



**REPUBLIC OF KENYA**

**THIRTEENTH PARLIAMENT**

**NATIONAL ASSEMBLY**

**THE HANSARD**

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## THE HANSARD

Wednesday, 13<sup>th</sup> March 2024

The House met at 2.30 p.m.

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

### PRAYERS

**Hon. Deputy Speaker:** We may proceed. First Order.

### COMMUNICATION FROM THE CHAIR

#### APPOINTMENT OF MEMBERS TO MEDIATION COMMITTEE ON THE NATURAL RESOURCES (BENEFIT SHARING) BILL

**Hon. Deputy Speaker:** Hon. Members, this Communication relates to the decision of the House on the Natural Resources (Benefit Sharing) Bill, (Senate Bill No.6 of 2022). As you are all aware, on Tuesday, 12<sup>th</sup> March 2024, the House rejected the Motion for the Second Reading of the Natural Resources (Benefit Sharing) Bill, (Senate Bill No.6 of 2022). The import of the National Assembly's rejection of the said Bill essentially remits the Bill to a Mediation Committee in line with Standing Order 149(1) (b).

Article 113 of the Constitution requires that whenever a Bill is referred to a mediation committee, the Speakers of the Houses of Parliament shall appoint an equal number of Members from both Houses to attempt to develop a version of the Bill for consideration by the Houses of Parliament.

In this regard, having consulted with the Leader of the Majority Party and the Leader of the Minority Party, I have appointed the following Members to represent the National Assembly in the Mediation Committee to consider the said Bill:

1. The Hon. David Gikaria, CBS, MP – Co-Chairperson;
2. The Hon. Charles Kamuren, MP;
3. The Hon. Beatrice Kemei, MP;
4. The Hon. Joseph Emathe, MP;
5. The Hon. T.J. Kajwang', MP;
6. The Hon. Irene Kasalu, MP; and,
7. The Hon. Dick Maungu, MP.

The listed Members will await the appointment of Senators to the Mediation Committee for the Committee to be fully constituted for purposes of commencing the mediation process. Once I receive a Message from the Senate to that effect, I will convey the same to the House.

Thereafter, the Mediation Committee will embark on an attempt to develop a mediated version of the said Bill in accordance with Article 113 of the Constitution.

The House is accordingly guided. Thank you.

Next Order.

### MESSAGES

#### PASSAGE OF THE WATER (AMENDMENT) BILL BY THE SENATE

**Hon. Deputy Speaker:** Pursuant to Standing Order 41(1) of the National Assembly Standing Orders, I wish to report that the House has received two Messages from the Senate regarding the passage of the Water (Amendment) Bill, (National Assembly Bill No.33 of 2023) and the Care and Protection of Child Parents Bill, (Senate Bill No.29 of 2023).

The first Message conveys that on Thursday, 7<sup>th</sup> March 2024, the Senate considered and passed the Water (Amendment) Bill, (National Assembly Bill No.33 of 2023) with amendments. You will recall that on Wednesday, 23<sup>rd</sup> August 2023, the National Assembly passed the Bill with amendments, following which it was referred to the Senate for consideration in accordance with the provisions of Article 110(4) of the Constitution.

#### PASSAGE OF THE CARE AND PROTECTION OF CHILD PARENTS BILL BY THE SENATE

The second Message relates to the passage of the Care and Protection of Child Parents Bill, (Senate Bill No.29 of 2023). The Bill, which was published vide Kenya Gazette Supplement No.107 of 30<sup>th</sup> June 2023, seeks to provide, *inter alia*, a framework for the care and protection of child parents within the counties, to provide a framework through which an expectant girl child or child parent may actualise their right to basic education, and ensure care of the children.

The Message conveys that on Thursday, 7<sup>th</sup> March 2024, the Senate passed the Bill without amendments and now seeks the concurrence of the National Assembly, pursuant to Article 110(4) of the Constitution and Standing Orders 161 of the Senate Standing Orders.

In order for the House to commence the consideration of the Senate amendments to the Water Bill, 2023, I direct as follows:

1. That, the Clerk circulates the schedule of the Senate amendments to the Water (Amendment) Bill, 2023 to all Members; and,
2. That, the Senate amendments to the Water (Amendment) Bill, 2023 will stand referred to the Departmental Committee on Blue Economy and Irrigation for consideration and reporting to the House as appropriate.

With regards to the second Message, Standing Order 143(1)(c) of the National Assembly Standing Orders requires the Speaker to cause a Bill received from the Senate to be read a First Time upon the conveyance of its Message, I, therefore, direct that:

1. The Bill be listed in the Order Paper for First Reading in the next Sitting; and,
2. The Bill will stand committed to the Departmental Committee on Social Protection for consideration.

The House is accordingly guided. Thank you. Next Order.

#### PAPERS

**Hon. Deputy Speaker:** Leader of the Majority Party, you may proceed.

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

1. Reports of the Auditor-General and Financial Statements for the year ended 30<sup>th</sup> June 2023, and the certificates therein in respect of:
  - (a) National Urban Transport Improvement Project-IDA Credit No.5140-KE – Kenya National Highways Authority;
  - (b) Green Zones Development Support Project Phase II (Credit No.P.KE-AAD-005) – Kenya Forest Service;
  - (c) Nairobi Metropolitan Services Improvement Project (IDA Credit No.5102-KE) – State Department for Housing and Urban Development);

- (d) Coastal Region Water Security and Climate Resilience Project, Credit No.5543-KE/70040-KE - State Department for Water and Sanitation;
- (e) Kenya Energy Environment and Social Responsibility Programme Fund – State Department for Energy;
- (f) Kenya Enabling Activities for HFC Phase-Down Project (Grant No. UNEP/KEN/SEV/81/TAS/01+) – Ministry of Environment, Climate Change and Forestry; and,
- (g) Water and Sanitation Development Project (IDA Credit No.6029/6030-KE) - State Department for Water and Sanitation.

Hon. Deputy Speaker, I beg to lay.

**Hon. Deputy Speaker:** Thank you. Let us have the Chairperson of the Departmental Committee on Education, Hon. Melly.

*(Hon. Julius Melly spoke off the record)*

Have you designated someone else? Okay, Hon. Phylis Bartoo, Member for Moiben.

**Hon. Phylis Bartoo** (Moiben, UDA): Hon. Deputy Speaker, I beg to lay the following Paper on the Table:

Report of the Departmental Committee on Education on its consideration of the Higher Education Loans Board (Amendment) Bill, (National Assembly Bill No.10 of 2023).

**Hon. Deputy Speaker:** Next Order.

### NOTICES OF MOTIONS

**Hon. Deputy Speaker:** The Member for Mbeere North, Hon. Geoffrey Ruku.

#### ADOPTION OF GOVERNMENT TO GOVERNMENT MODEL IN ACQUISITION OF FERTILISERS

**Hon. Ruku GK** (Mbeere North, JP): Hon. Deputy Speaker, I beg to give notice of the following Motion:

THAT, aware that Kenya is an agricultural-based economy with a significant portion of its population relying on farming for their livelihood; noting that, the quality and quantity of crop yields in Kenya has been hampered to a large extent by lack of adequate and quality fertilizers leading to decreased agricultural productivity and economic losses; further noting that, the Government has committed to improving agricultural productivity through various initiatives including the provision of subsidized fertilizers; concerned that the cost, quantity and quality of fertilizers and subsequently the cost of production of food crops and cash crops including coffee, tea and *miraa* has decreased due to a number of factors, among them high cost of fertilizers due to mark-up by private suppliers of fertilizers; further concerned that threat to food security is a threat to national security; recognizing that the Government-to-Government model has been noted to lower cost of products; further recognizing that there are countries that are willing to enter into a G-to-G agreement; appreciating that G-to-G has been proven to be effective in provision of services that have a direct impact on citizens' livelihood, including the cost of living such as the supply of fertilizers, particularly in countries with similar agricultural conditions as Kenya; this House, therefore, resolves that the Government, through the Ministry of Agriculture and Livestock Development and its agencies, adopts:

1. the Government-to-Government (G-to-G) model in the acquisition and supply of fertilizers by identifying potential partner countries that have surplus and quality fertilizers; and,
2. a comprehensive programme for Government-to-Government (G-to-G) acquisition and distribution of fertilizers through among others, the Kenya Farmers Association (KFA), the Kenya Tea Development Agency (KTDA), the Coffee Board of Kenya, the Kenya Planters Co-operative Union (KPCU), the Kenya Grain Growers Co-operative Union, the Pyrethrum Board of Kenya, among others, for increased agricultural productivity.

I, thank you, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** Thank you. Hon. Member for Mwingi West, Hon. Charles Ngusya. You have a notice of Motion.

DEVELOPMENT OF POLICY ON STANDARDISED  
SPORTS REWARD SCHEME

**Hon. Charles Nguna** (Mwingi West, WDM): Thank you, Hon. Deputy Speaker for giving me this opportunity.

I beg to give notice of the following Motion:

Aware that sports play an integral role in promoting cultural heritage, national identity, national development, the well-being of the people and sustenance of livelihoods particularly of the youth; appreciating that Sessional Paper No.3 of 2005 provides a framework for sports development and operationalisation in the country; further appreciating that the Sector Plan For Sports, Culture and Arts, 2018 by the Ministry of Sports, Culture and Arts mainstreamed sports development in the Third Medium Term Plan (MTP III) for 2018-2022 under Kenya's Vision 2030; recognising that Vision 2030 aims at capitalising on the country's international reputation as a world-class sports powerhouse whose sportsmen and women have won international accolades and recognition especially for their prowess in athletics; concerned that despite bringing honour and national pride to the country, most sportsmen and women face a myriad of challenges such as lack of psychosocial support and social protection, hence pushing many to alarming levels of mental health challenges during their careers and even after retirement; noting that Sessional Paper No.3 of 2005 contemplated the motivation of sportspersons by the State through cash and material prizes, conferring State honours, appointments as goodwill ambassadors and establishing contributory insurance and savings schemes among other forms of motivation; cognisant of the fact that the prospect of receiving State recognition, financial grants and other perks inspires sportsmen to push their limits in attaining their full potential as well as fostering a collective sense of pride in sporting achievements; now, therefore, this House urges that the Government, through the Ministry of Youth Affairs, Sports and Arts, develops a policy and standardised sports reward scheme for recognising the achievements made by sports persons in internationally recognised competitions through:

1. financial rewards of Ksh6 million for setting new world records; Ksh4 million for gold medallists; Ksh3 million for silver medallists and Ksh2 million for bronze medallists;
2. non-financial motivation, including facilitation with issuance of diplomatic passports for established sportsmen and women, appointment

as goodwill ambassadors and conferring national honours and privileges; and,

3. establishing a medical cover and a post-retirement social protection scheme, including establishing contributory insurance and savings schemes to support sports persons who retire from active sporting due to injuries or age.

Thank you, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** Thank you.

Next Order.

## QUESTIONS AND STATEMENTS

**Hon. Deputy Speaker:** Hon. Members, I would like to give a Communication in regard to Order 7. I will start with the Statement. Let me do the Communication first.

### COMMUNICATION FROM THE CHAIR

#### INABILITY OF A CABINET SECRETARY TO APPEAR BEFORE THE HOUSE

**Hon. Deputy Speaker:** Hon. Members, I wish to communicate to the House that we are in receipt of a letter that is addressed to the Clerk of the National Assembly, Mr. Samuel Njoroge, CBS, and signed off by Amos N. Gathecha, EBS, who is the Principal Secretary in the Ministry of Public Service Performance and Delivery Management, State Department for Public Service.

It is referenced 'Invitation to Respond to the Questions in the Plenary of the National Assembly' on Wednesday, 13<sup>th</sup> March 2024. It refers to a Communication that was dated 4<sup>th</sup> March 2024 in the above subject from Parliament. In the letter, the Cabinet Secretary, Ministry of Public Service Performance and Delivery Management was invited to respond to various Questions in the Plenary of the National Assembly on Wednesday, 13<sup>th</sup> March 2024 at 2.30 p.m. However, due to a planned Cabinet meeting on the same date, the Cabinet Secretary will not be able to attend. Ordinarily, Cabinet meetings are held on Thursdays. For those reasons, the purpose of this letter is to request for rescheduling of the said appearance, but also give apologies to the House.

Thank you.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): On a point of order, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** What is your point of order, Leader of the Majority Party?

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Thank you very much, Hon. Deputy Speaker. I have heard your Communication, and I have seen a copy of that letter from the Ministry of Public Service Performance and Delivery Management.

We designated Wednesday afternoons to have cabinet secretaries appear before the House to answer to Questions. I am aware that that there was a Cabinet Meeting, but it is also common knowledge that His Excellency the President is an early riser, and Cabinet meetings are usually held in the morning session, and that is why cabinet secretaries are required to be in the House in the afternoon.

*(Applause)*

The President is on record that he will not hold any cabinet secretary from appearing before Parliament on account of a Cabinet meeting.

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Secondly, we normally send these notices to cabinet secretaries, at least, a week before. This Cabinet meeting, as much as the letter says was an abrupt one, was only sent yesterday. So, may it be known to all cabinet secretaries - and not only to Hon. Moses Kuria - that appearance before the House on Wednesday afternoons once called, is not optional. You must appear. Whether there is a Cabinet meeting or not, you must be in the House.

Secondly, we cannot have principal secretaries writing to us. If the cabinet secretary is the one who has been invited, it must be him or her who should be writing to the House to say he is unavailable for whatever reason. And that has been the trend with all other cabinet secretaries. Why Hon. Moses Kuria decided to have his Permanent Secretary (PS), Amos Gathecha, to send this letter is unknown and whether he was in town. If he was, and was meant to appear for the Cabinet meeting this morning, he should have also been in town to do a letter addressed to the Speaker, giving his reasons and excuses for not appearing before the House.

I, therefore, would want it to be on record that the House shall not condone any cabinet secretary using any manner of excuse not to appear before the House to answer to Questions, and respond to Statements to the people of Kenya as presented to them by the peoples' representatives.

Lastly, let me take this opportunity now that I have it, to say that in the House Business Committee (HBC) last week, we deliberated on the question of giving priority to Private Members' Bills which are usually given on Wednesday mornings and, at times, after the cabinet secretaries leave in the evening as well as committee reports. It was deliberated that we allow that time to be utilised to consider either committee reports or Private Members' Bills. If Members can look at this Afternoon's Order Paper, it has a lot of committee business. I would plead with Members and especially those who have a penchant for raising points of orders at specific times in the evening, to please bear with the committees so that we may be able to transact all these committee reports. It is only on Wednesdays that we can transact many of these businesses. And now that the Cabinet Secretary is not there this afternoon, let us take time to consider all these committee reports and process, as much as we can, the business from the committees.

Hon. Deputy Speaker, you are the Chairperson of the Liaison Committee, and you summoned me to the Committee last week on this particular issue after chairpersons of committees raised concerns that the House Business Committee (HBC) was not prioritising committee reports. Therefore, any chairperson who has any business lined up here, please, be available throughout the afternoon so that even those who are used to raising points of orders on quorum, would not have any room to do so. There would be enough chairpersons in the House to provide quorum so that we are able to transact all the committee reports that are before us, and finish with them today and hopefully, where we reach today, we can endeavour to find time tomorrow and sometimes next week, to process all the committee reports that are ready.

Hon. Deputy Speaker, I believe that you being the Chairperson of the Liaison Committee, you will appreciate that HBC has, indeed, done justice to the request that was made to me to take to the HBC.

Thank you.

**Hon. Deputy Speaker:** Thank you, Leader of the Majority Party. I think your message will be put in a letter and sent back to the Cabinet Secretary.

**Hon. Omboko Milemba** (Emuhaya, ANC): On a point of order, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** What is your point of order, Hon. Milemba? I saw your hand up for a very long time? I will let you have your point of order and, thereafter, have Hon. Irene Mayaka.

**Hon. Omboko Milemba** (Emuhaya, ANC): Thank you, Hon. Deputy Speaker.

Just following up from where the Leader of the Majority Party has left, it is quite unfortunate that the Cabinet Secretary is not in the House, and he has also used another officer

to address the House. We also remember a time when Hon. Ababu wrote his letter which was not pleasant even though he wrote it himself and signed. Away from that, it would also be noticeable that since the time we adopted this model of questioning, there is so much business which concerns Kenyans which go untouched because, sometimes, we have to wait. The Questions we ask to the Cabinet Secretary for Interior and National Administration, who also did not come to the House last time because of a similar excuse, some of them were, in fact, asked in the last Session of Parliament. The situation keeps getting bad in Emuhaya and Luanda areas because of insecurity. As a mitigating way forward, the Leader of the Majority Party should have stated that, that particular Cabinet Secretary together, with the Cabinet Secretary for Interior and National Administration, should appear before this House on a particular date. Having not said it, I want to propose that they both appear next Wednesday.

Thank you, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** The matter of scheduling will be dealt with by the House Business Committee, on which the Leader of the Majority Party sits. Hon. Irene Mayaka.

**Hon. Irene Mayaka (ODM, Nominated):** Thank you, Hon. Deputy Speaker. Listening to the Leader of the Majority Party address this issue of cabinet secretaries not appearing before the House feels like a *deja vu* moment. It is not the first time he has addressed this matter. As a House, it is about time we started biting. We are not biting enough. The Executive ought to understand that our first role is to question and check them. This is the second week a cabinet secretary who is meant to appear before us has failed and yet, we want to address matters of national importance.

To add to what Hon. Milemba has said, we need to summon the two cabinet secretaries to appear before us. It cannot be business as usual that the Executive allows their cabinet secretaries to write to us. They should take time themselves, type a few sentences and sign. It should not be business as usual. Therefore, we should not just ask them to appear, but summon them.

**Hon. Deputy Speaker:** As I said, your sentiments will be taken and communicated to the cabinet secretaries.

Hon. Members, allow me to recognise the presence of the following guests in the Public Gallery:

1. Munyu Secondary School from Naivasha Constituency, Nakuru County.
2. Saint Clare's Girls High School from Gatundu South Constituency, Kiambu County.
3. Kenyatta University Coast Student Association, (I presume from the coastal part of Kenya).

I also wish to recognise the presence, in the Speaker's Gallery, of the African Holy Christian Church, Huruma, from Nairobi, comprising of Sunday school officers. On behalf of the National Assembly, I will give Hon. Muchangi Karemba an opportunity to welcome all the guests.

**Hon. Muchangi Karemba (Runyenjes, UDA):** Thank you, Hon. Deputy Speaker, for giving me this opportunity to welcome our guests today. They are students of Munyu Secondary School from Naivasha, Saint Clare's Girls High School from Gatundu and Kenyatta University Coast Student Association. Kenyatta University is my *alma mater*, together with some other Members here. I wish to tell the students who have come to Parliament today that the future belongs to them. It is only this moment that they are young. The future is bright and it is waiting for them to become leaders of this country. I wish to tell them that we all started like them. Just like them, we were students; we became student leaders in Kenyatta University and others. Now we are here.

Lastly, I wish to appreciate, in a very special way, the Sunday school officers from the African Holy Christian Church, Huruma. This is the church where I worship while I am in

Nairobi. It is where my children go to for spiritual nourishment. The Sunday school officers you see in the Speaker's Gallery are people who have done a very commendable job. They have developed the first Sunday school curriculum in the Akorino fraternity.

*(Applause)*

This has never happened before. Two weeks ago, when I went to church, I told them that they must come to Parliament so that I can have a moment with them and take them on a tour of Parliament. I am so impressed. They have done something for future generations. It will be remembered that it is during their time as Sunday school officers that it happened. I love them and we thank God for them.

Thank you, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** I will give Hon. Danson Mwashako from Wundanyi exactly one minute to welcome the students from the Coast region.

