, identification and co-operation of those *Jua Kali* associations, groups of the youth, women and Persons Living with

Disability (PWDs) and other affirmative action groups in readiness to take up and grab the opportunities in the upcoming housing projects.

Last but not the least, labour for the projects will be ring-fenced so that workers will be recruited from local areas where the projects are located. The programme will adopt the affordable housing programme approach to utilise the *Jua Kali* sector and MSMEs in the local areas to provide employment or key components for housing. The request to Members of this House is to identify and provide pieces of land and land titling so that the Ministry of Lands, Housing and Urban Development commences building the houses.

Thank you, Hon. Speaker.

Hon. Speaker: Thank you, Hon. Johana Ng'eno, Chairman. Well-done.

The next Order is by the Chairman to the Public Debt and Privatisation Committee, Hon. Shurie.

MOTION

ADOPTION OF REPORT ON CONSIDERATION OF THE 2023 MEDIUM-TERM DEBT MANAGEMENT STRATEGY

Hon. Abdi Shurie (Balambala, JP): Hon. Speaker, I beg to move the following Motion:

THAT, this House adopts the Report of the Public Debt and Privatisation Committee on its consideration of the 2023 Medium-Term Debt Management Strategy, laid on the Table of the House on Thursday, 9th March 2023 and, pursuant to the provisions of Section 15(4) of the Public Finance Management Act, 2012 and Standing Order 232A (7) and (8)—

(a) approves the 2023 Medium-Term Debt Management Strategy; and,

(b) makes the Policy and Financial Resolutions contained in the Schedule to the Order Paper.

SCHEDULE

POLICY AND FINANCIAL RESOLUTIONS RELATING TO THE 2023 MEDIUM TERM DEBT MANAGEMENT STRATEGY

A. POLICY RESOLUTIONS

1. THAT, any borrowing undertaken by the National Treasury in FY 2023/24 should not exceed the approved debt ceiling set by Parliament.
2. THAT, to enhance liquidity management and to help reduce unnecessary short-term domestic borrowing occasioned by Government's inability to access surplus funds held in numerous Ministries, Departments and Agencies' (MDAs) bank accounts, the National Treasury spearheads the integration of MDA banking arrangements into a single treasury account system as provided for in the Public Finance Management (PFM) Act, 2012 and Regulations.
3. THAT, as indicated in the Committee's Report on the Consolidated Fund Services (CFS) expenditures for Supplementary Estimates No. 1 of FY 2022/23, the National Treasury should, within six months, table regulations for the establishment of a sinking fund dedicated to public debt servicing as provided for under section 50(8) of the PFM Act, 2012.

4. THAT, in order to safeguard against exchange rate fluctuations, the National Treasury should consider hedging mechanisms on foreign exchange risks and/or negotiating lending agreements in Kenya Shillings.
5. THAT, the National Treasury undertakes a review of all undisbursed loans amounting to Ksh1.179 trillion and submits to the National Assembly within one month, a report with information on terms, status, reasons for non-disbursement and proposals on any loans that can be cancelled to save spending on commitment fees.
6. THAT, in adherence to the Accra Agenda for Action 2018, donor support MUST be aligned to the country's budget cycle to facilitate proper planning by the implementing agencies and reduce occurrence of undisbursed loans.
7. THAT, within two months, the National Treasury submits to this House a strategy for resolution of non-performing loans linked to various State-Owned Corporations (SoCs) including Kenya Airways.
8. THAT, the Office of the Auditor-General expedites the audit of project loans under the water sector and the Ksh9.9 billion loan borrowed on behalf of Kenya Power (KP) and submits this report to the House.
9. THAT, in the next budget cycle, the National Treasury aligns the borrowing strategy proposed in the Budget Policy Statement with the borrowing strategy in the Medium-Term Debt Strategy (MTDS) in order to ensure credibility of the Government's planning documents.
10. THAT, in the next budget cycle, the National Treasury must undertake public participation on the MTDS in line with Article 201 of the Constitution.
11. THAT, going forward, the MTDS should live up to its expectation as a medium-term document by showing consistency in proposed debt management strategies on a three-year rolling framework, from one MTDS to another.
12. THAT, the National Treasury undertakes a sensitivity analysis on the 2023 MTDS and submits to this House, within two weeks, a contingency plan on measures to be undertaken in the event of revenue shortfalls or under-performance of loans.

B. FINANCIAL RESOLUTIONS

1. THAT, the fiscal deficit target for the medium term is approved and set at 4.4% of Gross Domestic Project (GDP) for FY 2023/24; 3.9% of GDP for FY 2024/25 and 3.6% of GDP for FY 2025/26 in line with the fiscal consolidation path.
2. THAT, the country's borrowing strategy is approved at 50 per cent net external borrowing and 50 per cent net domestic borrowing as contained in the 2023 Medium-Term Debt Management Strategy.
3. THAT, any deviation from the approved borrowing strategy will require the approval of the National Assembly.

Hon. Speaker, the 2023 MTDS was submitted to Parliament on Wednesday, 15th February 2023, pursuant to Section 33(1) of the PFM Act, 2012, and in line with Standing Order 232A (3). The 2023 MTDS was committed to the Public Debt and Privatisation Committee to examine and make recommendations for approval by the House.

I would like to thank the Members of the Public Debt and Privatisation Committee for working effortlessly in the execution of their mandate and tabling of this Report. Sincere gratitude is also extended to the public for submission of memoranda, the National Treasury, the Office of the Controller of Budget, the Office of Auditor-General and the Central Bank of Kenya for providing critical information in the process of reviewing the 2023 MTDS.

As of December 2022, the Kenya Public Debt stock amounted to Ksh9.15 trillion and accounts for 67 per cent of the GDP. This has resulted in high debt servicing expenditure that, if uncontrolled, will cause major liquidity disruptions in the country. Furthermore, the public debt stock is exposed to increasing levels of interest rates risks, exchange rate risks and refinancing risks.

The Committee notes that the management of the public debt in Kenya still has a long way to go if public debt is to be brought down to sustainable levels. This is indicated by the long-term breach of key solvency and liquidity thresholds. Indeed, Kenya's debt carrying capacity was downgraded in 2019 from strong to medium with a high risk of debt distress. To mitigate this situation, we urge this House not to relent on matters of fiscal discipline and commitment to fiscal consolidation. It is only through the reduction of the fiscal deficit that public debt can be managed.

The 2023 MTDS aims to provide a financing strategy that will minimise the costs and risks of public debt. In choosing the appropriate strategy, the 2023 MTDS considered four alternative strategies to finance the fiscal deficit for the Financial Year 2023/2024, and ultimately proposed a balanced domestic external financing strategy ratio of 50 per cent to 50 per cent for net domestic borrowing and net external borrowing, respectively. This proposed borrowing strategy is based on assumptions such as:

1. GDP growth projection of 6.1 per cent.
2. Exchange rate depreciation of the Kenya Shilling to the US Dollar by an average of 1.6 per cent annually.
3. Access borrowing on concessional and semi-concessional terms.
4. Fiscal consolidation efforts targeting to reduce the fiscal deficit to 3.6 per cent of GDP by Financial Year 2026/2027.

Rising interest rates continue to cause downside risks to the implementation of the debt strategy, especially if interest rates are increased in response to the rising inflation that had reached 9.23 per cent as of February 2023. Indeed, the interest rates for the 91 days Treasury Bill has risen from 6.2 per cent in August 2020 to 9.74 per cent in March 2023, thus increasing the cost of domestic borrowing and creating the possibility of crowding out the private sector.

Despite the risks raised, the Committee noted that a sensitivity analysis with regard to economic and revenue performance had not been undertaken on the proposed debt management strategy. As such, the strategy does not provide for any corrective measures that can be undertaken in case there is revenue shortfalls or under-performance of loans raised.

Hon. Speaker, if this Report is adopted, the National Treasury will be required to submit to this House a contingency plan on measures to be undertaken in the event of revenue shortfalls or under-performance of loans. This will safeguard budget implementation and will be factored into the development of the annual borrowing plan.

The Committee received submissions from key stakeholders including the public. Following extensive deliberation, the Committee has made the recommendations contained in the Schedule to the Order Paper.

As I conclude, I wish to point out that the engagement with stakeholders revealed that there are shortcomings related to the efficiency of the use of borrowed financial resources and promotion of principles of transparency and accountability as stipulated under Chapter 12 of the Constitution. Furthermore, there have been deviations from previously approved strategies undertaken without the approval of the House.

Going forward, the Committee will put these issues at the core of public debt regulations and policy making. This will include monitoring the implementation of the 2023 strategy on a quarterly basis in order to ensure that it is adhered to and make every effort to ensure that costs and risks of public debt are gradually brought down to the desired levels.

I beg to move this Motion and call upon my Vice-Chairperson, Hon. Makali Mulu, to second.

I thank you.

(The Speaker (Hon. Moses Wetang'ula) left the Chair)

[The Deputy Speaker (Hon. Gladys Boss) took the Chair)

Hon. (Dr) Makali Mulu (Kitui Central, WDM): Thank you very much, Hon. Deputy Speaker. I rise to second this important Motion and thank my Chairman for work well done. As a Committee, we have listed quite a number of recommendations which this House has to consider. Since matters public debt is a matter of national interest, I want to urge the House to take these recommendations very seriously. I want to unpack four of them because of time. I want to start with the matter of undisbursed loans.

Hon. Members, I plead with you to listen to these figures so that you can know the kind of problem we are talking about. As I second this Motion, you will realise that this country today has a total of Ksh1.175 trillion in undisbursed loans, where we have signed to use as a country and because we are not using them, we are forced as a country to pay what we call a commitment fee. For the first half of this year, this country paid Ksh680 million in form of commitment fee. This is money which would have gone to assist this country to do more roads and hospitals. So, we are saying that the people who go to negotiate for these loans and those who sign for those loans on behalf of Kenyans must do their work seriously. That is because they are committing the country and we are not ready to use the loans.

The second matter is the issue of non-performing loans. This country has a lot of non-performing loans; loans which have been taken; loans which have been guaranteed by the Government and since the parastatals are not able to pay them, the national Government, through the Consolidated Fund, is forced to pay. I want to just take two of them as examples and explain to the Members. The Kenya Airways has a loan of Ksh88.3 billion, and they have defaulted on the payment of that loan. That means that the national Government will now have to pay for that loan. If you look at our current budget, their proposal is to spend about Ksh24 billion in paying for that loan as well as paying for interest.

When you look at Kenya Power (KP), it has a loan of about Ksh9.9 billion, which has also not been paid. For the Kenya Airways, the company is not able to pay because of mismanagement. But for KP, they say they are not even aware of this loan. Imagine a loan was taken on behalf of KP, it was spent and now it has not been paid. And when you talk to KP, they say that they are not even aware of that loan. So, you see the kind of problems we are talking about in terms of matters of public debt.

The third item I want to speak about is the issue of the Euro Bond. In the year 2014, this country went out in the market and was able to secure a loan in form of a Euro Bond. This loan will be due for payment next year. Next year, this country will be expected to pay US$2 billion in terms of that Euro Bond. When you look at this strategy, the proposal is again to go to the market and borrow commercially to pay that loan of US$2 billion. This is really against the strategy. The strategy is saying that the way forward is to go for concessional loans. At the same time, we are seeing the same strategy proposing to borrow commercially US$2 billion to pay for the Euro Bond.

So, these are internal inconsistencies which are in the document, which we are saying as a House that we must take note of and deliberate on. We must also make resolutions on them so that, as we move to the future, we are able to take care of public debt that will not end up punishing our future generations.

The other issue which has been picked by my Chair - and I want to unpack - is what we call ‘sensitivity analysis’. When you look at this document, there are assumptions which have been given that the economy will grow by 6.1 per cent, the revenue collection will be at this level, the expenditure will be at that level, while inflation will be at this level. What happens if none of those assumptions hold? If none of them holds, then there is need to do a sensitivity analysis so that different scenarios are presented to Parliament so that we are prepared. “Just in case it works, this will be the option and, in case this does not work, this will be the next option.” When we looked at this document as a Committee on behalf of this House, there are things which are worth noting and there are others which, as we move on to the future, we must take seriously as a country.

The other issue which is very critical is what we are calling the borrowing options. When you look at this document, it says the best option is to have 50 per cent domestic borrowing and 50 per cent external borrowing. That is now the medium-term debt management strategy. However, when you look at the policy document, the budget policy statement which also comes from Treasury, a document which is presented the same day with this other document, the policy is saying that borrowing will be at 72 per cent domestic and 28 per cent external.

So, we are asking ourselves: “Which Government is talking?” We have two documents from Treasury saying two different things. As a House, what do we go with? That is what we are saying. This House is being advised by this Committee after looking at the options. The best of the options, which is being suggested in the Medium-Term Debt Management Strategy, is the option of 50 per cent domestic borrowing and the option of 50 per cent external borrowing.

We are also saying that if that is not the option which is going to be adopted by the Treasury, then there will be need for the Treasury to come back to the House so that we review the situation and advise on the way forward so that before we approve, we are on the same page. Why are we insisting on balancing of 50:50? If you look at the interest rate repayments, you will realise that out of the total amount paid out as interest, 75 per cent of that total amount is for domestic borrowing and 25 per cent is for external borrowing.

Meaning, borrowing domestically is an expensive exercise and, at the same time, borrowing domestically leads to what we call crowding out of the public sector. What Kenyans should know is that it is easier for the Government to borrow from outside there compared to a private business person who cannot borrow from outside Kenya. So, what we are saying is that it is important we allow more domestic borrowing by our private sector and allow the Government to borrow from out there.

The second advantage is the interest rates. The interest rates are lower when you borrow from bilateral institutions like World Bank, International Monetary Fund, multinational institutions or other countries. The whole issue of concessional borrowing is easier realised out there than when you borrow domestically. Our proposal is to get that, so that we have 50:50 per cent.

The last item I want to speak about, hoping that I still have some more minutes, is the debt ceiling. As a Committee, we have said that this House approved a ceiling of Ksh10 trillion. If the borrowing - as proposed in the current Budget - is done at the end of this financial year in June, we will only have a window of borrowing Ksh587 billion. When you look at the Budget Policy Statement (BPS), the proposal is to borrow Ksh720 billion. So, there is a gap of about

Ksh120 billion, which will be above the debt ceiling. This House must stick to our already passed debt ceiling of Ksh10 trillion.

