

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

Tuesday, 8th June 2021

The House met at 2.30 p.m.

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

PRAYERS**ADMINISTRATION OF OATH**

Hon. Silvanus Onyiego (South Mugirango, KNC): Hon. Speaker, I wish to present to you the MP elect for Juja Constituency, Mr. George Ndung'u Koimburi.

Hon. Speaker: Very well. What is your religion?

Mr. George Ndung'u Koimburi: Christian.

Hon. Speaker: Hold this bible with your right hand. You will swear in English or Kiswahili?

Mr. George Ndung'u Koimburi: I will swear in English.

The Oath of Allegiance was administered to the following Member:

Mr. George Ndung'u Koimburi.

(Applause)

Hon. Speaker: Congratulations.

Hon. Speaker: The escort, please teach the new Member the rules of the House.

Hon. (Ms.) Janet Ong'era (Kisii CWR, ODM): Hon. Speaker, I beg to introduce to you, the MP elect for Bonchari Constituency, Mr. Robert Oimeke Pavel.

(Applause)

Hon. Speaker: What is your religion?

Mr. Robert Oimeke: Christian.

Hon. Speaker: You want to swear in English or Kiswahili?

Mr. Robert Oimeke: In English.

The Oath of Allegiance was administered to the following Member:

Mr. Robert Oimeke Pavel.

(Oath of Allegiance was administered to Hon. George Ndung'u Koimburi and Hon. Robert Oimeke Pavel)

Hon. Speaker: Congratulations. Next Order!

COMMUNICATION FROM THE CHAIR

BUDGET HIGHLIGHTS AND REVENUE RAISING MEASURES FOR THE 2021/2022 FINANCIAL YEAR

Hon. Speaker: Hon. Members, I wish to take this early opportunity to welcome all Members of the august House to the Second Part of the Fifth Session of the 12th Parliament. I hope that you had a restful recess period and that you are all rejuvenated and ready for the heavy business before the House, cognizant of the fact that during this part of the Session, the House will be largely engaged with consideration of Budget related items.

In this regard, Hon. Members, I wish to inform the House that pursuant to the provisions of Standing Order 244(c) on pronouncement of Budget highlights and revenue raising measures, the Cabinet Secretary for the National Treasury is scheduled to present the Budget Highlights and Revenue Raising Measures for the National Government for the 2021/2022 Financial Year on Thursday, 10th June 2021, in this Chamber at about 3.15 p.m.

Hon. Members, due to the limitations occasioned by the prevailing COVID-19 Pandemic, we have not invited our usual guests to the occasion, nor will it be followed by the usual garden cocktail.

However, arrangements have been made for a modest Press conference by Cabinet Secretary for National Treasury. Hon. Members may also take the opportunity to address the media in the usual manner at the Parliament courtyard.

I thank you.

MESSAGE

PASSAGE OF THE COUNTY ALLOCATION OF REVENUE BILL (SENATE BILL NO. 30 OF 2021)

Hon. Speaker: Hon. Members, pursuant to the provisions of Standing Order No.41, I wish to report to the House that I have received a Message from the Senate regarding its passage of the County Allocation of Revenue Bill, 2021. The Message reads in part, and I quote, “the Senate considered and passed the County Allocation of Revenue Bill (Senate Bill No.30 of 2021) on Thursday, 3rd June 2021, with amendments”.

Hon. Members, the County Allocation of Revenue Bill is an annual legislation introduced in accordance with the provisions of Article 218 of the Constitution with the objective of equitably allocating the share of national revenue amongst the 47 counties.

Given the urgency of the passage of this Bill the House Business Committee has prioritized its consideration in the National Assembly. Indeed, the Bill is scheduled to be read a First Time this afternoon at Order No.17 and, thereafter, stand committed to the Budget and Appropriations Committee, in furtherance to the provisions of Standing Order 143(1).

Hon. Members, I direct the Budget and Appropriations Committee to expedite the consideration of the Bill so as to enable the House to consider it in Second Reading, Committee of the whole House, and Third Reading, preferably next week, so as to unlock the budget processes in the counties.

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As the House is aware, a County Allocation of Revenue Bill is a special Bill concerning county governments in terms of Article 110(2)(a)(ii) of the Constitution. This implies that any amendment proposed in this House on the Bill shall require to be supported by at least two-thirds of all the Members of this House for it to pass.

The House is accordingly guided. I thank you.

Hon. Speaker: Member for Mvita, do you have a Petition?

PETITION

PINGAMIZI ZA BIASHARA KATIKA MAMA NGINA WATER FRONT NA JOMO KENYATTA PUBLIC BEACH

Hon. Abdullswamad Nassir (Mvita, ODM): Yes, Sir.

Mhe. Spika, ningeomba nikariri kilio hiki kwa Kiswahili ili tuweze kufahamikiana. Niko na Ardhilhali ya umma, ambayo kwa lugha maarufu ni *Public Petition*, Nambari 22 ya 2021. Tukitukuze Kiswahili kiongozi wangu ili tufahamikiane hapa na nje ya Bunge pia. Ardhilhali Nambari 22 ya mwaka 2021 inayohusu pingamizi za biashara mjini Mombasa.

Mhe. Spika, mimi, Mhe. Abdullswamad Nassir, Mbunge wa eneo la Mvita, kwa niaba ya wafanyibiashara katika Kaunti ya Mombasa na hususan wafanyibiashara wadogo katika Mama Ngina Water Front, kwa jina jingine Light House, na Jomo Kenyatta Public Beach ama kama inavyojulikana Bamburi Beach, nataka kufahamisha Jumba hili mambo yafuatayo:

Kwanza, Wizara ya Utalii, kwa madai inayosemekana ni ilani kutoka kwa Wizara ya Afya, waliamrisha kufungwa kwa Mama Ngina Water Front na Jomo Kenyatta Public Beach kwa madai ya maradhi ya *coronavirus*. Mamia ya wafanyibiashara wa maeneo ya Mama Ngina Water Front na Jomo Kenyatta Public Beach kwa sasa wanapoteza mapato yao na familia zao baada ya kuzuiwa kuingia na kufanya biashara katika sehemu hizo. Wafanyibiashara hao wameteseka mno.

Biashara zao ni vitu, kwa wale wenye kufahamu, kama kachiri, madafu, mihogo, kutembeza watu katika sehemu hizi za utalii kwa maboti, wauzaji ushanga na mavazi ya bahari. Wafanyibiashara hawa wamekuwa katika sehemu hizi zaidi ya miaka arobaini na hawana pengine pa kwenda. Hii inasababisha ufukara, kukosa kutazama familia zao, kusomesha watoto wao na, mwishowe, uhalifu utazidi.

Mhe. Spika, tunafurahi na kukubali ya kuwa baadhi ya sehemu nyingine ya biashara Kubwa kubwa kuweza kufunguliwa, lakini tusiwe ni wenye kusahau ya kuwa tunafungua zile kubwa ilhali wale ambao ni wenye biashara ndogo ndogo wanaumia. Wafanyibiashara hawa wamejaribu kila njia kuzungumza na wenye kusimamia maeneo haya na kilio chao kimeenda pahali ambapo hawajaweza kuridhika. Nataka kukariri vilevile ya kuwa haya maswala ambayo nimeweza kuyaleta katika bunge hili hayapo mbele ya korti yoyote ya sheria hii Kenya.

Kwa hivyo, Mhe. Spika kwa unyenyekevu, ombi langu ni kuwa Bunge hili, kupitia Kamati ya Biashara, Viwanda na Vyama vya Ushirika, liingilie kati na liangalie jambo hili haraka iwezekanavyo. Watu warejee na wafanye biashara zao katika Mama Ngina Recreation Centre, Light House, Jomo Kenyatta Public Beach na katika sehemu zingine Mombasa. Vilevile, ikiwa kutakuwa na maoni yoyote Kamati itazingatia, tuko radhi na sawa kuweza kuyafuata.

Asante sana.

Mhe. Spika: Maombi hayo yatatumwa kwa Kamati ya Biashara, Viwanda na Vyama vya Ushirika. *I can see an intervention. Hon. Duale, do you want to comment on the Petition?*

Mhe. Aden Duale (Garissa Township, JP): Mhe. Spika, nataka nichukue nafasi hii kuchangia katika hii *Petition*, kwa sababu inagusa Wakenya ambao wanafanya biashara ndogo sana. Nimeishi katika Jiji la Mombasa. Ninaelewa yale Mhe. Abdullswamad ameongea kuhusu. Nilijivinjari katika Light House na Mama Ngina Drive. Wakazi wengi wa Mombasa ambao huenda kujivinjari huko ni Wakenya wa mapato ya chini. Wafanyi biashara wanapata fursa ya kutafuta riziki yao ya siku ili watoto wao wapate chakula kwa meza.

Niliona hii amri ambayo ilitolewa na Wizara ya utalii. Waziri wa Utalii ni mkazi wa Jiji la Mombasa. Alikuwa Meya wa Jiji hilo. Ni mtu ambaye anaelewa sana wafanyi biashara hawa katika eneo hizo mbili. Nitafurahi sana Kamati husika ikifika katika hayo maeneo kwa haraka, ili waongee na hawa Wakenya ambao wameathirika kibiashara. Pia, walete taarifa ambayo itawasaidia.

Asante, Mhe. Spika.

Mhe. Spika: Sioni mtu mwingine ambaye anataka kuchangia katika Ardhilhali hiyo. Tuna Kanuni za Kudumu.

(Kicheko)

Mhe. ole Sankok.

Mhe. David ole Sankok (Nominated, JP): Asante sana, Mhe. Spika kwa kunipatia fursa hii ili niunge mkono Ardhilhali hii ya Mbunge wa Mvita. Kwa kweli, kama mwakilishi wa wananchi, nilitembea pale Mama Ngina Drive. Niliona vile watu walemavu wengine wanafanya biashara ndogo. Wengi wamenipigia simu, kwa sababu wameathirika na amri ya Wizara ya Viwanda na Biashara.

Naunga mkono Ardhilhali hii. Kamati ambayo inahusika ifanye haraka, ili tupate suluhisho mara moja, ili wafanyi biashara wafanye biashara zao. Sisi tuko katika ile harakati ya kutengeneza uchumi kutoka chini kuelekea juu. Wafanyi biashara wadogo tunawaita *hustlers*. Tunataka wapatiwe nafasi ya kufanya biashara. Mwakilishi wa eneo Bunge la Mvita ni wa Chama cha Orange Democratic Movement (ODM). Ni kama ameanza kutuunga mkono kutetea watu ambao wako chini. Tunamshukuru sana.

Asante sana, Mhe. Spika.

(Kicheko)

Mhe. Spika: Kamati husika imepewa muda ule wa kawaida ambao ni siku 60 kuangalia mambo ambayo yametajwa katika Ardhilhali hiyo.

(Hon. Abdullswamad Nassir spoke off-record)

There is no debate on this Petition. Hon. Sheriff, you are a Chairman of a Committee. Your role is over. You cannot contribute because something has been said. These are small things which people say and then you want us to debate them. The media will think that is what you brought here. You brought a serious Petition. When some Members start the sideshows of joining the hustlers' movement, there cannot be a debate on that.

Next Order!

PAPERS LAID

Hon. Speaker: Leader of the Majority Party.

Hon. Amos Kimunya (Kipipiri, JP): Hon. Speaker, before I lay the Papers, let me take this opportunity to welcome Hon. Koimburi. I hope that he will get the procedures of the House pretty fast.

Hon. Speaker, I beg to lay the following Papers on the Table of the House today:

Legal Notice No. 5085 relating to the Public Finance Management (Sinking Fund) Guidelines, 2021 and the Explanatory Memorandum from the National Treasury and Planning;

The Draft Public Finance Management (National Roads Toll Fund) Regulations, 2021 from the National Treasury and Planning;

Sessional Paper No.1 of 2021 on National Water Policy from the Ministry of Water, Sanitation and Irrigation;

Cabinet Memorandum on Ratification of the Protocols to the African Charter on Human and People's Rights on the Rights of Older Persons and on the Rights of Persons with Disabilities in Africa from the Ministry of Foreign Affairs;

The Cabinet Memorandum on Ratification, Acceptance and Accession of International Labour Organisation (ILO) and International Maritime Organisation (IMO) Conventions related to shipping and maritime matters from the Ministry of Foreign Affairs;

Annual Report for the year ended 30th June 2019 from the Teachers Service Commission;

Special Audit Report of the Auditor-General on Utilisation of COVID-19 Funds by the National Government entities for the period 13th March to 31st July 2020;

Reports of the Auditor-General and Financial Statements in respect of the following institutions for the year ended 30th June 2019:

a. Kirinyaga University; and

b. The National Council for Nomadic Education in Kenya.

Bi-annual Report of the Commission on Administrative Justice (Office of the Ombudsman) for the period July- December 2020;

The Fourth Quarterly Report of the Ethics and Anti-Corruption Commission for the period 1st October 2020 to 31st December 2020; and

The Third Quarterly Economic and Budgetary Review Report for the Financial Year 2020/2021 from the National Treasury and Planning.

Thank you, Hon. Speaker.

Hon. Speaker: Chairman, Budget and Appropriations Committee.

Hon. Kanini Kega (Kieni, JP): Hon. Speaker, I beg to lay the following Paper on the Table of the House today:

The Report of the Budget and Appropriations Committee on the Budget Estimates for the national Government, Judiciary and Parliament for the Financial Year 2021/2022.

I thank you, Hon. Speaker.

Hon. Speaker: Next Order!

NOTICES OF MOTIONS

ALTERATION OF CALENDAR OF THE HOUSE

Hon. Amos Kimunya (Kipipiri, JP): Hon. Speaker, I beg to give notice of the following Motion:

THAT, pursuant to the provisions of Standing Order 28(4) and cognizant of the continued limitations of in-persons meetings arising from the COVID-19 Pandemic, this House further alters its Calendar for the Fifth Session, 2021 (Regular Sessions) and resolves that during the Second Part of the Session (June 8 to July 8, 2021) –

Current week (8th – 10th June 2021)

(i) The Sittings of the House of Tuesday 8th June 2021, Wednesday 9th June 2021 and Thursday 10th June 2021 shall remain as specified under Standing Order 30 (1) and (2);

Variations for the weeks after

(ii) Notwithstanding the provisions of Standing Order No. 30, the Sittings of the period 15th June up to 8th July 2021 shall be as follows –

- (a) Tuesdays (Afternoon) from 2.30 p.m. to 6.30 p.m.;
- (b) Tuesdays (Evening) from 7.00 p.m. to 9.30 p.m.;
- (c) Wednesdays (Afternoon) from 2.30 p.m. to 6.30 p.m.;
- (d) Wednesdays (Evening) from 7.00 p.m. to 9.30 p.m.; and,
- (e) Thursdays (Afternoon) from 2.30 p.m. to 7.00 p.m.

Suspension of Morning Sittings

(iii) During the period 15th June up to 8th July 8 2021, the Sittings of the House of Wednesday Mornings shall stand suspended;

Individual Members' business

(iv) On Thursday afternoons, business not sponsored by the Majority Party, the Minority Party or a Committee shall have precedence over all other business, in such order as the House Business Committee shall determine; and,

(v) Paragraph (iv) shall not apply to the Business under Part XXIV of the Standing Orders (Financial Procedures).

Thank you, Hon. Speaker.

Hon. Speaker: Chairman of the Budget and Appropriations Committee.

CONSIDERATION OF THE BUDGET ESTIMATES, 2021

Hon. Kanini Kega (Kieni, JP): Hon. Speaker, I beg to give notice of the following Motion:

THAT, this House adopts the Report of the Budget and Appropriations Committee on the Budget Estimates for the national Government, the Judiciary and Parliament for the

Financial Year 2021/2022 laid on the Table of the House on Tuesday, 8th June 2021; and that, pursuant to the provisions of Article 221 of the Constitution, Section 39 of the Public Finance Management Act, 2012 and Standing Order No.239 –

(a) approves issuance of a sum of Ksh1,945,671,475,883 from the Consolidated Fund to meet expenditure during the year ending 30th June 2022 in respect of the Votes contained in the First Schedule of the Order Paper, subject to Paragraph (c) – Committee of Supply;

(b) makes policy resolution contained in the Second Schedule in the Order Paper;

(c) orders that the Speaker do now leave “the Chair” to facilitate consideration of the said Budget Estimates with respect to each vote and programmes in the Committee of Supply as contemplated under Standing Order No.240 – Consideration of Estimates in Committee of Supply.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Members, I am aware that there have been some slight modifications to the gadgets. That is why we have new digital screens. However, that does not affect the gadgets. The intervention buttons are still working. Do not appear like you are standing, dancing or doing a jig and shouting point of order. Just press the intervention button. The screen is now very clear. So, if you have something to raise, press the intervention button. For those who do not have cards, just go home.

(Laughter)

Why did you come? Without a card, do not bother coming. You are as good as being on the streets. Let us move to the next Order. I thought it was something serious. Everyone must have a card. It cannot be that you are the only ones who forget. How is it that I do not forget mine? Hon. Sankok, the Deputy Speaker, the Leader of the Majority Party and Hon. Mbadi, do not forget theirs. Surely, if there is anything to learn, you must learn from Hon. Sankok. Please, no matter where you spend your night, make sure that your card is safe. It ensures that you are able to speak here or to catch the Speaker’s eye, as it is.

Hon. Cornelly Serem (Aldai, JP): On a point of order, Hon. Speaker.