**Hon. Danson Mwashako** (Wundanyi, WDM): Ahsante sana, Mhe. Naibu Spika. Nakushukuru kwa nafasi hii niweze kuwakaribisha vijana wa Chuo Kikuu cha Kenyatta kutoka Pwani. Hawa vijana, karibu mia moja kwa ujumla, waliona ni vyema leo watembee katika Bunge la Kitaifa ili wakaone ni vipi tunafanya kazi katika Nyumba hii ambayo imeheshimika. Hawa wanafunzi wamebobeza sana katika masuala ya masomo tofauti tofauti. Kando na masomo, hawa ni viongozi ambao tunatarajia ndani ya miaka miwili, au mitatu, wanapomaliza masomo yao ya chuo, wengine wao watakuwa Wabunge, Maseneta na viongozi katika taifa letu la Kenya.

Kwa niaba ya wenzangu wa Pwani, mimi nikiwa mwenyekiti wa Vuguvugu la Wabunge wa Pwani, nachukua nafasi hii kuwakaribisha katika Bunge la Taifa vijana wetu kutoka Pwani, wajisikie wako sawa na wako kwao. Wajue sisi Wabunge wao tutafanya kazi ili masomo yao yasitatizike. Pia tutafanya kazi ili nchi yetu ipate nafasi za ajira wanapomaliza shule na vyuo ili wapate kazi na wabadilishe hali za maisha ya nyumbani kwao. Karibuni vijana wa COSAKU ambao ni wa kutoka Chuo Kikuu cha Kenyatta. Pengine niseme tu, nikiwa hicho chuo mwaka wa 1999 hadi 2003, mimi na wengine ndio tulianzisha *Coast Students Association* kule. Kwa hivyo, nikiwaona hapa, nafurahia, maanake najua kazi tuliyoifanya wakati ule, leo hii bado inabobeza na bado wameshikilia umoja wa Pwani.

Ahsante, Mhe. Naibu Spika.

**Hon. Opiyo Wandayi** (Ugunja, ODM): On a point of order, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** What is your point of order, Leader of the Minority Party?

**Hon. Opiyo Wandayi** (Ugunja, ODM): Thank you, Hon. Deputy Speaker. Before I get to my substantive issue, I echo what the Leader of the Majority Party has said earlier on the appearance of cabinet secretaries. Today, I came here eager to meet my good friend, Moses Kuria. Unfortunately, he has not been able to come. Hon. Moses Kuria had one time written to this House asking for a high-level meeting to discuss how Government business is to be processed in this House. I would have expected him to be the first person to come here and address those issues. All the same - and that is a by the way - I hope that in the coming weeks, we shall have cabinet secretaries coming on time as invited.

The issue I am raising a point of order on is the matter of the...

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Hon. Deputy Speaker, on a point of information.

**Hon. Deputy Speaker:** What is your point of information, Leader of the Majority Party?

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Thank you, Hon. Deputy Speaker. I thank the Leader of the Minority Party for allowing me to inform him. I responded to that particular issue that Hon. Opiyo Wandayi is referring to. When the Cabinet Secretary, Hon. Moses Kuria,

wrote to the Speaker, he wanted to convene what he termed as a high-level meeting to discuss how Parliament will process Government Bills. We understood that Hon. Moses Kuria might have confused this as part of the Public Service. He, therefore, wanted to supervise how we do our work. When we checked with the Ministry what their concerns were, it is important to put it on record that, of the Bills that Hon. Moses Kuria sent to us as pending, nine had already been assented to by His Excellency the President, having been considered and passed by this House. Out of the 56 regulations that he claimed were pending in Parliament, 52 had already been adopted by the House. One of the other Bills that he claimed had not been processed as a Government Bill was one by the Leader of the Minority Party. I do not know whether the Leader of the Minority Party processes any Bills on behalf of the Government. It was a Private Member's Bill.

Therefore, we duly informed the Cabinet Secretary and apprised him of the current structure of the Government. The office that is charged with the responsibility of coordinating the work between the Executive and the Legislature is the Prime Cabinet Secretary. That matter was put to rest that way. It was good that I informed Hon. Opiyo Wandayi. We responded appropriately to the Cabinet Secretary, Hon. Moses Kuria. I agree with Hon. Opiyo Wandayi that the same way he wrote, he should have been the one writing to the House and not his Principal Secretary.

**Hon. Deputy Speaker:** Proceed, Hon. Wandayi.

**Hon. Opiyo Wandayi** (Ugunja, ODM): Thank you very much, Hon. Deputy Speaker. The issue I wanted to raise is very important and Members should pay attention. The Financial Year 2023/2024 is three or so months shy of coming to a close. The performance of the budget is dependent to a larger extent on how money is released by the Exchequer and absorbed by respective ministries and State departments. Every budget cycle, we undertake public participation. Upon such participation, money is appropriated. I am talking specifically about public participation about the money in the Ministry of Roads and Transport, in the State Department for Roads. That money is budgeted for every other financial year. Not a single cent has been disbursed from the National Treasury to the Ministry for the financial year I am talking about or from the Ministry to respective agencies.

For budget performance, the kind of employment generation we are talking about through the affordable housing project is the same kind that would be generated through road maintenance and construction. What is good for the goose is certainly good for the gander. If employment can come from affordable housing, it can similarly come from road maintenance and construction works. Therefore, what is stopping the National Treasury from releasing funds towards public participation for budgeted works in the State Department for Roads? This is an issue that concerns every Member here. Roads do not exist in the air. Roads are in the constituencies which we represent.

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

*[The Temporary Speaker (Hon. Omboko Milemba) took the Chair]*

We do not want a situation where, once money has been appropriated, some people sit in some dark corner and determine which allocation to disburse and which one not to. That would certainly be tantamount to undermining the authority and power of this august House.

I plead with you, Hon. Temporary Speaker, to allow a few Members to contribute to this issue because it is a matter that is so serious that it can cause problems between this House and the Executive.

*(Applause)*

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This House remains an independent institution. We are not beholden to anybody or any other authority. We refer to the Speaker when we are in this House. Once we make a decision such as passing an Appropriations Bill, which then becomes an Appropriations Act, and money continues to be collected by the Kenya Revenue Authority (KRA), it must be disbursed. We will not allow you to get away with it, especially on the matter concerning roads.

I want you to compel the Leader of the Majority Party to follow up with the National Treasury and come back with a definite statement, if possible, tomorrow. Before you do so, please, allow some Members to ventilate so that we can get the gist of the matter.

Thank you, Hon. Temporary Speaker.

**The Temporary Speaker** (Hon. Omboko Milemba): Very well. If there is interest, I will give, at least, two Members from both sides, then we will move to the next Order. You need to key in on intervention button. The first intervention I see here is from Hon. Bashir Abdullahi. Do you want to speak on this matter? Is Hon. David Gikaria in the House? Proceed.

**Hon David Gikaria** (Nakuru Town East, UDA): Hon. Temporary Speaker, first of all, I thank the Leader of the Majority Party for being very candid on cabinet secretaries' matters and what they do. It is very unfortunate because they had the same excuse last week. We amended our Standing Orders in the last Parliament to allow cabinet secretaries to be coming here instead of chairs of committees answering written Questions. That is how important it is for them to come to the Floor of the House. The Leader of the Majority Party has indicated this.

This can become a trend. The cabinet secretaries only come four times in a month. If they do not make it, it means pushing the date forward. They also have that tendency of not appearing before committees. Every time you request a cabinet secretary to come before a committee...

**The Temporary Speaker** (Hon. Omboko Milemba): Order, Hon. Gikaria. We had moved from that matter you are discussing. We are now dealing with the point of order that the Leader of the Minority Party has raised. I declare you out of order and give Hon. Mwenje an opportunity to speak on this. You may proceed.

**Hon. Mark Mwenje** (Embakasi West, JP): Thank you, Hon. Temporary Speaker. I cannot emphasise further the issue that has been raised by the Leader of the Minority Party. Money has already been appropriated for the construction of roads.

I want to speak about Nairobi City County. We have many roads that have remained undone. We have money that was appropriated even in the last Parliament. We have pending bills that have remained unpaid. The contractors should be paid, so that they can complete some of the projects. The Cabinet Secretary for Roads, Transport and Public Works should ensure that funds that were appropriated here by this House are used effectively as per what was agreed on the Floor of this House. Otherwise, we will end up in a situation where the money, which is supposed to build roads in our constituencies, does not get there, as it has been mentioned, and that affects us. The Ministry of National Treasury and Economic Planning must ensure that those funds are released and utilised for the development of our roads. There are Members who want to contribute to this issue. I request you to allow four Members from each side to contribute for one minute, so that we can ventilate on this issue.

I seek your indulgence, please.

**The Temporary Speaker** (Hon. Omboko Milemba): Hon. KJ.

**Hon. John Kiarie** (Dagoretti South, UDA): Hon. Temporary Speaker, this is an extremely serious matter. I support the Leader of the Minority Party for raising it. It affects every single constituency.

Some people imagine that Nairobi City County is extremely well covered in terms of the road network. However, when you think about it, even previous roads programmes in

Nairobi City County have actually failed. The most recent ones are the roads that had been earmarked for development in slum upgrading programme. As Members of Parliament in this House, we are on record saying that the work that was done was extremely shoddy. People were laying concrete paving blocks on cotton soil in our constituencies. Parliament should take its rightful place in budgeting. No other House, institution or entity has the role of appropriating money in the budget. When it is appropriated by Parliament, everything else is automatic machination to ensure that it gets to the constituency. No one should appropriate money after Parliament has done so.

Hon. Temporary Speaker, allow me to contribute for one minute on the Questions that are asked in this House. Time is of the essence to some of them. Some cabinet secretaries do not show up. For example, the Cabinet Secretary who was scheduled to appear before the House today...

**The Temporary Speaker** (Hon. Omboko Milemba): Order, Hon. KJ. Keep it short. We had dealt with the matter of Questions. So, you have made your point.

**Hon. John Kiarie** (Dagoretti South, UDA): Give me one minute, Hon. Temporary Speaker.

**The Temporary Speaker** (Hon. Omboko Milemba): No. The interest is very high. Please, take your seat.

**Hon. John Kiarie** (Dagoretti South, UDA): Much obliged.

**The Temporary Speaker** (Hon. Omboko Milemba): Hon. Wangwe.

**Hon. Emmanuel Wangwe** (Navakholo, ODM): Thank you, Hon. Temporary Speaker. I want to reiterate what the Leader of the Minority Party has said, especially on the issue of roads. The Cabinet Secretary for the National Treasury must wake up and do his job. It looks very easy to sit in an office and fail to know that Kenyans are suffering out there.

I want to look at a situation where the El Nino were here. The upcountry roads were damaged. Immediately after this, there were promises that they would be constructed. In addition to that, there is also the money that was voted for in this House that was meant for the Road Maintenance Levy Fund (RMLF) to go down to various constituencies. That money has not been disbursed. In addition to that, there are also some tarmac roads whose construction began some time back like the Sio Port one in my constituency. It has not been constructed. In real sense, it is supposed to be maintained. That has not been done. No money has been sent to do that. It is important for the Cabinet Secretary for the National Treasury to be called to order by this House. Let him live up to the role that he was given, so that he can disburse the money in our various constituencies.

Thank you, Hon. Temporary Speaker.

**The Temporary Speaker** (Hon. Omboko Milemba): Finally, the Chairman of the Departmental Committee on Transport and Infrastructure. Are you in the House?

**Hon. George Kariuki** (Ndia, UDA): Thank you, Hon. Temporary Speaker. I have followed what the Leader of the Minority Party has raised. I agree with the House that we appropriate the money, but the responsibility to release the funds lies with the National Treasury. We have done our part. The responsibility to release funds is for the Ministry. I do not want to say more on this matter.

Thank you.

**The Temporary Speaker** (Hon. Omboko Milemba): Very well. We shall close that matter at that particular level, unless the Leader of the Majority Party wants to speak on it. Let us hear him and then we wind up on that particular matter.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Thank you, Hon. Temporary Speaker. Let me thank the Leader of the Minority Party for raising this issue. Public participation is a constitutional imperative. Since the advent of Constitution, 2010, every year, the Budget and

Appropriations Committee devotes funds to public participation, which must be disbursed as approved and appropriated by the House without any undue delay.

However, there are also other issues. I am certain many Members here are aware of the other issues pertaining to the roads sector. However, I will pick up the issue on the actual public participation money, other than the others that Members are aware of. Part of them is the issue that was addressed well here by the Cabinet Secretary for Roads, Transport and Public Works. I am certain we do not want to delve into it now. However, I will engage the Cabinet Secretary for the National Treasury and Economic Planning on public participation matter. Firstly, he will provide us with the list, so that we can ensure that it is in the counties that we carry out public participation. I can see that Hon. Danson wants to contribute.

**The Temporary Speaker** (Hon. Omboko Milemba): Order, Hon. Danson. The Leader of the Majority Party is on a point of order. Let him proceed.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Thank you. Hon. Danson Mwashako is a seasoned Member of the Budget and Appropriations Committee. He can tell you that we used to allocate public participation funds for 11 counties per year. By the end of four years, we covered all the 47 counties. There is a budget that is available for that exercise. Ordinarily, we had started with Ksh1.2 billion.

In 2019, when I was shipped out of the Budget and Appropriations Committee by the previous regime, we were approaching about Ksh1.82 billion. I know Ksh2 billion is still available for public participation, including this year. However, it is also important that the Budget and Appropriations Committee make it an open and transparent system wherein their report informs the House of the particular counties where they are conducting public participation in a particular year. This will involve and be owned by the Members of Parliament who represent their constituencies. For instance, when the Committee is going to Siaya for public participation, the Leader of the Minority Party should be aware so that he can mobilise the public to attend and give you the projects that are of priority to them.

There is always the temptation for people to sit and appropriate resources based on what they think are the peoples' priorities. When the Budget and Appropriations Committee goes for public participation in the identified counties, the essence is to get issues of pertinent concern to the residents that were not factored in the budget and have them factored in. Unfortunately, we have begun losing the essence of public participation, and we need to get back on the rails. As I said, I will pick up the issue raised by the Leader of the Minority Party with the National Treasury.

**The Temporary Speaker** (Hon. Omboko Milemba): Hon. Members, we will rest that matter for now. Before we move to the next Order, I acknowledge in the House the presence of Othaya Girls Secondary School from Othaya Constituency, Nyeri County, who are seated in the Speaker's Gallery. I also acknowledge the presence of Elburgon Secondary School, which is sitting in the Public Gallery. It is from Molo Constituency, Nakuru County.

*(Applause)*

Is there any Member of Parliament from Nyeri who can welcome those students?

*(Hon. Duncan Mathenge stood up in his place)*

Proceed.

**Hon. Duncan Mathenge** (Nyeri Town, UDA): Thank you, Hon. Temporary Speaker. I want to take this opportunity to welcome Othaya Girls Secondary School to this august house. This is one of the leading institutions in Nyeri that is performing well as an extra-county school. This is an opportunity for those young girls to get exposed to the proceedings of the House as

we debate on matters that are of national importance and that affect the population and the nation as a whole. I encourage them to take note of the number of women legislators who are in Parliament today. I commend the ladies because a good number of them are present today. This inspires them to aim higher because this place is also their destination.

Thank you, Hon. Temporary Speaker.

**The Temporary Speaker** (Hon. Omboko Milemba): Order Members! We now move to the next Order on Statements.

## STATEMENTS

### LEADERSHIP OF THE COMMITTEE ON MEMBERS' SERVICES AND FACILITIES AND THE COMMITTEE OF POWERS AND PRIVILEGES

**The Temporary Speaker** (Hon. Omboko Milemba): Hon. Deputy Speaker.

**Hon. Gladys Boss** (Uasin Gishu County, UDA): Thank you, Hon. Temporary Speaker. Pursuant to Standing Order 44(2)(d), I rise to make a Statement on the leadership of the Committee on Members' Services and Facilities and the Committee of Powers and Privileges, which were reconstituted on Tuesday, 5th March 2024. Standing Order 212 (b) establishes the Committee on Members' Services and Facilities and provides that:

“The Committee shall consist of a Chairperson and not more than fourteen other Members who shall be approved by the House at the commencement of every Session.” Further, Standing Order 178(1) partly provides that:

“Unless provided under any written law, Standing Orders, or by resolution of the House, a select committee shall, upon appointment, elect its Chairperson and Vice-Chairperson from among its Members.”

Hon. Temporary Speaker, following the re-constitution and approval of Members to serve in the Committee on Tuesday, 5th March 2024, pursuant to Standing Order 212 (b) (3), the Clerk of the National Assembly, in exercise of the powers conferred under the provisions of Standing Order 179(2), declared a vacancy in the office of the Chairperson and Vice-Chairperson of the Committee on Wednesday, 6th March 2024.

Standing Order 179 (1) requires the Clerk to appoint a place, date, and time for the first meeting of a committee within seven days of its constitution by the House or such further period as the Speaker may approve. In compliance with the said Standing Order, the Clerk appointed Tuesday, 12th March 2024 at 4.00 p.m. as the date and time for the conduct of the elections, which took place in Room 9 of the Main Parliament Building.

Standing Order 179(4) specifies the form of a candidate's nomination paper, as prescribed in the Fifth Schedule to the Standing Orders. The nomination papers were issued as prescribed, whereof by the deadline for submission of nomination papers on Monday, 11th March 2024 at 5.00 p.m., the following Hon. Members had submitted duly filled nomination forms:

1. The Hon. (Dr.) Stephen Wachira Karani, MP, for the position of Chairperson; and,
2. The Hon. Feisal Bader Salim, MP, for the position of Vice-Chairperson.

Hon. Temporary Speaker, Standing Order 179(12) provides that:

“If only one candidate is nominated for election as Chairperson or Vice-Chairperson, the Clerk shall, at the expiry of the nomination period, forthwith declare that candidate as elected without any vote being required.”

Consequently, having received only one nomination form for each of the positions, the Clerk declared the Hon. (Dr.) Stephen Wachira Karani, MP, and the Hon. Feisal Bader Salim, MP, duly elected as Chairperson and Vice-Chairperson of the Committee on Members' Services and Facilities, respectively.

In line with Standing Order 179(14), I, therefore, notify the House that the Hon. (Dr.) Stephen Wachira Karani, MP, and the Hon. Feisal Bader Salim, MP, were duly elected as the Chairperson and Vice-Chairperson of the Committee on Members' Services and Facilities, respectively.

The House may recall that the Committee on Powers and Privileges, which is chaired by the Rt. Hon. Speaker, was also reconstituted on 5th March 2024. Whereas the law establishing the Committee does not provide for the office of the vice-chairperson, it has become an established practice of this House for the Speaker to designate a member of the Committee to perform the duties of Vice-Chairperson and represent the Committee in the Liaison Committee.

In this regard, I also notify the House that the Speaker designated the Hon. Joseph Lekuton, CBS, MP, as Vice-Chairperson of the Committee on Powers and Privileges, who shall also sit in the Liaison Committee as the Speaker's representative.

I thank you, Hon. Temporary Speaker.

**The Temporary Speaker** (Hon. Omboko Milemba): Very well. Next Order.

## BILL

### *Second Reading*

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

*(Moved by Hon. Peter Lochakapong on 7.3.2024)*

*(Resumption of Debate interrupted on 12.3.2024)*

**The Temporary Speaker** (Hon. Omboko Milemba): Hon. Tindi Mwale. He is not in the House. Hon. John Mutunga, had you spoken to this?

*(Hon. (Dr.) John K. Mutunga spoke off the record)*

Hon. Members, to refresh the screen, remove your cards and key them in afresh because most of the members who are on the list are likely not interested in speaking to this. Very well. You can now key in. Next is the Member for Nyeri Town, Hon. Maina Mathenge. Have you spoken to this?

*(Hon. Duncan Mathenge spoke off the record)*

I suspect you had spoken to this. Next is Hon. Ferdinand Wanyonyi. Is he in the House? He is not ready and, therefore, we will have Hon. Makali Mulu.