If the National Treasury has to borrow beyond Ksh10 trillion, they must come back to this House with a proposal. It must be discussed and this House will give authority for borrowing beyond Ksh10 trillion. There are proposals which we have not looked at. But for now, as a Committee, we only approved borrowing of a maximum of Ksh10 trillion. We urge the House to support that Committee's position so that, at the end of the day, we do not expose Kenyans to public debt risks and repayment challenges.

With those many remarks, I second the Motion. Thank you very much.

(Question proposed)

Hon. Deputy Speaker: Hon. Members, let us contribute. Is it the mood of the House that I put the Question?

Hon. Members: No.

Hon. Deputy Speaker: Okay. Hon. Mohammed Adow, Member for Wajir South.

Hon. Mohammed Adow (Wajir South, ODM): Thank you very much, Hon. Deputy Speaker. I would like to commend the Committee for a job well done in this Report that has just been presented to the House.

Kenya's public debt raises more questions than answers. One of the things that many Kenyans and I worry about is whether we are in debt distress. Is our debt sustainable? Another question is whether it is time for restructuring our public debt. By the time President Mwai Kibaki left office, we had a public debt of Ksh1.89 trillion. The Government that took over from him raised that figure to Ksh8.7 trillion which is a huge jump. Kenyans have a right to know the terms of those loans. The loans from China are frightening. We hear frightening stories of nations in various parts of the world where state assets are taken away because of defaulting on some of those loans. The rapid accumulation of debt, particularly from China, is really worrying. Where I come from, North Eastern, people do not see those massive projects that some of those loans have been sunk into. They are in pain because they have to dig deeper into their pockets to pay for those debts when they have nothing to show for it. That is a major concern.

In conclusion, I would like to quote President William Ruto. During the campaigns, he said that debt must be the last resort. We must not be slaves of debt from any place or country. I would like to urge all Kenyans to help the President in keeping this promise that he made.

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Member for Emuhaya, Hon. Omboko Milemba who is also known as *Mwalimu*.

Hon. Omboko Milemba (Emuhaya, ANC): Thank you, Hon. Deputy Speaker for acknowledging my teaching profession, which I am very proud of. I thank the Committee for a very good Report.

When it comes to debt matters, there are salient issues within this Report which I wish to highlight. One, the deficit that has been budgeted for by the Budget and Appropriations Committee exceeds the amount that we have leverage to borrow. We have up to Ksh587 billion to borrow. The Budget and Appropriations Committee is proposing that we need to borrow as high as Ksh700 billion. In the spirit of the President, he wants to manage those debts. The previous Government over-borrowed. We only have about Ksh500 billion to reach the debt ceiling. The debt ceiling, as it has been properly moved by the Chairman of the Budget and Appropriations Committee, is Ksh10 trillion only. Therefore, if we go that direction, we shall exceed it.

A challenge will arise which Kenyans and this House need to know how to mitigate. There is a proposal that we change from a numerical debt ceiling whereby we fix the debt at a figure that is known. Currently, we have fixed it at Ksh10 trillion. However, there is a proposal that we change that to a debt anchor of 55 per cent of Gross Domestic Product (GDP). That means we should have leverage of borrowing up to 55 per cent of our GDP, as it is done by the developed countries like China. A good example is Japan, which has borrowed a percentage of their GDP. They are able to do that because they have also lent out money, which sometimes earns profit. Kenya has not done that. If we go that direction, it may not be proper. We shall need to moderate and rethink of the strategy to use, if we are to support the President's thinking of stopping borrowing.

Again, we have been given further facts. If we go the debt anchor direction where we want to borrow a per centum of the GDP, we have already exceeded it. The authorities are proposing that we borrow 55 per cent of GDP. However, the statistics given by this Committee are such that we have already borrowed 67 per cent of GDP. That is something that this House needs to look into in depth.

Secondly, Hon. Deputy Speaker, there is a looming danger this Committee has brought forth, that the Government could be borrowing its own money from banks. Recently, I heard of a Member of Parliament who has a challenge with banks. There are several MDAs keeping Government money in banks. It is the same money that somewhat the Government borrows locally in form of Treasury Bills and Treasury Bonds at a very high rate. That is why banks are making very high profits while the Government and Kenyans are reeling in poverty.

When we borrow locally, the interest rate is as high as 13.5 per cent. If you borrow externally, you attract an interest of as low as 4 per cent. A circus could be in existence. I thank this Committee for making this highlight. These were Kibaki's economics. When he was in power, he stopped borrowing locally. There was no competition between the private borrowers and the Government. That is the direction we should possibly go if we are to fix this debt. There could be a collusion between same MDAs giving the banks money which is later lent to the Government, and it ends up paying more. The banks are doing very well while Kenyans end in poverty.

I also flag out the issue of undisbursed loans of Ksh1.179 trillion. The Government is paying punitive fees. Last year, we paid over Ksh600 billion for loans that have not been disbursed. The Report brings forth things that have never be discussed by Parliament before. Having gone through it, I find this Committee marvellous.

We have to take care of the commitments we are paying for loans we have not obtained. As we struggle with the dollar, we have borrowed Ksh1.179 trillion, which has not been disbursed. That debt is a burden because we are paying a fine for not getting the money. The Report says that we align borrowing to the 2023 Medium-Term Debt Management Strategy (MTDS).

There are also loans taken as Government guarantees to Kenya Airways and Kenya Power, where Ksh9.9 billion was borrowed on behalf of KPLC. Interestingly, KP says it has never received the money. It has accrued as Government debt something that is affecting us. It has been advised that the Office of the Auditor-General quickly moves and finds out who took the money on behalf of KP. We need to manage our debt and go in depth and find out where our monies are, so that we do not borrow our own monies and get punished. This will improve our debt management.

Finally, good practices have it that we need to borrow 50 per cent locally and 50 per cent from the foreign market. That is what this Report is advising. We are borrowing over 72 per cent locally. It is a very expensive debt. It is crowding the lending market, thus making the local *mwananchi* not to take loans. I built my first house during Kibaki's time. I was a teacher at Musiri High School. Bank loaners came to schools to give loans to teachers. Hon. Mwai

Kibaki had stopped borrowing locally. The banks did not have people to take loans. So, bank loaners walked to staffrooms and other places to give people loans. That is how the economy thrived. This is the direction we should take.

Thank you, Hon. Deputy Speaker, for giving me a chance to speak on this. I support the Report.

Hon. Deputy Speaker: Nominated Member, Hon. Suleka Hulbale.

Hon. Suleka Harun (Nominated, UDM): Thank you, Hon. Deputy Speaker. I note that the MTDS for FY 2023/2024 provides strategies and initiatives that will be taken by the national Government to meet the fiscal deficit for a period of three years, 2023/2024 to 2025/2026, as proposed in the Budget Policy Statement. To ensure that the Government maintains a stable and predictable borrowing stand while enhancing the liquidity management, it is important for the Government to actualise the establishment of a single treasury account system, as provided for in the Public Finance Management (PFM) Act, 2012 and the Regulations.

The integration of MDAs bank accounts agreement is a departure from the current framework where entities maintain individual accounts with the Central Bank of Kenya. With the integrated mechanism, the spending and the commitments made by the MDAs will utilise idle resources where necessary.

Hon. Deputy Speaker, the World Bank Report on Debt Sustainability Analysis FY 2019 downgraded the Kenya's debt carrying capacity from strong to medium, with a high risk of debt distress. In forging the current debt at a ceiling of Ksh10 trillion of the fiscal deficit gap, it is important that a paradigm shift in debt ceiling be adopted. The Ministry proposed borrowing 50 per cent locally and 50 per cent from the foreign market, as contained in the 2023 MTDS. That will be a very good programme.

The determination of the debt financing for the Government based on the 50 per cent net external borrowing and 50 per cent net domestic borrowing will spur private investment and Government borrowing from the domestic market through the fiscal investment, as the Treasury Bonds and Bills will have been capped and hence no crowding effect.

I support the Report of the Public Debt and Privatization Committee. Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Let us have the Member for Mosop Constituency, Hon. Abraham Kirwa.

Hon. Abraham Kirwa (Mosop, UDA): Thank you, Hon. Deputy Speaker, for giving me this opportunity to contribute to this Policy and Financial Resolution relating to 2023 Medium Term Debt Management Strategy.

I commend the Committee for the great job that they did in preparing this particular Report, and sitting down to exactly try and look at where we are, as a country, in terms of debt.

Hon. Deputy Speaker, this country is in a hole. They say that when you find yourself in a hole or a ditch, the best you can do is to stop digging and make your way out. It is unfortunate that there are several circumstances that led to this huge appetite for borrowing. One, is the pandemic that we faced, instability of the shilling, interest rates all over the world going up, the inflation rate, which has gone up, and the drought which we have not experienced for a long time. It has, therefore, forced the nation to continue borrowing. The best we can do as a nation after finding ourselves in this situation is to find out how best we can do to get ourselves out of this debt situation.

I want to comment on one policy resolution that was proposed and brought forward by the Committee; that any borrowing undertaken by the National Treasury for the Financial Year 2023/2024 should not exceed the approved debt ceiling set by Parliament, which we all know was approved at Ksh10 trillion. As we speak, our debt is above the debt ceiling that was set. The Cabinet somehow approved to change it from having a numerical figure to base our debt on the GDP angle. If we base our debts on this as it is now, we are at 67 per cent of GDP. If we say that we are going to go back to our debt on this particular angle, to bring it down to 55 per cent of the GDP, we would not be able to understand. That is because the GDP would be a moving target and we may not know the truth as to what our GDP as a nation is.

I support the Committee in saying that we should continue to stick to the numerical figure of Ksh10 trillion. If we need to sit back as a nation and increase our debt ceiling, then it must be a number that everybody knows that if we hit this figure, we then need to stop borrowing. We need to live within our means as a nation. We continue to borrow because people are giving us money. The World Bank is coming in with lucrative amounts, and we continue to borrow so that we can finance our debts. However, how long should we continue, as a nation, to borrow if we are not able to increase our exports? One of the things that we should do as a nation is to increase our exports so that we do not continue borrowing.

The interest rate and inflation in this country has continued to go up. Therefore, there has to be a system and a way that we can control those inflationary measures. Some of the points that were proposed by the Committee included to safeguard against exchange rate fluctuations The National Treasury should consider hedging mechanisms on foreign exchange risk and negotiating lending agreements in Kenya Shillings. As a nation, if we do not implement these issues of hedging mechanism, we will not end up well. As we speak, the exchange rate to the dollar is Ksh142. So, if we continue like this and we do not have a hedging mechanism, we will continue to have an issue of financing our debt.

The other issue they suggested is that the National Treasury undertakes a review of all undisbursed loans amounting to Ksh1.179 trillion and submit them to the National Assembly within a month, which I support. A report with information on terms, statutes, reasons for non-disbursement and proposals on any loans that can be cancelled to save spending on commitment fees. How in the world did we, as a nation, accept money that we are not using? We are talking of Ksh1.179 trillion that we were given but has not been disbursed. Who is holding this amount and yet, as a nation, we are not using the funds? I support the proposal by the Committee that the National Treasury has a month to bring a report to this House on those loans that have not been disbursed. Why do we continue to pay commitment fees on money that we are not using? Can those loans be cancelled?

The other issue that I thought was very important for us as a nation to look into is that, within two months, the National Treasury should submit to this House a strategy for resolution of non-performing loans linked to various State-owned corporations. There are several corporations that are said to have borrowed money. The State has guaranteed, but they cannot account for that money. One of those corporations is Kenya Power. The KP is said to have borrowed Ksh9.9 billion but, when the auditor tried to follow up on the money, KP said that they did not know about it. Who then took the money? I, therefore, support the Committee in giving the National Treasury a short period of time to come and explain where that money exactly went to.

The other issue that I want to support is that going forward, MTDS should live up to its expectation as a medium-term document by showing consistency in proposed debt management strategies on a three-year rolling framework from one MTDs to another. That way, in future, we would be responsible as a nation.

Lastly, is that the country's foreign strategy be approved at 50:50. It is a good policy and practice but, unfortunately, as a nation, the amount of money we are borrowing from within is about 72 per cent, while foreign debt is at 28 per cent. We all understand that the money that we borrow from foreign sources is cheaper. The interest rate is about 3 per cent, but the domestic interest rate is about 13 per cent and we end up spending so much money borrowing from within. For us to bring it to a 50:50, it will take a serious fiscal responsibility from the nation and the National Treasury to have a good plan. As it is, 72 per cent domestic and 28 per cent foreign is not going to be of any help as of now.

I support this proposition by the Committee that we adopt and accept this resolution so that we address the issues of debt in this nation.

Thank you for giving me the opportunity to contribute. I support.

Hon. Deputy Speaker: Member for Bondo, Hon. Gideon Ochanda. He seems not to be in. We can then have the Member for Kilifi.

Hon. Owen Baya (Kilifi North, UDA): Thank you, Hon Deputy Speaker, for giving me this opportunity to debate this MTDS. Medium term debt strategies the world over are put in place to review and see how best we can have debt that is at a lower cost, manageable and something that can be serviced. Probably, this is the first time we are having these MTDS. I commend the Chairman and his Committee for the good job. Going forward, this is where you hold the Government to account.

[The Deputy Speaker (Hon. Gladys Boss) left the Chair]

[The Temporary Speaker (Hon. Martha Wangari) took the Chair]

The accountability of Government starts in the House. Debt management is one of the things that we have lacked a mechanism to bring accountability to. However, in its wisdom, the 12th Parliament thought that this Committee should be constituted. I am also persuaded that the Members of the Committee are up to the task and will help this country.