Hon. Speaker: Hon Serem, when you want to speak and you do not have a card, you should ask your neighbour whether you can use his.

Hon. Cornelly Serem (Aldai, JP): Hon. Speaker, is it in order for the Chairman of the Budget and Appropriations Committee to discuss the Budget for this financial year, yet we have not done much on the previous Budget? I am a Member of the National Government Constituencies Development Fund Committee of this House. They have not released the Kshs13.9 billion that we were promised by the Cabinet Secretary, the National Treasury and Planning. We had been promised that we would be given Kshs2 billion per week in the months of May and June. We have received Kshs2 billion only. If this continues, by the end of this month, we will have a balance of 11.9 billion, which is against the promise we were given when we were discussing the Supplementary Estimates.

I am not making a threat, but I am telling the National Treasury that, if we do not get the funds before Thursday, the Budget Speech will not continue from this Floor. It is not fair to discuss the Budget of the next Financial Year, yet we have not done much for the one of the current Financial Year. It is a big shame for Members of this House to even discuss what will be done in the next Financial Year, when we are doing nothing about what is happening now. Leave alone

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that, these Members appropriate funds for the entire country. The worst case scenario is that our children at home have not received bursaries. We are discussing about building this country, but we are leaving our children to stay at home. Which future are we discussing, if we are not willing to finance their education?

As I sit down, I would like to inform the Chairman that if he is going to move the Motion that touches on the Budget, it will not happen on Thursday. That is not a threat, but I promise that we will work very hard to make sure that he does not continue.

Thank you, Hon. Speaker.

(Applause)

Hon. Speaker: The Member stood on a point of order. Of course, for those involved in this matter, take into consideration the fact that Financial Year ends on 30th of June. Therefore, if what Hon. Cornelly Serem has said is anywhere near the truth, those responsible for the situation where not everything has not been disbursed to the National Government Constituencies Development Fund should take note.

Also, to give comfort to Hon. Serem, Hon. Kanini Kega has just given notice of the Motion to be moved in the Committee of Supply. It is also good to know some of these procedures. There will be supply when the Speaker leaves the Chair to allow for general debate and then there will be the highlights by the Cabinet Secretary for the National Treasury and Planning. Thereafter, you will go into the specifics of each Ministry, Department and Agency.

The Appropriations Bill will then be published. All those stages appear to happen before 30th June 2021. Hon. Serem, since you are an active Member, you can move these Members at whatever stage to tell them to boycott or to do whatever it is to ensure that the Cabinet Secretary (CS) for the National Treasury heeds to your plea. Nevertheless, I believe they have heard you as well as the rest of the Members.

I can see there are too many interventions which are most likely to support what Hon. Serem has said. I can see Hon. Kangogo Bowen. I know you wanted to support and you are also quite agitated. I believe those who are responsible like the Leader of the Majority Party, the Chairperson of the Departmental Committee on Budget and Appropriations and others have heard.

More importantly, since we are live, the people in the Treasury called mandarins have heard that they are likely to face some headwinds when they come here. If you are flying a small plane, when you see heavy clouds you do not fly towards them. So, I believe that they have been given appropriate prior notice that there is likely to be heavy clouds, and if they are using choppers, they are likely to get lost in the clouds when they come here.

(Laughter)

I suppose that is the message that Hon. Serem wanted to pass. I can see several Members are also in support, including Hon. John Olago Aluoch who is a ranking Member of this House.

We can move to the next Order.

ORDINARY QUESTIONS

We will start with the first segment, that is, Questions. The first Question is by the Member for... Sorry. I can see some intervention. I hope it is not about a matter that I have already dispensed

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with. The Member for Kamukunji, you have placed an intervention. It has disappeared. I think all of you including Hon. Wamalwa are trying to get an opportunity.

The first Question is by the Member for Mwatate, Hon. Mwadime.

Question No. 038/2021

ENFORCEMENT OF REGULAR STOPS OF THE EXPRESS PASSENGER
TRAIN AT MTITO ANDEI AND VOI STATIONS

Hon. Andrew Mwadime (Mwatate, ODM): Thank you, Hon. Speaker. I rise to ask Question No.038/2021 directed to the CS, Ministry of Transport, Infrastructure, Housing, Urban Development and Public Works:

- (i) Could the Cabinet Secretary consider having a policy in place which will ensure that the Express Passenger Train which serves the Nairobi and Mombasa route on the Standard Gauge Railway (SGR) makes regular stops at the Mtito Andei and Voi Stations to enable the passengers who normally include tourists to disembark and visit surrounding tourist attraction areas hence supporting the economic activities around Mtito Andei, Voi and the surrounding region?
- (ii) Could the Cabinet Secretary indicate whether there are plans to refurbish the two stations considering their importance to the rail transport network and improving the economy of the region?

Thank you, Hon. Speaker.

Hon. Speaker: That Question will be replied to before the Departmental Committee on Transport, Public Works and Housing.

The next Question is by the Member for Kisumu West, Hon. Olago Aluoch.

Question No. 047/2021

STATUS OF COMPENSATION OF DISPLACED PERSONS ALONG THE
KISUMU NORTHERN BYPASS IN KOGONY SUB-LOCATION

Hon. Olago Aluoch (Kisumu West, FORD - K): Thank you, Hon. Speaker. I rise to ask Question No.047/2021 directed to the CS, Ministry of Transport, Infrastructure, Housing, Urban Development and Public Works:

- (i) When will the National Land Commission remit the agreed compensation of approximately Kshs314 million to persons who were displaced in 2015 to pave way for the construction of the Kisumu Northern Bypass in Kogony Sub Location?
- (ii) Could the Cabinet Secretary explain why both the National Land Commission and the Kenya National Highways Authority have failed to act on the complaints of the displaced persons despite several interventions by various institutions including the Office of the Ombudsman?
- (iii) Considering the inflation rate and the fact that the prices of the alternative parcels of land which the affected persons intended to purchase for resettlement have since increased, could the Cabinet Secretary and the Commission consider enhancing the previous valuations to reflect the current value of land?

Thank you, Hon. Speaker.

Hon. Speaker: Again, this Question is to be replied to before the Departmental Committee on Transport, Public Works and Housing.

The next Question is by the Member for Turbo, Hon. Janet Sitienei. Where is the Member for Turbo, Hon. Janet Sitienei?

We will move on to the next Question by the Member for Jomvu, Hon. Bady Twalib.

Question No. 085/2021

CONSTRUCTION OF THE KWA JOMVU - MARIAKANI (LOT 2) HIGHWAY PROJECT

Hon. Bady Twalib (Jomvu, ODM): Thank you, Hon. Speaker. I rise to ask Question No. 085/2021 directed to the CS, Ministry of Transport, Infrastructure, Housing, Urban Development and Public Works:

- (i) Could the Cabinet Secretary explain why the construction of the Kwa Jomvu - Mariakani (Lot 2) Highway Project that commenced in 2018 is behind schedule and provide the revised expected completion date?
- (ii) What measures has the Ministry put in place to address health and environmental risks posed by the said road to the road users and area residents?
- (iii) Could the Ministry consider providing other alternative roads and footpaths for residents of Kibarani area noting that the current alternative space is mostly used by motorists?

Thank you, Hon. Speaker.

Hon. Speaker: That Question will be replied to before the Departmental Committee on Transport, Public Works and Housing.

It looks like today all the Questions are directed to Hon. Pkosing. Anyhow, it means that you have work to do. The last Question is by the Member for Saboti, Hon. Caleb Amisi.

Question No. 180/2021

FACILITATION OF THE FAMILY OF THE LATE DORLY KAZIRA CHAHANZI

Hon. Caleb Luyai (Saboti, ODM): Thank you, Hon. Speaker. I rise to ask Question No. 180/2021 directed to the CS, Ministry of Foreign Affairs:

- (i) Could the Cabinet Secretary explain the measures taken by the Ministry to facilitate the family of the late Dorly Kazira Chahanzi of National Identification (ID) No. 20972215, who died on 6th April 2021 while working as a domestic worker in the Kingdom of Saudia Arabia under unclear circumstances to enable the family bring her body to the country for burial?
- (ii) What measures is the Ministry undertaking to sensitize Kenyans working in foreign countries, particularly those working in the Middle East Countries on the steps to take when faced with challenges such as mistreatments while working in these countries?
- (iii) What urgent steps is the Government taking to ensure the safety and protection of Kenyans working in foreign countries particularly in the Middle East Countries?

Hon. Speaker, it is not our practice to intervene during Question Time, but I kindly ask for a minute to emphasize on this Question. As you may have realized that this is a recurrent Question which has been repeatedly asked by many Members in this House...

Hon. Speaker: Is it you who has asked the Question?

Hon. Caleb Luyai (Saboti, ODM): Yes, Hon. Speaker.

Hon. Speaker: Now you want to debate it?

Hon. Caleb Luyai (Saboti, ODM): Hon. Speaker, I just wanted to emphasize.

Hon. Speaker: No. In this House, the rules are very clear – you either ask a question or seek a statement. It is not possible that this Question has been asked by any other Member because it refers to a specific individual. Is that not so, Hon. Amisi?

Hon. Caleb Luyai (Saboti, ODM): My concern is related to questions that have been asked here before.

Hon. Speaker: But each circumstance must be distinguished from the others, unless you are able to say that a specific question was dealt with in the same way as another one. I can see even Hon. Osotsi is raising his hand. I believe he thinks it is a debate. I can assure you in this House we do not do that. That can happen in some other Houses or some county assemblies, not here. It is never done that way here. We are the National Assembly of the Republic of Kenya. Therefore, the rules must be followed.

Which other case is similar to this one? It is true questions of similar nature have been asked, but related to different individuals who may have suffered similar things. But let the Ministry officials come and respond to this question, then you will be free to raise the second and third questions. You say the question was asked in 2018 and another Member asked another one, but we do not know the answers that were given to those questions.

I can see even Hon. Wanyonyi is raising his hand. You may know the person, but you are not the one who has asked the question. So, just relax. You have asked the question and it will be responded to before the Departmental Committee on Defence and Foreign Relations.

For the second time, Question No. 081 by the Member for Turbo, Hon. Janet Sitienei. The Member being absent, the question is dropped.

(Question No. 081/2021 dropped)

The Member in buibui, you could take a seat briefly. Or is that a hijab. She is Hon. Sophia.

Hon. Members, you will recall that on Tuesday, 11th May 2021, during the afternoon sitting, the Member for Kitui Central, Hon. (Dr.) Makali Mulu rose on a point of order pursuant to Standing Order 108, inviting me to name, *inter alia*, the Member for Gatundu South, the Member for Kiharu and the Member for Nyali, for gross disorderly conduct by using unparliamentary language and bringing the dignity of the House to disrepute. I directed that the three Members attend the afternoon sitting of Thursday, 13th May 2021 to accord them an opportunity to be heard.

You will also recall that whereas the Member for Gatundu South and the Member for Kiharu attended the sitting and were accordingly heard, I informed the House that the Member for Nyali had written to me indicating his inability to attend the said sitting and his willingness to be heard at a later date. However, the House proceeded on recess before the matter could be concluded. Parliament being a House of records, the matter is still alive.

Now, therefore, I direct the Serjeant-at-Arms to immediately notify the Speaker as soon as the Member for Nyali is spotted in the Chamber so that he may be accorded an opportunity to

explain himself regarding the matters raised on 11th May 2021, for which he was duly informed by the Clerk and the *Hansard* for the particular day provided to him.

Serjeant-at-Arms, can you find out whether the Member for Nyali is anywhere near the Chamber. Very well, I have seen the Member for Nyali, Hon. Mohamed Ali. I just wanted to finish with that particular aspect of the matter. But before we do so, let us clear with the Statements then Hon. Ali can be heard.

STATEMENTS

Hon. Speaker: Responses to requests for Statements. The Chair of the Departmental Committee on Administration and National Security has two requests to respond to. One by Hon. Oku Kaunya, and the other by Hon. Ali Wario.

KILLING OF EZEKIEL ODERA BY A POLICE OFFICER

Hon. Peter Mwathi (Limuru, JP): Thank you, Hon. Speaker. The Member for Teso North, Hon. Oku Kaunya, requested for a statement on the killing of Mr. Ezekiel Odera by a police officer in Teso North Constituency. The Member particularly sought to be informed on the following:

1. Whether the police officer responsible for killing Mr. Odera had been arrested and arraigned in court.
2. The specific compensation that the government would accord his family in light of the fact that he was the breadwinner and an innocent victim of police recklessness.
3. The specific procedures that police officers are expected to follow in ensuring adherence to Covid-19 protocols and in other aspects of routine patrol in order to avoid unnecessary tension and confrontations with members of the public.
4. The immediate action the Ministry of Interior and Coordination of National Government is taking to transfer police officers who have served at stations in Teso North for more than three years.

The reply is as follows:

On 27th November 2020, a team of officers from Malaba Police Station, while carrying out a crackdown on illicit brews within Malaba township roadblock area were attacked by rowdy members of the public, who started pelting them with stones in an attempt to rescue suspects who had been arrested by the police. One of the officers fired in the air using his official Ceska pistol serial number G8047 to disperse the rowdy crowd.

However, it was later discovered that a stray bullet hit Mr. Ezekiel Odera, aged 20 years, and he succumbed to injuries at Kocholio Sub-County Hospital, while undergoing treatment. The Officer No. 77490, Corporal Henry Mwaura, was arrested immediately after the incident was reported and was later arraigned before Busia Law Court. The officer was charged with murder contrary to Section 203 as read with section 204 of the Penal Code vide Criminal Case No. 962/228/2020 and Court File No. 1043/2020.

The Ministry has no vote to cater for compensation of victims. However, the family may seek for compensation through a civil court process. Police officers, whilst effecting arrests, are required to adhere to the Ministry of Health Covid-19 protocols, which provide that:

1. While effecting arrest of any suspect, police officers should avoid physical contact with suspects and may only need to inform the suspects that they are under arrest and state reasons for the arrest.
2. The police officer shall then caution the suspect that whatever he or she will say may be used as evidence against him or her in a court of law.
3. The suspect should be informed of his or her right to bond or bail.
4. The suspect should thereafter be placed in custody and produced in court within 24 hours.
5. The suspect shall be allowed to contact his relatives or advocate.

Hon. Speaker, The National Police Service Commission, recently, transferred all officers who have worked in Teso North Sub-County for more than three years.

I beg to reply.

Hon. Speaker: Hon. Kaunya, kindly, have the Floor.

Hon. Oku Kaunya (Teso North, ANC): Thank you, Hon. Speaker.

I appreciate the response given by the Chair of the Departmental Committee on Administration and National Security regarding the action taken to arrest the officer and charge him in court for murder.

However, I am not satisfied with two aspects. Again, the Report is not factual on the question of firing. It says that one of the officers fired in the air using his official Ceska pistol. It assumes that the one who was killed was in the air and on the ground at the same time. Practically, that cannot happen.

Secondly, the Report is not clear. The initial IPO Report indicated that the shot aimed at the target and not in the air. This Report does not show that it was the target. If it was not targeted, and there was a crowd surrounding the officers, pelting them with stones, then, we would have had two or even three people shot. That bit ought to have been clarified.

Finally, there is the question of compensation. When Elephants and Lions destroy properties and are in turn killed, people are compensated. When an innocent mwananchi is shot, there should be compensation. When my Committee was going round the country, we found out that even the police officers are killed or hurt in the line of duty and there is no compensation for them. That is an aspect that the Ministry needs to consider. My question on compensation is on this sentence: "The Ministry has no vote to cater for the compensation of the victim. However, the family may seek compensation through a civil court procedure."

The young man who was killed comes from a very poor family. They cannot even afford an advocate to follow up a civil process. My emphasis is that the Government should find a way of compensating them.

Thank you, Hon. Speaker.

Hon. Speaker: I am happy you raised that particular aspect of compensation. Therefore, because you are an active Member of that Committee, I would have expected that one of the recommendations to the Departmental Committee on Budget and Appropriations be that they establish a vote for compensating people who maybe killed by policemen while on duty. I do not know whether you have done that. If you did, then, you have done very well. Otherwise, the response that you get compensation through a civil action would be, perhaps, the only avenue available. I am sure the Chair will tell us whether or not you are putting in an item for compensation with regard to such circumstances.

Hon. Peter Mwathi (Limuru, JP): Thank you, Hon. Speaker. You got the second part right. However, as at now, there has not been any recommendation on policy in terms of compensation

or provision of any budget. We will be interacting with the CS in person, and being a Member of the Committee, I can raise that issue then we can pick it up from there.

Secondly, he alluded to a Report that was done by IPOA which I am not privy to. I would want to hear what IPOA have to say about it before I comment on anything regarding the Report.

Thank you.

(Hon. Millie spoke off-record)

Hon. Speaker: Hon. Members, you do not want to engage in endless talk. The issue of compensation because of injuries or death arising from animals and wildlife is catered for in an Act of Parliament which this House passed in 2015. The issue about these kind of situations is a matter that I know many of you, like the lawyers, have litigated on over the years. The Ministry would only seek budgetary support from the National Treasury to go and make good compensations or awards that have been given by courts of law. It is not about giving the Ministry of Interior and Coordination money to go and keep in their votes so that whenever a policeman runs amok and shoots somebody--- In any event, how is the Ministry going to do the assessment? I am sure the competencies for doing that do not lie with the Ministry! It is a matter that would be best handled in the courts of law where comparable situations will be availed and you live it to a judge or judges to make a determination as to quantum. The fact that Hon. Millie is not putting an intervention button suggests that she has also just walked into this place ---

(Hon. Millie spoke off-record)

Hon. Speaker: Where is your card?