**Hon. (Dr) Makali Mulu** (Kitui Central, WDM): Thank you, Hon. Temporary Speaker, for giving me this opportunity to add my voice to this important Bill. I was prepared to contribute yesterday, but time did not allow it. I am happy that I now have the opportunity.

Hon. Temporary Speaker, I want to start by supporting this important Bill on the Regional Development Authorities (RDAs). We all know that we have quite a number of RDAs in this country, most of which are administered from different Acts of Parliament.

It is very important when I see one Bill that attempts to consolidate all the RDAs because it is going to ensure that we streamline their operations by having a uniform structure for managing them. Even as we do that, it is important that we make sure some of the challenges

that are faced by those RDAs are adequately addressed in the Bill before it becomes an Act of Parliament. One of the challenges we are facing in this country with RDAs is inadequate funding. Normally, those authorities are supposed to serve the development needs of this country. That means you need both a recurrent and a development budget. But over time, because of inadequacies of funding, you realise that the recurrent budget is provided and, in most cases, a very minimal budget for development.

So they do not end up serving the purposes for which they were created. We must provide resources for those important authorities so that, other than just paying salaries, they go that extra mile to ensure that development is also implemented in this country through them. Some of them play key roles, such as the water authorities. Water is a major problem in the Arid and Semi-Arid Lands (ASALs) of this country. If those authorities had been effective and efficient, they would have done a lot in sorting out that matter. From where I sit, one of the reasons why I am supporting this Bill is to have a financial framework to make sure that they are adequately funded. The other matter that is critical and keeps coming up every time we sit is the issue of duplication of roles at two levels: both at the national and the county level. Some of the functions being performed by those RDAs are duplicated. You will find that they are doing almost the same thing, and it is not clear where one should stop and where the other should start. One of the things that should be sorted out in this Bill is to ensure that each of the RDA that will be retained after restructuring has a very clear mandate.

About two weeks ago, we visited my constituency, where we have the Tana and Athi River Development Authority (TARDA) and the National Water Harvesting and Storage Authority (NWHSA). One of the dams that we have there, Kalundu, was done by NWHSA but, after completing the implementation, there was no proper handing over of that dam to TARDA, the local authority that is covering our area. Because of that lack of proper handing over, that dam currently is not serving the purpose for which it was intended - small-scale irrigation. The river is now polluted. So, one of the areas we must address is ensuring that even at the national level, we do not overlap functions. In that case, then we will serve specific functions and help Kenyans.

The other level is of the overlap of functions between the county and the national Government. Most of the functions that are being performed by those RDAs, like water, are devolved. It is not clear what the county governments and the RDAs need to do and at what point they need to work together as they do the same functions. With that confusion, they will always have conflict as the county governments will be complaining that the RDAs are taking over their roles. So, through this Bill, we must make sure that we come out clearly in terms of what belongs to the county governments and the RDAs. In that case, the conflicts will be minimised. The county governments also argue - and it makes sense - that the reason why they are not getting equitable sharing of resources is that some of the money that should be with them is allocated to Nairobi to take care of functions that are already devolved. If we were very clear in terms of what is devolved and what is not, then county governments would get more resources from the national Government without adding any resources in terms of revenue collection. Those are some of the critical issues that we need to address as a country.

The other issue is the administrative framework. In most cases, those RDAs have been used as employment bureaus. The politicians, us included, see those bodies as a way of creating employment for our supporters. Any time you visit them and look at the board composition and who is employed there, you will find that there is a very close alignment of the Cabinet Secretary with the people working there or the boards that are managing the RDAs. In that case, we lose focus on the competencies of the people who are managing them. That is why the other day, you heard the Hon. Deputy Leader of the Majority Party wishing that the people from the Coast manage the Coast Development Authority (CDA). That is confirmation that we are thinking of areas where we can create jobs for our people, which is not the right way. As

we enact this law, we must make sure that we have a clear description of who qualifies to be a board member and an employee in those RDAs, and focus more on merit other than connections. The challenge we have in this country when it comes to matters of who joins which board or who is employed where is; the focus is more on the connections that one has as opposed to the merit. The time has come that, as a House, we focus more on merit. If we do that, we will be helping this country.

The last point, as I allow other Members to contribute, is on the numbers. We have so many RDAs. One wonders whether the number we have should be the optimum one. I do believe we could do with a smaller number than we have and still achieve the same outcome. From where I sit, we should look at what we want to achieve at the end of the day and then, work backwards and find out how many RDAs we need to achieve the desired result. If we go that way, then we will get the right number, which should be more efficient, effective and accountable to Kenyans in terms of the resources we are pumping into them. As I support this Bill, we, Hon. Members, should make sure that when it comes to the Third Reading, we are very clear on what we need to do to make sure that Kenyans get value for money. In this era where we have a shortage of resources, this Bill could not have come at a better time to make sure that we streamline those RDAs and push Kenya to the next level.

With those many remarks, Hon. Temporary Speaker, I support. Thank you for giving me the opportunity.

**Hon. Wanjiku Muhia** (Kipipiri, UDA): On a point of order.

**The Temporary Speaker** (Hon. Omboko Milemba): Yes, what is your point of order, Hon. Wanjiku Muhia?

**Hon. Wanjiku Muhia** (Kipipiri, UDA): Hon. Temporary Speaker, I rise under Standing Order 95 to notify you that this Bill has been sufficiently debated and, therefore, request that you call upon the Mover to reply. Many of us here are waiting for the next Order. Thank you.

**The Temporary Speaker** (Hon. Omboko Milemba): Hon. Members, a Member has risen under Standing Order 95; that the Mover be called upon to reply.

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

**Hon. Peter Lochakapong** (Sigor, UDA): Thank you, Hon. Temporary Speaker. I thank all Members who have contributed to this Bill. I also thank Members of the Committee on Regional Integration for working hard and ensuring that we get the Report of this Bill. I also thank them for making themselves available yesterday to make their contributions. As I rise to reply, I echo a majority of the sentiments that have been espoused by the Hon. Members in this House. I bring to the attention of this House the provisions of Article 189 (2) of the Constitution of Kenya 2010 that outline the importance of corporations in the different levels of government. That is between the national and the county governments.

*(Hon. Ferdinand Wanyonyi spoke off the record)*

Hon. Ferdinand Wanyonyi is asking for some time. Maybe, I will give him about two minutes at the end of my time. That will work. That will be fine. Combining the strengths of both governments through RDAs will help us.

**The Temporary Speaker** (Hon. Omboko Milemba) Order, Chair. If you want to give him a chance to speak on this, the procedure would be that Hon. Ferdinand goes first, and then you will take very little time. You had begun doing your business on this Bill. Therefore, I guide that you proceed. He will talk about another issue. Proceed.

**Hon. Peter Lochakapong** (Sigor, UDA): Combining the strengths of RDAs that are national Government agencies with county governments would ensure that we tackle regional inequalities. It will give them strength to boost economic progress and improve the overall quality of life everywhere in this country.

That partnership will help to avoid duplication of projects, ensuring that initiatives align with broader regional plans and promote a unified approach to addressing regional challenges. Moreover, counties and RDAs often possess complementary resources. They combine through various funding, such as those of infrastructure, because RDAs have skilled personnel. Through collaborations, they will be able to achieve much.

It is in this spirit that the National Dialogue Committee (NADCO) recommended, in paragraph 833(q) of their Report, amendments to RDAs' constituting Acts. Those Acts include the ones we are now proposing to amend to provide representation of county governments in the boards of the authorities. This is to tell you that even issues of RDAs came up during NADCO's engagements. There was a recommendation. I am sure that this House and Kenyans are waiting for the implementation of the NADCO Report. Within that Report, you have heard the mention of RDAs in paragraph 833(q). That is to tell you that even those who participated in that Committee recognised the importance of RDAs. That is why they had it in their Report.

Again, RDAs align with the provisions of Article 189 of the Constitution on the need for collaboration. Section 3(2)(j) of this Bill talks about consultation and collaboration between RDAs and county governments. The RDAs remain vital entities in our country's development landscape. Their diverse functions and proven capacity to foster socio-economic growth while effectively managing resources – and we are talking about basin-based resources - play a pivotal role in driving sustainable growth and resource management nationwide.

I implore fellow Hon. Members who have dissenting opinions to support this Bill to continue with their mandate of alleviating poverty and improving the development of infrastructure, industries and social services. Therefore, I request those Members to bring their amendments to the Bill during the Committee Stage. That is so that we can improve on it and make it better.

The RDAs are credited for the conceptualisation and implementation of the following mega projects in this country:

1. The Masinga and Kiambere Multi-purpose Dams on River Tana, done between 1984 and 1987.
2. The Turkwel Multi-purpose Dam that was built between 1986 and 1991.
3. The Sondu River Multi-purpose Project on River Sondu, under which the Sondu-Miriu Hydropower Project, which was implemented in 1990.
4. The implementation of the Mwache Dam Multi-purpose Development Project is ongoing.

In addition, several concepts and feasibility studies on integrated multi-purpose projects by various RDAs are at the resource mobilisation stage. It is worth noting that RDAs have done many feasibility studies. Therefore, they are at a stage of trying to mobilise resources to implement their projections and feasibility studies. Some of the projects where the RDAs have done feasibility studies include the following:

1. The High Grand Falls Multi-purpose Reservoir on River Tana.
2. The Nandi Multi-purpose Reservoir on River Yala.
3. The Magwagwa Multi-purpose Reservoir on River Sondu.
4. The Lower Ewaso Nyiro River Basin Integrated Multi-purpose Dams Project.
5. The Arror River Basin Integrated Multi-purpose Project.
6. The Turkwel Downstream Irrigation Project as part of the Turkwel Dam Multi-purpose Integrated Project

It is also worth noting that the RDAs transcend counties. You will find that one RDA covers more than four or five counties. Therefore, it is important to know that the work that is done by the counties may not be equated to the work that is done by RDAs. Counties have their work cut out. This Bill tries to standardize the board memberships of RDAs. Our committee report, which we will bring at an appropriate time, recommends nine members. Two, we want to bring all RDAs under one Act.

Hon. Temporary Speaker, because time is up, with those few remarks, I urge Hon. Members of this House to pass this Bill.

**The Temporary Speaker** (Hon. Omboko Milemba): Give him one minute to conclude.

**Hon. Peter Lochakapong** (Sigor, UDA): Thank you, Hon. Temporary Speaker, for adding me one minute. I request that the Hon. Members pass this Bill and move on to the next stage, where the Committee will propose amendments. That will include an amendment to reduce the number of board members from 12 to 9. There will be other proposed amendments from the Committee.

Hon. Temporary Speaker, with those few remarks, I beg to reply. Thank you.

**The Temporary Speaker** (Hon. Omboko Milemba): Very well. The Question to this particular Bill will be put during the next Sitting.

*(Putting of the Question deferred)*

Next Order.

## MOTION

### ADOPTION OF REPORT ON COMPLIANCE TO ARTICLE 54(2) OF THE CONSTITUTION REGARDING EMPLOYMENT OF PERSONS WITH DISABILITY IN PUBLIC INSTITUTIONS

**The Temporary Speaker** (Hon. Omboko Milemba): Chairperson of the Committee on National Cohesion and Equal Opportunity. Is he in the House?

**Hon. Yussuf Adan** (Mandera West, UDM): Yes, I am here. Thank you very much, Hon. Temporary Speaker for giving me this opportunity. My team and I have been waiting for this for a long time.

Hon. Temporary Speaker, I beg to move the following Motion:

THAT, this House adopts the Report of the Committee on National Cohesion and Equal Opportunity on the compliance of Article 54(2) of the Constitution regarding employment of persons with disabilities in public institutions, laid on the Table of the House on Wednesday, 21<sup>st</sup> February 2024.

The Committee on National Cohesion and Equal Opportunity resolved to carry out an inquiry into employment diversity in public institutions, specifically on the status of the compliance of the composition of persons with disabilities in public institutions, pursuant to Article 54(2) of the Constitution. To achieve this objective, the Committee resolved to sample 39 public institutions for its Report on the compliance of the status of employment of persons with disabilities. Subsequently, the Committee invited the select institutions to make submissions on various dates regarding the institutions compliance with the same. The main objective of the inquiry was to assess the representation of persons with disabilities within the public institutions in Kenya. Specifically, the Committee requested the institutions to provide the following:

1. Status of compliance with Article 54(2) of the Constitution on composition of persons with disabilities in the institutions.

2. Assess the distribution of persons with disabilities across different cadres in the institutions.
3. Measures that are put in place to make sure the workplace is suitable and friendly for persons with disabilities.

In this audit, the Committee observed the need for public service to ensure equitable opportunity for the appointments, training and advancement of persons with disabilities. However, the Committee notes that since the promulgation of the Constitution in 2010, public institutions have not complied with the required threshold for persons with disabilities of 5 per cent as per the Constitution. Unfortunately, the average percentage of persons with disabilities representation in the institutions is 2.1 per cent, whereas the Constitution says the minimum is 5 per cent. The average for 39 institutions is 2.1 per cent.

Additionally, most institutions that appeared before the Committee submitted that they do not receive applications from persons with disabilities as required and, hence, the low representation. Despite the provision of Article 54(2) of the Constitution, which requires persons with disabilities to make up at least 5 per cent of the workforce, only one institution, the Lake Basin Development Authority, has complied, as indicated in the Report. All others are far below the required minimum.

After lengthy deliberations with the stated institutions and arising from the observations, the Committee recommends the following:

1. Public institutions should review their human resource policies within three months of the adoption of this Report to create the minimum required 5 per cent threshold job opportunities for persons with disabilities;
2. Within six months of the adoption of this Report, the National Council for Persons with Disabilities should initiate an amendment to the Persons with Disabilities Act to align it with Article 54(2) of the Constitution;
3. Within six months of the adoption of this Report, public institutions should formulate and put into effect comprehensive disability mainstreaming policies to encompass all facets of the workplaces;
4. Within three months of the adoption of this Report, the National Council for Persons with Disabilities should take positive measures to facilitate the comprehensive registration of persons with disabilities in their database;
5. The institutions should implement affirmative action focused on recruitment outreach efforts and awareness campaigns to increase the representation of persons with disabilities;
6. Public institutions should align their human resource policies with the requirement of the retirement age for people living with disabilities and inform them of their rights;
7. Institutions should submit reports to the National Council for Persons with Disabilities, encourage people with disabilities to participate in decision-making processes, and challenge cultural norms through campaigns and education.

After examining the 39 institutions, the Committee went ahead and looked at about 60 other Government institutions. Overall, on average, persons with disabilities occupy 2.1 per cent of employment positions. This is a gross violation of Article 54(2) of the Constitution. I submit.

I take this opportunity to request my Deputy, Hon. Chelule, to second.

*Ahsante.*

**The Temporary Speaker** (Hon. Omboko Milemba): Hon. Chelule.

**Hon. Liza Chelule** (Nakuru County, UDA): Ahsante sana, Bwana Spika wa muda, kwa kunipatia nafasi ili kuunga mkono Riporti hii iliyoletwa hapa na Mwenyekiti wa Kamati yetu ya *National Cohesion and Equal Opportunity*. Nimefurahia sana kuona Riporti hii imefika hapa

Bungeni kwa kuwa kama Kamati, tumekuwa na mikutano wiki nne mfululizo. Nachukua fursa hii pia kumpongeza Mwenyekiti na Wanakamati ambao wako hapa leo. Mimi ni Naibu Mwenyekiti wa Kamati hii.

Ni vizuri tutilie maanani maswala ya walemavu. Tunaishi na walemavu nyumbani kama dada, ndugu na majirani, na wengine tunashiriki nao kanisani pamoja. Wengi wao ni watu wanaowajibikia familia zao, na wanahitaji usaidizi. Walemavu wengi hawajajiandikisha katika makundi. Mara nyingi hata hawapati habari za kazi zinapotangazwa. Naomba Wabunge wenzangu tusimame na walemavu kuanzia ofisini mwetu. Ikiwa uko na ofisi ya Kiserikali au yako binafsi, ni vyema tuwapatie nafasi kama ilivyopendekezwa na Katiba.

Ni kazi yetu, kama viongozi, kuwatetea walemavu. Tuelewe kuwa hawajiwezi kwa njia moja au nyingine. Lakini hiyo haimaanishi hawatafanya kazi. Tuwapatie nafasi katika maswala ya *bursary* na katika ofisi zetu.

Kwa hayo machache, naunga mkono Riporti hii.

Ahsante.

*(Question proposed)*

**The Temporary Speaker** (Hon. Omboko Milemba): The first bite goes to Hon. John Namoit, the Member for Turkana South. In the absence of Hon. Namoit, let us have Hon. Harrison Kombe, the Member for Magarini.

**Hon. Harrison Kombe** (Magarini, ODM): Ahsante, Mhe. Spika wa Muda, kwa kunipatia nafasi kuchangia Riporti hii ya Kamati ya Mshikamano wa Kitaifa na Fursa Sawa.

Kwa hakika, kati ya mashirika yaliokuja mbele ya Kamati, ni wazi kuwa kiwango cha walemavu kiko chini ya wastani unaohitajika na kupendekezwa na Katiba. Ulemavu sio ugonjwa. Haimaanishi kuwa walemavu hawawezi kufanya kazi. Hivyo, kuna haja ya kuwahushisha na kuwapa ajira katika nyanja zote. Kwa mfano, nimejumuisha walemavu katika kamati yangu ya *NG-CDF* na hata ofisini mwangu. Pia nimeona mlemavu akiwa katibu wa kudumu katika wizara husika katika Kaunti yangu. Tulipokumbwa na mafuriko huku Bate, Eneo Bunge la Magarini, Waziri huyo wa Kudumu alihusika vilivyo na kuhakisha kuwa waathiriwa walihamishwa na kupelekwa katika sehemu sawa, na pia wamepata chakula kutoka kwa wizara yake.

Kusema kweli: *“Disability is not inability.”* Walemavu wana uwezo wa kufanya vyema zaidi hata kuliko sisi tulio wazima. Hatufai kuwabagua kwa sababu Katiba imekataa ubaguzi kwa walemavu au mtu mwingine yeyote kwa sababu ya maumbile. Leo hii tuko wazima, lakini haimaanishi kuwa unavyozaliwa ndivyo unavyokua. Mara nyingi, tumeona ajali nyingi zinazowaacha watu wakiwa walemavu. Naomba Bunge hili liunge mkono Riporti hii ili tuweze kuwaweka walemavu mahali wanapostahili kama Wakenya wengine.

Ahsante, Mhe. Spika wa Muda.

**The Temporary Speaker** (Hon. Omboko Milemba): Hon. Wanjiku Muhia.

**Hon. Wanjiku Muhia** (Kipipiri, UDA): Thank you, Hon. Temporary Speaker, for giving me this opportunity. I have been waiting for this Report. I congratulate the Committee on a well-done Report. The Committee audited 39 institutions which is a representation of our country.

We are in the process of repealing the 2003 Act. I have reviewed the Report, and I hope the Chairperson and the Committee will present their suggestions to the relevant Committee to improve the new Act. It would have been fair if this Committee started by auditing Parliament. I have complied with those requirements by employing two PWDs in my constituency office. I am aware that the law requires inclusion even on the *NG-CDF* Board. I urge all honourable members to consider auditing their operations and see if they can create, at least, one or two

positions for persons with disabilities (PWDs) within their constituency management. It would be a step in the right direction if the counties also created equal opportunities for PWDs.

I also urge the Senate to audit the counties which fall under their mandate. This Committee could not have audited the counties as it was not within its purview. I know that Uasin Gishu and Kericho counties have been rated highly for their inclusion practices. During Governor Mandago's tenure, Uasin Gishu was ranked the first county to employ the highest number of deaf persons. Therefore, the Senate should consider conducting an audit of the counties. But first, let us audit ourselves. We keep talking about the Government and yet, we are the Government. Before we audit the ministries, let us audit ourselves.