Runaway debt has been one of the problems that we have had in this country. The fourth regime of this country was probably the worst in terms of managing debt. If you look at the debt levels, we are at about Ksh9 trillion. This is something that this country needs to review. First, there are two things that the Committee highlighted, and we need to look at them: The debt itself and the cost of debt. The dollar keeps moving up. The higher the dollar goes, the more interest we pay. Therefore, this means that the cost of debt keeps on soaring. We are paying more money not because we borrowed more, but because the dollar is moving up. I like the recommendation by the Committee that we need to negotiate debt on the basis of the Kenyan Shilling. This is because since the Kenyan Shilling is constant, it is possible to manage the cost of debt. That is one of the things that we must manage as a country.

The second important thing that comes out of this Committee and that I support is on the bank accounts. There are very many MDAs that have different accounts holding a lot of money there. However, when you ask the Consolidated Fund Services how much money we have there, they will say that we do not have money and yet, each MDA has some money that is not being used. The financial year is over and there is money being held in all those MDAs totalling to hundreds of billions of dollars. What happens to that money? Why do we have to go and look for fresh money to deposit in those accounts and yet, they do not use that money? We will end up with a debt that we have accrued and, on the other hand, we will have interest to pay. We are proposing that we only need to have one Treasury account. This is necessary so that, at any given time, when one will be asking about the amount of money that the Government has, he or she will be able to say that this one Treasury account has this much money and, therefore, the Government is not broke. If you ask Government mandarins that question today, they will tell you that the Government is broke and does not have any money. However, they will not explain why there is about Ksh100 billion or Ksh100 million lying in those accounts. If we consolidate those accounts into one Treasury account, we shall reduce borrowing in this country. This is very important.

Another very important question is why the Government is borrowing its own money at high interest rate. That is because that money is littered all over and yet, the Government says it does not have money. One Ministry will not have money, but another one has a lot of money. Why do you have to borrow to finance a project and yet, the State Department for Roads has Ksh500 billion in the account that it is not using? Why would the State Department of Water and Sanitation be forced to borrow Ksh100 million for a project and yet, another department here has that money? It is even interesting that, that money is lying in our commercial banks and yet, the Government goes to borrow the same money that belongs to it. We pay more interest and commercial banks benefit out of it. If we had one Treasury account, we would have used that money. I want to commend that policy resolution that this Government requires to have one Treasury account as provided for by the PFM Act. This must be implemented now to save Kenyans on this issue of debt.

When it comes to debt, we need to find a way to balance trans-generational debt. If you have a good medium-term plan on debt management, then you will be able to say, “my father paid this amount, I will pay this, my children will pay this and my grandchildren will pay this.” We cannot take all the debt and give it to only one generation that comes later to pay it. We need to look into that. This debt management strategy will help our country to look at the trans-generational debts. This is necessary so that we are able to secure the future of our children and grandchildren. The practice that we are trying to start in this Parliament must be entrenched into law properly so that we do not burden our grandchildren with debts. A good medium-term debt strategy will ensure that trans-generational debt is properly managed and this country will be helped.

Hon. Temporary Speaker, I would like to comment on deviations from approved ceilings that the Committee talked about. During the 12th Parliament, we almost fought when we were discussing on how high or low we were to take the debt. I remember the Budget Policy Statement and Budget reflected different debts and the question was which one was to come first. I remember that argument here! It was fireworks here when it was time to decide on increasing the ceiling. In my view, there is a problem when Parliament passes debt management strategy without consensus. This policy that we are trying to anchor, that we have a Committee that does this work is going to help do away with this issue of deviations. It should not be at the whim of the President or the people at the National Treasury, but this Parliament. Parliament needs to tell the Executive that they cannot borrow and that they should look at what they have and run the country. We need to look into that. That is an objective way to ensure that we run a good fiscal management policy and Treasury without having to arm-twist Members here and there for us to borrow.

Fundamentally, this Constitution is anchored on public participation. The debt ceilings and whatever we do never go to the people, but I like that this is what we are introducing. If you must decide to borrow, then you must go to the people and ask them: “Should we borrow or not?” We must anchor public participation in our debt management. That is the only way to safeguard constitutionalism and its principle. We need to do that. Going forward, we need to look at public participation when we are managing debts and when the Government wants to borrow.

Hon. Temporary Speaker, as I finish making my contribution, I want to say this to my friends in the Minority: This is how to put the Government to account. It is in this Parliament that we need to bring these ideas and check Government using policy papers, just like what the Chairman of the Public Debt and Privatization Committee has done. It is good he comes from the Minority side. This is where democracy is properly anchored, not in demonstrations. Why do we go to make noise out there in the markets and yet, it is in this House where we can bring ideas, refine them and have better governance? This is because Members have been given the mandate by the people to sit in this House, argue out issues and bring out good policies and laws that govern this country. This country cannot be governed by what is said in *barazas* and *maandamanos*. It is this House that needs to look at important things on how to run this Government.

I thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Martha Wangari): This chance will go to the Member for Westlands, Hon. Timothy Wanyonyi.

Hon. Tim Wanyonyi (Westlands, ODM): Thank you, Hon. Temporary Speaker, for giving me this chance. I remember the last time the Cabinet Secretary for National Treasury came to our Committee on Delegated Legislation – which you also are a member – it was to convince us on the debt ceiling and why the Government needed to borrow. He said that they wanted to increase the ceiling because they wanted to retire the domestic loan and borrow from the international market since the domestic loan was expensive. He also said that once they do that, they will not need more borrowing because they will have obtained a cheap loan that will solve the problems they are having. What we know is that governments after governments do not have financial discipline; they keep on changing goalposts. Today, they will say this and tomorrow they will say that.

Hon. Deputy Whip of the Majority Party, it is not about *maandamano*. When people agitate, it is about the failings of a government. That is why people go to the streets. If the Government fulfils what they told Kenyans, they will have no business going to the streets. When Mwai Kibaki was the President, he never used to speak loudly and comment on every issue. However, he was performing and the economy started improving. He simply did not compromise on some issues.

The other issue is that the Government should stop involving itself in business. The work of Government is not business but to help Kenyans create wealth, create opportunities for Kenyans to invest and investors from outside to bring money to our economy. We have so many struggling parastatals and the Government keeps pouring money there. It is high time we stopped bailing out these struggling parastatals that have been mismanaged over the years. We can either sell them off or write them off completely so that the Government does not keep pouring money there. They are like a bottomless pit. You put money in and you never know where it is going.

For us to start making this economy work, the National Treasury must have fresh ideas. For a long time, we have had people in Treasury who do not have an idea on how to grow the economy. Their business there is just to look. We make the budget but since they have no idea on where they are going to get the money from, they start burdening Kenyans with debts. Some of these debts are inflated. For example, the Standard Gauge Railway (SGR) – it was mooted during Kibaki's time – would have cost us only Ksh32 billion to build from Mombasa to Malaba in Kibaki's tenure. The same SGR, a few years after Kibaki's presidency, cost Kenyans over Ksh400 billion to build from Mombasa to Nairobi. If you look at that difference, it is abnormal. Until we have financial discipline, we will continue to borrow.

When the Kenya Kwanza Government came into power, they said they will borrow no more. However, since they came to power they are borrowing left, right and center. President Ruto should not only look outside but even within the opposition to find brains that can help him grow the economy apart from the sycophants sitting in his Government and have no ideas. The current Cabinet Secretary, National Treasury and Economic Planning failed while he was the Governor of the Central Bank of Kenya. I do not know what other ideas he has now that he is sitting at the Treasury driving our economy. I am sure the President can do better than that.

I want to end there by saying that I wish this will be the last time that the Government will come to tell us that they are doing things above board. There is nothing that is above board. They want money. We are going to give them money but we want them to show us how they will make money from within. Kenya is not a poor country; it can generate money. If we invest our ideas properly, we will bring our debt under control.

Thank you.

The Temporary Speaker (Hon. Martha Wangari): Thank you, Hon. Timothy. This chance goes to the Member for Bonchari, Hon. Charles Onchoke.

Hon. Charles Onchoke (Bonchari, UPA): Thank you, Hon. Temporary Speaker. The report by the Standard and Poor (S&P) on Kenya's credit worthiness shows that Kenya is not doing well on a number of parameters like solvency and liquidity. What that means in terms of public debt is that the cost of borrowing for Kenya is going to be higher from whoever she will approach for debt. Looking at the accuracy of our numbers, I have some questions. The definition of public debt by IMF's Debt Sustainability Analysis includes the Central Government debts, corporations and guarantees. That is also repeated in the Constitution of Kenya. However, a number of other debts are excluded such as the social security debts and the pensions provident funds. They must be paid when time is due. People contributed these funds and yet they do not form part of the public debt. The pending bills are hardly included in this formulation.

We know that counties get their funds from the Government of Kenya. Counties that owe money to, for example, vendors and suppliers pay off those debts whenever they get their allocation. That means that if a county defaults, the Government must pay. Therefore, those debts must be part of the total sum of public debt but they are excluded.

Looking at the proposals recommended in this Report, one of them is that we adopt the 50:50 ratio of external and domestic debt so that we reduce borrowing from the domestic market and borrow from outside. At the same time, we are told that with 72:28 ratio, there is a big problem. We are not able to absorb the Ksh1.179 trillion. We are paying commitment fees and we are not using these resources. What I would love to see is a strategy on how to deal with the poor absorption rate. If they are going to increase our external borrowing yet our absorption rate is low, they will not be solving the problem. Therefore, we need to have a strategy and find a way of dealing with the poor absorption rate by our agencies and ministries that are implementing the programmes upon which the borrowings were made.

There is a proposal regarding hedging mechanism for foreign exchange risks. This is a mechanism used by the private sector. Governments hardly use it. This is, for the most part, unchartered waters. It must be used cautiously so that we do not find ourselves with scandals like we saw in the past, for example, the Goldenberg scandal. Therefore, I expect more work to be done so that the Government does not find itself in higher obligations of public debt. Besides the proposal that we should go 50:50, I would like to understand what studies were made to make it 50:50 and not 40:60. Why is 50:50 the right ratio to go with?

The non-performing loans which have been a problem for many years still continue to haunt us. They are here with us and they still form part of the public debt. We have many corporations that have been performing poorly. They have borrowed over the years and Government has guaranteed their borrowing. Their debts are due for repayment. Legally, the Government is obliged to pay those debts. For the longest time we have had many taskforces created to look at the problems afflicting these corporations so that we find a lasting situation. However, what we are seeing is an increase of such corporations instead of restructuring them. We should find out the ones that are performing. For the ones that have performed their mandates and are no longer relevant, we should get them out of our books and keep the ones we need. So, there is need to carry out a detailed study so that corporations that we need are not just employment bureaus for purposes of rewarding certain quarters.

There is a proposal that we borrow concessional loans to pay obligations that have matured. Remember that our credit worthiness has been downgraded and we are looking at the possibility of accessing concessional loans. That will be a very difficult route to go. Therefore, we need to think of an alternative route. We should denominate our loans in the local currency – the Kenya Shilling. We are borrowing in Yens and Euros. I am not very sure that those creditors will be willing to denominate those loans in Kenya Shillings.

The single National Treasury account which is provided for under Section 28(2) of the Public Finance Management (PFM) Act, 2012 has been in place for the last 12 years and yet, we have not used or operationalised it. It does not make sense that it continues being in the books. We should give the National Treasury a timeline to implement that so that we have a single account. This is so that all the monies from various agencies and ministries go into the same account and we do not have a situation where the Government is borrowing money from the market.

We should find a strategy on how to deal with the poor absorption rate. There should be a recommendation on how that should be dealt with so that we do not borrow and keep money, or we do not access the money, but on the other hand, we are paying commitment fees.

Other factors that affect public debt are inflation and interest rates, which have been spoken to. If you look at the Kenya National Bureau of Statistics (KNBS) report of February, our inflation rate is going up and not down. I would have loved to see some measures recommended by the Committee to tame our inflation rate, which is affecting our public debt. Government expenditure is going up and ballooning, which will be one of the major sources of inflation. I would have loved to see measures and strategies of containing the ever-expanding Government Recurrent Expenditure.

I hope that the strategies in this Report will be implemented. We should take into account some of the suggestions that are coming from the Floor of the House. Thank you.

The Temporary Speaker (Hon. Martha Wangari): Thank you. Deputy Leader of the Minority Party, Hon. Robert Mbui.

Hon. Robert Mbui (Kathiani, WDM): Thank you, Hon. Temporary Speaker, for this opportunity.

First, the newly formed Public Debt and Privatisation Committee has done an excellent job. I am happy to have been part of the last Parliament where we made the decision that the issue of public debt needs to have its own standalone committee so that matters of public debt can be properly sorted out.

The National Treasury has been a very big let-down in many ways. One of the things that they have said is that the debt strategy is based on the assumption that over the medium term, the economy will recover with stable macroeconomic variables, revenue collections will improve and fiscal balance will decline. I ask myself whether those National Treasury mandarins are the same ones who, just before we went on the last recess, came and told us that as a promise to the nation, they would release Ksh2 billion for the National Government Constituencies Development Fund (NG-CDF). They could not even project that. They have defaulted on that agreement several times. I ask myself whether we are really in safe hands when it comes to people managing our money.

Strategy is just a matter of figuring out where you are coming from, where you are and projecting where you are going. Where have we come from? I was in this House when the debt ceiling was increased on three or four occasions. I remember seconding the Motion to increase the debt ceiling to Ksh9 trillion. I remember the figures that the debt ceiling was being raised to. The National Treasury told us that the reason they wanted to increase the debt ceiling was because at that point, they had borrowed close to the ceiling that was already in place. The proposal was that they were not increasing the debt ceiling so that they could borrow more. They were doing so, so that they could settle very expensive domestic loans and get cheaper loans externally. Unfortunately, after we increased the debt ceiling to Ksh9 trillion, they borrowed up to Ksh9 trillion and came back to the House to increase it to Ksh10 trillion, where we are now. I know that in a short while, they might even attempt to come back to change it.

I agree that we were there when we approved it. But where are we now? I have read through the Report and some observations make me wonder whether we really know how much we owe. On page four, the Committee Report states that the debt is Ksh9.15 trillion as at December 2022. Page 16 states that it is Ksh8,907.7 trillion. On page 25 of the same Report, the Office of the Controller of Budget places our public debt at Ksh9.17 trillion. On page 54, the National Treasury sets it at Ksh9.14 trillion. There are four different figures in the Report indicating that we may have a problem even figuring out the exact amount that we owe as a country. However, the Office of the Auditor-General states in their recommendation to the Committee that there are no specific financial statements that have been prepared to show the country's debt position.