(Hon. Millie spoke off-record)

Hon. Speaker: Clerks that is a matter that should be checked. These systems must be checked. I can see an intervention from Hon. Wanyonyi. It seems he wants to say something. Kindly, have the Floor.

Hon. Ferdinard Wanyonyi (Kwanza, FORD-K): Hon. Speaker, I appreciate this opportunity. The victim is a distant relative. Policemen are being transferred having hurt innocent Kenyans. This particular case is similar to one in my area where a policeman was shooting---

Hon. Speaker: What is out of order?

Hon. Ferdinard Wanyonyi (Kwanza, FORD-K): I just want to make a point on the same.

Hon. Speaker: Members, you can amend the Standing Orders so that you do not have to deal with anything. You just talk because it is fashionable to do so. Surely, you know that the way to deal with that is to raise a Statement. I have advised severally that you should appear before the committee when the Cabinet Secretary or whoever it is, is coming to respond. Here we are talking to ourselves. You just speak because you want to appear fashionable and maybe because you want villagers to hear that you expressed concern but it is not enough to express concern. This is the House that resolves issues of concern to the people. The way to resolve them is by getting to address that matter through the people concerned and the Ministries. That is the only way we are going to resolve. We can transact business Hon. Wanyonyi. You are saying there is another example in your place. Another one will say there is also another example in some village. Hon. (Prof.) Ogutu I know you are before Hon. Millie. Therefore, he is the one next.

Hon. (Prof.) Zadoc Ogutu (Bomachoge Borabu): Hon. Speaker, mine is just to find out whether it is in order for the report to be phrased the way it has been phrased. In the narrative, we are told that the police was shooting in the air. I think in future we need these reports to be a little bit specific, because if you can shoot in the air, how can the bullet then come down and land on somebody killing the person?

Hon. Speaker: Thank you. Hon. (Prof.) Ogutu you are absolutely right, but this is the disadvantage of this system- which we have talked about for the longest time since adoption of the 2010 Constitution and when the 11th Parliament came being. Indeed, I can only just suggest. Even if we wanted now, just look at Article 152(3), which says that Cabinet secretaries who shall not be members of parliament. Why do you not propose an amendment, that cabinet secretaries who shall be *ex-officio* members of parliament?

Immediately you will have resolved the issue because they will be here as *ex-officio* members through your own rules because as it is, the floor of the House is a hallowed place. It should not be contaminated by the presence of un-elected executive officials. This is hallowed ground. That is the rule, but if you amended the Constitution, that Article 152 Clause 3, to say that they will be *ex-officio* members... It is just one statement and it will address these problems we have been facing here.

Hon. (Prof) Ogutu you have raised a very valid point, but Hon. Mwathi, the Chair of the Committee, has been given a statement to come and read in response to the issue raised by Hon. Kaunya. He has no way of knowing whether it is true that the police officer fired into the air. He has no way of knowing that because he does not work for the Kenya police, neither does he work with the Ministry of Interior and Co-ordination of National Government. However, if the Cabinet Secretary was here, you know I am sure Hon. Kaunya would have been firing at him and I would have been here telling him to respond and demonstrate to us how that police officer was shooting. Since the Cabinet Secretary is not here and there is nobody from the Executive here, then it is the chairperson. Will the chairperson know how the firing happened? You know these are some of the shortcomings within the 2010 Constitution.

Hon. Millie Odhiambo!

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Thank you Hon. Speaker. I just wanted to inform Hon. Kaunya and the Chair of the Committee that in 2014, I moved and this House passed the Victims Protection Act and it seeks to support victims like the ones he says who are poor and may not have the means to go for compensation in courts of law and there is a fund. For us as a House, our challenge is to ensure that we put money in the fund so that when the courts are dealing with the criminal matter, at the same time they can compensate poor victims. There is a law, the Victims Protection Act of 2014.

Thank you.

Hon. Speaker: And the fund? You say in the Act you provided for the funding.

Hon. (Ms.) Odhiambo-Mabona: There is Victims Protection Trust Fund. As a House we need to ensure that we put money there so that victims like that are given money. We actually have such a system in law now.

Hon. Speaker: Unfortunately, Hon. Millie, let me also inform you that notwithstanding the provisions of Victims Protection Act about the establishment of funds, what this House should be doing is to compel the Cabinet Secretary for the National Treasury, who has the authority to establish funds, including the Parliamentary Mortgage Fund and the Car Loans Fund... All those funds are activated through the authority of the Cabinet Secretary for the National Treasury. Therefore, I think you have a point, but the House now needs to pursue the line that you have just

raised that the law provides for this. It is for the relevant committee to push for the Cabinet Secretary to establish the fund. Good point.

Hon. Millie, I know you are very active. You should now begin thinking about which committee you should approach. I am sure they will benefit from your information about the Act, because you are the one who moved it.

There is another intervention by Hon. Tong'i.

Hon. Richard Tong'i (Nyaribari Chache, JP): Hon. Speaker, you just intelligently answered my question so I will ask the next one. No wonder they made you an elder of the Mount Kenya, but we will make you an elder of Kenya as well.

(Laughter and Applause)

Hon. Speaker: Hon. Lentoimaga.

Hon. Alois Lentoimaga (Samburu North, JP): I think my concern is that, if this compensation is not available out rightly, then it means the money you see there... If the report is saying that you go to court to raise a civil case to get compensation, why go that long route? It will be costly for the victim.

Hon. Speaker: I think then your concern is addressed by what Hon. Millie has just proffered. Make the next statement, Hon. Mwathi.

RETENTION OF RETIRED BANGALI LOCATION CHIEF IN SERVICE

Hon. Peter Mwathi (Limuru, JP): Hon. Speaker, on 11th March this year 2021, Hon. Ali Wario, MP for Buras Constituency, sought for a statement and specifically wanted the following to be addressed.

1. Explain what led the Ministry to grant an extension twice to the retired chief of Bangali Location in Tana River Sub-location in contravention of the mandatory retirement policy and law;
2. What steps the Ministry has taken to ensure succession planning for the continuity in service delivery upon the retirement of officers especially chiefs;
3. What measures the ministry is putting in place to promote all assistant chiefs across the country and particularly the acting chief for Bangali Location in Tana North Sub-county;
4. What measures have been put in place to ensure that the officers due for retirement are adequately prepared to transit into retirement so as not to violate the law and other commission guidelines?

The reply is as follows:

Mr. Boru, who is the chief of Bangali Location and Mr. Abdi Gure who is the chief of Bangali Location in Tana North Sob-county retired from service with effect from 1st July 2019. But they were given an extension on local agreement terms by the Public Service Commission (PSC) on the recommendation of the Ministry with effect from 1st July 2019 for a period of one year. The appointment was further renewed for a period of one year with effect from 1st July 2020 to 30th June 2021, before the PSC circular regarding prohibition of extension was issued.

The commendation for re-appointment of Mr. Mburu was due to his dedication and experience in handling challenges of radicalisation and terrorism. He has been collaborating well

with other Government security agencies in tackling security challenges in Bangali Division. He has played a great advocacy role for communal peace in the larger Tana North Sub County.

On steps taken to ensure succession planning, the State Department of Interior and Coordination of National Government sought authority, and it was granted by the PSC, to fill vacancies for chiefs and assistant chiefs as and when need arises without referring to the PSC.

In the marginalised areas, there are challenges in filling vacancies for chiefs and assistant chiefs because at times we fail to get persons with the right academic qualifications. In such cases, we have been approaching PSC to grant waiver on the academic qualifications to enable filling of the vacancies so that the locations and sub-locations do not stay for long without chiefs or assistant chiefs.

On measures taken to promote all assistant chiefs, the State Department is in consultation with the PSC regarding promotion of administrative officers. The PSC has indicated that their promotion will be addressed under the succession management program currently being undertaken by the Commission.

On measures put in place to prepare officers to proceed on retirement, retirement trainings are organised for officers aged 55 years and above. Also, during induction for newly recruited officers, they are encouraged to plan for their early retirement. This is in line with the provisions of the Human Resource Development Policy for Public Service of 2016, which requires all public service organisations to adequately prepare their employees for retirement by developing and implementing customised pre-retirement training programs.

The Ministry, jointly with the Kenya School of Government (KSG), has put in place pre-retirement programs to prepare employees for life after their tenure of duty in service.

Hon. Speaker, I beg to reply.

Hon. Speaker: Let us hear Hon. Ali Wario.

Hon. Ali Wario (Bura, JP): Thank you, Hon. Speaker for the opportunity. I also thank Hon. Mwathi for attempting to respond to the Statement that I sought. If I may jog Hon. Mwathi's memory, the issue I raised is a very clear one in law. Section 80 (1) (a) and (b) of the Public Service Commission Act, states that on attaining the mandatory retirement age, the Commission or other appointing authority shall not extend the service of such person. This is provided for by the PSC Act.

If you keenly listened to my colleague, Hon. Mwathi, he said they used local agreement terms. At what point do you switch off and contravene the law of this country? We are Members of Parliament. As Members, we have to oversee the Executive. This is contravention of the law. At what point is the Commission allowed to put aside law and use local agreement terms?

Secondly, for how long will this illegality continue? We have university graduates and people with other qualifications who have applied for that position, but they have been put off. He is now telling us that they have sought authority to waive qualifications in marginalised areas because they lack qualified people. That is not true. We have qualified people. It is illegal to hold somebody who is already in retirement. This is in contravention of law. Can Hon. Mwathi be clear on that area, and more so on Section 80 (1) (a) and (b) of the PSC Act?

I thank you, Hon. Speaker.

Hon. Speaker: Hon. Mwathi, are you able to respond to that one?

Hon. Peter Mwathi (Limuru, JP): Hon. Speaker, as you rightly pointed out regarding the Statement that I read out earlier on, I have read out this Statement as has been delivered from the Ministry.

In terms of the details and arising supplementary questions, I may have to further engage the people who provided this answer. In those circumstances, if the Member is not satisfied, we can only do the honourable duty of inviting the Cabinet Secretary (CS) to come and then we engage him at the Committee level.

Hon. Speaker: You have just said exactly what I was going to direct. Listening to the answer given and what Hon. Ali Wario is saying, it is clear that the Cabinet Secretary responsible for that docket should appear before the Committee so that Hon. Ali Wario can raise the issue of when it is desirable to follow the law in some parts of Kenya and when is it that we follow it in all parts of Kenya?

If this law was titled “An Act of Parliament” it has the force of law throughout Kenya. It cannot be open to the Cabinet Secretary for the Interior to decide when to implement parts of the law and when not to. It is not open to him. In fact, Hon. Mwathi and Hon. Wario, please; set a date for the Cabinet Secretary to appear before you so that he can explain. If he says that is what they are doing, then he can be brought here to answer as to why he is violating the law passed by this House. We cannot have this situation. That kind of an answer is so irresponsible and so unsatisfactory. Hon. Mwathi, set a date. Let the Cabinet Secretary come and respond to that issue. Hon. Ali Wario has raised a very valid point.

(Applause)

Hon. Mwathi, let Hon. Wario get to know the date so that he is available on that day.

Hon. Peter Mwathi (Limuru, JP): I thank you, Hon. Speaker for giving that direction. May I point to Hon. Wario that in the next two weeks, we will be meeting the Cabinet Secretary; we want all the pending issues regarding Statements and some Questions to be sorted out at that time. I will make a point of inviting the Hon. Member. I will give Hon. Wario the exact date of the meeting.

Hon. Speaker: Hon. Wario and all other Members who have issues, including Hon. Kaunya whose answer was not satisfactory, should attend. Hon. Kevin Wanyonyi and any other Member should attend so that it becomes routine that they come and respond to such specific issues. More importantly, that one of not adhering to the law is something that even you as a Committee should bring a report here to say that the Cabinet Secretary has admitted to not adhering to the law so that the House can decide what to do in these kinds of situations. Do we pass laws meant to be trashed around by people?

Hon. Wario, you want to say something?

Hon. Ali Wario (Bura, JP): I just wanted to appreciate you, Hon. Speaker. This is blatant contravention of the law and we are here to oversee the Executive. I appreciate your direction.

I thank you, Hon. Speaker

Hon. Speaker: Very well. Hon. Member for Kibwezi West.

Hon. Patrick Musimba (Kibwezi West, Independent): I thank you, Hon. Speaker, for giving me this opportunity to pay tribute to the late Hon. Richard Kalembe Nguluku Ndile, former Member of Parliament for Kibwezi Constituency. On behalf of the people of Kibwezi West Constituency, my family and on my own behalf, I wish to convey my condolences to the family of the late Hon. Richard Kalembe Ndile, the people of Kibwezi, the entire nation, his relatives, friends and political colleagues, during this difficult time of mourning of our departed leader, who was popularly known as “*mtoto wa squatter*”.

In his own words, his agitation began in the wings of his mother, as he was born in April 1964, four months after our nation attained independence. He was faced with challenges of poverty, ignorance and disease. Hon. Kalembe Ndile, indeed, stood for the ideals in our National Anthem; the fear of God, a defender of justice, an advocate of unity and peace and a pusher for unity of purpose. He was always ready to serve. He was brave and stood for constitutional ideals, advocated for a stronger Kenya and for the prosperity for generations to come. He was, indeed, a humanitarian with a heart of humanity, neutrality, impartiality and independence of thought in execution of his duties. We mourn the great Kalembe Ndile as a great patriot as he stood in many forums utilizing his wit and humour to transcend ethnic, cultural, political and historical aspects of our great nation, Kenya.

He stood for Chapter 4 of our Constitution, that is, economic and social rights, right to education, right to housing, right to adequate standards of living, right to health, victim rights and right to science and culture. Indeed, our great nation will remember him for his lifelong mission, which is, determining the living wage as opposed to the minimum wage and to be able to increase the level of savings which will in turn increase the levels of investments in our nation Kenya, thereby making it indeed a land where plenty may be found.

May the almighty God rest his soul in eternal peace as we prepare to retire him on Friday. We shall have a mass for him at the Holy Family Cathedral on Thursday at 10.00 a.m., and we invite all Hon. Members to attend.

May God rest the soul of Hon. Richard Kalembe Ndile in eternal peace.

Hon. Speaker: Member for Makueni.

Hon. Daniel Maanzo (Makueni, WDM-K): Thank you, Hon. Speaker. Hon. Kalembe Ndile was in this House in the 9th Parliament and I am sure quite a number of Members who are still here may have interacted with him. He made several attempts to come back to Parliament and although that did not happen, through his political party and working with other parties like Jubilee, many people from different parts of this country were elected to county assemblies through his party. At one point in the last Parliament, a Member was elected to this House through his party.

I really want to thank the Ministry of Foreign Affairs and specifically, the Principal Secretary Macharia Kamau. While we were planning for the funeral of Kalembe Ndile on Friday, one of Hon. Kalembe Ndile's children was stuck in Arabia. The Principal Secretary really made a personal effort to make sure his child comes home. That is a Principal Secretary who is really working for this country. With people like him, many issues like that can be resolved in this country. It has happened to many families before.

As I conclude, I request Members who have associated with Hon. Kalembe Ndile to condole with the family during this very difficult time.

I thank you, Hon. Speaker.

Hon. Speaker: Hon. Wangwe.

Hon. Emmanuel Wangwe (Navakholo, JP): Thank you, Hon. Speaker. On behalf of the people of Navakholo, myself and my family, allow me to pass my sincere condolences to the people of Kibwezi, those whom Hon. Ndile represented then. I also want to declare herein that, Hon. Ndile is my neighbour in Nairobi. We lived together, we went to church together and we were both Catholics. He was a very religious person. The person you knew in politics is very different from the spiritual person he was. This afternoon, Hon. Makali Mulu, Hon. Mbui, Hon. Mwalyo and I, joined the family to grieve with them. The family made a request. They will have a *harambee* tomorrow to raise some funds to offset the bill of the late Hon. Kalembe Ndile. Being the Whip and being in a House where Hon. Ndile served, I want to request you, my colleagues. It

is not a normal request. It is outside the normal procedure, but with a human heart and for those who are willing to support the family, I request that, through Hon. Musimba or Hon. Mbui as the Leader of the Minority Party, that we contribute something small in support of the bills that the family has incurred.

May God rest his soul in eternity.

Hon. Speaker: Hon. Kimunya.

Hon. Amos Kimunya (Kipipiri, JP): Thank you, Hon. Speaker. I join my colleagues in condoling with the family of the late Kalembe Ndile, his friends and members of The Independent Party (TIP). I served with Hon. Kalembe Ndile in this House in the 9th Parliament. He joined the Government as an Assistant Minister along the way. He was the first MP to invite me to Kibwezi, his constituency, to sort out the squatter situation. That is when I realized his other name was “*son of a squatter*”. We went round and we could see the passion with which he was articulating issues of his constituents on matters of land. We all know him. He had different facets. He was a good example of a free soul, happy in politics, happy in real life and there was never a dull moment with Hon. Kalembe Ndile. I am sure wherever he is; he will be having a good moment with the angels and spirits up there. We would wish that his soul rests in eternal peace and may eternal light shine on him.