This Report is based on the Kenya Population and Housing Census of 2019, which we all know is disputed. Therefore, the figures that have been put here could be unreal. We know a census in this country takes place after 10 years. I want to plead with the Government to consider the desperate situation we all witnessed last year, during the registration of *Inua Jamii* Cash Transfer Programme, when we could not register thousands of PWDs because they did not have registration numbers. Now that the Government has devolved the National Council for Persons with Disabilities (NCPWD) to the counties, I plead with them to review the numbers of those people and consider funding that Council, which is the body that is entrusted with considering matters of PWDs. 5 per cent is a very small percentage for us to attain as a nation.

If you read through the Report, you will find Switzerland as the best county in the world for having considerably given employment opportunities to PWDs. I am also happy that in the East African Bloc, our partner State of Rwanda is also rated very highly for having considered them. Time and again, PWDs have lived on donations as if they are not citizens, waiting for whatever happens in their lives. It is time that the Government makes a deliberate move and considers funding them through the budget in the avenues they work with like the NCPWD and the Ministry of Labour and Social Protection, just like other Kenyans.

Today, there was a debate on caregivers. We may want to give PWDs jobs but, in the event that this is impossible, their caregivers can be given jobs to work and provide essentials for their loved ones. This data can be recorded as serving PWDs. I want to congratulate the Lake Victoria Water Works Development Agency for having been the highest out....

*(Hon. Wanjiku Muhia's microphone was switched off)*

**The Temporary Speaker** (Hon. Omboko Milemba): Hon. James Nyikal.

**Hon. (Dr.) James Nyikal** (Seme, ODM): Thank you, Hon. Temporary Speaker, for giving me an opportunity to contribute to this Report, which is extremely important because it is looking at Article 54 of the Constitution.

Although it confines itself to Article 54(2) which is basically about employment of the 5 per cent which is required by institutions to offer PWDs, it needs, to some extent, to address the whole of Article 54 of the Constitution. There is no way we can attain the requirement of Article 54(2) if we do not look at Article 54(b), which states that access to educational institutions and facilities for persons with disabilities should be integrated in our education system. Education is key to being employed. There is no way we can think about getting 5 per cent if they do not address education.

If you look at Article 54(c) of the Constitution, it talks about reasonable access to all places, public transport and information. How can one get a job and do it if they do not have physical access and access to information? Those are critical as a prerequisite. Article 54(d) talks about the use of sign language and braille. If one cannot communicate or read materials, how will one get access to employment? This Report is talking about Article 54(2) but the truth is that it must address the whole of Article 54 of the Constitution.

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There is an attempt to do this if you look at the Report on its observations in paragraph 5.2, which clearly indicates which challenges need to be addressed. For example, paragraph 5.2.1 says that all institutions should construct ramps to aid mobility. Those includes schools and workplaces. Even public facilities like toilets must be made accessible. In training institutions, if there is no sign language... I know that sign language became a national language during the process of coming up with the Constitution of Kenya, 2010. Only the media industry, particularly television networks, have implemented this appropriately. I sit in meetings and do not know whether this is implemented in schools.

We need to have braille for every blind person. Sometimes, people see talking lifts and think it is modernisation. This is a requirement and some lifts have braille and people have not noticed this. The Report also indicates about mainstreaming of disabilities in all institutions. Whatever we do, if all institutions do not put this in place and monitor the requirements of PWDs, there is no way we shall achieve the employment percentage we are looking for.

I have looked at this Report and the recommendations it has put in place. They have said that within three months, all public institutions should review human resource policies to enhance the representation of PWDs. That can only happen if, in the first place, you have enabled and capacity-built PWDs by giving them the provisions they require in learning institutions, way before.

Within six months, in consultation with other stakeholders, there will be a review of the Disability Act. This is extremely important and I know there is an effort to review this Act - and this must be done. I want to summarise by saying that, mainstreaming is extremely important, so that we can have a proper process of registration of PWDs....

*(Hon. (Dr.) James Nyikal's microphone was switched off)*

**The Temporary Speaker** (Hon. Omboko Milemba): Hon. Ferdinand Wanyonyi.

**Hon. Ferdinand Wanyonyi** (Kwanza, FORD-K): Thank you very much, Hon. Temporary Speaker for giving me this opportunity. At the outset, I stand to support this Motion.

First and foremost, disability is not inability or sickness. When one is disabled, it does not mean they are unable. One can do quite a number of things because they are not sick, but physically disabled. We have all witnessed in our lives that those people are God's creation. For example, in my constituency, I have hired two disabled fellows and they are very hardworking and sharp. If I have something that I want to be done, I normally send them. Therefore, disability is not inability or sickness. They should be given equal opportunity to work.

Secondly, there are people who discriminate against them. Just because somebody is disabled or is in a wheel chair, they cannot employ them; while that person has the ability to work even better than a managing director! People should know that it does not matter if somebody is disabled, because most of those people are very sharp.

In my family, there is a disabled person and he is doing very well as a teacher. Above all, his children are very sharp. In fact, one child is undertaking a Doctor of Philosophy (PhD) Degree, while another got an opportunity to work in Germany. When you look at their father, you cannot believe that those are his children. As much as God has not given them the ability to do one or two things physically, those people are very sharp.

This Report has come at the right time. We want to take this opportunity to encourage institutions, schools and other areas to provide ramps for the persons with disability. The engineers should construct ramps for persons with disability to enable them to enjoy with the rest. There was a time I gave a contractor a contract to build a storey building for a secondary school, but he did not make a provision for persons with disability. I told him that although we

did not have a disabled student at that time, we could in future have those who cannot walk to the first floor. I told him that he will now have to construct a ramp at his cost.

The Report has come at the right time and we should assist those who are disabled. We should have institutions for the blind and deaf. I wholly support it. Thank you

**Hon. Temporary Speaker** (Hon. Omboko Milemba): Hon. Irene Mayaka.

**Hon. Irene Mayaka** (Nominated, ODM): Thank you, Hon. Temporary Speaker. As a Member of the Committee of National Cohesion and Equal Opportunity, I stand to support the Report. First of all, I would like to take this opportunity to thank our able leadership led by the Chairman, Hon. Yussuf Adan and our Vice-Chairlady, Hon. Liza Chelule, for the comprehensive Report from the Committee.

I would like to point out some of the observations that we made while interviewing some of the public institutions. Article 54(2) of our Constitution provides that the ideal percentage for persons with disability in public institutions should be 5 per cent. Out of the 39 institutions that we interviewed, 24 fell short of that compliance; that is a total of 61 per cent of those interviewed which gives you an average of 2.1 per cent of the persons with disability employed in our public institutions.

One of the things that we noticed is the lack of an adequate and comprehensive policy in those institutions that lay out the requirements for them to have persons with disability there. The other issue was limited outreach. Every institution that we interviewed told us that they did not have enough persons with disability coming for the interviews.

We also noticed that there was lack of adequate staff with adequate training on sign language or how to handle persons with disability. When you look at the Report, you will notice some uniqueness because we did not just give recommendations, but we gave a timeline for each one of them. For instance, we clearly indicated that in three months' time, public institutions should have human resource policies that directly speak to issues in reference to persons with disability.

We also asked those institutions if they had taken into consideration speaking to Members of Parliament or constituency offices which have database for persons with disability within their constituencies. We recommended to the National Council for Persons with Disabilities (NCPWD) to check their database once more, and compare notes with Members of Parliament to ensure that their database is updated to have a reflection of all the 290 constituencies. They should ensure that they have all persons with disability in their records.

We also recommended proactive registration of the database and updating the same. As a Committee, we recommended that it should be done in three months. Therefore, we will again check with the NCPWD to ensure that their records are up to date.

Hon. Temporary Speaker, another recommendation that we strongly considered was the collaboration of public institutions with health insurance. This was occasioned by the fact that health insurance coverage fund did not take into consideration how expensive it is for persons with disability to acquire their mobility tools like wheelchairs and crutches. Most insurance funds do not cover this.

Finally, I want to encourage persons with disability that we have had so many success stories of persons with disability who have confirmed that disability is not inability. Therefore, mine is just to urge them to ensure that they are registered with the National Council for Persons with Disability and the Offices of Members of Parliament to ensure that their records are updated. They should communicate effectively with the Council so that they are given those opportunities whenever they arise.

I submit and support the Report.

**Hon. Temporary Speaker** (Hon. Omboko Milemba): Hon. Timothy Toroitich.

**Hon. Timothy Kipchumba** (Marakwet West, Independent): Thank you, Hon. Temporary Speaker, for granting me an opportunity to contribute to this important Report. I

wish to thank the Committee for bringing this very comprehensive Report that they have submitted before this House.

Hon. Temporary Speaker, for a long time, persons with disability have been neglected in this country. Our Constitution is not a mere suggestion, but a law of the land and the highest-ranking law in our country. Therefore, the mere fact that Persons with Disabilities (PWDs) rights have been anchored in the Constitution means that they have been given the highest rights under the laws of this country. If you read critically, Article 54(1) and (2) of the Constitution provide for the rights of persons with disability.

Article 54(1) states that a person with a disability is entitled to certain constitutional rights. The word 'entitled' means that it is mandatory. One of them is access to educational institutions and facilities that are integrated into the society. Even before the issue of employment, there is a challenge in access to educational institutions by persons with disabilities. We must ensure that institutions that are handling persons with disabilities and children are properly equipped with facilities that will assist them access education. Further, Article 54(1)(c) provides that they are entitled to reasonable access to all places, public transport and information. We must align our public institutions so that those persons with disabilities can access them.

Article 54(2) of the Constitution, the subject of this debate as it is, clearly provides that the State shall ensure the progressive implementation of the principle that, at least, 5 per cent of members of the public in elective and appointive positions are PWDs.

*[The Temporary Speaker (Hon. Omboko Milemba) left the Chair]*

*[The Temporary Speaker (Hon. (Dr.) Rachael Nyamai) took the Chair]*

I have read the Report and the Committee has noted very well that, out of the 5 per cent that is provided for by the Constitution, only 2.1 per cent of public institutions have complied with that particular constitutional principle. For the remainder of the 2.9 per cent, we must take comprehensive steps as a House and a country to comply with this provision. It is shameful that out of the 39 sampled public institutions, only one institution, the Lake Basin Development Authority, has complied with the 5 per cent threshold.

As a country, we are able to take care of those people under the Persons with Disabilities Act, No.14 of 2003 and, therefore, we must re-look into it. It is the legislation that provides clearly for the fundamental rights of PWDs. We must amend the said Act of Parliament and align it with Article 54(2) of the Constitution and have the rights of PWDs clearly outlined, and anchored in the said legal provision.

We need a comprehensive report by this Committee on all public institutions before this House outlining the compliance of the minimum threshold of at least, 5 per cent. If that Report is brought before this House, it will inform the amendments to the parent Act, the National Council for Persons Living with Disability Act.

I, submit.

**The Temporary Speaker** (Hon. (Dr.) Rachael Nyamai): Thank you very much, Member for Marakwet West. Hon. Njeri Maina, Member for Kirinyaga.

**Hon. Njeri Maina** (Kirinyaga County, UDA): Thank you, Hon. Temporary Speaker.

I rise to support and commend the Committee for this Report. It is not that 2.1 per cent of the institutions have complied, but the compliance level. Article 54(2) of the Constitution is very clear. It says, 'at the very least.' This means that the threshold we are looking for should be more than 5 per cent. It is disappointing that out of the 39 public institutions that the Committee visited, only one, had fully complied with the requirement of not less than 5 per cent.

Article 27 of the Constitution in its entirety and specifically, in Clause 4, indicates that no person should suffer any discrimination because they are differently abled.

We have a legislation and policies of various relevant ministries in place, but we fail at implementation. This is the same thing that happens to the 30 per cent for Access to Government Procurement Opportunities (AGPO) that is meant to be set aside for women, PWDs and the youth to access opportunities from public and private institutions. It is quite a disappointing thing because we cannot only have the law in academia. The intention of the drafters was for the Constitution of 2010 to be wholly, implemented.

We must also have performance indicators and evaluation mechanisms to ensure that once we have those policies in place, they are being complied with.

It is also very disappointing to note that often at times, the society looks at differently abled persons as bothersome, and as if they are too needy. I had the privilege of having a discussion at the Peoples' Dialogue Festival with representatives of PWDs. First hand, you can tell that they are disadvantaged from the very dint that they were created that way or, perhaps, along the way of life, had accidents. It is a very unfortunate situation that we must focus on mainstreaming implementations, including even in the private sector. Most of those institutions lack the basic infrastructure to ensure that differently-abled persons have access to those facilities, including the health facilities, despite the fact that there is a law in place and that the 2003 Act stipulates that differently-abled persons must be facilitated with infrastructure to ensure that they access certain facilities.

It is the right time, and the Committee has recommended implementation within three months. Perhaps, they can try and give more time. I also request the Committee to follow up on whether it has been implemented. We do not need any subsidiary legislation. The law and the Constitution are very clear. Therefore, those institutions are not compliant with the Constitution of 2010. As a House, we must make sure that we fully implement the Constitution of Kenya, 2010 and support PWDs.

Thank you.

**The Temporary Speaker** (Hon. (Dr.) Rachael Nyamai): Thank you very much. Hon. Gideon Mulyungi, Member for Mwingi Central.

**Hon. Gideon Mulyungi** (Mwingi Central, WDM): Thank you, Hon. Temporary Speaker. I rise to support this Report from the National Cohesion and Equal Opportunities Committee.

I congratulate the Committee and the Chairperson who is my neighbour. He passes through my constituency to his home, and he is a very able man. I have listened to him, and as a former Vice-Chairperson of that Committee, I understand what he was talking about. I support the contents of his document in totality.

The Constitution provides that all public institutions must comply with the appointment of PWDs up to 5 per cent. From the Report that has been tabled, it is very clear that the majority of the institutions in Kenya do not comply. Only one out of those that were interviewed did.

PWDs are normally disadvantaged and anybody, anytime, whether born or thereafter, can be disabled. The late former President of Kenya, Mwai Kibaki, became a President of Kenya in a wheel chair. That was the epitome of compliance with this constitutional requirement. And that might have been the reason why President Mwai Kibaki was the founder of the Constitution.

The spirit of Article 54(2) of the Constitution is that this provision should be complied with, progressively. And since we promulgated the Constitution in 2010, it is now 14 years. In my view, all the institutions, within 14 years, ought to have complied with this provision. I implore this Committee to crack the whip to ensure that all Government institutions comply with this provision. In most public places, interests of persons with disabilities are not provided for. You find buildings with no ramp access or provision for toilets. Even in restaurants, bars

and clubs, there is no provision where a disabled person can enjoy themselves. Therefore, I agree with the recommendations of this Committee that we should revise the law to ensure compliance by all institutions to make it mandatory so that, if you do not comply, you have broken the law. I support.

*Ahsante sana.*

**The Temporary Speaker** (Hon. (Dr.) Rachael Nyamai): Thank you very much. Hon. Jackson Lekumontare, Member for Samburu East.

**Hon. Jackson Lekumontare** (Samburu East, KANU): Thank you, Hon. Temporary Speaker. I support this Report. As other speakers have said, disability is not inability. We have the Constitution and there is the Persons with Disabilities Act, 2003. We are lacking in implementation of the same. Currently, we are still talking about people with disabilities not being able to access some places. We need to know that there are a lot of issues with PWDs in the country, even when it comes to employment. We are talking about the employment of people with disabilities and yet, it is reported that only very few members of some communities are employed in some sectors.

*[The Temporary Speaker (Hon. (Dr.) Rachael Nyamai) left the Chair]*

*[The Temporary Speaker (Hon. Omboko Milemba) took the Chair]*

Barriers should be removed so that the disabled can access almost all services. When it comes to employment of people with disabilities, sometimes, employers doubt their performance. People still have a lot of negativities towards people with disabilities. It is high time we fully implemented the Constitution and the Act. It does not help people with disabilities to have laws written on paper but, when it comes to implementation, nothing happens. Everybody should comply with the labour laws. As Members of Parliament, we must start by ensuring that each of us employs people with disabilities in our offices. We are talking about the same, but what have we done as Members? It defeats logic if, as Members of Parliament, we have not fulfilled that requirement. What is rightful for PWDs should be given to them. Even when it comes to contracts, the percentage set aside for PWDs is very small and yet, they are still not given opportunity. It is high time we implemented the Constitution, comply with the Persons with Disabilities Act and all will be well.

Thank you, Hon. Temporary Speaker. I support.

**The Temporary Speaker** (Hon. Omboko Milemba): Hon. Shakeel Shabir.

**Hon. Shakeel Shabbir** (Kisumu East, Independent): Hon. Temporary Speaker, thank you very much. I support the Report in the way the Committee has presented it. However, I have some concerns on the language used in the recommendations. The Constitution is very clear. It says 5 per cent of all employment in all public institutions must be the absolute minimum for persons with disabilities. The Committee carried out an inquiry whose main objective was to assess the ethnic and diversity representation within public institutions, specifically by PWDs. They noted that 2.1 per cent of the institutions they inquired about did not comply, but not all of the institutions. By now, I would have inquired for a list of all public institutions that have not met the 5 per cent threshold. That is an offence.

The Committee says that public institutions should review their human resource policies within three months. They should not. They must. They recommend that within six months, the National Council for Persons with Disabilities (NCPWD) should initiate amendment to the Persons with Disabilities Act. I agree. Within six months, public institutions should formulate and put into effect comprehensive disability mainstreaming policies. They should not. That is why I disagree with the Report in its recommendations with the usage of the word should. The word should be replaced with “must”. It is a great Report to which a lot

of work has been put in, but the only point I do not agree with is that this is economic injustice to PWDs. It is an economic injustice if they are not being given their right of a minimum of 5 per cent in employment. This Report must be firmer in its recommendations. Equality and equity are not the same. Equity demands a minimum of 5 per cent; equality has a difference.

There is also something else that I have seen. That we do not, as Members of Parliament, give enough support to people with disabilities in our constituencies. Our constituencies should also be audited. A report should be submitted by our constituencies informing this House how many Persons with Disabilities (PWDs) we have employed.

Finally, there is another association for PWDs who are funded directly from the Office of the President. The National Council for Persons with Disabilities (NCPWD) is funded from the budget. The National Fund for the Disabled of Kenya (NFDK) is headed by a great lady, Ms. Kristina Pratt. It has much more money than NCPWD. Those two institutions must be amalgamated because they are doing the same thing. They should be put together and have a joint approach.

Thank you, Hon. Temporary Speaker.

**The Temporary Speaker** (Hon. Omboko Milemba): Hon. Maina Mathenge.

**Hon. Duncan Mathenge** (Nyeri Town, UDA): Hon. Temporary Speaker, thank you very much for giving me the opportunity to contribute to this Motion.

I am a member of the Select Committee on National Cohesion and Equal Opportunity. One of the realisations that this Committee came to is that it is not sufficient for the Constitution to provide for rights of Kenyans for them to enjoy them. Going by the inquiry and contact we have with Semi-Autonomous Government Agencies (SAGAs) and ministries, including the Public Service Commission (PSC), it is a sad state of affairs, in terms of how we treat PWDs, when it comes to employment opportunities. If this Report had been more inclusive in terms of access to 30 per cent reservation of Government procurement opportunities to women, youths and PWDs, then we would see how unfair and unjust we, as a nation, are.