How are we operating as a country? Even small business kiosk owners know exactly what they owe, how much it is and when it is due. How can you operate a country in that way? The Auditor-General also states that there is non-disclosure of all Government of Kenya guaranteed obligations. In fact, the word they should have used is "opaque". There is no transparency in our financial obligations. That means that we do not even know what we have put up as collateral. We must cut our coat according to our cloth. Our Budget proposal is Ksh3.7 trillion. Our revenue collection is Ksh2.9 trillion. There is already a deficit of Ksh720 billion. How long will we live like this? If that was someone's personal budget, that person would have his or her property auctioned. You cannot continuously live beyond your means, year in, year out. You borrow and cannot pay. We are borrowing ourselves into a hole and we are continuing to dig.

Kenya's public debt sustainability analysis shows that our debt-carrying capacity was downgraded from strong to medium, with a very high risk of debt distress. When a country reaches that point, it means that it may not be able to pay its debts. That is when you see countries losing their installations and property to other countries that have lent to them. We have to be very careful.

During the last election, I was very happy because I was listening to both sides of the political divide. While on top of those huge four-wheel drive, fuel-guzzling, top-of-the-range vehicles, leaders would say that if they managed to get into office, they would not borrow. The strategy that I am getting here is that we will borrow 50 per cent domestically and 50 per cent foreign. That means that we are borrowing. The idea of not borrowing should have been real. Maybe we need to figure out what to cut out. I was happy when the President said that he wanted to reduce the Budget by about Ksh300 billion, but he did not succeed. Maybe he now needs to bite the bullet and decide what must be cut from the Budget, so that we live within our means. We cannot continue borrowing forever.

Looking at the issue of borrowing 50 per cent domestically and 50 per cent foreign, the same Report states that borrowing domestically is not good because there are higher interest rates, a shorter maturity period and a higher portion of debt-servicing costs within the total amount of debt. At the same time, the Report states that external debt is even worse because of the exchange rate risk. If you say that both of them are bad, then why borrow? There is a problem with the manner in which we are borrowing. We need to figure out if there is a way that some people can be held accountable.

There is the issue of commitment fees being paid for undisbursed loans. A loan has been borrowed, or it has not been taken, we have not touched it, but we are already paying commitment fees. In the first half of 2022/2023, the National Treasury paid Ksh680.3 million in commitment fees. Not a single cent has been put into the projects. How long do we need to do that? That can be avoided if the people that we are borrowing for and the implementing agencies do certain things because they have been advised. Before signing for any loan, there must be some order. First and foremost, if the loan is for something that will be built on land, acquire the land. How do you borrow, have money in your account but not the land, and then you start figuring out where to get the land?

Ensure there is money you are going to contribute before you borrow because there is money that you are supposed to counter-fund. If there is some money you are supposed to put in, have it ready so that you immediately put in your share to release the whole amount. Updates, designs and feasibility studies must be ready. It is very important we figure out how we can hold certain individuals responsible. I think the former Cabinet Secretary, the National Treasury was in court because of some of these problems. Why would you spend money before we are ready? You remember the case of Kimwarer and Arror dams. Money was released yet we were not ready for the project. In fact, even the people who live on or around that land did not know a mega project was coming there. It is important we, as a country, organise ourselves so that we get out of this hole.

Establishing a sinking fund is also critical because we have already borrowed quite a lot. If some of these loans become due and we are not prepared, we will suddenly become insolvent. It is important we ensure we have a sinking fund—a fund where you keep putting in money so that by the time those loans mature, they can be sorted out without undue pressure on the economy. This is a brilliant idea that needs to be encouraged and started, not even now or today but yesterday.

I note from the Report that county governments have also been borrowing. They have been borrowing and the cost of those loans is now part of the budget. We may need to agree with the Committee that county governments must get a guarantee from the national government before they borrow. They must be approved so that they do not go out of the way and spend money which is not approved by Parliament.

Otherwise, with those few remarks, I support the Committee's Report.

The Temporary Speaker (Hon. Martha Wangari): Thank you, Leader of the Majority Party.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Thank you for this opportunity. Allow me to, first, thank the Public Debt and Privatisation Committee, under the chairmanship of Hon. Abdi Shurie and the Vice-Chairmanship of Hon. Makali. Members, you will note this is the second Report this Committee has churned out within a very short time. It tells you that these Members are very committed in their work, being a new Committee of this House. I just want to take this opportunity to commend them for preparing this Report.

You see the wisdom that was in this House during the 12th Parliament when we separated the Budget and Appropriations Committee and the Public Debt and Privatisation Committee, to be two separate Committees. Indeed, the timing of this Report is testament to that wisdom of the House then—to ensure debt management strategy comes before the Budget Policy Statement. That is so that it informs how we prepare our Budget Policy Statement and consequently the Annual Estimates that will be coming before the House towards the end of April.

If you look through some of the recommendations by the Committee, especially on policy resolution, I would want to express my satisfaction with many resolutions and indeed support this Report. Particularly when you look at undisbursed loans that my brother Hon. Robert Mbui was speaking about. It is indeed true that in the past we have seen governments make commitments of insurance and commitment fees, and those loans remain in our books. If you look at the Committee's Report, they are telling us that an amount of Ksh.1.79 trillion lies in our books as undisbursed loans. I am very happy with the recommendation that the National Treasury submits to the National Assembly, within one month, a Report with information on terms, the status, reasons for non-disbursement and proposals on loans that can be cancelled to save spending on commitment fees.

It is not just about the fees and insurance that some of these loans come with. It is also the debt burden and refinancing costs of some of these loans. Once in a while you may need to pay further commitment and insurance fees over loans that are yet to be disbursed. Therefore, we are not enjoying the value of those loans. More importantly is that almost Ksh.1.2 trillion lies in our books but it is money that we cannot consume. What that means is that we are reporting a debt ceiling of Ksh10 trillion, which we are almost bursting. Then, out of the Ksh9.15 trillion we had borrowed as at December, Ksh1.2 trillion lies in our books over loans that are yet to be disbursed. It is only fair that the National Treasury embarks on a process to ensure they clean our books immediately after the passage of this Report. If a loan is not disbursable, the best thing is to do away with that loan and allow provision for us to borrow and do the things to which we can disburse money. Then we will be able to absorb the loans into our economy and grow it. You are aware that many contractors who are doing roads and other projects in all our constituencies have downed their tools because of non-payment. Maybe it would be better if we had the opportunity to get or borrow the Ksh1.2 trillion to go into productive work of ensuring all commissioned and contracted roads get back to work. The multiplier effect of that Ksh1.2 trillion will be huge on the economy. Just by having those debts in our books, we are not helping revenue generation and the country.

The second element I want to support in this Report is the single Treasury account. It is sad we have not implemented it over the years and at least the last six years when I was the Chairperson of the Budget and Appropriations Committee in 2018. We had this recommendation in our Report—that the National Treasury ensures there is a single Treasury account, because that is the only way we can optimise on our cash flows. Even in your small households, we are only able to know and account for how much liquid cash we have if we put our money together. Then you prioritise as you budget where to apply the resources.

Let us also not lie to each other. The truth is that as much as we insist on Government having a single Treasury account, the biggest impediment to a single Treasury account is our State corporations and Semi-Autonomous Government Agencies (SAGAs). Many of these SAGAs are using huge resources. They have to negotiate with private commercial banks for kickbacks over Government deposits and the Government goes back to the same banks to borrow. I have no fear mentioning some of these SAGAs. If you look at the Kenya Roads Board (KRB), for instance, you find that they have close to Ksh15 billion or Ksh20 billion in private commercial banks every single month, yet the same Government that has disbursed this money to them through fuel levy goes back to the same commercial banks to borrow. If you want to know the genesis of corruption in State corporations, it is in the mobilisation of deposits and where they deposit. It is no wonder resistance was so huge during the 12th Parliament when I came up with a Bill to try to limit where Government banks. The Bill could never see the light of the day but we cannot give up. We cannot afford to give up. We must pursue. We either have a single Treasury account or limit where Government banks. Government ministries, departments and agencies should bank with Government-owned banks so that Government does not need to go back to private commercial banks to borrow. All these things sounded like songs due to the state capture that existed before.

Indeed, even as we pontificate about borrowing today, I heard the Deputy Leader of the Minority Party ask whether we are borrowing. Yes, we are borrowing. I support borrowing at 50:50 as the Committee proposes. The Hon. Deputy Leader of the Minority Party, my brother Robert, was asking why every other leader committed during the campaign that we shall not borrow. I correct you. Robert, when I listened, the Kenya Kwanza leader—the current President who is the legitimately elected President, President William Ruto—never said he shall not borrow. He said we would do so in a responsible manner, not borrowing in an irresponsible manner as the previous regime was doing. Indeed, when being sworn in, the President asserted that we are in an economic debt hole and the most foolish thing that we would do as a county is to continue digging into that hole…

Hon. Patrick Makau (Mavoko, WDM): On a point of order, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Martha, Wangari): Order, Leader of the Majority Party. There is a point of order from Hon. Patrick Makau.

Hon. Kimani Ichung'wah (Kikuyu, UDA): I am sure there is nothing out of order.

Hon. Patrick Makau (Mavoko, WDM): Thank you, Hon. Temporary Speaker. With a lot of respect to the Leader of the Majority Party, he has said that there is a 'legitimate elected President'. Is he insinuating that we have another illegitimately elected President?

(Laughter)

Is he in order?

The Temporary Speaker (Hon. Martha, Wangari): Hon. Makau, your point of order is noted.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Hon. Temporary Speaker, you know that English might be a problem to the former Mayor of Mavoko Municipality. There is nothing wrong with asserting that the President we have is the legitimately elected President. I did not say there is another president. There cannot be another president. I know he was hoping that I would affirm that there is a people's president who is always fond of swearing himself in. Member for Mavoko, I am not in that line of thought.

Hon. Temporary Speaker, you will add me a minute because of that interruption.

I was saying that we must borrow and do so responsibly. This is what this Government is committed to. The President asserted that we will not continue digging in the debt hole because of the irresponsible borrowing that was going on. He followed this assertion with cutting Ksh300 billion in our expenditure towards fiscal consolidation in the Supplementary Estimates 1. I want to confirm to the House and the country that this happened. Even as we wait without anticipating debate on the Budget Policy Statement, the only reason why the Chairperson of the Budget and Appropriations Committee and Members of that Committee are not in this House today is because they are still cracking the numbers to ensure…

The Temporary Speaker (Hon. Martha, Wangari): Leader of the Majority Party, I will give you one more minute to wind-up.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Hon. Temporary Speaker, I was saying that the Committee is still cracking the numbers to ensure that the BPS that comes before this House is a value-chain oriented one that takes money to our priority areas as the Kenya Kwanza Government. This is something that we failed to do in the last regime. We kept talking of the Big Four Agenda that had no resources being committed to it. This time, we want to ensure that our BPS speaks to the value-chain oriented budgeting that we are talking about. We also want to ensure that even the annual estimates will speak to this.

When we speak about fiscal consolidation, this will not only be about talk. In response to Hon. Robert Mbui's question on why we are borrowing, we should have borrowed at least up to 6.2 per cent but we have reduced this. Our fiscal deficit was at 6.2 per cent. The World Bank and the International Monetary Fund had allowed us to borrow up to 6.8 per cent. In the Supplementary Estimates 1, we have brought that down to 5.7 per cent. The figures in this Report are towards fiscal consolidation to ensure that our fiscal deficit goes down to about 3.3 per cent in another three years of the Medium-Term Debt Strategy.

Therefore, Hon. Temporary Speaker, I support this Report and urge this House to be vigilant. We must ensure that the National Treasury makes this single Treasury account a reality. Fiscal consolidation must become a reality in this country. The questions of State capture and corruption in Government and in State corporations must end because without that, we will continue digging into the debt hole.

In conclusion, we anticipate that in the coming days, the Cabinet having approved the debt to anchor ratio, this will change...

The Temporary Speaker (Hon. Martha, Wangari): Thank you, Leader of the Majority Party. The next chance will go to the Member for Wajir County, Hon. Fatuma. Is she in the House? If she is not in the House, we will have the Member for Sotik. He is also not in the House.

To the Clerks-at-the-Table, if I call out someone and they are not in, remove them from the system so that I see who is in the House.

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

Hon. (Dr) James Nyikal (Seme, ODM): Thank you, Hon. Temporary Speaker for giving me this opportunity. Let me also congratulate the 12th Parliament for establishing this Committee. In as much as I may not agree with the current Leader of the Majority Party who was very instrumental in bringing up this issue, this has become very important especially in debt management.

Hon. Temporary Speaker, over the years, the problem we have had is that we were not managing our debt and this was not part of our financial process, particularly the budget-making process. Therefore, in principle, we have a committee dealing with debt management now and we have also linked this to parliamentary process so that the elected representatives have a say on when we are borrowing. We will always borrow. There is no problem with borrowing. However, we must be clear on what we are borrowing for and Parliament must have a say in it.

The other important principle is that we have linked the debt management process to the budget-making process. This is extremely important because borrowing occurs to fill the budget deficit. Therefore, both processes must be linked.

I congratulate this Committee because it has also brought recommendations on policy, and financial measures that we need to take. This Report is not just for this financial year's Budget but it must be implemented and be part of our process from now on. I see that the Chairperson of this Committee is here and I congratulate him. Just know that you have given us a strategy, not only for this year's Budget but that must be followed throughout. It is extremely important that we have linked it to the budget-making process and particularly, before the Budget Policy Statement. This is so that when we are at the BPS and the strategies, we will input what we need to borrow, how this debt will be managed and how the past debts have been managed.