I also want to associate myself with the sentiments of the Whip and the appeal made earlier by Hon. Musimba that we consider in a compassionate way, how we can escort our departed brother. Once an MP always a Member of this House. Let us stand together with the family and give him a decent send-off and not leave them in bankruptcy because of the ailment that befell him. When called upon, let us do what we need to do. Tomorrow at 2.00 p.m., and on Thursday if we can, let us be there to give him a good send-off.

Hon. Speaker: Hon. Wamalwa.

Hon. (Dr.) Chris Wamalwa (Kimini, FORD-K): Thank you, Hon. Speaker. On behalf of my family, myself, the great people of Kimini and on behalf of all Catholic Members of Parliament, I take this opportunity to pass my message of condolence to the family of the late Hon. Richard Kalembe Ndile, who was a Member of Parliament in the 9th Parliament. We want to extend this and say sorry to the family for losing the Hon. Member. I happen to have interacted with the Hon. Member at the time we were campaigning for the senatorial by-elections in Machakos County and we were campaigning for Sen. Agnes Kavindu Muthama. I liked the way Hon. Kalembe was humorous on the platform. He was humorous, charismatic, very brave and courageous. We had the slogan ‘*kasa mama*’. I was very new and the Kambas were holding their boobs. I asked what it meant. He told me, when you go there, do the same. To say *mamaa* is better. I am happy to note that he contributed so much for the success of the by-election. He was our member in the One Kenya Alliance. We were also with him in Kabuchai. He campaigned in Kabuchai for the Member for Kabuchai who is here, *Mheshimiwa* Majimbo Kalasinga. We were with him in Matungu. So, he campaigned all through. So, we actually salute him for the victory, but we pray to the Almighty God to give the family strength and fortitude at this difficult time.

I thank you.

Hon. Speaker: Member for Tharaka.

Hon. George Gitonga (Tharaka, DP): Thank you, Hon. Speaker. Allow me, on my own behalf, on behalf of my family and, on behalf of the great people of Tharaka, to convey my very sincere condolences to the family of the late Hon. Kalembe Ndile.

Hon. Kalembe Ndile served this country diligently. As a Member of Parliament, he actually contributed a lot to the agitation of freedom which we are enjoying today, and especially when it

came to striking his humour and jest in whatever he was trying to do so that he could put across the point he wanted to make on behalf of his people of Kibwezi and on behalf of the people of Kenya.

More importantly, we have been told that we have to make a contribution which I think is very African and that is how we are supposed to do it. But I think the Chief Whip should have also made a plea to whoever owes Hon. Kalembe Ndile money to actually pay up. I recollect very well that before Hon. Kalembe Ndile died, he was actually pleading over and over again that the Jubilee Party ought to have paid him his Kshs6 million. This is because he folded up his party so that he could join Jubilee. He was promised Kshs6 million. He was only paid a paltry Kshs600,000. I think we should not have played a role in impoverishing Hon. Kalembe Ndile. Let the Jubilee Party and the other well-wishers, the Kenya One Alliance that is being mentioned, come up in earnest and pay Hon. Kalembe Ndile so that his family will enjoy what he worked for.

May the Almighty God rest his soul in eternal peace.

Hon. Speaker: Hon. Opiyo Wandayi.

Hon. Opiyo Wandayi (Ugunja, ODM): Hon. Speaker, on my own behalf and on behalf of the people of Ugunja, I also join my colleagues in condoling with the family, relatives and friends of our departed colleague, Hon. Kalembe Ndile.

I did not have time or occasion to interact closely with the late Hon. Kalembe Ndile but, of course, being a public figure, Hon. Kalembe Ndile came out as a charismatic leader. Indeed, a resilient personality that was able to find his way to this august House despite indication of being a person of humble beginnings. Indeed, even after he left this House, he was able to form a political party, TIP. It is not an easy thing to form a political party in this country or anywhere else in this world. We must learn some lesson from the life of Hon. Kalembe Ndile that, in spite of all the challenges that you could be facing, if you are committed, you can make it. I just pray that the Almighty God rests his soul in eternal peace.

I thank you.

Hon. Speaker: Hon. Aden Duale.

Hon. Aden Duale (Garissa Township, JP): Thank you, Hon. Speaker. I join my colleagues in sending my condolences and those of the people of Garissa Township to Hon. Kalembe Ndile's family and constituency which is the same as that of my very good friend, Hon. (Dr.) Patrick Musimba.

Hon. Speaker, I have not served with Hon. Kalembe Ndile in Parliament. I know very little about Hon. Kalembe Ndile. In my religion, we do not lie, particularly, in praising the dead. We say the way the person is. The Member for Tharaka was not a Member of Parliament in the 11th Parliament and he played a very little role or, at least, no role in the merger or formation of the Jubilee Party. So, what he is saying is just from the streets.

As a Member who also sat with Hon. Kalembe Ndile and Hon Kiraitu Murungi because I was a leader in the United Republican Party (URP), Hon. Kalembe Ndile kept asking for Kshs6 million for folding his party. Now that the Jubilee Party is in existence and is the party of Government, the Leader of the Majority Party and the Majority Party Chief Whip, are under obligation, since you have visited the family today, to pick the debit note and make sure you deliver the Kshs6 million. That is very important. If the party was in the Opposition, but this party is in Government, and so I think Jubilee is under obligation to pay Hon. Kalembe Ndile's family. Hon. John Mbadi, you were not part of the 14 parties that formed this...

Hon. Speaker: Very well. Hon. John Mbadi, what is your point of order?

Hon. John Mbadi (Suba South, ODM): Hon. Speaker, Hon. Aden Duale has kept on repeating that now that Jubilee is in Government, that they should pay a debt of Kshs6 million that was owed to Hon. Kalembe Ndile, which is basically a political negotiation by political parties.

Is he in order to imply that Kenyan taxpayers' money should be used to settle debts that are owed by political parties or friends of political parties to others? When you keep on referring that now that you are in Government, what you are trying to imply is that we should go and raid public coffers to pay money which is like a bribe the way it is coming out.

I do not understand how one would demand for money when parties are merging. We have merged parties many times. We have experience on our side much more than Hon. Aden Duale. I know he was in the Orange Democratic Movement (ODM) but ODM has more experience in mergers, disengaging and again re-engaging. It is something that we have a lot of experience on. So, I just wanted to correct Hon. Aden Duale that it is not proper and right to be on record that now that a party is in Government, it should use public resources to pay a bribe for political negotiations.

Hon. Aden Duale (Garissa Township, JP): Hon. Speaker, Hon. John Mbadi cannot be an authority on how Jubilee runs its affairs. I think that is not part of the handshake. There are many public resources which are used, including the one of the handshake and the Building Bridges Initiative (BBI) which, maybe, one day, the Auditor General will raise. So, I think if he can wait, I am only raising this concern because Hon. Kalembe Ndile, as the leader of the TIP and I, sat on that table on behalf of URP, Hon. Kiraitu Murungi, who sat on the table, Hon. Mwangi Kiunjuri, who is of National Grand Union (GNU) and many people including the Republican Party of Hon. Najib Balala sat together. There are parties that did not ask for anything.

From what Hon. Kalembe Ndile used to tell us when he met us in functions before he died is that this party called Jubilee has his Kshs6 million. We can contribute out of our own will, but I think Jubilee is the biggest recipient of the political parties' money because of its numerical strength both in the counties, National Assembly and the Senate. If I was the Leader of the Majority Party, I would just pick that debit note and...

We did not pay because the people who were supposed to pay did not pay. That is why I did not raise this matter. But the Member for Tharaka raised it and he picked it from the streets.

Now, let me speak with authority. There were parties that were very strong: URP and The National Alliance (TNA), in their presence in the House. Then "Bus" Party had two Members of Parliament, but the rest did not have even a Member of County Assembly (MCA). As leaders, we must say it the way it is. Hon. (Dr.) Patrick Musimba, please, he is one of your voters. You must look and find how to sue Jubilee Party once we furnish you with the relevant documents. I am sure if you ask his family, they will tell you. Outside that, he is one of our colleagues. He is a man who used to speak his mind. Let us channel our donations to Hon. (Dr.) Musimba, being a very close friend and one of the few governors I will support in 2022. Hon. (Dr.) Musimba, I will send my contribution.

Hon. Mbadi, I know that you are good in forming coalitions. We are good in forming mergers. We have seen what mergers and coalitions can do. You started with the Coalition for Reforms and Democracy (CORD) and now you are in the National Super Alliance (NASA). I am sure that you will form another one and we will all go to mergers. We had our share of deals. Please, Majority Whip, you have gone home. Get the fee note. Tell the Jubilee Party that they have money. They are not broke because it is a parliamentary party which we contribute to. Let them pay Hon. Kalembe Ndile.

Hon. Speaker: Please do not feel like there is anything to respond to. This is banter. The purpose of the funds which are given to political parties does not include payment of debts, even imagined ones, or ones that one may think that by doing this, they will get something.

(Laughter)

You can look at the Political Parties Act. It does not include anything like that.

Hon. Makali Mulu.

Hon. Makali Mulu (Kitui Central, WDM-K): Thank you very much, Hon. Speaker. On behalf of the good people of Kitui Central, my own behalf and that of my family, allow me to join my colleagues to convey my sincere condolences to the family of the late Kalembe Ndile.

As Hon. Wangwe has said, we have been neighbours with Hon. Kalembe for over 16 years. He was a very unique person. As a politician, he was very humorous. Everywhere you went with him, the public would demand to be addressed by him. As a region and country, we have lost a very great leader. My prayer is that the Almighty God will continue protecting and comforting the family. I have been with Hon. Kalembe in many political rallies. I want to confirm what Hon. Duale and others have said. He would come out very clearly that when he joined Jubilee Party with TIP TIP, he was not paid anything. He would mention names of those he thought took away the money from his party.

(Applause)

(Laughter)

Naturally in the African culture, when you are about to die or as you age... My father is quite old. I remember that I talked to him one time. He told me that even as he is about to die because he is almost approaching 100 years, I should know that he does not owe anybody a single cent. I am sure that Hon. Kalembe must have told the family that the Jubilee Party owes him Kshs6 million. He is part of the debts. I am sure that the Jubilee Party has leadership and money. They can do the humble thing and pay the family. As Hon. Musimba has said, we have a huge hospital bill. As leaders, we will all contribute towards it because he was once in this House. In addition to that, he has children and a wife who were left behind. If that debt is settled, it will really serve a good purpose.

Pole sana to all Kenyans and more so, the people of Kibwezi West who elected Kalembe for only one term. We can learn a lot from him. He was only in this House for one term. However, anytime you met him, it was like he was here for over 20 years. After leaving the House, he did not stop being a politician. Some can learn that during the time we are in this House, we can serve Kenyans to an extent that they will keep on remembering us.

With those many remarks, may his soul rest in eternal peace. Amen. Thank you, Hon. Speaker.

Hon. Speaker: Hon. Sankok.

Hon. David ole Sankok (Nominated, JP): Thank you very much, Hon. Speaker. On my own behalf, that of my family and the 6.5 million people with disabilities that I represent in this National Assembly, I want to pass my sincere condolences to the family of the late Hon. Kalembe Ndile, the people of Kibwezi West and Kenyans for losing such a great leader. He is a leader who

had a lot to say, especially in a way that you would understand better in a common man's language. You would laugh but you understood properly what he meant and what he wanted.

I interacted with him when he visited me in Narok. We laughed throughout. There is a lot that I learnt from him, especially that there is a possibility for a son of a squatter or peasant to become a Member of Parliament or President in this country.

(Applause)

I learnt a lot from him. There are questions on whether Jubilee Party owes him or not, whether the debt is legal or illegal or it is a bribe or not. Since he is lying cold in the mortuary, it is the moral responsibility of the Jubilee Party which I am loyal to, to call us for a fundraising so that we can pay him.

(Applause)

I really concur with the Majority Whip, Hon. Wangwe, that it is African and moral for us to escort our colleague by conducting a fundraising and give something small to the family. I want to plead with all of us to assist. Even our Party leader and Deputy Party leader should come in, so that we can assist. Those who are known to be against fundraising or carrying money in sacks should come in and give this time round for humanity. We know those who are very good in receiving but not giving. There are those who use pay bill numbers to receive money to pay teachers, but they do not give out that money to the teachers. They use the money for repeat elections. I plead with them to contribute in this fundraiser. For the first time, stretch your hand not to receive but to give. Blessed is the hand that gives rather than the one that receives.

May his soul rest in eternal peace. Thank you.

POINT OF ORDER

SUBMISSION ON CLAIMS MADE AGAINST HON. MOHAMED ALI

Hon. Speaker: Indeed, may his soul rest in eternal peace. Hon. Members, we have all heard the plea which has been made by the Majority Whip, Hon. Musimba and Hon. Makali Mulu. This is voluntary. Nobody is being compelled to do something. We have all heard very good messages of condolence. Those of us who knew Hon. Richard Kalembe Ndile know what kind of a person he was. I appeal to everybody's conscience and convictions.

Hon. Members, I had indicated that Hon. Mohamed Ali, Member for Nyali, would appear here on 11th May 2021. He was duly notified by the Clerk. However, he was not available on 13th May. He wrote to me, and I informed the House that he was observing *Eid ul-Fitr* during the month of *Ramadhan*. Therefore, he was unable to be present on that date. He requested for another day. According to our rules, as long as the matter remains alive and not finalised in one way or the other, it is not good to appear in our records. Therefore, today being the first Sitting after the short recess, it therefore behooves me to give Hon. Mohamed Ali the first chance to explain himself and make submissions on the claim made against him. Hon. Mohamed Ali.

Hon. Mohamed Ali (Nyali, Independent): Ahsante sana Mhe. Spika. Wakati ambao ulinihitaji sikuwepo kwa sababu ya sherehe ya *Eid-ul-Fitr*, lakini leo nina furaha kwa sababu umenipatia nafasi ya kujitetea.

Kwanza kabisa, sijui mlalamishi ni nani na singelipenda kuwa mwingi wa maneno ila niseme kwamba mambo hayo yamepitwa na wakati. Mhe. Moses Kuria alitoa ushahidi kwa kusema kwamba yeye ni miongoni mwa Wabunge waliopokea hongo. Sijui nitamjibu nani kwa sababu aliyeleta haya malalamishi simjui ni nani. Ni vile tu alitaja jina langu bila sababu zinazofaa kuhusishwa nami.

Fauka ya hayo, Mhe. Moses Kuria alisimama ndani ya Jumba hili na akatoa hongo ya Kshs100,000, pesa ambazo aliziweka wazi na akasema alikuwa miongoni mwa wale waliopokea hela hizo. Nadhani huo ni ushahidi tosha. Singelipenda kupoteza wakati mwingi kwa mambo ambayo yamewekwa wazi na Mbunge mwenzetu.

Hili si jambo la kwanza kuwahi kutajwa katika Bunge hili. Utakumbuka, Mhe, Spika, nikikurudisha nyuma, wakati ambapo kulikuwa na masuala ya sukari. Baadhi ya Wabunge walisema kwamba wapo wenzao waliopokea baina ya Kshs10,000 na Kshs30,000 ndani ya choo ili wapitishie masuala fulani katika Bunge hili.

Kwa hivyo, kwa Mbunge mwenzangu kusimama na kunitaja mimi Mohamed Ali bila ushahidi tosha, inaonekana kwamba ni kupelekwa katika... Kwanza, sijui ni nani alisema mimi, Mohamed Ali, nilizungumza katika hili Bunge na kusema mambo hayo. Ningependa kujua. Ndiyo maana nilipokuandikia barua nilitoa ombi la kusema itakuwa vyema nikijua ni nani ili niweze kujibu kulingana na masuala aliyouliza. Ingawa hivyo, muda umeyoyoma. Ni wakati muhimu kusonga mbele. Tugange yajayo ili tuendelee nchi hii. Tuwasaidie wananchi kwa kutunga sheria.

Kwa hivyo, Mhe. Spika, siwezi kusema nitaomba msamaha kwa jambo ambalo silijui. Watu huomba msamaha kwa mambo ambayo wanayajua. Kwa kumalizia, ushahidi uliotelewa na mwenzangu Moses Kuria wa Kshs100,000 ni ushahidi tosha katika Bunge hili.

Kwa hivyo, Mhe. Spika naomba...

Hon. Speaker: What are you confirming now? Are you confirming that you also said the same?

Hon. Mohamed Ali (Nyali, Independent): Mhe. Spika, jambo ambalo nasema kibinafsi, kivyangu ni kwamba...

Hon. Speaker: You were not even here when Moses Kuria spoke about those things. Are you suggesting that you are confirming that?

Hon. Mohamed Ali (Nyali, Independent): Mhe. Spika, sahamani. Tuko katika masuala ya mtandao na watu wanaweza kuangalia mahali popote walipo vile mambo yalivyoendelea.

Hon. Speaker: Please, do not take us that route.

Hon. Mohamed Ali (Nyali, Independent): Mhe. Spika, kivyangu, nasema sijui ni nani aliyeyatoa malalamishi hayo. Kwa hivyo, sijui nitamjibu kiviipi. Kivyangu, nasema ni mambo ambayo yamepitwa na wakati na tuendelee mbele. Mimi sijui nani amenishtaki na amenishtaki katika misingi ipi.

Hon. Speaker: Hon. Ali, a Member shouted that the Member for Nyali also made a similar statement that Members were being bribed. Did you ever say anything like that?