In a Report by PSC which was published in 2014 across the entire nation, employment of PWDs was less than 1 per cent. At this point in time, 10 years down the line and 14 years of implementing the Constitution 2010, we have only 1.1 per cent increase. If we extrapolate this Report, at this rate, it will take us close to 50 years for PWDs to realise their allocation of 5 per cent. This is untenable. In an attempt to address the issue of PWDs, most of the SAGAs only go as far as having a disability mainstreaming committee within the institution. However, they have little tangible actions to show. Violation of our Constitution must have consequences. I urge this House to go a step further and recommend that the violation of the rights of PWDs by public and state officers should be classified as a gross violation of the Constitution, with the potential of dismissing Chief Executive Officers (CEOs) on account of denying them employment opportunities.

When we look at training opportunities for skills for PWDs, it is a national shame. We visited one institution that I believe is the only dedicated one for offering secondary education to PWDs. They have a gym that has nothing other than the walls. They rely on companies that have Corporate Social Responsibilities (CSR) because we have not dedicated funding for those programmes. The teachers who are trained in special needs education are frustrated, in terms of promotions, when Teachers Service Commission (TSC) promotes teachers. As a nation, we must take reasonable actions towards disability mainstreaming and undertake deliberate affirmative action in assisting our brothers and sisters who are in that state.

Finally, the medical care for PWDs sometimes requires supplements that are very costly. It is necessary for this House to consider exempting them from tax.

I thank you, Hon. Temporary Speaker. I support the Motion.

**The Temporary Speaker** (Hon. Omboko Milemba): Hon. Millie Odhiambo.

**Hon. Millie Odhiambo-Mabona** (Suba North, ODM): Thank you, Hon. Temporary Speaker. I wish to congratulate and thank the Committee for bringing this Report. As a person who has worked on the issues of equality, equity and inclusion over the years, the Report of the Committee is timely.

The challenge in Kenya is not lack of a legislative framework, but on implementation. The Constitution is very clear, as it is indicated in the Committee's Report. It is just a question of compliance to Article 54(2) of the Constitution. It is very clear on the percentage of PWDs who should be employed in Government entities. Because of our entrenched culture of impunity, we pass laws for the sake of doing it. Because of that, we are not committed to ensure that we give effect to the laws that we pass.

I challenge the Select Committee on Implementation. Other than the reports that are brought by the specific committees, they should also follow up and ensure that when we pass laws, they are implemented. It is not only this one. We also passed the Victim Protection Act, which is an excellent piece of legislation. However, we have refused to operationalise it. As a country, the challenge we have is the culture of impunity and failure to implement laws.

I do not want to say much about PWDs because all of us know the challenges that they go through. I challenge the Committee that beyond the numbers of people who are not employed according to the Constitution, they should do an audit of public infrastructure and how friendly it is to PWDs.

We also need to be very clear and have disaggregated data on the kinds of disabilities and how widespread they are, even by gender. Women with disabilities face even greater challenges than men with disabilities. I will give an example of a family in my constituency, Mbita Point area around Milimani, of a woman whose husband has a disability. She has 5 children with severe disabilities. I do not want to call them children because they are adults now. The persons with severe disabilities are raped, they have children and nobody takes care of them.

I challenge the Committee to recommend to the Government to set up an institution that can fully take care of cases of severe disabilities. When you leave an individual to take care of a person with severe disabilities, then you affect his or her mental health. Recently, many of us saw a young lady who went viral because she was complaining that she has a mother who suffers from schizophrenia and a brother who has severe disability. She has to take care of her mother who has a mental challenge and her brother. That lady appealed for help and she said that she was at a point where she was about to commit suicide. Why should she commit suicide when, as a country, we can set aside resources to help in such situations. I want to encourage the Committee to explore the institutionalisation that is covered by the Government for persons with severe disability and for persons that have lasting mental challenges. There is too much strain on their caregivers.

My time is up. I want to thank the Committee for the good Report.

**The Temporary Speaker** (Hon. Omboko Milemba): Very well. Hon. Moses Injendi.

**Hon. Malulu Injendi** (Malava ANC): Thank you, Hon. Temporary Speaker. I rise to support this Motion. I thank Hon. Yussuf for this Report. I want to start by highlighting what Article 54(2) of the Constitution says. It states:

“The State shall ensure the progressive implementation of the principle that at least 5 percent of the members of the public in elective and appointive bodies are persons with disabilities.”

We may talk harshly about institutions. However, from where I sit and having read this Article 54(2) of the Constitution, it talks of progressive implementation. Therefore, it will be a challenge for anyone to sue the institutions. If you sue anyone for not having complied with Article 54(2) and they state that it talks about progressive implementation...What does progressive implementation mean, and it will be implemented for how long? The Committee

should consider coming up with an Act of Parliament that will stipulate up to what extent this Article will be implemented to get the 5 per cent.

The other challenge that we have in the country is that when you talk of employment of persons with disabilities, there are jobs that are specific; they need someone with specific qualifications like a professor or someone with a master's degree. We want to face the matter critically. Do we have an institution in the country that can train persons with disabilities to such levels? If they are there, how many are they? Do we have sufficient teachers in the country? This is a matter that the Committee should look into deeply. It is not as it looks at face value. We are aware that most families have persons with disabilities. However, it is a challenge for those persons to access education. The Competency-Based Curriculum (CBC) is talking of integrated education in our schools, where persons with disability can also join. I am aware of families that are not willing to take their children to such schools because disability in our communities is considered a curse. Therefore, it is a challenge taking them to schools where other normal children are and, when they are taken such schools, the normal children stay away from them. So, even if we talk of employment, do persons with disabilities have the necessary qualifications for employment? The answer is no; they do not have. Do we have institutions that can train them? The answer is no. They are not there. So, Hon. Sheikh Yussuf, it is not only a matter of recommending timelines for implementation. This has got to do with the whole process of our education system.

When our forces in this country – the Kenya Defence Forces (KDF), the Kenya Police, the Kenya Prisons Service and the National Youth Service (NYS) – advertise for positions, they are very clear that they will not consider persons with disabilities. If, for example, you have an eye problem or one short finger, you will not be admitted into the forces. This exposes discrimination against persons with disabilities. What has losing a finger got to do with performing the functions of a KDF officer, a police officer or a prisons officer?

I can see that my time is up. We have to come up with a specific law that has timelines. As we are aware, some of the public institutions do not have the infrastructure that persons with disabilities can use to access their offices comfortably. That is one of the ways that demonstrates that, as a country, we are negative and not sensitive towards persons with disabilities. I support the Motion and thank Hon. Hon. Sheikh Yussuf, the Chairperson, Departmental Committee on National Cohesion and Equal Opportunity.

Thank you.

**The Temporary Speaker** (Hon. Omboko Milemba): Hon. Martin Owino.

**Hon. Martin Owino** (Ndhwa, ODM): Hon. Temporary Speaker, I appreciate you for giving me this opportunity. At the outset, I support this Bill and say kudos to my Chair, Hon. Yussuf. The Chairman and the whole team have been very passionate at looking into issues of disabilities. In the 2019 census, 2.2 per cent of Kenyans were found to be disabled. If that is put into figures, it is 1 million. It could be more now because of the population surge. It is very interesting and saddening that 39 samples of the companies that we interrogated did not comply with the Constitution requirement. In other words, when we were looking at the status of the compliance to Article 54(2) of the Constitution regarding employment of persons with disabilities in public Institutions in terms of friendly environment, measures they have taken, their experiences and challenges, we found that they were not compliant. That is not acceptable.

Disability occurs in many forms. It is a condition that limits people mentally and in movement or activity. It can occur to anybody. The irony is that, even when you are employed and you are fit as most of us are, you can still get a disability while working. Then you are scaled down and deployed without any policy guideline. For example, in the military, we have had cases of workers being stood down and deployed as receptionists and yet, they do not know how to handle phones. We are recommending policies that will make the environment that they operate in conducive and encourage training people who will handle persons with disability to

avoid stigmatisation. We have recommended some interventions and we are asking that they be strictly implemented. One of them is strict human resource policies. There is nothing much that is tailored towards this category of people in institutions.

We have also asked that the strategy for recruitment should be changed. For example, putting an advertisement in a local newspaper, in a website or using organisations of persons with disability and think that they will be alerted that there is a job advertisement, does not work. We have suggested that the offices of area Members of Parliament will be more convenient to send messages. For example, if you go to Ndhiwa Constituency, you will find a folder with all the people who are disabled with their capabilities. So, if there is a job opening, they can easily be alerted and asked to apply.

We should be getting regular reports after every three months. After changing our Standing Orders, we can implement this recommendation so that we know if there are improvements on the anomalies we got during our interrogations like, employing more persons with disabilities and availing more tenders to them. Sometimes, we wait for a year to lapse and then, at the end of it all, we have nothing.

Lastly, people living with disabilities are central to our social and economic development. Any discrimination on them will increase poverty and pressure not only to the person living with disability, but to their families as well. Any form of discrimination will increase poverty and pressure to the family, leave alone the person living with a disability. So, this social exclusivity should be stopped. We need to do more. We just examined 39 institutions, but there are so many companies out there that are not complying.

With that, I thank you, Hon. Temporary Speaker. I hope we will continue to interrogate this issue more.

**The Temporary Speaker** (Hon. Omboko Milemba): Very well. Now then, the Temporary Speaker's prerogative, Hon. Rose Museo.

**Hon. Rose Mumo** (Makueni County, WDM): Ahsante Bwana Spika wa muda kwa kunipatia nafasi ili nichangie Ripoti hii. Namshukuru sana Mwenyekiti ambaye ameleta Ripoti kuhusu watu wenye changamoto au kwa jina lingine tunasema, walio na ulemavu. Ripoti hii imekuja kwa wakati wake. Niseme kwamba sisi kama Wakenya hatulizingatii sana jambo hili. Njia ya kuwasaidia watu wenye ulemavu imekuwa ni shida kubwa. Tunapowangalia, wanaonekana kama hawawezi. Wale wachache ambao wamesoma na kupata umahiri wa kazi wanaweza kuandikwa.

Ningomba Kamati hii iangalie sana mambo ya watoto walemavu kuanzia pale shuleni. Unapata kwamba wale ambao wamesoma ni wale ambao wametoka katika familia zilizo na uwezo. Lakini ukiwa mlemavu na umetoka katika familia ambayo haina mapato vizuri, au kuna umaskini fulani, unakuta kwamba hata wewe kwenda shule ni shida. Hata kwenda katika shule ya upili inakuwa ni shida. Kwa hivyo, wanazidi kukaa nyumbani na kukosa kazi. Sheria zipo ambazo zimetungwa na ziko ambazo zinaelekeza kwamba watu wenye ulemavu waweze kusaidika na kuandikwa kazi. Lakini unapata kwamba hatuifuatili ipasavyo. Ingekuwa vyema kuwe na sheria inayolazimisha kila ofisi ya Serikali au isiyo ya Serikali, kuajiri mtu mmoja mlemavu.

Na ulemavu si kukosa kidole pekee yake. Utakuta kwamba wanasema wameajiri mtu mlemavu ilhali huyo mtu labda ana kidole kilichokatika. Tunataka waajiri watu walemavu kabisa. Tunataka pawepo watu wanaoweza kutembelea maofisi kuangalia kama sheria hii inafuatwa. Ninapoendelea kuunga mkono Ripoti hii, ningependa kusema kwamba zamani kulikuwa na *social workers* au wafanyikazi wa Serikali ambao walikuwa wanatembelea nyumba za watu kuangalia watoto wenye ulemavu. Lakini jambo hili limepungua na wazazi wengi unakuta hawawapeleki watoto wao shuleni kwa sababu ya kile wanachokiita kwa Kiingereza *stigma*, au kwa sababu wanahofia kwamba watoto wao wanaweza kuwa na laana fulani ambayo inasababisha ulemavu.

Ulemavu ni jambo ambalo linahitaji kuzingatiwa sana Kenya, ili tuhakikishe kwamba walemavu wanapata nafasi. Katika ofisi yangu, nimepokea kesi nyingi za ubakaji wa watoto, na wengi wao ni walemavu. Wengi wao sasa wameanza kuingiliwa maana hawawezi kukimbia ama kufanya lotote. Walemavu wengi sasa wanakabiliwa na hatari kubwa kwa sababu hawawezi kukimbia au kujilinda. Wanaume wachokozi wanawalenga hasa watoto wa kike walemavu, na hii inahatarisha usalama wao. Tunahitaji kuhakikisha ya kwamba wanapata ulinzi unaofaa. Naunga mkono Ripoti hii na naamini kwamba jambo hili linahitaji kuangaliwa kwa dharura ili tuweze kuwasaidia wale wenye ulemavu.

Mimi nilikuwa natembea vizuri lakini leo niko na ulemavu. Kwa hivyo, naelewa changamoto ya kutembea ukiwa mzima na ukiwa na ulemavu. Ni jambo ambalo lina shida sana na naomba kwamba watu waangaliwe. Pia, usajili wao uangaliwe kwa sababu wengi wanatafuta kupata kadi ya ulemavu na inakuwa shida kuipata. Kamati, nasema asanteni kwa hii Ripoti.

**The Temporary Speaker** (Hon. Omboko Milemba): Hon. Francis Sigei.

**Hon. Francis Sigei** (Sotik, UDA): Thank you, Hon. Temporary Speaker, for giving me this opportunity. I rise to support this very comprehensive Report. At the outset, I thank the Committee for an excellent Report which they have brought to this House. I want to state that this Report is a tip of the iceberg. We have a lot of things that are going on out there.

I sit in the Public Investments Committee (PIC) where we have been doing some audit in the universities and the TVET institutions. On this issue of PWDs, those institutions have failed miserably. I am very happy that this Committee has brought out those issues. As has been said by my colleagues, Article 54(2) of our Constitution is very clear. The laws of this country, including the Act that deals specifically with disabilities, are very clear.

I support that the issue here is mainly lack of compliance and enforcement of the existing laws. I request the Committee, which has done a very good job, to re-examine the existing laws and bring amendments to the House so that we can discuss those issues. We need to take appropriate action in terms of legislation. I want the House to take this role seriously. Let us ensure that the people who violate those laws are punished severely, so that they can remember the consequences for the rest of their lives.

On the issue of procurement, the procurement law is very clear. It talks about giving some specific percentage to the people living with disabilities. But, how many comply with the Act? We need to look at ourselves as Members of Parliament. I am not sure how many of us are complying with the law. It states that for all tenders in the entire country, a specific percentage must be allocated to people living with disabilities. In my constituency, I have carried out an assessment of people living with disabilities and I have identified 1,084 of them. What I am doing now is looking for the best ways to assist them. Unless you understand the extent of their disabilities and what they truly need in life, it is very difficult to assist them. So, as the Member of Parliament for Sotik, I am committed to making sure that what the Chairman has brought up here is a starting point.

I fully support this Report, and I want to thank the Chairperson and this Committee for doing a fantastic job.

**The Temporary Speaker** (Hon. Omboko Milemba): Hon. Jackson Kosgei.

**Hon. (Dr.) Jackson Kosgei** (Nominated, UDA): Thank you, Hon. Temporary Speaker. At the outset, I want to say I support the Report by the Committee on National Cohesion and Equal Opportunity that is chaired by my friend, Hon. Yussuf Adan Haji. Thank you for the good work that you have done. Thank you for being bold to sample organisations and institutions of Government that have not demonstrated their response to the demands of the law in all the facets as given by our Constitution. It is a shame that in that sample, over 99 per cent of the institutions representing Government and Semi-Autonomous Government Agencies

(SAGAs) have not fulfilled the demand of the law in meeting the rights of persons living with disabilities.

Allow me, Hon. Temporary Speaker, to quote Mahatma Gandhi. He was an Indian philosopher and the founder of modern-day India. He said:

“The true source of rights is duty. If we all discharge our duties, rights will not be far to seek.”

Hon. Temporary Speaker, if we do not implement... I draw your attention to the recommendations that have been given by the Committee. I support every part of it up to Number 7, the way it is. Allow me to highlight my support by paying attention to numbers 1, 2 and 5. They are about institutions that would really like to practise a secret bureaucratic disenfranchisement and discrimination as is referred to in management. It is a silent policy that the disadvantaged and vulnerable people in institutions are silently disenfranchised of the rights they have in an organisation. If public institutions cannot pay attention in their policies, especially the human resource instruments...

The second thing I have seen from the recommendations, and I support, is that we need to strengthen organisations, especially the National Council for Persons Living with Disabilities, whose Bill is due for a review and is about to come to this House. Since it has been taken over to become a Government Bill, I wish to appeal to the Leader of Majority Party to hasten and bring it to the House. This is so that we can review, amend, and make sure that the gaps that exist in its implementation can serve as a shield. It is not enough to feel entitled. It should go beyond that to ensure that the law is responsive enough.

I also agree that this particular Report should be implemented as recommended by the Committee. I support the Report. I, once again, thank the Committee for the good work under the chairmanship of Hon. Yussuf.

**The Temporary Speaker** (Hon. Omboko Milemba): Very well. Hon. Kathambi.

**Hon. Charity Chepkwony** (Njoro, UDA): Thank you very much, Hon. Temporary Speaker, for the time you have given me to support this fantastic Report by the Committee on National Cohesion and Equal Opportunity, which is led by Hon. Yussuf and Hon. Liza Chelule, my Woman Representative from Nakuru County.

First, I am appreciating the Report because most of the times we talk about other kinds or groups of people and forget to talk about those living with disabilities. Therefore, I wish to congratulate the team so much for conducting the inquiry. It is high time people living with disabilities got fair representation in all public institutions. As I was going through the Report, I found that when the Committee was doing the inquiry in relation to representation of the people living with disability, to some extent, they got responses from people stating that they do not apply for jobs even when they are advertised. It is also a responsibility for us, as leaders, to ensure that when there are positions in different institutions, we do civic education and make it feasible for people living with disability to know and apply. People living with disabilities have been forgotten. The Committee, with our help, should follow up on this Report and see to it that we do not only talk in support, but we also follow up on the recommendations in detail. That way, we will get good results.

Hon. Temporary Speaker, I also noted that if most of the persons living with disability are given a chance, they really perform. In my constituency, I have employed them and they are doing great work. I have a committee member who is representing the National Government Constituencies Development Fund (NG-CDF) in a certain ward. If you go see the kind of projects which are supervised by him, you will get really impressed. Thus, being disabled does not mean you are not able to work. I would even challenge our disciplined forces that, when there is recruitment, they can also think of a way they can attract those people who can be given some work in offices. We should not side-line them when it comes to offering service in this country.

I stood to support this Report that is bringing the matter of people living with disability as an important case. Most of the times, we have talked in this House in support of the youth and women but, when it comes to matters of employment, we have really not taken it seriously. We should not only talk of what is happening in the public offices. Let it also be implemented by private institutions. Through the Chairman and Vice-Chairperson, let us ensure that even the place where persons living with disability are working, they have friendly structures to enable them live well.

To the Committee, this is good work. Push it for its implementation. Thank you, Hon. Temporary Speaker for the time you have granted me.

**The Temporary Speaker** (Hon. Omboko Milemba): Hon. Charles Were, Member for Kasipul.

**Hon. Charles Ong'ondo** (Kasipul, ODM): Thank you, Hon. Temporary Speaker. I want to indicate that I am a member of the National Cohesion and Equal Opportunity Committee. I am a veteran there. In the last Parliament, I served in the same Committee. I laud my Chairman, Hon. Yussuf, and all Members of the Committee for the executive job done. Even the National Assembly entered into expenses catering for meetings that we held in Nairobi, Coast and western regions where we sampled different State corporations.

Wealth in the Republic of Kenya is normally distributed through employment in which consideration for disability was done. The object is to ensure a good percentage, 5 per cent as per Article 54(2) of the Constitution, is brought in. The average non-compliance in 39 institutions is 2.1 per cent. You will note that things are not very good if you go deep in each institution. Some are at 1 per cent or 0.5 per cent while the Act stipulates a minimum of 5 per cent. We checked every part while auditing those institutions, including the Parliamentary Service Commission. It is interesting that even the Parliamentary Service Commission, our employer, has not complied with the minimum of 5 per cent. We have a lot to do.