Hon. Temporary Speaker, in principle and for those reasons, I support this. But more importantly we need to look at the solutions they have provided. They have talked of the single Treasury account. The most important recommendation is the stoppage of local and domestic borrowing. Domestic borrowing crowds out the businesspeople who borrow to generate money. We then have the Government competing with businesspeople and we cannot grow our economy like that. We also realised that the MDAs and others are saving money with banks. So, we are borrowing our own money. Hon. Ichung'wah linked this to State capture. Whether he is listening or not, State capture is already happening. He may not be aware about how this happens but we are seeing it going on very seamlessly. State capture starts with appointing people who are beholden to you, those who will not follow the law and those who are waiting for instructions to head institutions. Once you have that, State capture is on. This is free advice to them. They should realise that as we talk about it, they are already indulging in it. I agree with that recommendation. We should not borrow locally. This crowds out…

I cannot go through all the recommendations but if you look at the currency exchange fluctuations, it is obvious that if you borrow and pay in dollars, you are generating money in Kenyan Shillings. You are at a loss even before you start. I agree with that recommendation.

When you look at loans which we are paying commitment fees for, I have been in the system and know how this works. The main thing about commitment fees is unpreparedness at the time of taking the loan. It happens when you want to implement a project that you have not done basic background check on what you are going to do. The other element that then complicates it is that those we are borrowing from are aware that we are not ready. At the time of the negotiation, they put it as a condition that before they start disbursing the money, we must pay commitment fees. They know very well that this will take us a long time. Sometimes the loan itself comes with conditions that make it difficult to start, for example, the structures we need to put in place. Sometimes you find that the Government structures as they are, are not being used to implement a loan. New structures need to be put in place and if you do not take that into consideration early, it will take you a year or two to put new structures before the loan disbursement starts. In that time, you are paying a commitment fee. That is something we should look at.

I like the recommendations that the Committee is proposing that within two months the National Treasury should submit to the House solutions of non-performing loans. As we go through the Budget, we do not know about non-performing loans, yet we are paying for them. I really support that.

We may need to undertake sensitivity analysis in the midterm to submit to the House within two weeks a contingency plan on measures to undertake in the event of a revenue shortfall. That actually is the crux of the matter. You cannot get to a position where you have a revenue shortfall and you are in the budget process and now is when you are starting to look at how you go about it. That is something that we have seen earlier.

If you look at the financial solutions, I only mentioned two. The deficit target you should have is the deficit that actually leads you to lending. If you can link that to your Gross Domestic Product in good time, then you have a forward planning that will enable you to decide what amount of loan you need and the amount of loan that you do not need.

If you come to the 50 per cent domestic and external, to me that is extremely important. However, the main thing is, where do we borrow and do we manage our debts? By the time we are coming to the budget process, we should know how our past debts were managed, what deficit we have and how we are going.

Therefore, this Committee is important. I want to say something. We should look at the whole House. We have many committees that make many recommendations. Their recommendations are never implemented. Have we asked ourselves as a House why? Look at the recommendations the Public Accounts Committee makes; look at any recommendations we make, they are not implemented. Why?

There is a committee that we do not think is important. We do not even rush for it when we are picking committees. It is the Committee on Implementation. I think we should go ahead to even look at the law, look at our Standing Orders. Actually, the Committee on Implementation is the one that should take the Executive to task. This was recommended by the House and you have not done this. There should be sanctions. If it is a Cabinet Secretary, the Committee on Implementation should say because of this we are starting an impeachment process because you defied the resolutions of the House.

As we applaud this Committee, we must look at all our committees. Why do they make recommendations that never work? My solution is that we should look at the Committee on Implementation, make it stronger so that the Executive can be scared of it.

With that Hon. Temporary Speaker, I support.

The Temporary Speaker (Hon. Martha Wangari): Thank you. Hon Member for Soy is not there. Member for Lamu East, Member for Kericho. Member for Wajir North. Hon. Ibrahim Saney.

Hon. Ibrahim Saney (Wajir North, UDA): Thank you, Hon. Temporary Speaker. I was a bit distracted by court petitions and I did not have time to contribute to this debate. It is my second opportunity to at least do so and I appreciate you for giving me the chance.

At the outset, I want to congratulate the Chairman of this Committee and his able Vice Chairman for work well done.

The global economy is not doing well. The Russian-Ukraine war, the epidemics we went through, and the drought that is still with us have contributed to the bad economy globally, not only in Kenya. It is clearer that inflation is a serious factor in economic growth. Dollar unavailability has given effect to the fact that our economy may not do very well. The reason is well known, the dollar has been collected sometimes just before the elections until the dollar has become a very scarce commodity in this country. It is in the hands of a few.

Be that as it may, the medium-term management of our debt is a key and important thing. To manage our debt, we need to deal with corruption. If we do not deal with corruption, then managing debts will just be a fallacy in my view. You can imagine dollars have been amassed. Today, dollars are so scarce, the shilling is becoming devaluated and the GDP is in the hands of a few Kenyans who have kept the dollars in private. It is important that this Committee or this House to a larger extent makes sure that corruption is dealt with.

If we are to manage debt, it is also good to give priority to our developmental needs. What are these real needs that will contribute to the economy of this country? We want to have budgets that are revenue led and not expenditure led. That is why we end up with huge deficits in terms of budget. We always plan for what we need, without considering what we can afford. It will be prudent for this House to at least legislate and make sure that we come up with a budget that is based on revenue, on our capacity, on our ability and not just because we want to spend. In as much as I still accept no economy shall grow without borrowing, debt is part and parcel of our economic growth. Larger economies, the superpowers including the United States of America (USA) are in debt and they continue to borrow. It is healthy to borrow but how to manage what is borrowed makes the difference.

One other key thing we always forget in this country is, this country is endowed with resources that are not used. Within the core of our earth, Kenya has huge potential for mineral resources that need to be exploited and explored. Up to now I can tell you for sure, what we have as an inventory in terms of minerals in this country dates back to 1970, just immediately a decade after independence. If we were to go for a thorough exploration and exploitation of our mineral resources, this country would have been rich and would not get into a position to borrow.

Northern Kenya is full of minerals that are of value. The constituency where I come from, the entire Wajir North is full of minerals of all kinds. Kenya lacks the capacity and I think it is time we relooked at our capacity to explore and exploit our natural resources more so minerals. If we do so, then the possibility of borrowing will diminish as much as is required.

One other aspect that this House needs to do is the discipline to make sure that we implement the Budget we pass. You will mostly see that there is lack of discipline in budgetary implementation. There are diversions and there are other projects that have come midway. This contributes to borrowing unnecessarily.

To sum up my contribution, I look forward to a situation where we will be having budgets that are led by our revenues and not wishes and expenditures. Of concern to me too, is equity in the loans we borrow. Hon. Temporary Speaker, loans are bequeathed to every citizen of this country. Every Kenyan, our children and the generations to come have to bear the burden of paying these loans. Do we think it is fair that whatever we have borrowed has gone to a particular region? If I may ask, of all the loans borrowed, what went to Wajir North County in terms of development? I think time has come that there should be equity in the distribution of what we borrow because these are Kenyan loans and all taxpayers have to pay.

(Hon. Julius Melly and Hon. Samwel Chepkonga crossed the Floor without bowing to the Chair)

The Temporary Speaker (Hon. Martha Wangari): Order Members. Hon. Melly and Hon. Chepkonga, you know the rules of crossing the Floor.

You may proceed Hon. Ibrahim.

Hon. Ibrahim Saney (Wajir North, UDA): Thank you, Hon. Temporary Speaker. Senior Members have the audacity to break the rules and I am happy you have reminded them not to repeat.

I emphasise on equity, that we borrow for the entire country and Kenya as a whole. Who pays the debts? Who pays the loans? It is Kenyans. Many are underprivileged by paying loans whose development and dividends we do not get. Time has come that these loans should be shared equitably based on the priorities and the developmental needs of different parts of this country spatially.

One other key thing with regard to controlling our debts is we have so many parastatals and regional bodies that are purely avenues for expenditure, which go into agreement with lenders. How many authorities do we have in this country that do nothing but incur costs and expenditure? For example, why do we have Northern Water Service Board and Ewaso Ng'iro North River Basin Development Authority? These are two bodies that can be amalgamated and do the same work. We can at least cut on costs and I hope the Hon. Leader of the Majority Party is listening to this. Why do we have two bodies in the same region? We can join these bodies and allocate the same money thus cutting costs. We do not need many of these authorities. We have over 300 parastatals in this country that purely thrive on expenditure. Time has come that we cut these costs and help the country reduce borrowing.

With those few remarks, I thank you for your kindness and I support the Report.

The Temporary Speaker: Thank you, Member for Wajir North. Next is the Member for Homa Bay Town, Hon. Peter Kaluma.

Hon. Peter Kaluma (Homa Bay Town, ODM): I thank you, Hon. Temporary Speaker for the opportunity. I would like to thank the Committee on Public Debt and Privatization for the good work they are already doing. I think this is the second Report being tabled by this Committee in barely three weeks. What I would request is that we move from the idea of recommendations, even as we commend Hon. Shurie and his Committee, to a situation where we can have a law that consolidates these beautiful recommendations by his Committee. That way, we will be very far as a nation.

Hon. Temporary Speaker, in that law, if I were to look at it with regard to the good recommendations, we should first ask ourselves whether we need debts. Do we need a debt? When President Mwai Kibaki took over the reins of power, it was at a time when our economy was not doing very well. If you can recall what that regime did, particularly under the coalition Government, they reduced the Budget from several trillions to Ksh1 trillion. As a matter of fact, Kibaki started at approximately Ksh900 billion and therefore we were living within our means. What we did in the UhuRuto regime which ended in August 2022, is that we moved from Ksh1.1 trillion to Ksh1.5 trillion and before we knew it, we were stuck at Ksh3 trillion. Currently we are discussing the Budget Policy Statement and if you look at it, the things being proposed before us are not things we should be budgeting for. We are budgeting for luxuries we cannot fund instead of needs which will lead us into seeking loans. The point I am making is that we take debts to fund corruption and this is organized from the point of budgeting. We were looking at some budget policy lines and we were questioning, “are the people presenting these things as things that should be funded by the public normal?”

Hon. Temporary Speaker, we hear something like chaplaincy under an office that does not even exist in law asking for money. What is that? We know religion and State are separate. We have so many parastatals but ask yourselves, other than offering a platform for some rejects in Luo Nyanza who want to be in Government…We hear someone has been appointed to Lake Basin to earn some Ksh10,000 per month or someone is thrown into some moribund things somewhere after everyone has been placed where they should belong. What do these parastatals do? Parastatals and State corporations exist in Government to generate money for the Government. They are not supposed to offer some political rejects a platform to drive a public car. This is hurting us so much that people are appointed Cabinet Secretaries…

Hon. Samwel Chepkonga (Ainabkoi, UDA): On a point of order.

The Temporary Speaker: What is your point of order Hon. Chepkonga?

Hon. Samwel Chepkonga (Ainabkoi, UDA): Hon. Temporary Speaker, I rise pursuant to Standing Order No.89. Is it in order for my very good friend, Hon. Kaluma, to claim that when you lose an election, you are a political reject? This is a democratic process and in fact the former Prime Minister lost an election. Is he a reject? He is currently claiming that he wants a negotiation with the Kenya Kwanza regime. If we give him an office, will he be given as a reject? When he lost elections in 2017…

The Temporary Speaker: Hon. Chepkonga, do not be tempted to debate.

Hon. Samwel Chepkonga (Ainabkoi, UDA): I am not debating. Is it in order for Hon. Kaluma to call others political rejects when we know that the former Prime Minister had a handshake and was appointed as an advisor to the African Union (AU)?

The Temporary Speaker: Order Hon. Chepkonga. You have two temptations. A temptation to debate and to mislead the House because Standing Order No.89 is on matters *sub-judice*. Please proceed Hon. Kaluma.

Hon. Peter Kaluma (Homa Bay Town, ODM): The point I was making is that we budget and take a lot of debts, not for meaningful development programsme, but to consume and for corruption purposes. It is from the beginning of budgeting that we create that range. When Hon. Ichung’wah says we need a budget of Ksh3 trillion yet we are aware we cannot collect from our revenue sources, essentially, we are creating a range for corruption. This is where we can negotiate for the Standard Gauge Railway at the amount of Ksh200 billion then the next regime comes in and it increases to Ksh600 billion because of the range that was created. When we say that we have reduced the budget amount by Ksh300 billion…

Hon. Kimani Ichung’wah (Kikuyu, UDA): On a point of order, Hon. Temporary Speaker.

The Temporary Speaker: Hon. Leader of the Majority Party, what is your point of order?

Hon. Kimani Ichung’wah (Kikuyu, UDA): Hon. Temporary Speaker, Hon. Kaluma has mentioned me. He then went ahead to mention the Ruto regime while speaking about things that happened under the handshake regime. I agree with Hon. Kaluma that we cannot budget for Ksh3 trillion. If they are not able to generate that kind of revenue, Hon. Kaluma should tell those who are organising demonstrations of evading paying taxes that we cannot borrow if they pay. If they pay their taxes, we would be able to finance our Ksh3 trillion budget from our own taxes.

The Temporary Speaker (Hon. Martha Wangari): Leader of the Majority Party, please, do not contribute to the debate.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Hon. Temporary Speaker, this country has the capacity to generate adequate revenue, but without those who evade taxation through tax waivers, and are now inciting Kenyans to run away from paying taxes. He should tell his party leader and his sponsor to pay taxes.

The Temporary Speaker (Hon. Martha Wangari): Order, Leader of the Majority Party. Continue, Hon. Peter Kaluma.

Hon. Peter Kaluma (Homa Bay Town, ODM)**:** Hon. Temporary Speaker, I hope my time will be restored**.**

The other way we waste public funds and which makes us go for debts is how we jumble up Government sectors. For instance, this Government has established something called Nairobi River Commission. We also have the Ministry in charge of Environment and Water whose Departmental Committee is busy budgeting for those issues. Do you know where the Nairobi River Commission is? It is in the Office of the Deputy President.

Hon. Samwel Chepkonga (Ainabkoi, UDA): On a point of order.

The Temporary Speaker (Hon. Martha Wangari): What is your point of order, Hon. Chepkonga? Order! Hon. Kaluma.

Hon. Samwel Chepkonga (Ainabkoi, UDA): Hon. Temporary Speaker, he is now becoming a bit insensible in his contribution.

I, therefore, rise pursuant to Standing Order 95. It appears that Hon. Kaluma and everybody who has contributed agrees with this Report.