Hon. Mohamed Ali (Nyali, Independent): Mhe. Spika, kwa rekodi ya hili Bunge, sidhani kama nimetaja jambo kama hilo hapa.

Hon. Speaker: You did not say it?

Hon. Mohamed Ali (Nyali, Independent): Not in this Parliament.

Hon. Speaker: Do not worry where else you said it, but you did not say it here.

Hon. Mohamed Ali (Nyali, Independent): No, Hon. Speaker.

Hon. Speaker: Hon. Members, Hon. Mohamed Ali has said that he never uttered the said words. It does not matter. I cannot police what people say in political rallies. I do not deal with

that. It is here where Hon. Ali is expected to take a personal responsibility for a statement like that, but he has said he never did that. We are not dealing with what he has said now; it is what he was alleged to have said on that day, which he has denied. Therefore, I cannot invoke the provisions of Standing Order No.108 to cause him to be named as, indeed, I was invited to do.

Once again, I take the opportunity to remind all Members to endeavour to act in a manner that reflects the dignity and the esteemed position of the House in society. Therefore, this matter will not be pursued any further because Hon. Ali has denied ever having uttered those words. Hon. Members, there are those of you who are in the habit of shouting names of other Members. We are not able to pick who it was that actually included the name of Mohamed Ali. It is the way Members shout from their places and so you end up putting Hon. Ali in a situation where he has to defend himself against unsubstantiated claims. So, let that matter end there. In matters of this nature, let us avoid throwing out names of colleagues just like that. So, there will be no further action on the matter.

We proceed to the next Order.

PROCEDURAL MOTION

ALTERATION OF THE CALENDAR OF THE HOUSE

Hon. Speaker: Leader of the Majority Party.

Hon. Amos Kimunya (Kipipiri, JP) Hon Speaker, I beg to move the following Procedural Motion:

THAT, pursuant to the provisions of Standing Order 28(4), cognizant of the continued limitations of in-persons meetings arising from the COVID-19 Pandemic, this House further alters its Calendar for the Fifth Session, 2021(Regular Sessions) and resolves that, during the Second Part of the Session (June 8th to July 8th, 2021)—
Current week (8th – 10th June 2021)

(i) the Sittings of the House of Tuesday, 8th June 2021, Wednesday, 9th June 2021 and Thursday, 10th June 2021 shall remain as specified under Standing Order No.30(1) and (2);

Variations for the weeks after

(ii) notwithstanding the provisions of Standing Order No.30, the Sittings of the House for the period 15th June up to 8th July 2021 shall be as follows:

- (a) Tuesdays (Afternoon) from 2.30 p.m. to 6.30 p.m.;
- (b) Tuesdays (Evening) from 7.00 p.m. to 9.30 p.m.;
- (c) Wednesdays (Afternoon) from 2.30 p.m. to 6.30 p.m.;
- (d) Wednesdays (Evening) from 7.00 p.m. to 9.30 p.m.; and,
- (e) Thursdays (Afternoon) from 2.30 p.m. to 7.00 p.m.

Suspension of Morning Sittings

(iii) during the period 15th June up to 8th July 2021, the Sittings of the House of Wednesday Mornings shall stand suspended;

Individual Members' business

(iv) on Thursday Afternoons, business not sponsored by the Majority Party, the Minority Party or a Committee shall have precedence over all other business, in such order as the House Business Committee shall determine; and,

(v) paragraph (iv) shall not apply to the Business under Part XXIV of the Standing Orders (Financial Procedures).

Hon. Speaker, as Members would be aware, we are starting the second part of our Sittings. When we met in the House Business Committee, cognizant of the fact that we are having the COVID-19 Pandemic with us, we worked out the best way of maximizing on the achievement of the business of the House while at the same time limiting exposure of Members to interactions and in-sittings. Because we also have a lot of business to transact between now and end of June and, indeed, for the remaining one year before we get into campaign mode, it is important we use as much time as possible in the House to transact as much business as we can.

So, the effect of what we are proposing now is that we will have two Sittings on Tuesdays and Wednesdays where we will have the Afternoon and Evening Sittings. Members may recall that when we experimented with this in the First Part of the Session, it became very popular because Members could do their business in the course of the day and come in the evening to transact some business. Therefore, Members have asked if they can continue with evening sessions. We also realised that it was very short. It was only two hours and few Members could transact. So, we have added another half an hour to make it two-and-a-half hours.

If you look at the totality of these measures, having those sessions on Tuesdays and Wednesdays, and the normal Afternoon Session on Thursdays, the total sitting time comes to about 17.5 hours which is almost half an hour shorter than the regular sitting time which is 18 hours in a week. So, through these adjustments, Kenyans will get full value of their money. Members will also get a reorganisation of their time so that they are able to do business during the day and come to Parliament in the evening. They will also transact committee work in the mornings. On Thursdays, Members will be able to travel to their constituencies and to attend to committee work without feeling that they are leaving the House in sitting.

So, it is a totality of package that we can experiment with. If it works, we can well continue with it and, hopefully, at some point, we will have the evening sessions ending probably at 10.00 p.m. or 11.00 p.m. This will give us much time to interact while also giving us a maximum time during the day to go and campaign, visit Government offices, follow up on constituency matters and then put our time in Parliament in the evening. This is because there is still other business to do and we need to represent our people as far as our constitutional mandate is concerned.

That is basically the thrift of it. We have responded to Members' wishes to have that evening session extend its time and also to free up all mornings for Members to do their committee work, follow up on the constituency work and other issues that they need to do in the morning. So, when you come at lunch time, you can prepare to attend the sitting.

We are also cognizant of the fact that there is a lot of traffic disruptions in the afternoon. It does not help to rush to finish business by 7.00 p.m. and then you get stuck in the traffic jam for another two hours. You could as well use that time productively for the betterment of our great Republic and the people that we represent.

This will start from next week and, so, we are talking of three weeks of this experimentation. By the time we go to the next Session, we will see whether to adopt it as a norm or amend it.

With those words, I beg to move and ask the Leader of the Minority Party to second.

Hon. Speaker: Hon. Mbadi.

Hon. John Mbadi (Suba South, ODM): Hon. Speaker, we are living in interesting and difficult times and so, we have to be innovative and creative. We need to observe and take care of

the pandemic and the possible effects it will have on us. I am sure many of us have gone through the pandemic in one way or the other, but we also have a duty to perform.

If you look at the arrangement that we are suggesting to Hon. Members, we are going to have five sittings in a week as opposed to four sittings that we have been having previously. So, ideally, we are increasing our workload during this period of time. This needs to go out very clearly that the Hon. Members have looked for a way through the House Business Committee (HBC) of even having more sittings to transact business.

In what we are proposing, we are adding evening sittings on Tuesday and Wednesday to take care of the Morning Sitting of Wednesday which we are losing because we want the mornings to be free to fumigate the Chamber due to the pandemic. Allow me to say a few words as I finish.

First, we basically have six months to December to transact business as a House. After December, we will go on recess. Coming back in February, you will hardly find Hon. Members in this House because the election mood will have crept in, and Members will pay more attention to either retaining their seats or seeking for other positions. I do not know how many Members are going to retire in this House. I have not heard anyone indicating that he or she is likely to retire. Therefore, this is the time that we really need to finish those urgent matters that we have and the legislative proposals that are in the conveyor belt so that we clear them for the 13th Parliament to take over from there.

My final comment is to plead with my colleagues, especially when it comes to making serious allegations that border and touch on the integrity of this House. You may feel disappointed, disgruntled or hurt, but if you are going to cast aspersions on the integrity of any Member here or even all the Members, then it should be backed by clear evidence. I see some casual nature with which some of my colleagues treat the issues of integrity, and it is very sad.

We need to point out that if there are cases of corruption in the House or among Members of Parliament, it should be backed by clear evidence. Let us not scandalise all Hon. Members. What you eat is your name. The moment you lose your name, you lose it completely. I just want to beg my colleagues that, let us not be carried away by cheap popularity to the extent of making this House look very bad.

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

(Question proposed)

Hon. Speaker: Even before Members begin to debate this Motion, I want to explain paragraph (iv). Since we have done away with morning sittings on Wednesday, or as we propose to suspend them, Private Members' business will take precedence on Thursday afternoons, between 2.30 p.m. and 7.00 p.m. You can now debate.

Hon. Members: Put the Question.

Hon. Speaker: Do I put the Question?

Hon. Members: Yes.

(Question put and agreed to)

Hon. Speaker: Hon. Members, I think it is important to inform our colleagues who are in the lobby that this week's sittings, including today, will go up to 7.00 p.m. The effect of this Motion being carried is that from Tuesday, we will sit as has been indicated. There will be two sittings. Actually, we will have more time for committees, because most of them do their work in the

morning. It is only fair that, that happens that way. Members will also be able to visit various Government offices to conduct constituency work in the mornings. The HBC will prioritise Private Members' business on Thursday afternoons. There are very many Private Members' Bills. The HBC did take note of the fact that - and that is why there is no evening sittings—usually Thursday we tend to suffer a great deal when we have evening sittings because committees also have to travel to various parts of the country. It is for that reason that the HBC felt that the sitting be from 2.30 p.m. to 7.00 p.m. and only dealing with Private Members' business. I hope those who are in the lounge will take note.

Hon. Aden Duale (Garissa Township, JP): On a point of order, Hon. Speaker.

Hon. Speaker: Yes, Hon. Duale.

Hon. Aden Duale (Garissa Township, JP): Hon. Speaker, I appreciate the HBC for slotting Thursday for Private Members' business. But it is a day when many Members travel out of Nairobi. Through you as the Chair of the HBC and the leadership, there are Members, including myself, who have very critical Private Members' Bills and are always ready. The culture I have seen is that the HBC schedules Private Members' Bills whose sponsors are away, so that the presiding officer keeps on changing the business. I would be very happy if the HBC slots Bills after asking if the Member is available. Some Members' Bills are put on the Order Paper while they are out of the country or in their constituencies. Now that the business will be in the afternoon, I will be very happy if the HBC prioritises my Cybercrime (Amendment) Bill. I am ready to move it any time.

Hon. Speaker: Save, of course, to observe that, that aspect will start from Tuesday next week. It means that tomorrow there will be a Morning Sitting at 10.00 a.m. Remind those who are in the lobby room. I believe it is not open for those who partake in some other substances that can inhibit their ability to contribute. Hon. John Mbadi, it is good to inform them that there will be a Sitting tomorrow morning at 10.00 a.m.

Sorry, I would like to make a correction. Remember the variation of time from 9.30 a.m. to 10.00 a.m. was through a special resolution. So, when we go back to following the Standing Orders, tomorrow morning's Sitting will be from 9.30 a.m. to 1.00 p.m.

Let us move to the next Order.

BILLS

First Readings

THE KENYA INDUSTRIAL RESEARCH AND DEVELOPMENT INSTITUTE BILL

THE IRRIGATION (AMENDMENT) BILL

THE NATIONAL ELECTRONIC SINGLE WINDOW SYSTEM BILL

(Orders for First Readings read - Read the First Time and ordered to be referred to the relevant Departmental Committees)

THE LIVESTOCK BILL

Hon. Speaker: At the request of the Leader of the Majority Party, business appearing as Order No. 12, that is, the Livestock Bill (National Assembly Bill No.16 of 2021) is suspended for

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further consideration. I have seen a lot of comments about it, especially on beekeeping. That is one of the issues that have raised a lot of concerns. Let the originators sort out the issues. The First Reading of the Bill is suspended.

(The First Reading of the Livestock Bill suspended)

Let us move to the next ones.

First Readings

THE COFFEE BILL

THE TAX APPEALS TRIBUNAL (AMENDMENT) BILL

THE COMMUNITY GROUPS REGISTRATION BILL

THE NATIONAL HOSPITAL INSURANCE FUND (AMENDMENT) BILL

THE COUNTY ALLOCATION OF REVENUE BILL

(Orders for First Readings read - Read the First Time and ordered to be referred to the relevant Departmental Committees)

Next Order!

MOTION

ADOPTION OF PUBLIC ACCOUNTS COMMITTEE REPORT
FOR FINANCIAL YEAR 2017/2018

THAT, the House adopts the Report of the Public Accounts Committee on the Examination of the Report of the Auditor-General on the Financial Statements of the National Government for the Financial Year 2017/2018 (Volumes I and II), laid on the Table of the House on Tuesday, 23rd March 2021.

(Hon. Opiyo Wandayi on 11.5.2021)

(Resumption of Debate interrupted on 11.5.2021)

Hon. Speaker: When debate on this Motion commenced, the Chairman began moving and he had a balance of 52 minutes. Hon. Wandayi, you have a balance of 52 minutes.

Hon. Opiyo Wandayi (Ugunja, ODM): Hon. Speaker, without a doubt, I will not take more than 30 minutes. To be exact, I will take about 20 minutes. If you may allow me to remove my mask, because I want to refer to notes and I will have problems with my glasses, I would be glad.

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Hon. Speaker: Very well.

Hon. Opiyo Wandayi (Ugunja, ODM): Thank you. Just to continue from where I left last time I started moving this Motion, I want to emphasise that the Public Accounts Committee of the 12th Parliament has made tremendous effort towards ensuring that we are up to date with the Office of the Auditor-General in terms of examination of the reports of that office on financial statements of Ministries, State Departments, Commissions and Independent Offices. The report we are debating now covers 2017/2018 Financial Year, which is indeed the very last complete report that we ever got from the Auditor-General. Of course, we have embarked on examining the Report of the 2018/2019 Financial Year which is still coming. We are still getting reports of that financial year from that office. We are very proud of the fact that we have been able to clear the heavy backlog that we inherited from the 11th Parliament. This has been made possible through the commitment and utmost diligence of the entire membership of that Committee.

Many times, the media focuses only on me as the Chair and a few ranking members. There are many other members who contribute immensely in the Committee. If you allow me, I would like to mention their names. That is because there are few Members these days in a committee. We have my very able Vice-Chair, Hon. Jessica Mbalu, Hon. Aden Duale, Hon. Junet Mohamed, Hon. (Dr.) Eseli Simiyu, Hon. Christopher Nakuleu, Hon. Justus Kizito, Hon. (Dr.) Otiende Amollo, Hon. Koske Kimutai, who has since been replaced by Hon. John Waluke, Hon. Michael Mwangi Muchira, Hon. Wilberforce Oundo, Hon. (Dr.) Eve Obara, Hon. Peter Masara, Hon. Michael Kingi, Hon. James Gichuhi Mwangi, Hon. Samuel Gachobe, Hon. (Eng.) Joseph Ngugi Nduati, Hon. (Maj.) (Rtd.) Rashid Sheikh Abdullahi and Hon. Amina Gedow Hassan. These Members have worked tirelessly to ensure that the PAC delivers on its onerous mandate.

If this Report is eventually adopted, we shall then be in a position to authorise the Treasury to allocate national revenue that was collected in the Financial Year 2017/2018 equitably between the two levels of government. In this particular financial year, the total revenue that was recorded under various revenue statements as received by the National Assembly amounted to Kshs1.46 trillion. This was a 4 per cent or thereabouts increase against the Kshs1.36 trillion that was realised in the previous year, the 2016/2017 Financial Year. It is my prayer that if the House in its wisdom agrees with us and adopts this Report, the next budgetary process will take into consideration the revenues as reported in the Financial Year 2017/2018. That will, of course, have the effect of taking more money to the counties. As you know, there has been clamour for more money to go to the counties. Even what is currently under consideration through the BBI Bill is all about, if not anything else, taking more money to the counties. So, we are proud that we are able to enhance allocations to counties under the current constitutional and legal regime.

If you go through our Report, you will notice that one of the most pragmatic areas in public finance management generally still remains the matter of procurement. The Committee has been able to go through numerous cases of irregularities and, indeed, illegalities in some instances in procurement processes. There were instances where the law was blatantly flouted by the accounting officers. This is in spite of the fact that we have raised this matter time and again in our reports to this House. I will be highlighting a few glaring examples where public officers, specifically accounting officers, engaged in blatant violation of the law, both the Public Procurement and Asset Disposal Act and the Public Finance Management Act.

For instance, I want to talk about the matter at the State Department of ICT. During this financial year that we are reviewing, the case of National Optic Fibre Backbone Infrastructure (NOFBI) came to us. This is a project which, of course, was well intended, and I still believe it is well intended even as we speak. It is a project that has cost taxpayers a whopping Kshs21 billion

and still counting. This is because the last phase of it is still under implementation. This is one project that was conceived and implemented in the most opaque manner and in blatant disregard of the existing laws. If you look at the first phase of this project, it cost taxpayers Kshs4.2 billion. For those who do not know, this is the project that was supposed to enhance internet connectivity across the country. It was supposed to lay down the trunks, infrastructure, and highways for internet from Nairobi to the countryside.

The first phase of this project cost taxpayers Kshs4.2 billion and it was, indeed, fully funded by the Government of Kenya. There was some attempt to undertake an open tendering process and, as a result of this, three companies were contracted. These were Huawei, a company from China and two other local companies. They were contracted to undertake that project. However, when that project entered the second phase, which cost taxpayers Kshs7.2 billion, there is no evidence how the company that was eventually contracted was ever contracted. There was no evidence how that company came on board. We have laboured through and through to find out how that company came on board. Incidentally, the same company did the first phase - that is Huawei Technologies. We were at pains to understand how a contract of Kshs7.2 billion could have been awarded to a company on the basis of nothing really. There was no open tendering, no direct procurement as we know it under the law, and there was no restricted tendering. They were citing some nebulous terminology of government-to-government tendering procurement process, which is not known in any law. Moreover, it is an issue that is still left pending.