In addition to the employment that comes with income, we checked the working conditions. That is why we have put some recommendations for each organisation to be given time to prepare human resource manuals as a policy so that we can improve. During the audit of the institutions, we noted a person living with a disability faces many challenges. That is why we have put in those recommendations.

We also had some observations. We believe some organisations were not bringing good reports because they said applicants were few whenever the advertisement of jobs was done. Kenya's academia has advanced. There are several institutions of academia, even at lower levels, that have specialised in persons living with disabilities. There are many persons living with disabilities who study and graduate from our higher institutions of learning. Our Report indicates there is no shortage of people living with disability who are qualified for employment. They are there and we noted a lot of discrimination. That is why we brought up very good recommendations. The laws are there, but implementation is the only issue.

I request the team in charge to implement this Report after we pass it.

**The Temporary Speaker** (Hon. Omboko Milemba): Hon. Ibrahim Saney. Did I see him in the House? Yes, go ahead.

**Hon. Ibrahim Saney** (Wajir North, UDA): Thank you, Hon. Temporary Speaker. At the outset, I applaud the Committee for work well done. The Report is thorough, insightful, and comprehensive and is concerning the inclusion of people with disability.

Article 54(2) of the Constitution talks of empowering people with disability. More so, Section 2 requires a progressive realisation of mainstreaming people with disabilities in institutions and electoral offices. It suggests that, at least, 5 per cent should be the benchmark. It does not mean that it has to be 5 per cent. There is nothing measurable in the attainment of, at least, 5 per cent, 14 years since the promulgation of our Constitution.

What does “progressive” mean? How has this “at least 5 per cent” been measured over the 14 years of the existence of the current Constitution? The Committee delved into this matter seriously and audited 39 institutions across the country. It is worth recognising that only the Lake Basin Development Authority met the requirements in law. It is good to applaud the authority for standing out to be the only institution in the country that has met the legal threshold in compliance with the law on people living with disability.

The average of meeting the threshold for the progressive realisation of mainstreaming people with disability across institutions stands at 2.1 per cent. The last data from the Kenya National Bureau of Statistics (KNBS) shows that 2.2 per cent of Kenya’s population or 0.9 million Kenyans are people with disability. That tells you that there is a sharp decline in people living with disability, relative to the 2009 census. That casts serious issues on how our year 2009 census was conducted. With all the natural vagaries, accidents and problems, it is not logical to say that disability has decreased with time from 2009 to 2019. That indicts how the 2019 census was conducted. That disability has today has diminished, 10 years from the year 2009, goes against science and basic logic. It gives more flesh to those who were agitated that the 2019 census was not well conducted and, more so, in the pastoralist communities of Northern Kenya. It does not augur well that disability has diminished and decreased with population increase - scientifically, rationally and logically.

It is only in rural communities where we have a majority of the people with disability. This Committee should know that the institutions required to absorb at least 5 per cent of people with disabilities are not in rural communities and yet, the majority of those people live in rural areas.

*[The Temporary Speaker (Hon. Omboko Milemba) left the Chair]*

*[The Temporary Speaker (Hon. Farah Maalim) took the Chair]*

**The Temporary Speaker** (Hon. Farah Maalim): I grant you an additional two minutes.

**Hon. Ibrahim Saney** (Wajir North, UDA): Thank you, Hon. Temporary Speaker, for your generosity. Much of the population of people living with disability are in rural communities and yet, our institutions are based in urban centres. This Report falls short of telling us that it is those institutions that should be devolved to rural communities to mainstream more people with disability.

The nature of disability is an issue. Mental wellness is a global concern among people today. Such people cannot be mainstreamed or given gainful employment. So, how should the Government conduct itself moving forward? It should build capacity and place persons with disabilities in jobs and make sure that they are capacitated, more so, trained on soft skills so that we can upscale their numbers with time. The most important thing as we speak is that we have laws. We cannot infinitely be making laws, as a House, that are not implemented. They must be implemented. Kenya has a problem with implementation of laws. The law on persons with disabilities is comprehensive. If only we could have implemented it fully, we could be better than we are today.

Hon. Temporary Speaker, with those few remarks, I support.

**The Temporary Speaker** (Hon. Farah Maalim): Hon. Naomi Waqo.

**Hon. Naomi Waqo** (Marsabit County, UDA): Thank you, Hon. Temporary Speaker, for allowing me to add my voice to this very important Report on Compliance to Article 54(2) of the Constitution Regarding Employment of Persons with Disabilities in Public Institutions, compiled by the Committee on National Cohesion and Equal Opportunity.

Having gone through the Report, I have seen the attention it has given on the lives of persons with disabilities. We know what happens to them because we have always been in this

country. In most African countries, people living with disabilities have suffered in the past in many ways. From the time of their birth or from the time they go through a challenge like an accident and become disabled in one way or another, they are affected in different ways.

Educating persons with disabilities has not been easy. It may be easy for those living in urban areas because they have all the facilities they need. In rural areas, where illiteracy levels are quite high, since people do not value education and do not even have enough resources to send every child to school, when it comes to sharing resources and giving priority, persons with disabilities have always been disadvantaged. This leads to very high illiteracy levels, especially in rural areas. Again, as a result of that, unemployment of persons with disabilities is quite high because many of them do not even qualify to be employed because they have not gone through a proper education system. Poverty levels among persons with disabilities are quite high because they do not have jobs to sustain them. As a result, they cannot create enough wealth.

Hon. Temporary Speaker, we know that Kenyans work very hard. Some are farmers, others are pastoralists while others do some small businesses to earn their living. However, persons with disabilities have always been disadvantaged because they do not have people to support them with their movement. Additionally, they do not have facilities to enable them become effective in what they want to do. So, poverty levels among persons with disabilities are quite high. As we were growing up, I personally observed the stigma directed at families with persons living with disabilities and people with disabilities themselves. Sometimes, people see disability as a bad omen or a curse and, at other times, people look at people with disabilities as different creatures. Their intentions, the way they look at them and how they treat them is stigmatising and makes them feel bad about themselves.

In addition to that, there is a negative attitude towards persons with disabilities in the villages. In urban areas, things are a little better because those who have money can take their disabled child or anybody with disability to a relevant institution. That is not the case in the villages. In rural areas, those people suffer a lot because of the negative attitude that is directed at them. That is why I agree with the recommendations that have been made. They can really help those people because proper data on them will be collected. In return, persons or children with disabilities can be sent to school. Data should be collected for those who are educated so that when job opportunities come up, we can give them relevant...

*(The timer was switched on)*

I just need one minute to finish.

**The Temporary Speaker** (Hon. Farah Maalim): The Chair gives you an additional one minute.

**Hon. Naomi Waqo** (Marsabit County, UDA): Thank you. They should be given job opportunities because currently, most of them are not able to help themselves and they are left behind.

On registration, proper data should be taken in the entire country for them to be registered because...

**The Temporary Speaker** (Hon. Farah Maalim): Hon. Member for Kisauni.

**Hon. Rashid Bedzimba** (Kisauni, ODM): Ahsante sana Mhe. Spika wa Muda kwa kunipa fursa ya kuchangia Ripoti hii muhimu sana.

Lakini kabla ya hilo, ninakupa tahadhari kwamba nilingia Jumba hili saa nane na dakika ishirini, nikaweka kadi yangu ikawaka. Mhe. Spika alipitisha hapa kwamba Wabunge watakuwa wakitumia mbinu ya kidijitali kwa kutumia kadi zao. Hivyo, ni vyema sana wahusika washughulikie jambo hili. Hatuwezi kuketi na kujihisi wanyonge kuona wengine wakija baada yetu na kuzungumza ilhali tumekaa tangu saa nane.

**The Temporary Speaker** (Hon. Farah Maalim): Zingatia nidhamu Mhe. Bedzimba.

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**Hon. Rashid Bedzimba** (Kisauni, ODM): Naam.

**The Temporary Speaker** (Hon. Farah Maalim): Kadi yako ina tatizo. Nafikiri ukitoka hapa fanya mpango na wahusika ili irekebishwe. Maanake jina lako halionekani hapa.

**Hon. Rashid Bedzimba** (Kisauni, ODM): Ndiyo, nakushukuru...

**The Temporary Speaker** (Hon. Farah Maalim): Nimekupa fursa kwa sababu umewasilisha malalamishi kwa Mhe. Spika wa Muda. Jua kwamba hilo haliruhusiwi kwa sasa.

**Hon. Rashid Bedzimba** (Kisauni, ODM): Nakushukuru. Najaribu kukueleza kwa sababu pengine kuna wengine walio na shida kama hiyo lakini hawawezi...

**The Temporary Speaker** (Hon. Farah Maalim): Endelea kuwasilisha hoja yako. Tumelimaliza tatizo hilo.

**Hon. Rashid Bedzimba** (Kisauni, ODM): Mhe. Spika wa Muda, nami ninasimama hapa kuunga mkono Ripoti hii. Nashukuru Kamati kwa kupanga mambo ya muhimu. Hii ni moja katika baraka ambazo mwenyezi Mungu atawapa neema kwa kukumbuka walemavu. Hata yule aliyeandika na anayesikiliza pia atapata baraka. Ndiyo maana tangu saa nane nimekaa hapa bila kutoka ili nami nipate neema hiyo ya kuwasaidia walemavu.

Si kupenda kwa mtu kuwa na ulemavu au kasoro yoyote katika mwili wake. Ulemavu unaweza kumpata mtu yeyote ambaye sasa hivi anajiona mzima. Sote tunatumia vyombo vya moto, hivyo tunaweza kupatikana na jambo lolote wakati wowote na kuingia katika hali hiyo.

Sheria zipo za kuwahifadhi, kuwasaidia na kuwalinda walemavu ila utekelezaji wa sheria hizo una shida. Kila mmoja wetu aliapa kuwa atailinda na kuitetea Katiba. Hivyo basi, ikiwa mtu hailindi, haitekelezi na haitimizi inavyosema, basi anapaswa ashtakiwe. Unaapishwa kusudi ushtakiwe unapokosea. Kwa hivyo, ikiwa halmashauri za Serikali haziajiri walemavu, mhusika ni lazima ashtakiwe kwa kuwa kinyume cha sheria kwa sababu aliapa kwa Katiba.

Mhe. Spika wa Muda, pia majengo yetu yawe na urafiki na walemavu kulingana na ulemavu wao. Hapa kwetu Bunge kuna shida. Lazima turekebishe ili tuwe na urafiki na ulemavu. Leo kulikuja hapa shule ya walemavu inayoitwa, Thika School for the Blind. Walipanda ngazi, ambapo kungekuwa na lifti ingekuwa rahisi kwao kufika juu. Walipofika hapa, mmoja wao alizimia pale juu, kwenye Gallery ya Ukumbi huu. Ilibidi waletwe watu kutoka sehemu tofauti kama Shirika la Msalaba Mwekundu kumpa huduma ya kwanza. Ni vyema hata sisi katika Bunge hili tuwe na wafanyakazi ambao wanaweza kuzungumza kwa ishara na viziwi. Sharti nasi tuwe mbele katika kutekeleza vile Katiba inavyosema. Pia, Parliamentary Service Commission (PSC) iweze kuwaajiri wafanyikazi walemavu. Tusipowaajiri, wanakaa kule nje ama barabarani wakiombaomba. Si kupenda kwao! Ni kwa sababu wamekataliwa na kutengwa.

Wakati wangu umekwisha na namshukuru Mwenyekiti wa Kamati. Lakini, ningesisitiza kwamba sheria itekelezwe ili walemavu waweze kuajiriwa kulingana na *percentage* iliyoko katika Katiba ama zaidi, ili Mwenyezi Mungu pia atupe baraka katika Taifa hili. Ahsante sana.

**The Temporary Speaker** (Hon. Farah Maalim): Mhe. (Dr.) Christine Ombaka, Mbunge wa Siaya.

**Hon. (Dr.) Christine Ombaka** (Siaya County, ODM): Thank you, Hon. Temporary Speaker, for giving me this opportunity to also add my voice. Kenya is a very difficult country, in the sense that we tend to be very negative towards people living with disabilities. We know that disability is not inability, but we do not believe this, we simply say it.

In the employment sector, I know it is very difficult for an abled person to get a job in this country, but it is worse for a person living with disability. I have just seen a message that has been sent by a friend of mine who is disabled. He said that getting a job for a person with disability is so difficult. It is like getting blood out of a stone. He added that it is even more difficult for a male person with disability to get married. This shows you how we do not respect

people with disability. We do not consider them for many positions which they are capable of performing. Getting employment is very difficult for them.

The Committee went through various institutions to establish the total number of PWDs that are employed, and 2.1 percent is below the belt. It is also important to note the positions they occupy once they are employed. A majority of them are cleaners or clerks. Are any of them chief executive officers (CEOs) or directors? Let us also look at the status of those who are employed.

It is so difficult for them but, as most of us have observed, we see a lot of people living with disabilities in the rural areas. Even though there are no jobs there, I have seen many organisations employ or rather include them only as committee members, which is not a fully-fledged job. It is a membership, where you make decisions for a group of people like a member of a school board. They also tend to be included in small areas like a member of National Government Constituencies Fund (NG-CDF), National Government Affirmative Action Fund (NGAAF) or *Uwezo* Fund. In terms of real jobs, they do not get employed easily.

There is also a case I know of a lady living with disability. She was expectant when she appeared for an interview and so, she never got a chance to be employed even though she qualified for the job. As I said earlier, the problem we have is the very fact that we do not give an opportunity to people living with disabilities because we are negative towards them. We stigmatise and do not include them in serious employment. We only give them positions where they are just members and they get some little allowances here and there. We do not give them serious employment. This is an attitude of the mind. I think it is high time we started sensitising the community and employment firms to employ people living with disabilities.

Thank you, Hon. Temporary Speaker, for giving me this opportunity. I support this Report.

**The Temporary Speaker** (Hon. Farah Maalim): Hon. Beatrice, followed by the Hon. Yussuf Mohamed.

**Hon. Beatrice Elachi** (Dagoretti North, ODM): Thank you, Hon. Temporary Speaker. I also rise to appreciate the Committee and thank them for a Report that gives us an outlook of how we deal with our brothers and sisters with special needs.

It is the role of Government to ensure it creates a friendly environment and integrates special equipment that are designed to empower individuals with disabilities. Article 27 of the Constitution entitles every person to equality and more importantly to no discrimination, both direct and indirect. That is why we have different laws and a policy on how to manage this sector.

People living with disabilities come from different cultural, educational, or social backgrounds. Therefore, it is important for us to know that their equal opportunities go beyond hiring them. It is not just about being born disabled. In life, we have seen people who were born able but a few years later, something happens to them and they find themselves living with a disability. Therefore, it is important for the Government to have a clear policy on job retention, especially when one acquires a disability while they are employed.

Looking at the Report, I appreciate Article 54 of the Constitution which entitles persons with disabilities access to the different devices that we are talking about. As we talk about the Office of the Data Protection Commissioner, this is a very crucial commission and if they do not have data about people living with disabilities, I wonder what work they are doing?

Looking at the recommendations of the Committee, I must appreciate that they have put timelines. I hope institutions will be bound by those timelines and implement the recommendations. There is no need for us to speak a lot of English, that is, *kuzungumza Kizungu mingi*, and then we find ourselves facing the same challenges. The Committee has recommended that within six months of the adoption of this Report, the National Council for Persons with Disabilities (NCPWD), in consultation with other stakeholders, should come up

with proposals aimed at reviewing the Persons with Disability Act. This is very critical because you find many people living with disabilities headed for registration, but they are taken around in circles.

As I finalise, the most important thing all Government institutions and the private sector can do for this country is to look at the recommendations in this Report and try their best to adopt and implement them.

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

**The Temporary Speaker** (Hon. Farah Maalim): Member for Wajir West.

**Hon. Yussuf Farah** (Wajir West, ODM): Thank you, Hon. Temporary Speaker, for giving me this opportunity to contribute. First and foremost, I thank the Chairman of the Select Committee on National Cohesion and Equal Opportunity, Hon. Yussuf Adan Haji, for bringing this Report. He is bold enough to come up with these recommendations. They will help the most disadvantaged persons in society.

Everyone in this House has a person with disability in the society or family. It is very painful when we have those people who need more care, in terms of resources, but nobody cares about them. It is unfortunate to see that institutions in this country do not follow the law. The Report shows that out of all the institutions that appeared before the Committee, none of them has complied with Article 54 (2) of the Constitution of Kenya, 2010. It is high time this House becomes bold enough and takes the necessary action against anybody who violates the Constitution and other laws of this land. The PWDs mostly need extra care, attention and resources. They are not like us who can move from one place to another to access services. Therefore, it is important that they get jobs and any other support that they need, so that their needs are taken care of.

The Committee did a great job. They came up with several recommendations that must be implemented. I support this Motion and confirm my unsolicited support for the seven recommendations in the Report. For example, the second recommendation states that within six months of the adoption of this Report, the National Council for Persons with Disabilities (NCPWD) should initiate the amendment of Persons with Disabilities, Act, 2003, to align it with Article 54 (2) of the Constitution. This will cure many ills in this country. If this is done, many people will benefit. I request Members to adopt this Report and support the Committee's recommendations, so that the PWDs are taken care of.

Thank you, Hon. Temporary Speaker.

**The Temporary Speaker** (Hon. Farah Maalim): Member for West Pokot County followed by Hon. Lilian Gogo. Member for West Pokot County, Hon. Rael Kasiwai. She is not in the House.

*(Loud consultations)*

Order, Hon. Members. In this case, the opportunity goes to Hon. Lilian Gogo, followed by the Member for Elgeyo Marakwet County.

**Hon. (Dr.) Lilian Gogo** (Rangwe, ODM): I thank you, Hon. Temporary Speaker, for giving me an opportunity to contribute to this Report, on behalf of the people of Rangwe Constituency. The Report has been brought by my brother, Hon. Yussuf.

**Hon. Joshua Kimilu** (Kaiti, WDM): On a point of order, Hon. Temporary Speaker.

**The Temporary Speaker** (Hon. Farah Maalim): What is your point of order, Hon. Kimilu? Give him the microphone.

**Hon. Joshua Kimilu** (Kaiti, WDM): Hon. Temporary Speaker, is it in order for the Member for Rangwe to speak? You have also given a chance to the Member for Elgeyo Marakwet County who is not in the House. I am supposed to be the next one.

*(Laughter)*

**The Temporary Speaker** (Hon. Farah Maalim): Order, Hon. Kimilu. You are out of order. Hon. Gogo, proceed.

**Hon. (Dr.) Lilian Gogo** (Rangwe, ODM): Thank you so much, Hon. Temporary Speaker. I wonder whether Hon. Kimilu has anything personal against me and the great people whom I represent. If he is jealous, he should talk well to Hon. Temporary Speaker. I believe that I have been in this House for a long time.

I thank the Committee for a good Report. I am passionate on matters affecting PWDs. They are the same with those who do not have disabilities. I advise the Committee to also look at the component of people with severe disabilities. This survey was done to find out how institutions comply with the constitutional provision that requires PWDs to be given a certain percentage in employment. However, there are people who are not at the places of employment and they have severe disabilities. As it had earlier been elucidated by Hon. Dorothy Muthoni, the caregivers of such people should also be treated as PWDs. This is because both the caregivers and the people they take care of are not employable. They are PWDs and, at the same time, miss out on chances of being employed by the investigated institutions. That is part of the recommendations.

It is high time that our institutions become human. If you are a manager or CEO in an institution, it is important that you think about our brothers and sisters as Kenyans. Somebody must not follow up to find out if the institution or board has given an opportunity to a PWD. It should be invoked within our spirits that we take care of the vulnerable groups in our society.