Would I then, be in order, Hon. Temporary Speaker, to ask that you call upon the Mover to reply?

Hon. Peter Kaluma (Homa Bay Town, ODM): Hon. Temporary Speaker, the practice and tradition in this House is that the person who is speaking completes then you can rest it.

According to Standing Order 95, it is within the discretion of the Speaker to weigh whether there is still a need for contribution. I urge that you permit me to proceed.

The Temporary Speaker (Hon. Martha Wangari): Hon. Kaluma, you will complete but I will put the Question after your contribution.

Hon. Peter Kaluma (Homa Bay Town, ODM): Thank you, Hon. Temporary Speaker.

This is the reason we are talking of the money that was allegedly given to Kenya Power and Lighting Company. For instance, a debt taken for KPLC but which they claim they never saw. This is what I am talking about and I do not know why my friends are being jittery.

The other way it has been happening before, and we are watchful, Leader of the Majority Party, is where a Committee like the Departmental Committee on Administration and National Security then, budgeted for the building of Mbagathi Hospital for Police but the one who implements it is the Kenya Defence Forces (KDF). And when they implement what you budgeted for which is Ksh400 million which you have sent, at the end of it, KDF says that the contractor needs over Ksh900 million to do the work. These are the wastages we are talking about and we must avoid.

The second thing is on the issue of equity in these debts. The main foundation of a nation is that everybody owns the resources of a country and everybody should equally share them. I come from Homa Bay Town Constituency. If you ask the people of Homa Bay County or Homa Bay Town Constituency about projects that have been undertaken using these debts, which we equally pay to other Kenyans, they are not there. I am therefore, requesting Hon. Shurie, when he will be doing that law, to consider equity. This is so that we do not have sections of this country which have the financial burden of things being enjoyed by some sections.

The cost and terms of debt must be looked at. What is the interest rate? That is where I agree with Hon. Shurie and his team when they say we borrow on a ratio of 50:50 domestically, and abroad. What are the terms and securities? We do not want a situation, Hon. Shurie and the Members of the Public Debt and Privatisation Committee where, as a condition for these debts we are taking them from wherever we are, we end up offering critical State infrastructure like the ports and security installations as security. We do not want such a thing. People may take it for granted but China is seeking to take critical assets of nations around. That should be provided for.

On the issue of where do we get debts from? Soon, we will be debating the Africa, Caribbean and Pacific Group of States (ACP) - European Union (EU) partnership, Cotonou Agreement. We must stop taking debts from these countries which currently condition their debts to Lesbian, Gay, Bisexual, Transgender and Queer (LGBTQ). The EU has gone into it and the USA is into it too. I hope the visiting President from Italy is not here to propagate those homosexual issues. We are a self-sufficient country and we need to restore our dignity by managing our resources very well.

When you move across the world, the moment you just cross the Sahara Desert and approach other countries, you will wonder at how much God has given us. We do not need these debts.

My urge is that we stop these debts. This country is collecting a lot of money. Let us stop shouting that we do not have money. We have Ksh93 million. This is a country which collects over Ksh7 to Ksh10 billion every week in taxation only. Multiply that money, and you will know we have over a Ksh3 trillion if we manage it well and stop the corruption at Kenya Revenue Authority (KRA).

With those few remarks, I highly support this Report. I pray that in good time, Hon. Shurie, this thing would be consolidated into an Act of Parliament which can guide these issues of cost, equity, application of debts and also, determine as to whether we need to take them.

Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Martha Wangari): Thank you. I will now put the Question on this Motion as raised by Hon. Chepkonga that the Mover be now called to reply.

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

The Noes have it and debate will continue.

The next chance will go to the Nominated Member, Hon. Suleka Harun. Is she in the House? If not, we can have the Member for Funyula, Hon. Wilberforce Oundo.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Thank you, Hon. Temporary Speaker for giving me this opportunity to contribute to this Motion.

In an ordinary situation, there are those people who are well versed in certain areas and those who are not. Those with inadequate understanding should allow those who are well versed to debate so that if they are having difficulty in appreciating what we are talking about, we can always…

The Temporary Speaker (Hon. Martha Wangari): Order, Member! Order. Do not cast aspersions on your colleagues. It is provided for under our Standing Orders.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Thank you, Hon. Temporary Speaker.

I stand here to comment on the Report of the Public Debt and Privatisation Committee on the Medium-Term Debt Management Strategy.

At the outset, and from an investment theory, debt is cheaper than equity. At any given time, you stand to get more returns when you leverage more on debt than equity. The catch word here is that the generated cash flow must be sufficient to service debt and ensure that there are adequate funds for these purposes in the event of fundamental changes.

By virtue of the Public Finance Management Act and our Standing Orders, every given time, the National Treasury should submit a Medium-Term Debt Management Strategy together with the Budget Policy Statement and should be prepared for the purpose of the budget.

I have looked and read through the Report, and it makes a lot of sense. It has so many issues but at the end of the day, there are some areas that have not been bold enough to tackle them as they were.

Any strategy that is developed must have a sensitivity analysis. It is telling, shaming and is indeed, lack of proper planning that in Paragraph 13 of the Report, the Committee observed that there was no sensitivity analysis undertaken in preparing the Medium-Term Strategy.

Hon. Temporary Speaker that, therefore, means that the strategy as prepared, cannot be implemented and has got no inbuilt room for purposes of ensuring that if anything goes wrong, we will be able to manage the situation. If you look at the website of the Central Bank of Kenya today, you will see that the measures of market performance are literally red. Inflation as at February 2023 was 9.23 per cent. The interest rate spread was about 6 per cent. That means it will not be easy to collect the money we are talking about. Some of the fundamentals that have anchored this Report are faulty and unlikely to support anything.

I want to address two or three issues that the Committee has alluded to in their Report. Firstly, on the growing debt, we are almost at the Ksh10 trillion mark. When the political parties and candidates were campaigning, they clearly said that they would not borrow. If you look at the Kenya Kwanza Coalition Manifesto, they clearly said that they would not borrow. The mere mention that they already have a deficit and they intend to borrow Ksh720 million is antithesis of what they promised Kenyans. As my colleagues have repeatedly said, we do not need to borrow. We can generate our resources, so that we are able to manage ourselves.

Secondly, on the issue that the Committee has proposed, which requires to be challenged, of the 50 per cent spread or share between domestic and foreign borrowing; the fundamentals of borrowing are to test the cost of finance, but not the source. What is the cost of finance? Treasury Bills of 180 days attract 10.216 per cent today. That means that if you float a Treasury Bill, you will pay 10 per cent annually. If you went to borrow from the foreign markets, you will get a far much less rate compared to domestic borrowing. If you add fluctuations due to dollar domination or change in the exchange rate, you will not get anywhere close to the 10 per cent that is prevailing in the local market. The Committee would have addressed the final cost of the loan or debt, but not necessarily where it would come from.

Companies and businesses are unable to access debt in the market at the moment simply because the Government is an attractive borrower. It is sovereign and has no chance of defaulting. Therefore, any lender prefers to lend to the Government, but not to people or businesses. Because of the risk profiling, you find that a common business has a higher risk than the Government. It is for that reason that the interest rates of mortgages are on an upward trend. The Government, being a secure borrower, is competing with the unsecure or the high-risk profile. Therefore, the Committee, fiscal analysts and the Parliamentary Budget Office should have undertaken a sensitivity study that showed how much I would pay if I borrowed a certain amount of money. We need to challenge them on this matter. They need to go back, re-think and draw a graph to indicate the eventual cost of that particular loan *vis-a-vis* either to go 50 or 30 per cent. If I were them, I would leave it open and only assess the final cost of the debt rather than its source. I sit in the Public Accounts Committee. Many times, we come across debts where the supposed recipients are not aware that they ever received that kind of debt. It is very common in the water sector. I now see that it has also found itself into KPLC. It was bound to happen because from 2004 to 2007, and in the last days of the reign of the late President Mzee Moi, there were some activities that happened at KPLC that could be the genesis of these untraceable loans. The culprits who were there are still strangling this country. They occupy some of the highest offices. We would like to urge the Controller of Budget and the Auditor-General, to dig dip into that loan because the people who took the money can easily be uncovered. As a country, we will task them to tell us what they did with that money, having used KPLC as collateral for that borrowing.

Hon. Temporary Speaker, the third issue that I need to address is on donor- funded projects.

Hon. Owen Baya (Kilifi North, UDA): On a point of order, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Martha Wangari): Hon. Owen, what is your point of order?

Hon. Owen Baya (Kilifi North, UDA): Thank you, Hon. Temporary Speaker. The Professor here is telling us that he sits in the Public Accounts Committee and has seen traces of money that has been borrowed and goes ahead to give a story of 2007. Since he sits in the Committee, he has the power of Parliament. Why can they not order a forensic audit of these accounts? What is his use then if he sits in a Committee to just tell us about whatever he has seen without doing anything? It behoves on him as an almost ranking Member to give us information on what they have done after noting irregularities. That is how Parliament will be respected. Do not downgrade Parliament by saying that you have seen it and you have just looked at it and done nothing about it. Do something!

The Temporary Speaker (Hon. Martha Wangari): Order, Order, Hon. Baya. We hear you. You stood on a point of order.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Hon. Temporary Speaker, Hon. Baya has eaten into my minutes.

Hon. Temporary Speaker, I am afraid that he has probably not read the Public Accounts Committee Report that we tabled in the last Parliament. If he read it, he would not be standing here to make such remarks. I forgive him. Sometimes you cannot read everything as you get bogged down.

As I conclude, you need to add me a minute.

The Temporary Speaker (Hon. Martha Wangari): You have one minute to wind up.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Hon. Temporary Speaker, as I conclude, we need to be very careful with the issue of equity in the loans. As the Member for Funyula, I have not seen even a single development project arising from the loans being borrowed left, right and centre. Many of them have been channelled to some particular regions and I see the same trend continuing. Article 1(2) of the Constitution of Kenya is clear. If we are unable to move things in this House, we will go to the people directly because the sovereignty of this country is exercised by the people directly or through democratically elected Members. That is why on 20th March, we will be on the streets to actualise Article 1(2) of the Constitution of Kenya.

May God bless Kenya.

The Temporary Speaker (Hon. Martha Wangari): Thank you, Hon. Oundo. The next chance will go to the Member for Kipipiri, Hon. Wanjiku Muhia.

Hon. Wanjiku Muhia (Kipipiri, UDA): Thank you, Hon. Temporary Speaker for the opportunity to contribute to this very necessary and important Report. I would like to congratulate them because by looking at the recommendations, they have really tried to capture every avenue on how the country finds itself very broke yet money is somewhere.

As the subject matter is borrowing, I think borrowing is inevitable in the current times. If at individual level we borrow, then as the Government the main issue is to control or manage the borrowed money. I am very pleased to see that in this Report, the Committee endeavours to guide the National Treasury to have a single account. When we have a single account, the National Treasury can obviously…

The Temporary Speaker (Hon. Martha Wangari): Order, Member for Kipipiri. This Motion should be completed at the closure of debate, which is at 6.20 p.m. The Mover should reply at 6.10 p.m., but because I did not alert you from the start, we will get the Mover to reply at 6.15 p.m.

Hon. Wanjiku Muhia (Kipipiri, UDA): That means I have to conclude my speech in five minutes' time, and I will.

Hon. Temporary Speaker, the Report indicates that the National Treasury should have a single account. This is very important in money management because they will see all SAGAs and even bring the financial status to Parliament if the money is unspent within six months. In line with this, I want to provoke the minds of the Committee Members and ask them if they could consider amending the Public Finance Management Act.

The second recommendation from the Committee on financial recommendation is that the deviation from the approved borrowing strategy will require the approval of the National Assembly. I would ask and persuade them, if they could consider amending the PFM Act by asking that any money that is being borrowed should be approved by Parliament. Why do I say so? We borrowed money for the Standard Gauge Railway, which is a story we all know. I do not consider that the money was spent responsibly. If you happen to travel by SGR trains to Mombasa, you will find quite a number of assets that have been built by the loan borrowed. This means that if the amount that was to be borrowed was squarely for the railway, it would have been much less. If you travel to Mombasa or from Mombasa, you find quite a number of assets along the way. There are some houses that no one occupies. That is wasted borrowing. Maybe, if Parliament approved a borrowing of Ksh200 billion, we might have saved Ksh20 billion. I persuade the Committee to consider my thoughts. We may want to go that direction.

Hon. Temporary Speaker, the foreign exchange risk is an issue. In fact, it beats logic. It is not morally right for someone to lend you money at the rate of Ksh80 per one US Dollar and then ask you to pay depending on the inflation and the shocks of the economy at the rate of Ksh130 or Ksh140 per dollar. This country needs serious debt negotiators who will look at agreements, relook at them and agree with the lender that for a loan borrowed at an exchange rate of 100 and should the dollar appreciate to 150, we shall still pay at 100.

The third point is on undisbursed loans. In the first place, let us ask ourselves why we have undisbursed loans. To prepare for a loan is very costly. This is a liability to the Government, a liability that must be paid whether the loan is disbursed or not. Who is this who prepares loans and does not follow to the letter to ensure that the loans are disbursed?

[The Temporary Speaker (Hon. Martha Wangari) left the Chair]

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

Hon. Temporary Speaker, finally, I want to say something about the banks in Kenya because I said the Government and individuals are borrowing. Banks are very malicious. The many lawyers in this country must come to rescue the Kenyan *Wanjiku* to put a disclaimer when borrowing and clearly state that the interest rate cannot change. Recently, Kenyans borrowed loans from commercial banks at the rate of 13 per cent. When you take a loan, the costing of your profit and loss account is considered by the bank. When Hon. Jude Njomo moved a Bill on capping of bank interest rates…

Hon. Temporary Speaker, I request that you add me one minute considering that I was representing this country in Mombasa. I have just come from a very important meeting on Intergovernmental Authority on Development (IGAD), where we want to sign the memorandum on the protocol on free movement of people within the bloc. If I persuade you, and you add me a minute or two, I will really appreciate.

The banks have become very immoral. When the capping of the basic rate is changed by the Central Bank, they raise your loan repayment rate to 18 per cent.