However, even more seriously, the same company was awarded another contract to implement the third phase of this project, now at a whopping Kshs9.8 billion. This is what they are calling Phase 2 expansion of the NOFBI Project. Still, we are unable to find out how that company was awarded that contract and how it was procured. Indeed, for both Phase 2 and Phase 2 expansion of this project, the company that was awarded the contract was unable to produce even a letter of award. We struggled to get the letter of award that was given to the company. We could not lay our hands on any. Nobody was willing to go on record that they are responsible for the procurement of this company. Therefore, that is just one example.

However, just to conclude on that particular aspect of NOFBI Project, there was the matter of revenues that would then be generated from this project, especially Phase 1 which was completed. There was some lose agreement that was purportedly entered into between the Information, Communication and Technology Ministry and Telkom Kenya that would allow Telkom Kenya to be collecting revenue as it carries out maintenance on the infrastructure. However, the profits that would be realised would then be channeled to an escrow account, which would then help the country and the public to pay back the loans that were procured from China. As we speak, eight or so years down the line, no single cent has been deposited in the escrow account. It therefore means that the public is going to continue to carry this burden of the debt from other sources and yet, there is money that is being generated from that project. This is because we know - and there was evidence - that Telkom Kenya was charging the commercial data service providers such as Safaricom, Orange and many others. Therefore, when Telkom Kenya came before us, they were not shy. They just told us: "It is true we have been collecting money." Indeed, they admitted that they had by that time collected up to about Kshs1.7 billion. However, they were not going to remit anything to the Government of Kenya on account of the fact that the costs they had incurred in maintaining this infrastructure was more than what they had collected. However, there was no independent authority or entity that had audited their accounts with regard to this revenue collection from the NOFBI infrastructure.

Therefore, I am just basing on this to underscore the fact that public procurement has been used in a manner that is not taking into consideration public interest by public officers. This is because to commit a country and the public to this kind of burden and loans running into billions of shillings without following the laid down procedure and, indeed, to go ahead and treat casually the matter of revenues that originated from this infrastructure is basically to show contempt to the people of Kenya who pay taxes to sustain the public sector.

Another example I want to quickly go to is a project that was in the Ministry of Tourism and Wildlife. The Ministry of course changed names many times. At one time it was called trade and so on and so forth. This was a project that was conceived way back during the first NARC Government. It was a project concerning consultancy advertisement and communication. This project was being undertaken by a company called Tele News Africa and Atlantic. The contract sum was about Kshs10 million or so. This contract expired some time in 2004. However, it was mysteriously extended. This is because no one owned up to have been responsible for the extension. When it was extended, there was a default in payment of monies owed to those companies. By the year 2010 the money that had accrued from this extension was about Kshs52 million, including interest. Therefore, in 2012 this company went to court demanding to be paid its money. The court ordered that the company be paid Kshs110 million way back in 2012. That is including 26 per cent interest. Again, for some reason, the Government did not pay. The Government neither paid nor appealed the court award. Therefore, come 2017, I think through the advice of the Attorney General then, the Government paid about Kshs285 million because the interest continued to accrue. Remember this was a contract which was originally Kshs10 million. The work had been completed and yet, the money continued to accumulate on the account of failure by Government officials to pay up. They appealed against a court award.

So, as we speak, the company is still owed about Kshs70 million which it is still pursuing with the responsible State Department. That tells you what goes on in public finance management. If officers decide to conspire with third parties to defraud the public of their money and nothing is done against them, this is the kind of results you end up with.

Another example, as I conclude, is a project that was supposed to prepare our stadia, about five of them, including Nyayo Stadium and Kasarani. The continental games were supposed to be hosted in Kenya in 2008 and two companies were contracted. One by the name of Gregori International was supposed to plant grass for lack of better terminology and have it ready for the games. The company did some work but not fully. Then there was a problem with payments.

The company eventually went to court and the matter is still lying in court. The work was not completed. The money was paid out running into hundreds of millions of shillings. The Government risk paying more money if the court rules in favour of the company.

Critical is the second company that was contracted at the same time by the name Auditel Engineering Limited. It was contracted to fix security systems in the stadia. It is not clear how this company came on board. There is no evidence as to how it was procured. We were unable to see even the contract that was signed by the Government with this company. To make matters worse, the company was given a down payment of Kshs330 million. On receiving this down payment, the company vanished. That was about the year 2009. The contract was supposed to have been signed around 2007/2008. The company has no known local address. Attempts to trace its owners abroad were futile. The Committee was unable to locate its whereabouts both locally and overseas and yet, taxpayers' money was paid out by public officials who are known and are, perhaps, still in service. So, this basically tells you the extent to which impunity has been institutionalised in the public finance management.

It will be an under-statement if I said that all these three cases that I have mentioned are just but a tip of the iceberg. If you read through our Report, which is almost 1,000 pages, you will be shocked. Corruption consistently followed where money was in the public sector. The State departments that got more allocation for development budget; that is where corruption followed. In other words, corruption was directly proportional to the amount of money allocated for development. When a State department has no money for development, you expect no corruption. However, when you give State department money for development, you increase chances for corruption to flourish. That is one aspect. Therefore, we have made both general and specific recommendations that we believe, if implemented, we would, to an extent, deal with this menace.

The other issue that I cannot fail to mention is the matter of the National Land Commission (NLC). Under the Land Act 2012, the National Land Commission has a mandate to pay on behalf of Government, entities that are intent on acquiring land for purposes of implementing public projects. The law is very clear in its original form and in the amended form on what steps need to be followed both by the acquiring entities and the NLC to ensure that the taxpayers' money is safeguarded. What we have seen is a litany, violation and abuse of the process as laid out under the law, under both the Land Act 2012 and the National Land Commission Act.

In many instances, entities would just write letters to the NLC asking it to acquire, on their behalf, certain parcels of land and then the NLC would swing into action and very quickly, ask the entities to deposit money for land compensation and rush through the process of land valuation. Indeed, it would proceed to carry out valuation using its own valuers. In some instances, some private valuers would be used under unexplained circumstances.

More interestingly, when we wanted to look at those land valuation reports, we saw wonders. Either they were unsigned, which means nobody owned them. They were undated and in some instances they were missing and yet, money had been paid out to private persons or people claiming to own land. There was no attempt to verify whether those parcels of land belonged to the public or not. Where it was confirmed to belong to private individuals, there was no attempt to ensure that the public got value for its money in terms of the valuation. You could see a clear pattern of inflation of the values of those parcels of land.

So, some of those cases ended up in court, but there are very many others which never went to court. We are aware there is a new regime at the NLC. We have not seen much change in terms of the process that is being undertaken for land compensation. Lots of money was lost in the Standard Gauge Railway (SGR) Project. The monies that were paid out were done on the basis of nothing. That is because the basic document that you would need in such a process is the land valuation report.

The basic document that you will need in such a process is land evaluation report. However, where these reports are either non-existent or are not owned by way of signatures, then it means money was just paid out arbitrarily. The other issue is the absorption of budget and pending bills. The budget absorption issue or the problem mainly arises as a result of the numerous Supplementary Estimates that this House approves. This culture or phenomenon of Supplementary Estimates even though it is well intentioned, has an effect of creating problems in budget implementation. We have said this many times before that even if we have to bring a supplementary budget, it needs to be done on time. This idea of waiting for the last minute to bring supplementary budget has a serious problem. Many at times, State departments, commissions and ministries commit money by way of procurement as a result of the Appropriation Act which was approved by this House, then at the last minute, the allocations are reduced. The contractors are on site and yet in the far analysis, the budget is reduced in the second or third Supplementary

Estimates. What happens? The State department accrues pending bills which roll over to the next financial year and it is a vicious cycle. Therefore, the question is: Why should we not from the very outset cut our clothes according to our size? Once we know the capacity of our economy in terms of revenue generation, we should attune our budget to that capacity because there are just two ways namely, if we cannot get money through revenue collection, we will borrow. We will either borrow or generate money through revenues. Those two options have limits. Prudence dictates that you plan for what you can afford. We have, therefore, recommended a number of interventions that need to be implemented for this set of affairs to be arrested once and for all.

As I conclude, there is the question of revenue sharing. The Constitution is very clear under Article 203 that the revenues that are raised nationally will have to be shared equitably between the two levels of Government. Therefore, it is important that everybody needs to know that they can only get revenues as a result of what has been collected nationally. Therefore, if revenue collection dwindles, both levels of Government must suffer equally. So, we have recommended that the next budgetary process to consider this latest revenue figures as hopefully shall be approved by this House, and as contained in this Report. Otherwise, I want to thank you, Hon. Speaker, because your office and that of the Clerk have continued to accord our Committee a lot of support. It is true that without that support, we would not have achieved what we have achieved so far. We look for more of that support more and more in the coming months as we race towards the last financial year of this term of Parliament.

Thank you very much Hon. Speaker, I beg to move, and request Hon. Eseli Simiyu, the Member for Tongaren, to second.

Hon. Speaker: Hon. Eseli Simiyu, you have the Floor.

Hon. Eseli Simiyu (Tongaren, FORD-K): Thank you, Hon. Speaker. Thank you, Hon. Chair, for this chance to second the Motion of the Public Accounts Committee Report. At the outset, I would like to say that I have been in this House for a while now, and the interest on the reports of the PAC seems to be waning. It is waning perhaps because Members feel that whatever they do or say, nothing is done about it and they start losing interest. Some may not be reading it because it is voluminous. So, they may feel that it is too large for them to read, but with personal assistants, some of whom are very brilliant young people, you can get them to read out some of these things for you.

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

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

It is very interesting when you sit in the PAC and hear and see how the Government is functioning out there. Sometimes I worry whether we are on autopilot. Like my Chairman has just said, some of the happenings are mindboggling. You would expect to read some of these things in fiction or something, but it does happen in real life with our finances in the public sector. One of the areas that you find glaring anomalies is the so-called Government to Government procurement. I think it is time we sat down and relooked at that thing, the animal called Government to Government. What happens in this situation is that it is usually abused because the tendency is that the lending Government chooses who gets the tender and at how much and that money has to be paid back by the Kenyan public who had no control at all. This is the case and yet we never had competitive bidding. So, most of these projects end up being overpriced to the extent that when you look at it, you wonder why we retain such a procurement method. Unless we want to grow the

public debt, I think we need to relook at this particular procurement method, so that we do not overburden Kenyans further with the debt that we already have because as matters stand now, the public debt record is not clear. You cannot get the actual figures of what the public debt for the Government is. So, there is poor maintenance of the public debt record.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Proceed.

Hon. Eseli Simiyu (Tongaren, FORD-K): There is the other problem which the Chairman has touched on, on entities given contracts based on their budget. When the budget is slashed through supplementary estimates, the projects stall. So, we have a lot of incomplete or stalled projects. With these stalled projects, comes the issue of the pending bills. These pending bills also attract a penalty because in most contracts, when there is a delay in paying certain certificates, then a certain interest has to be paid. So, you find that a project which had been budgeted at Kshs50 million ends up spending over a Kshs100 million. We are, therefore, enriching contractors and we are spending our money in a profligate manner.

For quite a while now, the pending bills issue has become funny. In fact, in the current Report, it shows that the pending bills have rocketed up by 178 per cent. That means that the pending bills right now, if that was the year of review, then by now, the pending bills have gone up. This way, we are killing the economy because those people who are held by the entities that procured their services are business people. Once they are denied money, they possibly cannot carry on their business as expected. That has a negative impact on the economy of the country. Another area that we looked at which was very interesting was the so-called Equalisation Fund.

It is a fiasco in the sense that since its inception, only 36 per cent of it has ever been disbursed to any area that is supposed to receive the Equalisation Fund. That defeats the purpose of that constitutional mandate in the sense that the Equalisation Fund was supposed to ensure that the marginalised areas, and those that have been neglected for a long time, are given opportunity to grow and catch up with the rest of the country. When there is such a delay or complete non-disbursement of the Equalisation Fund, that is a breach of the Constitution. Perhaps, this House needs to get serious, and especially get the Cabinet Secretary for the National Treasury to disburse these funds. We should name him for breach of the Constitution because this matter cannot be talked about year in year out and nothing is done about it.

Hon. Temporary Deputy Speaker, the other matter that I would like to talk about is the National Land Commission (NLC). The NLC appears to be a conduit for looting public resources. Their actions clearly show that perhaps we should relook at how we set up the National Land Commission and its mandate. At the rate that they are going, paying money at astronomical figures for land and you cannot tell the entities they have paid to and things like those, something needs to be done at the NLC. Either the new team needs to clean up the house or perhaps the Departmental Committee on Lands needs to relook at the operations of the NLC Act, and if necessary, bring amendments to the Act that operationalised it, so that we make proper changes that will make the Commission more accountable than what it is at the moment.

Hon. Temporary Deputy Speaker, it is interesting that within the public service, we have highly trained people in finance and accounting, but their actions do not reflect this training. Definitely, it is a deliberate act of omission or commission on their side which is leading to loss of public funds. None other than His Excellency the President has said that Kenya is losing billions on a daily basis. We have pointed out the areas where this is happening. As a House, we need to relook at some of these laws, especially the Public Procurement and Disposal Act. Perhaps, it is too convoluted such that people can make decisions that do not favour the public purse.

With those few remarks, I wish to second. I thank you.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Very well.

(Question proposed)

Hon. Aden Duale.

Hon. Aden Duale (Garissa Township, JP): Thank you, Hon. Temporary Deputy Speaker. I support the Report of the PAC for the National Government for the 2017/2018 Financial Year. I thank the Chairman, Hon. Opiyo Wandayi, the Member for Ugunja, for putting the case well.

However, let me go to the legal aspect of it. Article 201 of the Constitution provides for the fundamental principles that must guide the management of public finances in Kenya. What are these principles? They are both found in the Constitution and in the relevant laws. These constitutional principles are on openness, that there must be openness, there must be accountability, there must be public participation, there must be prudent and responsible use of public money, and there must be direct personal liability on accounting officers as provided under Article 226(6) of the Constitution. These principles are found on the Chapter on Public Finance.

Hon. Temporary Deputy Speaker, going through the examination of these Financial Statements, we found that there are instances - I happen to be a Member of this Committee - where accounting officers bluntly violated the provisions of the Constitution and the Public Finance Management (PFM) Act, 2012, and its attendant regulations that this House has passed. The role of an accounting officer as provided in law is to be the steward of the public in ensuring proper utilisation of public resources in a lawful and in authorised manner. That mandate of the accounting officer must be to promote effective, efficient, economical, and transparent use of public funds as appropriated in the Appropriations Bill by this House and as founded under Section 61(1) of the PFM, 2012.

The Public Accounts Committee Report before this House contains 124 national Government financial statements which were examined by the Auditor-General in relation to the year that ended on 30th June 2018. My analysis and that of the Committee, these financial statements indicate that a number of financial statements were unqualified or received unqualified opinion. What unqualified opinion means in the Auditor-General's term that they are not good reports from the Auditor-General. That dropped from 46 financial statements which was representing 36 per cent of the previous year which was 42 per cent. So, there was a drop. There were extra financial entities under examination that received unqualified reports. However, in the same year, financial reports with disclaimer opinion, which is no opinion reports, increased from 11 financial statements in 2016/2017 Financial Year to 14 in the financial year under consideration in this House today.

Hon. Temporary Deputy Speaker, I want to speak to the 14 financial statements with disclaimer of opinion. When you get a disclaimer opinion, what does the Auditor-General tell you? The Auditor-General is telling you that she could not make head or tail on the responsible accounting officers who were managing the public resources that were appropriated to these entities. According to the Auditor-General, the 14 financial statements that received disclaimer of opinion, what did they do? They exhibited serious and significant missed statements. They had limitation of scope in terms of providing documents, there was lack of record keeping, and they had a problem with reconciliation of bank statements and accounts in violation of the Public Finance Management Act.

We must name them. Who are these entities? These entities include the State Department for Planning and Statistics, the State Department for Agriculture, the National Youth Service

(NYS), the State Department for Broadcasting and Telecommunication, the State Department for Information, Communication Technology and innovation, the State Department for Public Service and Youth Affairs, of course, the State Department for Special Programmes, and the State Department for Strategic Grain Reserve. All these are among the 14 that received a disclaimer of opinion that the Auditor-General went to their offices and they made no statement about the usage of public resources.

Hon. Temporary Deputy Speaker, let us remind all accounting officers that according to Section 94 of the PFM Act, 2012, a disclaimer of opinion from the Auditor-General is a serious material breach of the measures needed to protect public funds and resources. Those 14 entities and their accounting officers, and the rest of the accounting officers, must be cognisant of Section 94 of the PFM Act, in terms of receiving a disclaimer of opinion. What are the consequences of an accounting officer for receiving a disclaimer opinion? As the Chairman has said, there are dire consequences. As we discuss the budget, they include the stoppage of funds as provided for under Article 225(3)(a) of the Constitution. If the Report of the Public Accounts Committee is adopted, those entities that received a disclaimer of opinion from the Auditor-General do not need to get more resources. You cannot be given resources when you cannot account for what you were given in the previous year.