I thank the Committee for the good job. However, moving forward, we should get a system of punishing institutions that do not take care of PWDs or give them equal opportunity. We must have punitive measures. We need to come up with a fine as a way of forcing them to comply. We should not only investigate, give a report and debate on it, but we should also come up with stringent measures. If they do not comply, they should be fined. We also need to extend the application period for PWDs in job advertisements.

*[The Temporary Speaker (Hon. Farah Maalim) left the Chair]*

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

Hon. Temporary Speaker, I thank you for giving me the opportunity to speak on behalf of the people of Rangwe Constituency.

**The Temporary Speaker** (Hon. Peter Kaluma): Hon. Caroline Ng'elechei, Member for Elgeyo Marakwet County.

**Hon. Caroline Ng'elechei** (Elgeyo Marakwet County, Independent): Thank you, Hon. Temporary Speaker, for giving me this opportunity to contribute, on behalf of the people of Elgeyo Marakwet County.

The PWDs in this country are a very disadvantaged lot. Many times, they struggle to have their names in our books. They go an extra mile than the persons without disabilities to be recognised. I appreciate the Committee for bringing a comprehensive Report.

From the compiled Report, out of the 39 institutions that were sampled, only one was found to be compliant. I want to appreciate the Lake Basin Development Authority for ensuring that they went past the 5 per cent.

Nonetheless, in so many cases, when people are competing for opportunities, at times, some employers are specific and say that, women, for example, are encouraged to apply. They should also be indicating that people with disabilities will be given first priority.

If, indeed, the Constitution of Kenya, 2010 envisaged that all the employment bodies need to progressively achieve 5 per cent, it is now 14 years down the line. I wonder how many more years we need to give for that to be achieved. Those institutions that are still at an average of 2.1 per cent should explicitly state in their job application invitations that, for example, out of 10 engineering positions, three slots are reserved for people with disabilities, so that people with disabilities are also encouraged to keep applying because the competition for jobs in Kenya is too high.

Sometimes, certain groups are discouraged from applying for jobs. For example, a partially blind teacher in Elgeyo Marakwet County was afraid to attend interviews because what she...

**The Temporary Speaker** (Hon. Peter Kaluma): Order, Hon. Caroline Ng'elechei. I am informed the time has come for the Mover to reply. By the procedure of the House, that would mark the end of your contributions. Where is the Mover?

**Hon. Yussuf Adan** (Mandera West, UDM): Thank you, Hon. Temporary Speaker. Before I move, I would like to donate two minutes to Hon. Makalu. One minute for Hon. Ng'elechei to finish. Those are three minutes and, one minute for Hon. Dorothy Muthoni.

**The Temporary Speaker** (Hon. Peter Kaluma): Order, Mover. By the procedures of the House, you cannot donate to a Member who has spoken, however short it may be.

**Hon. Yussuf Adan** (Mandera West, UDM): Okay. Two minutes to Hon. Makalu. I had already promised him two minutes. Hon. Muthoni will get one minute, and Hon. Nyakundi, one minute. Those are four and one minute each for Hon. Karemba and Mbai. A total of six minutes.

**The Temporary Speaker** (Hon. Peter Kaluma): Mover, did you donate one minute for each speaker or two?

**Hon. Yussuf Adan** (Mandera West, UDM): Two minutes for Hon. Makalu and one minute each for the rest.

**The Temporary Speaker** (Hon. Peter Kaluma): Hon. Makau, proceed.

**Hon. (Dr.) Makali Mulu** (Kitui Central, WDM): Thank you, Hon. Temporary Speaker. For record purposes, my name is Makali Mulu, not Makalu or Makau. It is Makali.

**The Temporary Speaker** (Hon. Peter Kaluma): My apologies, Hon. Makali.

**Hon. (Dr.) Makali Mulu** (Kitui Central, WDM): I represent the good people of Kitui Central. I will be very brief.

I want to start by thanking the Hon. Chairman and the Committee for this excellent Report with excellent recommendations. The weakest link in this House is our Committee on Implementation.

We make very good recommendations, but they are never implemented. How I wish this time, we could get it right to make sure that those good recommendations of the Committee are implemented for the benefit of the disabled people. All of us keep on saying disability is not inability, confirming that if we give them the chance, people with disabilities can do their work well and sometimes even better than those of us who do not have disabilities.

I would want to urge, through your Office and that of the Clerk, that we ensure that the Committee on Implementation takes up those important recommendations and ensures that they are implemented. We must make sure that those things are enforced and where people do not enforce them, somebody must be punished for that failure.

With those remarks, I support the Report. Thank you very much, Hon. Chairman, for donating the minutes to me.

**The Temporary Speaker** (Hon. Peter Kaluma): Who is next?

**Hon. Dorothy Muthoni** (Nominated, UDA): Thank you, Hon. Temporary Speaker. I too want to support this very important Report by the Departmental Committee on Regional...

**Hon. Members:** National Cohesion and Equal Opportunity Committee.

**Hon. Dorothy Muthoni** (Nominated, UDA): National Cohesion and Equal Opportunity Committee. Inclusion of the disabled in all public institutions is not an option. We have very many Bills that are talking about disability and we have made laws, but the implementation stage is the elephant in the House.

I support this Report. Disabled people have equal rights and equal opportunities. Thank you.

**Hon. Nimrod Mbai** (Kitui East, UDA): Thank you, Hon. Temporary Speaker, for giving me the opportunity. I want to thank the Committee members for the good work they have done because, people with disabilities are very important in the society and should be given an opportunity.

In my constituency, I have employed two in my office and the work they are doing is commendable. We need to take the recommendations of the Committee seriously. This is the time to implement the recommendations because they are good.

We also need to recognise people with disabilities. I walked into a building which is not PWD friendly, and this needs to be taken seriously because those people are important and given an opportunity, they can do a good job. Let the Government give those people jobs and consider them in whatever they are doing.

**The Temporary Speaker** (Hon. Peter Kaluma): Lastly, Hon. Karemba.

**Hon. Muchangi Karemba** (Runyenjes, UDA): Thank you, Hon. Temporary Speaker. I wish to say that nobody applied to be born as a disabled person. What measures the quality of our society and leadership is how we treat people who live with disabilities and those that are disadvantaged.

This Motion is about inclusion. I support the idea of having people living with disabilities included and total compliance with Article 54(2) of the Constitution of Kenya.

I support.

**Hon. Japheth Nyakundi** (Kitutu Chache North, UDA): Thank you, Hon. Temporary Speaker. I also want to support this Motion. Clearly, disability is not inability. Most of those disabled are our brothers and sisters out there.

I support this Motion because those people spend a lot of time looking for jobs but they find it difficult to get them. They compete with people who are well, have hands and everything that they need.

In the procurement sector, there is a section that says that we need to give jobs to people with disabilities and the youth. Those recommendations should be implemented so that people living with disabilities can also earn a living from where they sit. I support the Committee for the good job they have done.

**The Temporary Speaker** (Hon. Peter Kaluma): Mover, you now have under four minutes to reply.

**Hon. Yussuf Adan** (Mandera West, UDM): Thank you Hon. Temporary Speaker. I will maximise my four minutes.

First and foremost, we should all know that we are candidates of disability. At one time in life, you may become disabled. So, treat people with disabilities the way you would want to be treated if you become disabled.

I sincerely thank Members of my Committee and all Members of Parliament who have 100 per cent supported this Report. No one has opposed it. I sincerely thank all Hon. Members. The law says that we should reach the 5 per cent progressively. This is opaque and we need to change or amend it. This is because 14 years down the line, institutions that are at 0.5 per cent are still arguing that they are moving progressively towards achieving 5 per cent. So, there is need to amend that Act. My Committee is ready to prepare the amendments and bring them to this House.

Hon. Temporary Speaker, disabled people are not only discriminated in employment as we are discussing now, but right from childhood. When a family has two children; one disabled and another abled, they tend to support the abled child more in terms of feeding. Discrimination starts right from childhood, through the education system, employment and even burial. When a disabled people dies, the send-off they are given is different from an abled person. We need to set up institutions that will take care of PWDs.

Hon. Temporary Speaker, finally, I beg to move this Report.

**Hon. Members:** You beg to reply.

**Hon. Yussuf Adan** (Mandera West, UDM). Sorry, I beg to reply. Thank you.

**The Temporary Speaker** (Hon. Peter Kaluma): Thank you very much, Chairperson of the Committee on National Cohesion and Equal Opportunities. For the convenience of the House, the question on this Motion will be put the next time it is scheduled for consideration by the House Business Committee.

*(Putting of the Question deferred)*

Next Order!

## MOTION

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

**The Temporary Speaker** (Hon. Peter Kaluma): Chairperson of the Public Investments Committee on Commercial Affairs and Energy, Hon. Pkosing, is the Mover. Proceed.

**Hon. David Pkosing** (Pokot South, KUP): Thank you Hon. Temporary Speaker, for giving me this golden opportunity to move this Report this evening.

Hon. Temporary Speaker, I beg to move the following Motion:

THAT, this House adopts the Report of the Public Investments Committee on Commercial Affairs and Energy on its examination of the Reports of the Auditor-General on the Financial Statements of selected State corporations, laid on the Table of the House on Wednesday, 6<sup>th</sup> December 2023.

Hon. Temporary Speaker, which are those State corporations in our Report today? They are as follows:

1. Engineers Board of Kenya, (FY 2017/2018 to 2020/2021).
2. Energy and Petroleum Regulatory Authority, (EPRA) (FY 2016/2017 to 2020/2021).
3. Competition Authority of Kenya, (CAK) (FY2017/2018 to 2020/2021).
4. Central Bank of Kenya (CBK), (FY2017/2018 to 2020/2021).
5. East African Portland Cement Company (FY2018/2019 to 2020/2021).

This being our maiden Report, allow me to appreciate and thank my Committee for a very good work. The Public Investments Committee on Commercial Affairs and Energy is sensitive. We cannot conclude things quickly until they are cleared.

I thank my able Committee Members for persevering and waiting. This Committee is guided by public interests. Allow me, as procedure dictates, to state that the Public Investments Committee on Commercial Affairs and Energy is established pursuant to National Assembly's Standing Order 206A, and is responsible for examining the working of public investments based on the audited reports and accounts in the sectors of energy, environment, general economic and commercial affairs. It is mandated to do the following:

1. Examine the reports and accounts of the public investments.
2. Examine the reports, if any, of the Auditor-General on the public investments.

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3. Examine in the context of autonomy and efficiency of the public investments, whether the affairs of the public investments are being managed in accordance with sound financial or business principles and prudent commercial affairs.

The Committee is limited to schedules... So, this being our maiden Report, it is important to mention that in the last Parliament, the Public Investments Committee (PIC) was auditing entire parastatals or investments.

Hon. Temporary Speaker, this year it is different. That is why it is good to mention for the record that the Committee is limited to schedules of entities issued by the Hon. Speaker on 8<sup>th</sup> December 2022 pursuant to Standing Order 206(6) comprising a total... If you put all the investments we are auditing, it totals to 132 books. Maybe, there are 400 books in the entire country but in the wisdom of the House, it decided to divide them. This is because it was difficult for the Committee in the last Parliament to finish anything because the work is time consuming. The ones that I have mentioned are in the 132 books that were given to this Committee.

Hon. Temporary Speaker, firstly, what is the yardstick or marking scheme when we are looking at those books that are brought by the Auditor-General? The question is, what guides the Committee in examining those books? Allow me to share with the House that we are guided by legal infrastructure, particularly Article 10 of the Constitution. It sets the principles of public finances which include openness and accountability in those agencies. Further, it includes public participation on financial matters as is described in Article 201(a) of the Constitution which talks about use of public money in a prudent and responsible way. The fundamental instrument is the Constitution which is the yardstick or mirror which guides my Committee when we are looking at those books that are brought before us.

Secondly, we are also guided by Part 6 of Chapter 12 of the Constitution in terms of finances. It is good to go on record on behalf of my able Committee Members and state that Article 226 of the Constitution deals with accounts and audit of public entities. Those are very important instruments we use because Kenyans might ask what marking scheme or yardstick that we use when we are looking at those books? The Constitution gives us Article 226(2) as a marking scheme and it states that the accounting officer of a national public entity is accountable to the National Assembly for its financial management, and Article 226(5) states:

“(5) If the holder of public office, including political office, directs or approves the use of public funds contrary to the 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 that public office or not.”

We must be guided that if an officer commits an offence in the management of public resources, the individual knows that they are equally culpable as the institution that is punishable. Further, we are guided by Article 227 of the Constitution on the procurement of public goods and services which provides that, and I quote:

“When a State organ or any other public entity contracts for goods or services, it shall do so in accordance with a system that is fair, equitable, transparent, competitive and cost-effective.”

That is what we pay attention to when we examine those particular books. We are also guided by Section 68 of the Public Finance Management (PFM) Act No.18 of 2012, which stipulates the responsibilities of accounting officers for national Government entities, Parliament and the Judiciary. To enhance accountability, the National Assembly, through its oversight role, is asked to ensure that the resources of public entities are used in a lawful, authorised, effective, efficient, economical and transparent manner.

Similarly, Section 72 of the PFM Act guides this Committee in examining those documents. Fundamentally, I mention that because Kenyans will ask us what we are using to examine those books. We are guided by the Constitution and the legal infrastructure. The

question is: How did we arrive where we are? My Committee held more than 38 Sittings in which we extensively examined the Reports of the Auditor-General on the audited financial statements of those 5 institutions which I have submitted to you and the House. I am inviting the Hon. Members to support.

I remember in the first induction of the Liaison Committee held in Kisumu, we were guided that the Public Investments Committee should include public participation in their reporting. My Committee tried to comply. Further, the Committee also limited itself to schedules and the agencies that I have mentioned. Before I delve into those organisations that I have presented to you, what is the model of our Report? It contains the audit query, management responses and public participation. We brought in the major stakeholders that are concerned by that audit query, which is the third level of the structure of our reporting. We also have observations of the Committee.

Having listened to the entities in the management report and other stakeholders who we sometimes refer to as the roundtable, we cannot conclude an audit query unless we include all stakeholders concerned and thereafter, make our recommendations. That is the structure of the Report that is before you.

Allow me to delve into the organisations or agencies which we have presented to you to show how we examine this Report using the infrastructures that I have mentioned. I will start with the Central Bank of Kenya (CBK) where the Auditor-General brought in a query concerning the Kenya School of Monetary Studies (KSMS), which took us a long to examine. KSMS, as everybody knows, offers in-service training for Central Bank of Kenya (CBK) staff.

For some reason, and some time back, that organisation was made like a legal entity or parastatal. It was in-between. The Board of Directors of CBK was also the Board of Directors of KSMS. So, they were earning twice. They would work at the CBK and then after that go to KSMS - and you know where it is - and earn allowances. The Auditor General said that those people were earning twice and yet, that institution should be like a department. What happened? CBK and the National Treasury, which are like shareholders, agreed at one point to dissolve it or make it a department of CBK. After everything was done, something happened, which caught the eye of the Auditor-General. They had passed a resolution to dissolve KSMS and make it a department under the CBK. Somebody in CBK wrote a letter to the Attorney-General and asked that, that process should not conclude. Then it stopped. That is why it was brought to my Committee. I think those entities should be led by the public, not individual interest. When the Auditor-General was auditing the books, she asked: 'Why not proceed with the dissolution of KSMS?' That is because of the reason I have just stated, double payment of directors of CBK. When we interrogated it, we brought in the CBK, KSMS, the Attorney-General and the Solicitor-General and asked them to table the reasons why it could not be concluded to dissolve it as an agency and make it a department under CBK.

The National Treasury failed to defend itself before my Committee. We then said that they could not earn from both sides. Further, we asked the National Treasury where they would get money to fund KSMS, if we were to make it a parastatal. They failed because they said they could look at other financial institutions to fund it. We thought that was not a dream that could be realised. So, we recommended before the House that, that institution be made a department under the CBK. CBK defended it. One, you cannot earn from two institutions. Secondly, it is funded 100 per cent by CBK. Third, it offers in-service training to our able officers of CBK. So, there was no reason why it could not be a department of CBK. We asked ourselves what was the reason for separating the institution. The National Treasury would have no money to run it. We agreed with the resolutions that had been earlier proposed and therefore, declined the proposal by the National Treasury because we found that something was missing and some people were being driven by private rather than public interests. In that case, we recommend that KSMS be dissolved and be made a department under CBK.

Two, allow me Hon. Temporary Speaker, to look at East African Portland Cement Company (EAPCC), which is a Government entity that manufactures cement. It has been in real problems. If you read our Report, the Auditor-General told us that this is an institution in the Intensive Care Unit (ICU) because it is insolvent and cannot run by itself. If you look at the investments they have, their total worth against liabilities, that institution can or has collapsed, but they are fighting.

We did a lot of interaction and examination when that question came before my Committee. We brought the ministries concerned with industrialisation and shareholders, including Lafarge. Lafarge is the biggest cement manufacturer in the world. They also own shares in the East African Portland Cement Company. We brought in the National Social Security Fund (NSSF), the National Treasury and everybody. We did interrogations. You can see all that in our Report. In the interest of time, we came up with some resolutions and recommendations that we request the House to agree with.

One of the recommendations is a stop-gap measure. They have a lot of land. The Principal Secretary (PS) in the Ministry of Investments, Trade and Industry is also in charge of the East African Portland Cement Company. Our thinking is that we should have a Government agency that makes cement so that the Government can set the prices. We will be doomed if we allow the prices and everything else to be set by the private sector, especially at this time when we have economic strains. We should always have a Government agency that keeps on maintaining prices. You remember you and I were in the last Parliament when I was defending Kenya Airways and Kenya Railways. I was saying that the Government must have transport so that it can keep some level of pricing.

I am very proud of the Standard Gauge Railway (SGR). Everybody who wants to go to Mombasa prefers the SGR, not with *matatus* and buses. That was a fundamental item, regardless of how it was procured. The Government must maintain enterprises so that it can control prices. I am talking about this so that even the Government can listen to this East African Portland Cement Company. Things will get out of proportion if we allow private entities to be driving all those sectors.

For those enterprises to survive, we recommend that they sell part of the land. That is so that they remain liquid and be able to pay the staff. The Government can also consider privatising it. When doing so, we should caution that the Government should not privatise 100 per cent of some of those entities that we aim to privatise. Our colleagues are listening from the other side. As a Committee, we are saying that we cannot privatise our institutions 100 per cent. What if those people become rogue? What happens in future? The Government must have a hand so that, if they become rogue, they can be chased or we apply the policy of three things alias *mambo matatu*. We are a country of independent people.

Finally, so that I allow my colleagues to contribute, is about this institution called the Energy and Petroleum Regulatory Authority (EPRA). It also came to us. The Auditor-General raised something very interesting about the CEO - the recruitment of the Managing Director at that time. The paperwork was not properly set. We were given a chance to look at that. We almost did another interview. We had an option to send the person home, because of paperwork. We brought even the people who interviewed him. We looked at whether the person was qualified. I will tell you, Hon. Temporary Speaker, that Mr. Kiptoo Bargoria is very qualified.

In fact, he really helped our country during a very turbulent time in the oil sector. To be honest, he is very competent. We say in our recommendations that we did not find sufficient reason to send him home just because of a paper. It was not his problem, but that of the board. We brought in the Chairperson who is a very prominent and reasonable person in this country. Somebody decided to be cheeky. Maybe, that person plucked out a paper. Kiptoo convinced us that he is a competent Kenyan who can be allowed to complete his term.

With those very many remarks and because my colleagues and members of the Committee can fill in the gaps I may have left, I beg to move. I ask my able Vice-Chair, Dr Lilian Gogo, to second.

**The Temporary Speaker** (Hon. Peter Kaluma) Hon. (Dr) Lilian Gogo.

**Hon. (Dr) Lilian Gogo** (Rangwe, ODM): Thank you very much Hon. Temporary Speaker and grandson of Asumbi.

I rise to second the Report of the Public Investments Committee on Energy and Commercial Affairs. I thank my Hon. Chairman for being very elaborate and intentional in presenting it to the extent that it is very clear.