The Temporary Speaker (Hon. Peter Kaluma): Give her 30 seconds.

Hon. Wanjiku Muhia (Kipipiri, UDA): Thank you, Hon. Temporary Speaker. I want to speak to the issue of banks in this country. They are making it very difficult for the *Wanjikus* of this country. They give out loans at 13 per cent interest rate. After a few months, even though their clients do not make profits from their businesses, the interest rate on the loans is increased to 18 per cent. The lawyers in this country must agree with banks that the moral thing to do is to remove the disclaimer from loan application forms.

I would really have loved to contribute more.

The Temporary Speaker (Hon. Peter Kaluma): Thank you, Hon. Wanjiku Muhia. It is now time from the Mover to reply.

Hon. Abdi Shurie (Balambala, JP): Thank you, Hon. Temporary Speaker. I wish to donate some of my time to the following Members to contribute before I reply. I will give Hon. Gichimu, Hon. Martin Owino, Hon. Oluoch of Mathare and Hon. Beatrice Elachi a couple of minutes each.

The Temporary Speaker (Hon. Peter Kaluma): They each have one minute. Mover, remember, you only have five minutes to reply.

Hon. Abdi Shurie (Balambala, JP): I thought I had 10 minutes, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Peter Kaluma): You have 10 minutes.

Hon. Abdi Shurie (Balambala, JP): Yes.

The Temporary Speaker (Hon. Peter Kaluma): How many minutes will you give each Member?

Hon. Abdi Shurie (Balambala, JP): I can give each one of them at least a minute or two. They are four of them. So, each gets at least two minutes.

The Temporary Speaker (Hon. Peter Kaluma): Give each Member two minutes in the order that the Mover has granted.

Hon. Abdi Shurie (Balambala, JP): Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Gichimu, your minutes are already running out.

Proceed.

Hon. Gichimu Githinji (Gichugu, UDA): My time starts now. Thank you, Hon. Temporary Speaker. I appreciate the two donated minutes. The Committee led by Hon. Shurie, has done a very good job. The Report is very timely, coming just before the Budget Policy Statement is brought to this House for debate, that being one of the main areas of consideration that ought to be the first charge in any budget-making process. I support the Report. I am optimistic that the Government of the day, led by Hon. William Samoei Ruto, is very optimistic on incurring reasonable debt that will help Kenyans. The debt will even go to constituencies like Gichugu to build roads, provide water and electricity as well as finance other needs that are beneficial to the people we represent here.

I beg to assist in replying.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Martin Owino.

Hon. Martin Owino (Ndhiwa, ODM): Thank you, Hon. Temporary Speaker, for giving me this opportunity. I want to say something which is close to my heart. The Bible says that a borrower is a slave to the lender. That is where we are as Kenyans. A country that cannot feed her people and citizens is a slave. Fiduciary responsibility lies with this House. I appeal to my colleagues to stop fronting for the Executive. We are the ones who left it to chance, which resulted in all these problems.

Secondly, the loan-securing system must be revised so that Parliament can have the authority to sign off on those debts because we are between the people and the money.

Members have talked about equity. The people of Ndhiwa have no roads even as it is currently raining, yet they pay taxes. Why can we not have projects in our constituency, Mr. Baya, so that we can pay taxes elegantly and happily?

Lastly, the Committee should conduct a forensic audit so that we can know where borrowed money goes and how much money we waste as a country. That will help us to stop borrowing more money.

Thank you, Hon. Temporary Speaker. Thank you, Hon. Chairperson, for donating part of your time to me.

The Temporary Speaker (Hon. Peter Kaluma): Mover, who else did you donate your time to?

Hon. Abdi Shurie (Balambala, JP): Hon. Oluoch and Hon. Elachi.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Beatrice Elachi, Member for Dagoretti.

Hon. Beatrice Elachi (Dagoretti North, ODM): Thank you, Hon. Temporary Speaker. I rise to support the Report and to thank the Chairperson, Hon. Abdi. I want to say three things. One of the things we must do is to re-introduce in this House Hon. Jude Njomo's amendment to the Banking Act on capping of commercial bank interest rates. The amendment must come back.

Secondly, we must have borrowing agreements debated in this House so that as parliamentarians, we can ask ourselves questions. Indeed, the borrowing ceiling is bursting, but we have undisbursed loans. As a country, we are servicing these loans yet we have not even spent the money. We would rather return the money to the lenders instead of us continuing in the manner we are doing.

Lastly, it is important for us to audit the expressway, the SGR, and other big projects that have been undertaken with the loans. We should then ask ourselves whether it is worth it. Did we spend the money in the right way? Did we waste it? We should then search for the people who have enriched themselves in this country through contracts they executed on behalf of Kenyans, including the SGR and other big projects. We should ask ourselves whether, indeed, the Nairobi Expressway has already started to break even, and if it is able to pay. We need to ask ourselves how we are getting money back to this country with this high cost of living. Kenya is burning and hurting. The citizens are hurting.

With those remarks, I beg to support.

The Temporary Speaker (Hon. Peter Kaluma): Thank you. Next is Hon. Anthony Oluoch, the Member for Mathare.

Hon. Anthony Oluoch (Mathare, ODM): Thank you, Hon. Temporary Speaker. I thank the Mover for donating two minutes to me. I have two points I would like to make in the next two minutes.

This debate was crucial and important in light of Article 94(5) of the Constitution, which says: "No person or body, other than Parliament, has the power to make provision having the force of law in Kenya except under authority conferred by this Constitution or by legislation".

This brings to this House the very crucial matter of the status of the economy and how we are doing as a country. This Committee should go a little further and ensure that this is tied to the budget-making process in light of the suggestions advanced. This Committee should then convert itself to a Public Accounts Committee on the question of public debt. It should audit the interest of all public debt portfolios. Who gave us these loans? Should they be varied? What should be done to them? The Committee should then table a report for this House to consider.

Hon. Temporary Speaker, lastly, I want to support the question of equity. Previously, we had Sessional Papers that developed a few regions of this country at the expense of other regions. We should bring this debate in terms of a medium and long-term review. People in the north-eastern region and in the far-flung areas of Turkana and Ndhiwa pay the same amount of interest on account of the debt we pay as Nairobi, Kiambu and Murang'a. We need to bring equity. These are foundational principles under our Constitution. We need to ensure that in the review of debts, people get equity in development as we repay the debt.

I thank my colleague, Hon. Abdi Shurie, for donating the minutes to me.

The. Temporary Speaker (Hon. Peter Kaluma): Mover.

Hon. Abdi Shurie (Balambala, JP): Thank you, Hon. Temporary Speaker. I thank all the Hon. Members who have contributed in support of the Report. We have taken note of the concerns of the Members. We shall consider the proposals in our upcoming report. The need to bring the country's finances back to a healthy level should guide the unity of purpose of this House. The policy making done here today without proper oversight and legislation will mean failure in our parliamentary purpose.

I beg to reply.

The Temporary Speaker (Hon. Peter Kaluma): Thank you, Mover. For the convenience of the House, the Question to this Motion will be put next time the House sits.

The next Order is to be moved by the Chair of the Committee on Delegated Legislation, Hon. Samwel Chepkonga.

REPORT ON DRAFT SALARIES AND REMUNERATION COMMISSION (REMUNERATION AND BENEFITS OF STATE AND OTHER PUBLIC OFFICERS) REGULATIONS OF 2022

Hon. Samwel Chepkonga (Ainabkoi, UDA): Thank you, Hon. Temporary Speaker. I beg to move the following Motion:

> THAT, this House adopts the Report of the Committee on Delegated Legislation on its consideration of the Draft Salaries and Remuneration Commission (Remuneration and Benefits of State and other Public Officers) Regulations, 2022 laid on the Table of the House on Wednesday 8th March 2023, and pursuant to the provisions of Section 26 (2) of the Salaries and Remuneration Commission Act, 2011 rejects the Draft Salaries and Remuneration Commission (Remuneration and Benefits of State and other Public Officers) Regulations, 2022.

Hon. Temporary Speaker, these are Regulations that we call in law *sui generis.* They are very unique. They are in draft form and have not been published. Section 26(2) of the Salaries and Remuneration Act provides that the Salaries and Remuneration Commission (SRC) must table in this House and the Committee must consider the Regulations in draft form. The law provides that this House must approve the Regulations before they are published. In ordinary sense, in other regulations, they are normally published and tabled in the House and considered by the Committee. If the Committee Members think that the regulations offend the Constitution and the enabling Act, they are tabled in this House for purposes of being rejected in entirety. However, the Regulations before us require this House…

An Hon. Member: On a point of order, Hon. Temporary Speaker.

Hon. Samwel Chepkonga (Ainabkoi, UDA): Hon. Temporary Speaker, the Member who is shouting in the House should know that I am not the Speaker.

We considered these Regulations as a Committee and we have a three-fold explanation as to why we have proposed a rejection.

Firstly, the Regulations purport to extend the mandate of the SRC contrary to the Constitution and the enabling statute. Secondly, the SRC purports to usurp the statutory powers and mandates of other public bodies. Thirdly, in making these Regulations, the SRC is seeking to subject other legislations to the SRC Regulations thereby overstepping its mandate or veering into the mandate of other bodies.

In these Draft Regulations, for instance, the SRC has defined a "benefit" to be a gain of a financial and non-financial nature. Looking at the Constitution, the mandate of SRC as provided for under Article 230(4) is as follows:

"(a) set and regularly review remuneration and benefits of all State officers; and,

(b) advise the national and county governments on the remuneration and benefits of all other public officers."

Hon. Temporary Speaker, the SRC is called upon to do something that is of financial nature, and not that which is of non-financial nature as defined in these Draft Regulations. The reason why they have done this is that they have veered into even the Parliamentary Service Commission itself thus infringing Article 127 of the Constitution, which provides that the Parliamentary Service Commission shall provide facilities and services to Members of Parliament. The SRC even purport to have powers to set mileage claims limits for Members - how much should be paid to every Member here. The mileage payment is a refund of the expenses we incur in travelling to our constituencies. That is neither a remuneration nor a benefit. It is just a payment that restores a Member's financial position to where it was before incurring travel expenses from Nairobi to the constituencies and back to Parliament. The SRC now purports to include this non-financial benefit of travelling upcountry and coming back to Parliament.

The purported regulation says that the SRC shall keep under review all matters relating to salaries and remuneration of other public officers. It says it shall set and regularly review remuneration, but it does not say it shall keep on reviewing it. When you keep on doing something, then every now and then you must find out what they are doing, you would be overstepping your mandate. You would be going beyond what you are expected to do as per the Constitution. In the first limb, they have made Draft Regulations that contravene the Constitution and the SRC enabling Act by extending their mandate.

Hon. Temporary Speaker, there is another reason as to why we consider these Draft Regulations to be unconstitutional. Under Article 118 of the Constitution, every public body is expected to conduct public participation. The SRC appeared before this Committee in the 12th Parliament and they were asked to go and consult the Parliamentary Service Commission, the Teachers Service Commission (TSC), the Public Service Commission, and the Judicial Service Commission (JSC) on matters to do with remuneration. During the campaign period in the run up to the last general elections, the SRC had all the time to do so. When we came back, they appeared before the Committee.

The SRC had the audacity to make a presentation on these Draft Regulations, which they prepared without consulting the bodies stated above. These bodies later on appeared before the Committee and unequivocally stated that they had not been invited by the SRC. That is acting outside their mandate and failing to conduct public participation. The SRC has even irresponsibly refused to accede to a request that was made by the Committee in the 12th Parliament. On that point alone, the courts have in the past struck off legislation for failing to conduct public participation. We do not even need to say so many things on this one. Let us not forget what they have done to the Parliamentary Service Commission and Members of Parliament, the TSC and the JSC. On the basis of that action alone, these Draft Regulations must fall.

Hon. Temporary Speaker, another important point that I would like to highlight is that the SRC did all this without attempting to understand why the Government pays people allowances instead of huge lumpsum salaries. Consolidating all allowances would mean that when the Government contributes its share to the pension funds of employees, the amount would increase significantly. The public debt burden, in respect of pension, is already very high. Instead of even trying to be aware of that very simple fact, in which case they would have been told to take into account the general health of the Government budget, they still insist that they must bundle everything together, so that it becomes very expensive for the Government to pay pension.

The third limb…

The Temporary Speaker (Hon. Peter Kaluma): Chairman of Committee on Delegated Legislation, which allowances are being affected and for which public bodies?

Hon. Samwel Chepkonga (Ainabkoi, UDA): Hon. Temporary Speaker, these Draft Regulations say that all the allowances will be lumped together, so that they can increase the salaries. That is not good public management of finances. As Members of Parliament, one of the key responsibilities that have been bestowed upon us by the Constitution is budgeting. We must ensure that the financial health of the Government is good.

Hon. Temporary Speaker, the other issue is with regard to pensions. These Draft Regulations provide that SRC will set pensions for all public and State officers. As you know, there are other statutes that deal with pensions in the Government. We cannot pass some Draft Regulations here to override the Retirement Benefits Act, the Superannuation Fund Act, and all other statutes that exist.

The Temporary Speaker (Hon. Peter Kaluma): How many more minutes do you need?

Hon. Samwel Chepkonga (Ainabkoi, UDA): Hon. Temporary Speaker, I thought I had 10 minutes.

The Temporary Speaker (Hon. Peter Kaluma): In fact, I have been told that you are speaking for 20 minutes. You are still within your time limit.

Hon. Samwel Chepkonga (Ainabkoi, UDA): Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Peter Kaluma): Our time management system was lying to me that your time was up.

(Laughter)

Hon. Samwel Chepkonga (Ainabkoi, UDA): Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Peter Kaluma): Take all your time because this is a very important debate. In fact, Hon. Oluoch was trying to intervene to say that this is a critical matter that should be debated until late in the evening. He wanted you to move this important Motion tomorrow. I have requested him not to interrupt you. Take your time and tell the nation why a Committee of Parliament has proposed the rejection of the Draft Regulations.