The Committee has made some recommendations. The onus is on the Cabinet Secretary for the National Treasury. The Committee recommended that the CS for the National Treasury as the designating authority under Section 67 of the PFM Act, 2012, is in charge of all the accounting officers in the national Government. He must take administrative action on all those officers whose entities received a disclaimer of opinion from the Auditor-General. The CS will read the budget. The PAC makes recommendations year in, year out. I want to read its recommendation. The Committee reiterates that the CS for the National Treasury, within three months of the adoption of this Report, shall take administrative action in line with Section 67 of the PFM Act, 2012, including revoking the designation as accounting officer of all accounting officers whose entities received a disclaimer of opinion. That is a serious recommendation.

Let us talk about the matter of stalled and incomplete projects which is a matter of serious concern to this Committee which needs serious attention. Mitihani House has been under construction for the last 36 years. Money has been pumped there. The Government has pumped Kshs9.7 billion to that project and other stalled projects. They include some in the national Government and the Judiciary where Kshs1.5 billion has been pumped into stalled projects.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Each Member has 10 minutes. Hon. Duale, because you are the first one to speak after the Seconder, I will give you a maximum of one-and-a-half minutes. Please, conclude.

Hon. Aden Duale (Garissa Township, JP): Our Chairman did not spend all his time. I am sure this is a very important Report. Hon. Temporary Deputy Speaker, let me rush and go to the last bit of my notes.

Article 229(4) of the Constitution provides the timelines for processing audit. The various accounting officers in State departments do not comply with the process of audit as provided for in the law and in the Public Audit Act. Accounting officers receive management letters from the Auditor-General. However, none of them follows those procedures. We have recommended that the CS, as the designating authority, must reprimand his officers for violating Article 229(4) of the Constitution, Section 68(2)(k) of the PFM Act and Regulation No.97(2) as read together with Section 3 of the PFM national Government Regulations.

I want to say something in one word. Article 226 of the Constitution is very emphatic and clear. I will finish by quoting that Article in protection of our public funds. Article 226(5) of the Constitution states that if the holder of a public office, including a political office, directs or approves the use of public funds contrary to law or instructions, the person is liable for any loss arising from that use and shall make good the loss, whether the person remains the holder of office or not. Accounting officers, including our Clerk, Chief Registrar of the Judiciary and the 47 governors, must be accountable for every penny, be it Kenyan or donor money.

I support the Motion.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Members, I have listened to the Mover, the Seconder and Hon. Duale. Without contributing from the Chair, this is a matter that is at the centre of oversight by the Members. The stories and issues that the Chair and the Vice-Chair have raised around public finance are amazing. Every Member who is in this chamber and holding rooms needs to read this 1000-page Report by the Auditor-General.

(Applause)

When such a Report is being scrutinised by Parliament in established democracy, the whole country watches because it is extremely important. Anyway, let me not contribute from the Chair.

(Applause)

Let us have Hon. Milemba Omboko.

Hon. Omboko Milemba (Emuhaya, ANC): Thank you, Hon. Temporary Deputy Speaker for giving me this chance to contribute to this Motion. From the outset, I want to indicate that I support the Report of PAC on the examination of the Report of the Auditor-General on the financial statements of the national Government for the Financial Year 2017/2018.

The positives of this Report are glaring, as moved very well by the Chairman, whom I want to congratulate for being very clear. This Report will go a long way to make the revenue that has been collected to be released which is good for this country. Furthermore, it will also ensure that more revenue is released to the counties. Remember that we are speaking during the time that counties are in dire need of resources. In the temporary absence of the Building Bridges Initiative (BBI), which we wanted to enable the process to happen, this will also go a long way to enable more funds to be taken to the county governments.

Let me highlight something quickly. The Seconder of this Motion, senior Hon. Eseli, indicated that the interest of the Report of the PAC is waning. I took this very seriously. This is the kind of Report that gives stock of what the Government does and whether it spends the revenues that are collected from the taxpayers properly or not. What Hon. Eseli spoke about is very important. Institutions must be strengthened to oversee the Government strongly. That will bring confidence in the public, institutions and even in the National Assembly when speaking on such reports. Reports of the PAC of such magnitude will get the importance that is required. They put the Government on stock on how it deals with revenue. This gives us, as Parliament, a chance to possibly in re-look at how we deal with the Government in future. That means strengthening positions like the opposition. When you are dealing with this kind of report, the entire opposition and all the Members should glare at it to see what the Government does, in terms of expenditure.

Another thing that kills this clamour is when we reduce ourselves to speaking or taking stock that is very sure that nothing will be done, after all. The Executive will go ahead and still do

the same things which will be brought to us. We will still pass them as they are. We cannot question them with the authority they deserve. I remember the days when I was not in the House when such reports were tabled and the entire House would be full. Emotions were high. The heat was generated. I loved it. Those are the moments I miss. Having said that, let me indicate that the Mover flagged out irregularities and illegalities in procurement and therefore made it clear that procurement is the main source of the troubles we have in terms of pilferage in Government. I was very happy when he properly cited Departments and Ministries like ICT as areas where we have pilferages. He went ahead to indicate that over Kshs9.8 billion, Kshs7.2 billion and Kshs4.2 billion was procured without proper steps of procurement being undertaken. Indeed, this has affected people. In my constituency, Emuhaya, we were victims of this. At one time I was a victim of the hubs project, which I think is part of this general network of cyber and lease of info and connectivity to the public in areas within the villages. However, to date, after paying the monies to the Ministry of ICT, our hubs have not been finished properly and they do not seem to take any responsibility. So, this was a proper flag out of an area which has completely affected us and we are suffering.

There is another area I want to emphasise on, and Hon. Duale seems to have seen. Recently, I was in the Departmental Committee on Education and Research. Believe me, the construction works of Mitihani House were started way back in 1986. It has been constructed all along until recently we gave them more money. Government officers have perfected the art of working with the courts and contractors together with officials within the same Government Ministries to enhance more budgetary allocations to an institution like Mitihani House. For more than 30 years, the Government has been constructing a building that is not yet complete. If you visit the building, you will see that it has cracks. It is not in proper condition yet we are still funding the project. The Budget cycle comes around. We are the ones passing the Budget. It is high time we said “No” to some of these budgetary allocations that simply waste Government money.

Finally, let me speak on what has been called “pending bills” that have been created by the Government itself. The Government, through Supplementary Budgets, allocates money to tease certain areas with them, after which planning is done and tenders are awarded to people. However, after a little while, through Supplementary Budget, the money is removed and re-allocated elsewhere. The money is, again, used to tease another area. Procurement is done. Business people tender and before long another Budget is done. So, the same money is moved just to tease people in various areas. Procurement is done and businessmen put their money in areas where they will never get their proceeds after all. This must come to a stop. The Mover of the Motion seems to say that even the pending bills have increased to very high level. As I have always spoken about pending bills, they are illegal because it is an illegal way of borrowing money from the private sector without following the law. The legal way for the Government to borrow from the public is through Treasury Bonds and Treasury Bills. Therefore, the money that is borrowed does not earn any interest to the business people. Many companies have gone under. In my area, a businessman by the name Rodies went under because of pending bills. He left Nairobi imagining that if he goes back to the village he will make money but his business has since gone under. His millions of shillings are no longer there. He has given all the money he had to the Government hoping it would return. Nothing has ever happened.

With those remarks, I support the Motion and wish that we could do better.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. ole Sankok.

Hon. David ole Sankok (Nominated, JP): Thank you very much, Hon. Temporary Deputy Speaker, for giving me this opportunity to also inject my voice on this very important Motion and Report from the PAC led by Hon. Wandayi, who is also a very good friend of mine and a very progressive thinker in this House. I thank him and his Committee for having come up with a very elaborate Report.

Hon. Temporary Deputy Speaker, as you rightly said, if there is a time that this House should have been full it is today. If there is a time we will play our role as a House, it is today. You have quoted other democracies where whole nations would have been following keenly what is happening. If the PAC was given teeth to bite, and this House was serious enough to empower it to scrutinise and debate this Report in order to enrich the Report, we would reduce the wastage of public resources by 90 per cent.

Today I am shocked to learn about the mass and mega wastage of taxpayers' money through dubious ways. As the Waswahili people say, *nyani haoni kundule*. They are pointing fingers at the wrong people yet corruption started in this country way back in 1986. Mitihani House is a white elephant project we keep pumping money into every year as the Ministry keeps on colluding with the courts and the contractors so that they can pay little amounts. Imagine a building costing billions of shillings.

During the Kibaki era, there was a Minister from the Orange Democratic Movement who awarded a contract of about Kshs18 million. Over time, we have paid Ksh200 million and we owe the contractor Kshs70 million. Surely, *watu hawaogopi Mungu, hawaogopi dhambi*. The contract sum was increased from Kshs18 million to Kshs200 million and we have not finished payment. Even if it is eating, that is too much. If the amount were to be increased from Kshs18 million to Kshs20 million, it could have been understandable because of some dynamics like changes in terms of living standards and inflation. Increasing the amount from Kshs18 million in less than three years to Kshs300 million is too much. God knows to what figure it will increase because the increase has not ended.

Planting of grass is also another avenue to eat money. Kenyans have become eaters. They eat even grass. Imagine planting grass, which our youth in primary and secondary schools could have been contracted to do with just bottles of soda and loaves of bread. That is what they do in young farmers clubs but we are losing billions of shillings. The Kshs330 million given to a company that was formed in 2007/2008 during another famous handshake vanished in 2009 and no details of that company can be found. That happened after the famous handshake of 2007/2008. No wonder, after another "handshake", there is the Kenya Medical Supplies Authority (KEMSA) heist, the COVID-19 billionaires and mafia House. We should also review the issues of handshakes because they may not be handshakes, but hand cheques, because this trend is worrying.

Another issue is land compensation. We should be very serious about this issue. What is happening is that cartels in the Ministry identify the Government intention to construct a railway line between Town A and B, like between Nairobi and Narok, and then rush and buy parcels of land around that area because they are the ones in custody of the plans and maps. So, they buy parcels of land around that area at very cheap prices and then, because they are hungry hyenas, they do not only multiply the prices they bought the parcels of land by two, but they multiply the prices by 1,000.

You will find that a parcel of land that was bought at Kshs100,000 is being sold to the Government at Kshs1 million or Kshs2 million. These are really ruthless people. They are not

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human beings. They lack morals, and this House must be very serious, so that we flush them out. The Bible says that if an eye is disturbing you, you can remove that eye. If these people must be paraded at Uhuru Park and be shot dead, then be it.

The other issue is white elephant projects. I was the Chairperson of the National Council for Persons with Disabilities (PWDs) and we never had a single white elephant project. We should think of ways, through the Chairpersons of the Public Accounts Committee and the Departmental Committee on Budget and Appropriations, so that this House can come up with laws to provide that if you cannot complete a project, do not start it.

In the National Council for PWDs, I introduced a law that if the building costs Kshs1 million, because mostly we were building special schools, we give you the total amount of Kshs1 million to go and do your own procurement as a head teacher and not as the National Council for PWDs. You will then make sure that you deliver the building that you gave us in the bill of quantities. What is so difficult, for example, in saying that, because this building costs this amount of money, let us wait until we get the full amount and start the building and finish it?

These white elephant projects like the Mitihani House and even the Standard Gauge Railway (SGR), must stop. I never used to believe the media when they talked about a railway to nowhere until I saw the SGR Phase 2B ending in a remote area called Emurtoto with one shop and one butchery, which is opened on Wednesdays only. That is the end of a railway. Is that a catchment area? We have constructed a 52-kilometre railway line from Suswa Dry Port to Emurtoto. We are only shy of 12 kilometres to Narok Town where we can get a catchment area of wheat, barley and other crops and animal by-products, but we have ended it at nowhere. Now we have diverted all the resources. Since we have to appease other people because of something called the “handshake”, we have diverted the SGR from Naivasha all the way to Kisumu leaving 52 kilometres of railway in dire disuse and open to vandalism.

Another issue is pending bills. My President thought of a way of economically empowering PWDs through what is called Access to Government Procurement Opportunities by PWDs, women and youth, but it has become a curse to us. We have lost so many PWDs because through the Access to Government Procurement Opportunities programme, they are given tenders and contracts which are never paid for. You can imagine having borrowed money from a bank and the bank is counting days, months and years. During that time, they are increasing their interest rate, and because you are not able to pay, there are penalties for defaulting. The Government is sitting on your money and they will not pay you with the accruing interest. The 30 per cent profit that you are supposed to make goes into paying all the interest, and sometimes you go to your pocket to pay the interest or you are auctioned. Many PWDs have committed suicide because of these pending bills. It should stop.

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

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Ochanda.

Hon. Gideon Ochanda (Bondo, ODM): Thank you, Hon. Temporary Deputy Speaker. We are once again at a moment as a country that, as Parliament, we have to rethink very deeply. We are getting blamed by virtually everybody, and definitely, we have a role as Parliament. We keep lamenting year in, year out, yet we have a role to play. This will continue until or unless we change the way we do things as this House.

Recommendations come in each year from all the departmental and oversight committees. We have this Report from PAC which is coming as usual. What is more fundamental is that our recommendations follow more or less the same way we have been looking at them. What we

recommended two or three years ago, we recommend it in the following year, and again, we are recommending it this year. Something needs to be done.

One major issue that we may need to look at as Parliament is exactly how we follow up on implementation. There is a big problem. Definitely, we have a Select Committee on Implementation that looks through the House's resolutions. Apparently, a lot of details are not going into what we call departmental committee reports and the watchdog committee reports. These reports just lie there and nobody follows them up. The Select Committee on Implementation really follows other things like the normal routine resolutions of the House, but if you look through this, you will realise that there is a big problem in terms of implementation.

The Public Accounts Committee recommends surcharges, execution and so many other things, but they remain at that level. Who follows up on those who are supposed to execute them? This is where there is a very big problem. This needs to be the role of the Select Committee on Implementation on one hand, in my view, but also the committees themselves.

Today, we heard the cautionary opinions by the Auditor-General on the State Department of Planning and the State Department of Public Service. These are critical departments. The Department of Planning is attached to the Treasury. The Department of Public Service is running the entire public service. The two out of 14 did not go through the real details of what the Auditor-General requires. Maybe they are disappearing, they do not place papers or they do not place exactly what is required. Time ends and now the Auditor-General puts in a cautionary kind of an opinion. What is it that we are doing as a nation?

What I am trying to say is that if our reports that come annually were to start with what has happened, for example, if PAC Report this year changed their routine in a manner that it starts by reporting what has happened since the last Report was tabled, it would help. The other day I was shocked by the Departmental Committee on Health that there are things they recommended that were supposed to be done in the first three months and are holding the entire country to ransom as at now, but they have not been done for three or four years. So, the Committee was also shocked as to why what they recommended is not yet implemented.

We should not leave this thing to the Select Committee on Implementation alone. Oversight committees need to check through in terms of what we recommended last time and what has happened after that before we start getting into the next one. If it is a matter of the Directorate of Criminal Investigations (DCI), the Ethics and Anti-Corruption Commission (EACC) or the Attorney-General, can they report to that particular Committee, for example, if it touches on prosecutions, what has happened? This will ensure that the reports that get into this House start by giving us information of what has happened since the last report was tabled and then we can proceed to the next.

We should change the way these things are done. I think departments are taking it as a tradition because it is something that happens annually, they take it as a right. Once it passes, we forget about it and wait for the following year to make the same recommendations and nothing happens. We keep piling these reports that in the end do not impact the nation. We are becoming a big mockery to this country. Everybody points at Parliament. Definitely, we have a role in budget-making. What stops the Budget and Appropriations Committee, for example, from failing to allocate money to a department if wastages, like the ones Hon. Wandayi mentioned, are in a department? What stops a Departmental Committee from following up on such issues, so that there is a clear report in the House showing what must be in place before we go on?

If an example is given in this House that payments are done, each department in this republic has internal auditors. Before the Auditor-General comes in, what do internal auditors do?

How can payment of more than Kshs300 million be done to a non-existent company for services that are mentioned in passing and the following week that company is no longer there and the money is gone? Sometimes we need to vindicate internal auditors. They are so busy in the districts chasing small things that the NG-CDF finances, but they do nothing at the departmental headquarters in terms of tracing, for example, Kshs300 million. There is a big problem. If you were heading the Government and a report like this comes, one should really be sleepless. Somebody is supposed to supply grass, and by the end of the day, the service is paid for when actually nothing has been delivered. There is a big problem.

There is a connection between wastage, corruption and debt. We are moving this country to very serious levels of debt and yet the amount of money we waste is so much. The amount of money that is looted is a lot. It has been demonstrated very clearly by the Chairman that every department that had an indication of development money had cases of corruption. It means we are talking about things that are very clear. It does not need rocket science for somebody to follow the issues. Why do we allow this as a country to go on? These are the fundamental questions that we should really look at. Why do we waste on one hand, pilfer on the other hand, and then the third hand goes into borrowing? Why do we borrow then? Instead of borrowing, why can we not close the pilferage and wastage points? We will then reduce borrowing. Some of these things are so simple yet everybody is complaining about borrowing. We are finalising budget- making this week. To what extent are we able to check that the BAC has vindicated some departments that unless you give us information about where the Kshs350 million went, we are not giving you any money? Why can we not do that as a House? That is what the public is looking out for. When we do not do it, then definitely the public is right in blaming Parliament. Parliament must wake up.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Ochanda, your contribution is really reflective, but you are the one to offer solutions so that this Parliament is not seen to just consider reports one year after another and looking hopeless and helpless. We cannot be hopeless and helpless. Your contribution calls for very deep reflection for us as a House.