Allow me to mention that audit committees are generally not punitive. We do not undertake audits to punish anybody. We want our institutions that are audited thereof to adopt best practices according to what has been put down for them, so that they can account for public funds and public resources but even better still, we deliver the best for this nation.

With that in mind, the Report has general recommendations that have been made by the Committee. It was observed that there were general poor accounting standards and incapacity of some accounting officers in the specific organisations that were reviewed. To that extent, due advice was given so that they can adopt best practices.

It was also noted that there was a long-time span of pending pertinent matters. We found audit issues that were pending from as far back as 2013. The Committee endeavoured to make sure that most of such matters are resolved. Where there was need to submit documentary evidence to support the audit queries, there were less submissions of such.

Another important observation the Committee seriously pursued is the unsecured and un-titled land holdings for those particular organisations. We realised that those particular organisations hold land in trust for the public. Therefore, this is public land. However, the Committee observed that there is laxity to secure title deeds for those particular state corporations for the land they hold in trust for the public. It is important to note that the Committee has been extremely firm in discharging its mandate so that what is due to the public is rightfully used. Besides, if there is money that has been generated for the interest of the public, because this is the Public Investment Committee on Energy and Commercial Affairs, the Committee has been firm that the money has to be properly accounted for. If there is also money that has been obtained from whatever source, it must be well accounted for and properly used.

As we deliver this Report to the House, I thank the Committee because it has been committed to its work. Members of the audit committees, especially this Committee, sit for many hours looking at the audit queries and generating reports. I thank my Chairperson for bringing up the issue on the EPRA substantive Managing Director. It was a public concern that he irregularly got into office. From the Report, it is good that we give people a chance. Sometimes, insinuations are created so that particular individuals can occupy those offices because of their ethnicity. As it were, the Committee dug for the right information to prove that the Managing Director was legally in office. This matter was cleared. He is rightfully in office with eight years of experience in a similar position.

The country was facing a serious crisis at the time EPPRA appeared before the Committee. One Member insisted that the Managing Director should tell Kenyans if there would be any reduction or stagnation in the cost of fuel. At some point, the Managing Director was pushed to the wall to respond to Kenyans. He promised to work towards a good report that would lead to a reduction in the cost of fuel. If you have been living in Kenya like me, you may be aware that in the recent past, there have been no alarming reports on the increment in the cost of fuel.

Hon. Temporary Speaker, this Committee is committed to serving Kenyans and examining adherence to constitutional provisions so that Kenyans can get value for their money

by ensuring that those institutions do not lose money, but also generate money out of goodwill. I hope the management of those institutions are listening to those parliamentary proceedings. It is important that public land is secured and ownership indicated. Public land should not be grabbed by greedy Kenyans.

With those remarks, I second.

**The Temporary Speaker** (Hon. Peter Kaluma): Hon. (Dr.) Lilian Gogo, you seem to be in a hurry.

**Hon. (Dr.) Lilian Gogo** (Rangwe, ODM): I am sorry. Are we sitting up to 9.00 p.m.?

**The Temporary Speaker** (Hon. Peter Kaluma): I just wanted to assure you that you still had 10 more minutes but I am grateful you have seconded. So, let me propose the Question.

*(Question proposed)*

Hon. (Dr) James Nyikal.

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

I rise to support this Report. I would like to start by congratulating the Committee for the good work they have done. Particularly, for the clear way they have presented it. They have made it possible for us to discuss the matter.

The Public Investments Committee (PIC) is important because it looks into what the public is investing in - institutions that we put our money into hoping to get returns. I appreciate how they have gone through the legal process and the processes they use. I will just make very brief comments.

One, on the Central Bank of Kenya and the Kenya School of Monetary Studies, it is true that this has been lying in between - whether it is a department or an agency on its own with its own board. I appreciate that they have actually found out that the people in the Board of the Central Bank of Kenya, are the same ones in the Board of Kenya School of Monetary Studies thereby, earning twice for doing the same job. I support their recommendations that this be made a department of the Central Bank of Kenya. Even if we make it a department, as a school of monetary studies, it trains people in finance. It is therefore important that they find out whether it only trains the staff of the Central Bank of Kenya. It is my view that this institution can train staff from other Government agencies, so that we can strengthen the financial management across the Government. This is because the Report says that they found weak auditing procedures and so on in other institutions. If we use this institution to do that, I think it will improve the financial management within the Government.

I know the institution well. It is a big institution. I, therefore, do not see why it cannot be used to train private individuals who would want to get competence in financial management and finance in general. If they do that, they can raise funds. The institution may not need money from the Central Bank of Kenya for it to be operational. With that alone, it can raise enough Appropriations-in-Aid (A-in-A) to run on its own. I support that idea.

I also support the recommendation on the issue of the East African Portland Cement. The Chairperson has said that the Government, in some parts of the industry, should actually own institutions that produce either services or goods that are in public demand and central in our development. Cement is key in our growth. We are now talking of affordable houses. The biggest product there is cement. If you leave the private sector on its own, they will form a cartel. Even if you put regulatory measures, the private sector will always form an association or something and create a cartel. It is, therefore, important to have a Government institution that produces the same product. Such institution can set the standards and hence stabilize the prices. If it is efficient, it can produce enough and stabilize the prices. It only needs a lot of

integrity in its management. I say so because, more often than not, public institutions are consumed by the integrity issues that are common in the public sector.

I think that is a good thing to pursue. We see it in Kenya Airways. The Chairperson also mentioned the Standard Gauge Railway (SGR). I always hope that I will stop seeing those big tankers on the roads, so that all those goods are actually transported by SGR. That is a diversion. That recommendation is good.

The other recommendation is that they have a lot of land which they can sell to offset some of their debts and be self-sufficient. It can be privatized and necessary caution put in place. If it is privatized, there should be majority shareholding by the Government so that we can stabilize and protect it.

I am really happy with the Report. The Committee found that the Managing Director of EPRA was kind-of a victim of witch-hunt and recommended that, that person should continue working. We must be careful not to destabilize officers because of where they come from.

Finally, the issue of unsecured land holdings in Government institutions is a big one, and the Report has brought it out clearly. It is not only in those institutions because many primary and secondary schools' lands are not secured as those institutions do not have title deeds. Those pieces of land can be lost. They can become subject of land grabbing.

I support the recommendation that those pieces of land should be secured. This recommendation is not only on East Africa Portland Cement land, but also on all the other Government institutions. We must be careful because during those processes, some pieces of land might be lost.

With those remarks, I support the Report.

**The Temporary Speaker** (Hon. Peter Kaluma): Let us hear Hon. Beatrice Elachi, who will be followed by Hon. (Dr.) Ojiambo Oundo.

**Hon. Beatrice Elachi** (Dagoretti North, ODM): Thank you, Hon. Temporary Speaker. I rise to support this Report and to thank the Committee for the work they have done. The Report is looking at 2017/2018, 2018/2019, 2019/2020 and 2020/2021 financial years, and I think this is why our country is always in a crisis. As we bring the Reports to the House or when the Auditor-General is going through them, time has definitely lapsed. Many things were wrongfully done at that time and you do even know where the institutions are at the moment. We are discussing those institutions in 2024 by looking at their audit reports and trying to look for support mechanisms that can rectify some of the queries raised by the Auditor-General.

Hon. Temporary Speaker, if we want to move forward as a country, we must have a system where the Auditor-General has some semblance of the happenings in those institutions before fully auditing them. This will enable the Auditor-General to give us a summary of the institution at the time of audit. On the Competition Authority of Kenya, the Report states that the Authority is supposed to promote and protect effective competition in markets. It has a clear mandate in terms of promotion and enforcement of compliance in competition as per the Act. However, as part of their major achievements, they state that during the COVID19 period, they facilitated an investment of over Ksh140 billion into the national economy.

Through reduction in the number of days taken to analyse the mergers, they also facilitated the implementation of Article 46 of the Constitution on consumer welfare by expediting an estimated Ksh12.4 million in consumer savings. They enhanced competition in the market, leading to among others, lower consumer prices. Why am I saying that the Auditor-General needs to help us? It is because they are telling us that everything was good but so far, those achievements have been overtaken by events. Things are more expensive. They claim to have facilitated the recovery of delayed payments, but we have since moved on. If we want to see the economy recover, there has to be a different way and mechanisms of dealing with this.

In as much as they had given us a very clean bill of health at that time, where is the consumer today? This is the question that all of us would be asking the Competition and Markets Authority. Today, things are not the way they were. As we bring this Report, it is important for us to always question how we would explain it in terms of the current times. As we give this to Kenyans, we must tell them that these are reports for financial years 2017/2018 and 2018/2019. Therefore, when people hear of good reports, they should not question Parliament. They can see how things are tough. The economy is struggling. It is recovering at a slow pace. The exchange rate of the US Dollar to the Kenya Shilling is very high.

On page 98 of the Report, we have an issue of the East African Portland Company. There is a case which I do not know whether they have finalized or not. They have explained how everything is happening in Portland and more importantly, the issue of land and particularly, the Mavoko parcel of land where people lost property. They say they will sell the said land. How I wish they could have given us a better response by saying that they are going to sell the land to the people who are now living there. The land was infested by illegal grabbers, but some are not grabbers. They have been put in that situation by some of us. As the Corporation sells the land at the said price, I hope the Committee will visit and look at it properly. They can sell the land and find themselves in the same crisis that was there. I wish the Committee can visit the said land first because you can sell the land and find yourselves in the same crisis as before. So that we do not go back to what we saw, it is important to ensure that they give the first opportunity to the people who are living on that land. After selling the land by public tender as it is stated, ensure that what is sold comes and inject more financial support to the East African Portland Cement Company.

I thank the Committee because the Report is flowing, and it is looking at the management response. I wish the Secretariat could assist such that from observations, they can do a small summary to clearly explain. For example, the management response on the land explains well the LR Number and the portion which has since been transferred to the Kenya Commercial Bank and all the details. However, in the second part, 'Further, on all the remaining parcels...' One would ask, which ones? Could it be LR Number 907? The company is at an advanced discussion with the national Government on building synergy and alignment of the company's strategic objectives with the development agenda. It is too huge. You even wonder how you can explain that to Kenyans.

Lastly, there is need for us to ask ourselves about all those corporations, especially in the energy sector. There is a public limited company that every corporation speaks about in terms of having its consent. Its lands, it is said, are going to the Affordable Housing Scheme, which is okay. However, we must ask ourselves: When people will be buying those houses, will they be buying them from Portland or directly from the *Boma Yangu* platform? Or will it still be an asset of the corporation? It must be very clear because the company has a title. We will then understand that the land and the title deed are together. As a team of those who have bought those houses, they can know who has the title. Will it be the Government or the Corporation itself?

With those few remarks, I beg to support.

**The Temporary Speaker** (Hon. Peter Kaluma): Hon. (Dr.) Wilberforce Oundo.

**Hon. (Dr.) Ojiambo Oundo** (Funyula, ODM): Thank you, Hon. Temporary Speaker. Allow me to support the Report by the Public Investments Committee on Commercial Affairs and Energy on the examination of the reports of the Auditor-General on the financial statements of selected State corporations. The State corporations being examined here are the Engineers Board of Kenya for financial years 2017/2018 through to 2020/2021; the Energy and Petroleum Regulatory Authority for financial years 2015/2016 through to 2020/2021; the Competition Authority of Kenya for financial years 2016/2017 through to 2020/2021; the Central Bank of

Kenya for financial years 2017/2018 through to 2020/2021; and the East African Portland Cement Company for almost the same period.

Before we even delve into the merits of the Report or otherwise, probably in its wisdom, we must thank the last Parliament for finding it wise to split the Public Investments Committee. You can see the backlog. The country must be very clear. It becomes even difficult to pin down any member of the Executive or an accounting officer for any anomalies, irregularities or unethical practises. Those who were there in 2016 are no longer there. Even if they found some mistakes or misallocation problems, there is very little you can do to pin down that person. Either the person has died, gone away or left Public Service. Over time, institutional memory disappears. Over time, documents relating to the examination gets defaced or lost and it becomes difficult to follow up. I urge all Public Investments Committees to move with speed and examine those audited reports and accounts to bring ourselves to the most current years as possible. For example, in the Public Accounts Committee, we are preparing reports for the financial year 2022/2023. That means we will comply with the Constitution that requires that revenue between the national and county governments be shared based on the most current audited accounts. We must bring our cases to currency.

A Public Accounts Committee, Public Investment Committee or an oversight Committee is like a mortician. You examine what has already happened. I must commend the current Office of the Auditor-General. Their examination when auditing accounts is not just about financial audits. It is also about systems audit and human resource audits. That is why the issue of the Managing Director of EPRA came in for discussion. We want all Government Ministries, Departments and Agencies (MDAs) to focus their mind not only on financial reporting, but also on the entire system and enterprise risk planning. How do we start our work up to the end? That is because money is either lost or saved because the system is designed to do so. If we audit the system and find it is fool-proof, we will then be in a position to ensure that no public funds are lost.

Hon. Temporary Speaker, the second important issue we need to look into is a recurrent problem. I can see it has been picked up in this Report as well. Specifically, in the observations in paragraph 12, there is late submission of supporting documentation. The country and all accountants must know that audit is a process. It is not an event. It is planned. If you look at the Audit Act and the Public Finance Management (PFM) Act, the process is very clear. This habit of accounting officers being unable to produce documents when the audit is taking place and then they rush with them when they are summoned by Public Investments Committee (PIC) or Public Accounts (PAC) must come to a complete stop. This is flouting rules and regulations. It gives the impression that the accounting officer has gone to cook data to support a wrong or an illegal entry. This is something we have debated all over. The wilful failure to provide documents should be punished as per the PFM Act.

The fact that some public entities have no title deeds for pieces of land they occupy is a historical issue. In the formulation of the Constitution of Kenya 2010, we believed and thought that the National Land Commission (NLC) will move with speed to regularise this process. However, from the word go, the NLC and Ministry of Lands, Housing and Urban Development have been in a perpetual war. They fight imaginary wars over turf and mandate issues to a point that NLC mandate has since been clawed back. That is why we need to urge the NLC and MDAs to move with speed and regularise their land title deed issues.

There is one key recommendation that the Committee should have made. They should have given the MDAs that do not have land title deeds a specific time frame within which they need to regularise their parcels of land. I hope the Chair of the Committee is listening. In paragraph 13 of the Report, you should have made it clear that they should regularise the ownership of their title deeds within six or 12 months. How do you do that? You must acquire the documents required under Section 7 of the Land Registration Act. That can be done because

the cadastral maps are there. Some of them already have Part Development Plan (PDP). Some are already included in the national development spatial plan. It is, therefore, a matter that can take a short period of time.

There are ping-pong games. For example, we were told that the allotment letters got lost. Who told them that those are legal documents to confirm ownership of the title deed? They are not. The document to confirm ownership of the title deed is the title deed. Those are some of the issues that we need to address.

Hon. Temporary speaker, those entities must be going concerns, as the law indicates from an accounting officer's perspective. The Government did not set up those corporations to drain the Exchequer. They were supposed to be a profit centre but not a cost centre. We continuously say that those agencies are capable of running and getting their money to even contribute to the Exchequer through other means. What normally kills those organisations is poor governance and mismanagement. One of the issues that the Committee should focus on is the governance structures. Are they good enough to ensure that those Semi-Autonomous Government Agencies (SAGAs) are capable of running themselves sustainably? Therefore, I ask the Committee – as the oversight committee – to put the SAGAs in line to account for what they do. If they are found to be incapable or insolvent, the Committee should be bold enough to recommend for their dissolution so that they do other things.

On the African Portland Cement, it was supposed to be a price stabiliser in the economy. However, during periods under review, they were in trouble. I sit it in the Departmental Committee on Trade, Industry and Co-operatives. They have made tremendous progress in making sure that they capitalise their business and make it grow. The Government and all those concerned should give them support to ensure that we have a price stabiliser in this economy. I have been told that, currently, cement costs Ksh900 per 50 kilogramme-bag. A few years back, it was being sold at Ksh450. You can tell that the exponential increase in price is going to jeopardise the so-called affordable housing program. It is no longer going to be affordable. So, we must ask...

**The Temporary Speaker** (Hon. Peter Kaluma): Are you requesting for more time?

You can have your two minutes.

**Hon. (Dr.) Ojiambo Oundo** (Funyula, ODM): Hon. Temporary Speaker, as the Chairman of the Committee has indicated, I know that the Government is not in the habit of doing business. That is an agreed fact all over the world. However, the Government has a moral obligation to stabilize its economy. All over the world, you will find that governments have strategic corporations in critical strategic areas. It is, therefore, important that we have a fall-back plan even as we rush towards privatization. If things go wrong, we can always go to the strategic reserve to ensure that we sustain ourselves.

So that I am not seen to be abusing the generosity that the presiding Speaker has conferred to me, I conclude by emphasising on the need to make sure that we run public organisations efficiently, fairly and without discrimination. Before this Report, there was a Report about people living with disabilities being discriminated against at their places of work. This kind of organisation should support this through education, training and the rest of the things.

With those few remarks, I support.

**The Temporary Speaker** (Hon. Peter Kaluma): Hon. Gideon Mulungi.

**Hon. Gideon Mulyungi** (Mwingi Central, WDM): Thank you, Hon. Temporary Speaker. I will speak for less than three minutes because of time. I rise to support the Report of the Public Investments Committee Report on Commercial Affairs.

**The Temporary Speaker** (Hon. Peter Kaluma): Hon. Gideon Mulungi, Parliament will adjourn at 9.00 O'clock today. You have all the time – ten minutes to be precise.

**Hon. Gideon Mulyungi** (Mwingi Central, WDM): So, I have all the time. Thank you, for your generosity.

I will start by congratulating the Committee for a job well done. The Chair of this Committee was my Chair in the Departmental Committee on Transport and Infrastructure during the last Parliament. He is a very competent person. Having served as CEO in a parastatal before, he is equal to the task that has been bestowed upon him at the moment. The Constitution of Kenya, 2010 and the Public Finance Management Act provide that accounting officers are accountable to the people of Kenya, through Parliament. We cannot, therefore, condone misuse of public funds and corruption.

Hon. Temporary Speaker, the highlights of the Report on five key parastatals, especially the East African Portland Cement (EAPC), are very important. The EAPC is the only institution that I am going to deal with. I am okay with the recommendations of the rest.

The EAPC produces cement, which is a key component in the construction industry. Without cement, there would be no buildings in the world. Cement is used in huge quantities in construction. If the prices of cement are not controlled, buildings will become very expensive. In the last two to three years, we have seen the cost of cement double — it has risen from Ksh450 per 50 kilogramme-bag to now Ksh900. The increase impacts the cost of buildings and roads. This beats the purpose of affordable housing, which is a policy of...

**Hon. Kwenya Thuku** (Kinangop, UDA): On a point of order, Hon. Temporary Speaker.

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

**Hon. Kwenya Thuku** (Kinangop, UDA): Hon. Temporary Speaker, I would like to bring to your attention the fact that the House does not properly quorate. I am raising the issue of quorum because this is a very important debate. I think many Members would want to ventilate on it. I am asking that you rule that there is no quorum in the House.

**The Temporary Speaker** (Hon. Peter Kaluma): I order that the Quorum Bell be rung for 10 minutes.

*(The Quorum Bell was rung)*

## ADJOURNMENT

**The Temporary Speaker** (Hon. Peter Kaluma): Hon. Gideon Mulyungi, you will have seven minutes when the matter is rescheduled for consideration in the future.

Hon. Members, there being no quorum, the House stands adjourned until tomorrow Thursday, 14<sup>th</sup> March 2024, at 2.30 p.m.

The House rose at 7.43 p.m.

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