Hon. Samwel Chepkonga (Ainabkoi, UDA): Thank you, Hon. Temporary Speaker. As I have just said, pension management in Kenya is situated in a number of legislations, namely, the Pensions Act, Retirement Benefits Act and the Public Service Superannuation Scheme Act. The SRC has no mandate to set pension for all the public and State officers. That is intrusion into other bodies' mandate that are clearly set out in the statutes and the Constitution.

The plain reading of Regulation 6 as proposed in the Regulations indicates that it seeks to upset the above substantive statutory framework through the back door, subsidiary legislation. As a cardinal principle of law that we have amplified herein, regulations cannot amend substantive provisions of the law. That purported attempt by the SRC must be rejected. We must not give room to SRC to meddle with other legislations and mandates granted to other bodies by the Constitution.

Standing Order 210(3)(i) provides that if a regulatory instrument appears to make unusual or unexpected use of powers conferred by the Constitution and the Act, then those regulations must be rejected. This purported attempt to make very unusual and unexpected use of the power granted to them by the Constitution must not be accepted by this House. I want to persuade the House that these regulations are not in line with the Constitution and the enabling Act which establishes the SRC.

On the question of the advice given by the SRC in determining salaries, the SRC wants to make a regulation that the advice they give bodies that seek advice from them shall be of a binding nature. However, seeking advice means that you consult to know whether your state is good or bad. The decision-making squarely lies with the person making the proposal or seeking the advice. We cannot accept that SRC regulates salaries for public officers. For instance, the SRC cannot set salaries for the Parliamentary Service Commission staff. The salaries are set by the Parliamentary Service Commission that is elected by this House. They cannot purport to say that their advice is binding in nature.

In two cases of the Supreme Court, the Kenya Vision 2030 Delivery Board and the Commission on Administrative Justice and two others of 2021 reported in the Kenya Law Report, clearly and unequivocally stated that the recommendations of a commission do not necessarily bind the person to whom or entity to which it is addressed unless the same is specifically provided for in the Constitution or in the law. The SRC has not been given power to set salaries, but to advise. They read “advise” as “set” and that is a misnomer in itself. These Regulations offend the provisions of the law, the Constitution and our Standing Orders, and should be rejected.

The other one that I would like to speak to is the Draft Regulations by the SRC based on the assumption that they can also give advice on their own motion in what we call in law *suo moto*. You have to be invited to give advice, and they cannot purport to wake up in the morning from their houses and say “we think we should give advice to the Parliamentary Service Commission because they want to set salaries for their members of staff”. We set salaries as the Parliamentary Service Commission and then seek advice from the SRC, but in the Regulations, they say that before you do anything, you must seek advice from us. That is reading the law upside down.

The Temporary Speaker (Hon. Peter Kaluma): Are you saying that is the context in which SRC was advising on what should be paid to Early Childhood Development teachers?

Hon. Samwel Chepkonga (Ainabkoi, UDA)**:** Correct.

The Temporary Speaker (Hon. Peter Kaluma): It has been a national issue. Was it not requested by any county?

Hon. Samwel Chepkonga (Ainabkoi, UDA)**:** Nobody requested. In fact, I was with some members of the representative body of the County Service Board this afternoon and they told me that they will meet SRC tomorrow and they have not been told by the SRC whether they are State officers or public officers yet they were being asked to go to Parliament and pass a law. They have been given power to advise and instead of advising they are throwing people into the wild and not telling them what they are supposed to do. We are saying that the SRC cannot give advice on its own Motion. That advise must be sought.

The other one is with regard to negotiated Collective Bargaining Agreements (CBAs) with various institutions. What these Regulations are seeking to do is to make it mandatory that before you negotiate CBA, you must first seek advice. That is reading the law upside down. You first negotiate and then go to the SRC to tell them what you have negotiated, then ask them whether you are within the limits. You seek their advice. That is redundant advice that is being sought because you do not know how much Central Organisation of Trade Unions (COTU) and the rest of those representing workers are going to ask. So, you must first sit, discuss and agree. We are saying that the Regulations offend the Constitution. They are in contravention of the enabling Act, the Statutory Instruments Act, and our own Standing Orders. They must, therefore, be rejected.

In line with the foregoing and pursuant to Section 15(1) of the Statutory Instruments Act read together with Section 26 of the Salaries and Remuneration Commission and Standing Order 210, the Committee recommends to the House not to approve the Draft SRC Regulations as tabled in the House.

I move and request Hon. Gichimu, the Vice-Chair of the Committee, to second. Thank you.

The Temporary Speaker (Hon. Peter Kaluma): It is always good to listen to you, Hon. Samwel Chepkonga, Senior Counsel. Hon. Gichimu is the Member for Gichugu, the Constituency which was formally led by the Deputy Leader of Azimio. We shall proceed.

(Laughter)

Hon. Gichimu Githinji (Gichugu, UDA): Thank you, Hon. Temporary Speaker. My Chairman has ably canvassed virtually all the points the Committee came up with after considering the SRC Draft Regulations.

Let me first of all thank the Parliament in which you served that passed the Statutory Instruments Act. I believe you had a hand in this. In your wisdom, you decided that the SRC Regulations must first come in draft form. Had it been like other regulatory-making bodies that publish first and then come to the House for approval, most State officers and public officers in ministries and independent commissions would be suffering because these regulations would be in force. Now that they came in draft form as required by the Statutory Instruments Act, 2013, I just want to add a few points because I do not want to belabour what the Chairperson has said.

The SRC is established under Article 230 of the Constitution. In performing its functions under Article 235(5) of the Constitution, one of the things they must consider is transparency and fairness. How transparent was the SRC when they did not involve the constitutional commissions which appeared before them? The constitutional commissions said that they were never consulted hence there was no public participation. They failed the test of transparency in the first place.

Additionally, how fair are they when, after several years of service, an employee's remuneration or benefit is reduced? When the cost of living rises, you find that in some ministries and commissions, salaries and benefits of employees are usually reduced. They failed the test of fairness because there cannot be fairness when someone has served for 10 years, is earning certain benefits or remunerations, and the SRC purports and proposes to reduce those remunerations and benefits.

Further, as the Chairperson has ably said, let me also emphasise on the issue of benefits. A benefit is something that someone profits from. However, a reimbursement can never be a benefit. In their definition, they purported to state that a benefit includes reimbursements. It is not a benefit if you have already spent money from your pocket and are supposed to be reimbursed. That includes when you travel outside your station, spend money and are supposed to be reimbursed. They have also included that as a benefit. That is where we found that the definition of the term "benefit" under the Draft Regulations was also eating into the pockets of employees of Government, commissions or State and public officers. They also want you to pay for what you are supposed to be reimbursed.

Without going into much detail, on the issue of public participation, after listening to the SRC, the Committee felt that we also need to engage as Parliament. We are supposed to cover our mandate widely to determine whether the SRC has really done its job. On its own motion, the Committee invited all these commissions. It seemed like they were waiting for us to invite them. They had probably also written to the Committee indicating that there was no public participation. Those commissions were ably represented. The Judicial Service

Commission, the Teachers Service Commission, the Public Service Commission; which represents all the ministries in the Republic, the Parliamentary Service Commission and Hon. Makau sent a very able team of lawyers, were all represented. There were about five constitutional commissions represented. So, it means the SRC is on their own in this game. They do not consult anyone. They have taken the law; the Constitution, in their hands. They are also infringing on the Statutory Instruments Act. I am supporting the Committee Chair. These Draft Regulations should not be passed by Parliament. The SRC should go back to the drawing board and involve all relevant parties and stakeholders before they come up with new Draft Regulations.

I second. Thank you.

The Temporary Speaker (Hon. Peter Kaluma): Thank you, Hon. Gichimu.

(Question proposed)

Hon. Fatuma Jehow, the Member of Parliament for Wajir County. She is not in the House. Hon. Patrick Makau, the Member of Parliament for Mavoko.

Hon. Patrick Makau (Mavoko, WDM): Thank you, Hon. Temporary Speaker.

I have listened to the Chair on this Report. Considering where I sit, as a Commissioner of Parliamentary Service Commission, I seek your advice that borders on conflict of interest before I make my contribution. I am a consumer of the same Report and I am in support of it.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Patrick Makau, you are making your contributions as the Member of Parliament for Mavoko. Do not worry about those other big responsibilities the House has on your back. Proceed.

Hon. Patrick Makau (Mavoko, WDM): Thank you, Hon. Temporary Speaker. I stand guided.

I agree with this Report that we annul these Draft Regulations. The SRC has elevated itself to a status of a prefect of all commissions and civil servants in the country. The Chair has put clearly the mandate of the SRC. However, the SRC has gone beyond that. It cannot define what a benefit is and what a salary is. It is sad when a commission set up to facilitate its members gives them benefits, then the SRC comes in without consulting, purporting to be a prefect of that commission, and goes ahead to issue directives on how employers should pay their employees. The House has powers to legislate. I have been advocating that we maintain the dignity of this House. If we joke, such busybodies will be issuing regulations and legislate from their benches and boardrooms.

I congratulate the Chairman and the Committee for sitting down for long hours, because I can tell from the volume of this Report. When you look at the Regulations that are being established without the authority of this House, they are so many yet they are being made effective. It is high time this House rose and claimed its position in terms of legislation. Yes, I agree there was no public participation. This has been ongoing. The SRC has been punishing other commissions of the same standing, the counties and even the national Government.

Without much ado, because I can see time is not with us and I know Members are willing to contribute to the same, I support the Report. Let us nullify all these Regulations and let the SRC come to their senses, include everybody, do public participations, so that we can express our wishes on how we want to treat our employees. For example, we have proposals as a Commission that if a member has been serving for one, two, three or four terms, that is if a Member is lucky to come back here, they should not be earning the same as a new Member. If those are the plans of the Parliamentary Service Commission, then nobody else should pretend that they can advise better than that.

Hon. Temporary Speaker, we support you on this and your Committee. Thank you very much.

The Temporary Speaker (Hon. Peter Kaluma): Is Hon. Kombe, the Member of Parliament for Magarini seeking to speak to this Motion?

(Hon. Harrison Kombe spoke off record)

Not today. Hon. Fatuma, the Member of Parliament for Migori County? Is she seeking to speak now or tomorrow? Certainly not today. Hon. Weytan? Proceed.

Hon. Hussein Weytan (Mandera East, ODM): Thank you, Hon. Temporary Speaker. I am not going to make much contributions, but to echo what my colleagues have said about the SRC. The SRC seems to be a rogue commission. It has proved to be rogue to all the organisations including the National Assembly and the Senate. We need to reject the proposals they brought in the House so that their powers can even be reduced and come to the level of other commissions. What we have seen, as clearly put by my colleagues, is that they have now adopted the behaviour of becoming a prefect over all the other commissions.

I, therefore, support the Chairman of the Committee in rejecting the proposals. Thank you.

The Temporary Speaker (Hon. Peter Kaluma): Hon. (Dr) James Nyikal, the Member of Parliament for Seme.

Hon. (Dr) James Nyikal (Seme, ODM): Thank you, Hon. Temporary Speaker. I know time is limited, but I will start by saying that if an organisation seeks to extend its mandate through the regulations and extending it into other laws, it either means that, that organisation is not necessary because any time it tends to work, it finds itself infringing on other laws. It means the work it is doing is being done by other bodies. It has also been said that every time it starts to do something, it finds that it is infringing into the mandates of the existing institutions like the Parliamentary Service Commission, the Public Service Commission and the Teachers Service Commission.

Again, we will ask ourselves whether we need that organisation or we need to go and revise the laws for the other institutions. This is actually an extremely important matter. We should also ask ourselves questions because every time we are passing laws here, we keep saying “in consultation with the SRC”. Maybe to some extent, we have extended it so that it starts to think it can encroach and advise on other laws and institutions. If we have an institution that we cannot define some of its mandates and benefits, then we have a big problem. I am looking beyond these Regulations. What is the mandate, the functions and the need for having the Salararies and Remuneration Commission?

Then, there are benefits they are including under non-financial reimbursements. Reimbursement is something that has already been utilised. You are just recovering your money back. The SRC wants to control cargo expenses, for instance, if you are going on a trip and you are getting funds to cover the expenses while you are there. That is not the answer because your expenses depend on where you are going and the cost in that place.

Hon. Temporary Speaker, if that commission seeks to get Regulations and it fails completely to have public participation and involve other institutions like in this case, the Public Service Commission, the Parliamentary Service Commission and the Teachers Service Commission, then we have a major problem. How can we have an institution that cannot see the rationale for allowances in the Public Service Commission and what the allowances are for? Allowances mean that you can increase people’s income without actually increasing the pension load that the country will have.

This Commission cannot understand why we have allowances. I know we have a problem with the health sector on the issue of the non-practice allowance. They want to remove what people are compensated for in other institutions without compounding it. If they compound it, let them increase the pension. If they remove it, they will be reducing the salaries.

How can that go on? If you are talking about risk allowances, there are jobs where there are risks. We have people in the security sector and we have people in the health sector that are taking care of serious infectious diseases. There are institutions where people are actually having extraneous allowances because they have to work long hours and yet they are not being paid for overtime. Removing such allowances means that, that institution is not quite clear of what it is doing. They are going against the rules of making regulations which must be bound by the mother law. If you have a regulation that is going beyond the law, you ask yourself whether the institution needs help. Do they have the capacity to do the job they are supposed to do? Do they think their advice should be binding to other institutions?

I support that we annul these Regulations. However, the bigger question is whether we need the SRC with all the other institutions that we have. Are we not having repetition that we do not need? I support, but ask the bigger question whether we need the Salaries and Remuneration Commission.

Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Peter Kaluma): Dr. Nyikal, is this Commission a part-time commission or a full-time commission?

Hon. (Dr) James Nyikal (Seme, ODM): It is a full-time commission.

The Temporary Speaker (Hon. Peter Kaluma): It is full-time. So, the Committee and other committees of Parliament know what additional recommendations to make.

Hon. Members, I extended time because I did not want to interrupt Hon. (Dr) Nyikal. Order!

ADJOURNMENT

The Temporary Speaker (Hon. Peter Kaluma): Hon. Members, the time being 7.04 p.m., this House stands adjourned until Wednesday, 15th March 2023 at 9.30 a.m.

The House rose at 7.04 p.m.

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