Hon. Mutunga.

Hon. John Mutunga (Tigania West, JP): Thank you, Hon. Temporary Deputy Speaker, for the opportunity to speak to this very important Report. I support the adoption of the Report. The Report highlights key issues that affect our country, our economy and the way we do business. I will raise a few issues that are disturbing.

First and foremost, is our budgeting process. As a House, we consider ourselves to be making the budget. I believe this is allocation of resources to various needs or utilisation centres. What we do in this House most of the time is to allocate what we do not have. If we have pending bills to the tune of 178 per cent of the revenue that we collect, are we genuine in saying that we allocate resources? The first thing we should think about doing is paying those debts. There is this statement that has become a cliché in every budgeting process that every time we say that pending bills are a first charge of whatever money we allocate. If pending bills are a first charge, why are they not cleared?

Coming back to the role of different oversight committees and in view of the Report and alluding to what Hon. Duale pointed out that there are some State departments and institutions whose reports could not even be qualified - he cited about 14 of them - it is worrying that there are institutions whose reports do not fit within the category that would give them some credence in terms of available options. If there are such institutions which have been listed in the Report, what measures should we take as a House? My suggestion is that we need to go in depth in evaluating

exactly what happened and the actions that were taken. We should take it as our business to look at this Report and find out what happened and what has been done. Make it a priority in terms of reallocating resources this year and the coming years. We can be a House that is basically a rubber-stamping institution.

Coming back to the Budget, every State department receives budget ceilings from the Treasury. Whether the MDA is important or not - although I believe most of them are - there is no deep scrutiny on what priority institutions are. When you look at the agriculture sector, which is the mainstay of this economy, according to the available information, it is No.11 or 12 in terms of priority areas in view of the budget. One wonders because this is the sector with most of the people and at the end of the day earns Kenya so much foreign exchange. It is the sector that employs most of the people. It is the sector that is required to roll out industrialisation. It is, indeed, the sector that is supposed to support a majority of the people. Every priority should target this particular sector. But when it comes to budgeting prioritisation, very little money is allocated to the sector. If that is the case, is our budgeting process really genuine? Who actually does the budgeting? In the Constitution and the laws of Kenya, Parliament is supposed to make the budget, but what does this Parliament actually do? How much of the budget proposals given under the Budget Policy Statement (BPS) can we alter? How much prioritisation can we do as a Parliament? How much logic can we put into this process? Very little, if anything. So, we need to ask ourselves: are we serving Kenyans the way they should be served?

When it comes to payment of pending bills, there are cases where money is available to pay pending bills. The money is withdrawn from the Ministry or State department to Treasury and then Treasury demands that the State department or Ministry or semi-autonomous agency to, again, look for money from within to pay that bill. What are you supposed to do? I have in mind a case in the agriculture sector where there was some money from strategic food reserve. The money was taken by Treasury and then it demanded that the Ministry should create money from the institutions in the agriculture sector. That ended up stressing the sector even a lot more and yet the sector is underfunded to the tune of around 40 per cent. This Report highlights a lot of issues that we need to consider as oversight committees and as a House. We need to look into those issues so that we move in the right direction.

Coming back to the National Land Commission, there are many parcels of land in this country that are supposed to be public land. The greater majority of the parcels do not have land ownership certificates. I refer specifically to my constituency, where there are more than 80 parcels of government land without title deeds. They are not even properly known. Some of them are being grabbed left, right and centre. We encourage the act of grabbing public land if the NLC does not do its work the way it is supposed to. And it is only the NLC which is not doing its work the way it is supposed to be done. Many government institutions do not do their work. What do we do as a Parliament, therefore, to arouse consciousness of these institutions to do their work the way they are supposed to do it? That question remains and we need to ask it of ourselves every time.

When it comes to institutions that misuse government funds, misuse of government funds is rampant. Indeed, to be honest corruption in this country is budgeted for, because in the estimation of what is supposed to be done corruption is incorporated. In the processes of what happens, corruption is incorporated. What happens in this country is that there is a lot more stealing than actual doing of work as it is supposed to be done. So, what do we do as Parliament? Maybe we need to ask ourselves whether we need to go on a retreat to qualify some of these things and see what we can do about them.

When it comes to public debt, the main reason it increases is because we over-budget. We budget for debt. In this country, we collect revenue of about Ksh1.7 trillion, but the budget is in the region of Ksh3 trillion. So, we budget to borrow money. At the end of the day, we have a budget deficit of more than Ksh1.2 trillion. If that is the case, how do you tell government not to borrow if they deliberately budget to borrow and we pass such a report in this House? Can we sometimes not be sensible and say we need to cut down on cost? We need to identify areas that we can do without and only incorporate areas that will probably help us to come up with a logical budget.

There are many issues this Report cites, which are real and we live with every day but which we do very little about. When shall we wake up to reality and do the right thing as a House and as a nation so that we are able to take this country where it is supposed to be? The priorities are wrong. Allocation of resources is wrong. The processes and many other things are wrong. When shall we correct these wrongs so that we may move forward as a nation? When such a report comes out, what actions are going to be taken? Is it just going to come to this House, propose for adoption and that is the end of the story? There is a lot that needs to be done. And we need to consciously ask ourselves these questions.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Mbui.

Hon. Robert Mbui (Kathiani, WDM-K): Thank you, Hon. Temporary Deputy Speaker, for this opportunity to also make my contribution on this Report. First, I would like to thank the Committee chaired by Hon. Wandayi for an excellent job. The Report is well detailed and very clear and precise on matters of financial resources of the State. Secondly, the Committee has also done a good job to ensure that these reports are presented in good time. If we are now discussing the FY 2017/2018, it means the Committee is almost catching up with time. Previously, reports would be given that were six to 10 years behind. So, the Committee really deserves commendation.

In the Report, the Committee has pointed out major anomalies. In fact, as Hon. Eseli Simiyu said, the Report sounds like a work of fiction. There are incredible things that happen in this country using State resources. It is imperative to note that resources that the Government uses are taxes paid by Kenyan citizens. And that is the purpose for which representation is elected. In fact, all Members of Parliament are employed by the taxpayers to ensure that taxpayer money is protected. So, when you read a report like that, you realise that it looks like one of our major responsibilities is not being executed properly. Maybe that is why the public are constantly fighting Members of Parliament on issues of salary, allowances and mileage claims. The public are constantly fighting because they cannot see value for their money. When they get representation, they expect those people that they elect to ensure that their taxes are used properly.

I have noted numerous cases of corruption. In the last Parliament I served as a member of the Departmental Committee for a short while. Actually, I did not finish a financial year. That was the only Departmental Committee I ever served on. The kind of scandals I came across were shocking. We went on a fact-finding mission to Mombasa and found that the Government had procured mobile clinics which were actually containers at costs that were more than 10 times the actual value. Up to now, those clinics are still gathering dust and rust in some yard at the Coast. It is really unfortunate that our biggest problem as a country is corruption. A lot of Kenyans in positions of authority are greedy. They are not content with what they have. We need to find a solution to this problem. We said that we need to get some people into jail. The President came to this House and said he was going to ensure that he sends people to jail. This House gave him a standing ovation for like five minutes, because we thought that maybe that is what the country needs. How many years down the road and very little has been done? People go to court and

frustrate the cases. At the end of the day, there are very few convictions out of all these criminal cases. That is why people continue to steal. They realise that very little will be done. Maybe the money they steal is also used to buy justice. It is a shame.

I am also aware of cases to do with the white elephants where Kenyan taxpayers' money is used to pay contractors when nothing has been done. A case in point is the dams in the Rift Valley, namely, Aror Dam and Kimwarer Dam. I think there is probably a case coming up about them, but I will not say much. I think it is also in courts. Clearly, when we hear of a situation where money has been paid to the tune of billions, but not a single equipment was in sight, in fact, the land itself has not even been acquired for the purpose of a project, it is really a shame. Therefore, I think as a nation we need to ask ourselves where the rain started beating us.

Hon. Temporary Deputy Speaker, I read a book on why nations fail. I was not reading it because of Kenya's case, but I was just curious. It is called the *Origins of Power, Prosperity and Poverty*. In that book, they give comparisons of two places. One city called Nogales which is at the border of the United States of America (USA) and Mexico where part of the USA people is affluent, their income is better, they live better, their standards of education are higher and even their life expectancy is higher. On the lower side, just a fence across, everything changes to the negative. When they talk about the history of that region, it is because of the way they were colonised. The Americans being colonised by the English and then South America being colonised by the Spaniards and how the systems were set up in the southern part and the northern part of America. That shows that institutions set up help in ensuring that lives of the people are improved.

Again, they talk about the comparison between North and South Korea. They share the same geographical region, the same culture the same almost everything, but when it comes to prosperity, one nation is extremely rich and the other one is extremely poor. Again, just a border between one country and the other. Therefore, I think we need to borrow from those countries that have succeeded. We have the resources. There are countries without resources that are richer than us. We have the manpower and the intelligence. Why do we allow ourselves to be killed by corruption, a simple monster called corruption, and remain a poor nation so many years after independence? We just celebrated 58 years after *Madaraka* and here we are talking about corruption. The Report is full of corruption cases. That is a Report that should be tabled and people go to jail tomorrow, but the court system is independent. The judges can choose to say: "We will prosecute or we will not or there is not enough evidence or there is enough." Unfortunately, we only have a role as one of the arms of the Government. However, we will speak up. Allow us to say this so that the courts can hear us and know that we are also bitter. When things go wrong and corruption becomes bad, it is Parliament that is vilified. When we go for functions in the communities, because we stand in podiums and speak, we are told we are the thieves. However, those thieves are probably not us. Those that should jail them are not jailing them. We can only point out their errors. We can only point out the mistakes they have made. Therefore, it is important that we ensure that this is done.

Finally, the Auditor-General does an excellent job, but there is one area that I would like them to look at. Many are the times when they come up with what we call audit queries. Audit queries are questions asked about the expenditure of public funds. Unfortunately, before they get the reports, the auditors leak out audit queries. Many are the times when audit queries can even be explained and answered. Before the answers come, the Auditor-General's officers leak out those reports and make it look like there is a corruption scandal. Sometimes cases are started too early when people think there is money lost yet the questions asked have not been answered. Documentation to answer all these queries takes time to be put together. You walk in as an auditor

to an office and within a day, you have all the answers. It could be a case of something that happened eight to nine months ago. Sometimes even a year, two, or even three years. Therefore, whenever they issue a query today, tomorrow they are already on their websites publishing the questions that are asked and they are not answered before the answers come. Those are the things that are used to tarnish people's names. I think it is important that the Auditor-General makes sure that by the time they publish their reports, because I think they publish the final reports, they should be careful not to leak out the queries. Let them wait until they have the audit reports ready, publish them, forward them through the committees and then after that, they can send them out to the public. Otherwise, Hon. Temporary Deputy Speaker, I thank you for the opportunity. I support the Report.

Hon. Wafula Wamunyinyi (Kanduyi, FORD-K): Thank you, Hon. Temporary Deputy Speaker, for the opportunity to also contribute to the PAC Report. I join colleagues in commending the Chair and the Members of the PAC for this Report, which is very voluminous. I must admit I have been unable to read through. I have looked at some of the key issues. The PAC is a key Committee of this House. It is one of the very important and, in fact, the most important committees of this House. It is mandated to examine the appropriations that were voted by this House for public expenditure. At the same time, it has a key role on behalf of the entire House to oversee, look at the expenditure of Government departments, institutions of the Government and commissions. It has to look at the expenditures with the spirit of ensuring that there is value for every shilling that has been appropriated. Working with the friends of Parliament, the Office of the Auditor-General helps the process of examining witnesses and looking at the audit queries as flagged out by the Auditor-General. They listen to evidence, examine documents and make reports for the House. Additionally, once a report such as we have before us is adopted, it normally has recommendations that must be taken seriously once the House has adopted the report. We have had persistent reports of wastage, corruption, pilferage and loss of public resources. Moreover, there have been tough recommendations from the Committee as to what actions should be taken. These has happened even with the Public Investments Committee. The PAC and PIC have come up with very strong recommendations which if implemented, obviously, will prevent wastage. This country will make a lot of progress in terms of development if we save the stolen funds. This House is expected to pursue those recommendations. As it happens, the memorandum normally is a kind of feedback. The House is given memorandum from the National Treasury, the Government, to state the actions it has taken in the particular recommendation. It is also up to the House to ensure that the recommendation is forthcoming and it clearly paints out what the Government has done in that respect. Therefore, I join colleagues in emphasising and stressing the fact that you can have strong and good recommendations, but if they are not implemented, you have not done any work. We have been informed that corruption is rampant. Truly, it is rampant and we are even aware that it starts at budgeting. The budgeting process is where corruption starts. When money is appropriated for a particular project, cartels are waiting for it. They sit and plan that the money must go to a particular line item in the budget. Then it goes on up to the procurement level.

Hon. Temporary Deputy Speaker, the same people are involved in budgeting, procurement and implementation. So, it is a cycle and a cartel as described. It is a serious disease in our country. For us to deal with this, we must strengthen Government agencies that are handling corruption cases. We must put in place measures to prevent this because we know how corruption takes place. We know how payments are made, and how shortcuts are undertaken when it comes to procurement. Why do the Government agencies responsible not take appropriate action?

Even if PIC, PAC and other committees do some good work, if there is no implementation of the recommendations, it will be a waste of time and public resources. We will continue to condone theft, pilferage and corruption within departments which have been pointed out by the Auditor-General every time he writes his reports.

As I said, we must strengthen the Government agencies that are responsible such as the Directorate of Criminal Investigations and the Ethics and Anti-Corruption Commission. These agencies must be equipped and allowed to deal with corrupt officers in our departments. If this does not happen, we will continue to witness this at the expense of development and the good things we desire for Kenyans. Unless we manage our resources properly, we will not realise the good things that we desire.

Having said that, I would like to address an issue about the Ministry of Agriculture and Irrigation. It is such an important Ministry for our country. We have seen cases of importation of maize and the collapse of industries within the agriculture sector. We have seen problems in the coffee and the sugar industries. I am waiting for the Departmental Committee on Agriculture and Livestock to table a report so that we can have the Sugar Bill go into the Second Reading.

Hon. Temporary Deputy Speaker, farmers are suffering because of bad policies and mismanagement of departments and directorates. Key crops like coffee, tea and sugar have not been run properly. We have barons and cartels in the sugar sector. These are importers who have brought down the sugar industry. Coffee brokers almost brought down the coffee sector. There is mismanagement in the tea industry. We must streamline the affairs of the Ministry of Agriculture and Irrigation to support what the Ministry is doing. I had opportunity to speak to the Cabinet Secretary about farmers of Nzoia Sugar Company who are owed to the tune of Kshs900 million. Cane was harvested, crushed and milled, and sugar was sold, but farmers have not been paid. A sum of Kshs900 million for ordinary farmers is a lot of debt. We have problems of mismanagement and corruption presided over by Government officers. I am aware that the Managing Director of Nzoia Sugar Company has been sacked today and I commend the Cabinet Secretary for doing so. However, he has to put in place a board to ensure that the company is run well and farmers are paid their dues. Workers have not been paid. They should be paid. Their salary is in arrears.

With those few remarks, I support this Report.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Let us have Hon. Muchira.

Hon. Michael Muchira (Ol Jorok, JP): Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity to contribute to the PAC Report. I am a Member of the Committee.

First, I thank our Chairman, Hon. Opiyo Wandayi, for providing leadership in this Committee. Probably, it is time the people of Siaya considered him for a greater position of being their CEO. When we joined PAC in 2017, we found a backlog of reports for many years. After we started, through the leadership of our Chairman and the commitment of Members and the secretariat, we managed to clear the backlog. We have considered this Report and made several recommendations. I will just pinpoint a few.

First, is the thorny issue of pending bills, which has been recurring year in, year out. It is so unfortunate that for the year ended 30th June 2018, the pending bills increased by 178 per cent from Kshs16.7 billion to Kshs46.5 billion. We all know the consequences of this. We have seen businesses going under and people's property being auctioned. Things are difficult especially during the COVID-19 period. This is despite the numerous directives by His Excellency the President on clearance of pending bills. This clearly shows that there are many Government officers who are not adhering to the President's directive. Probably, it is time the President cracked the whip to ensure that all the pending bills are paid.

I also want to speak on the issue of incomplete and stalled projects. In this Report, we have enumerated various projects that have stalled for a long period. Others stalled with corruption allegations. They include the famous Aror and Kimwarer dams, in respect of which the contractor is demanding Kshs4.29 billion.

It is unfair and unjust to deny people projects on allegations of corruption. What we need to do is that as investigations and prosecutions go on, the projects need to be implemented. It is unfair. It looks like all we need to do to deny people projects is make an allegation of corruption and then we stop that project. So, this House needs to make a resolution to have these dam projects implemented. We have various stalled projects which we have recommended year in, year out. An example is the National Employment Promotion Centre in Kabete. This project has been pending for a long time. We have allegations of that land having been grabbed. It is time we made a resolution to complete the projects.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Order, Hon. Muchira Mwangi. It is now 7.00 p.m. and the House must rise. You will have your balance of six minutes when this business gets back on the Order Paper.

ADJOURNMENT

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Members, the time being 7.00 p.m., the House stands adjourned until Wednesday, 9th June 2021 at 9.30 a.m.

The House rose at 7.00 p.m.