

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Wednesday, 21<sup>st</sup> November 2018

The House met at 9.30 a.m.

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

PRAYERS

QUORUM

**Hon. Deputy Speaker:** Hon. Members, we are just short of the required quorum. Therefore, I order that the bell be rung for 10 minutes.

*(The Quorum Bell was rung)*

Now we have quorum and, therefore, business will begin.

PAPERS LAID

**Hon. Deputy Speaker:** In that particular Order, I am told the Chair of the Select Committee on National Cohesion and Equal Opportunity, Hon. Kamanda, has something to lay.

*(Loud consultations)*

Order, Hon. Members! I hear unparliamentary language on my right. We might want to have the Members substantiate. Proceed.

**Hon. Maina Kamanda** (Nominated, JP): Hon. Deputy Speaker, I beg to lay the following Papers on the Table of the House:

Reports of the Select Committee on National Cohesion and Equal Opportunity on:

The 11<sup>th</sup> Session of the Conference of States Parties to the Convention of the Rights of Persons with Disabilities held in the United Nations Headquarters on 12<sup>th</sup> to 14<sup>th</sup> June 2018.

The Global Peace Leadership Conference held in Kampala Uganda on 1<sup>st</sup> to 3<sup>rd</sup> August 2018.

The benchmarking visit to Indonesia on 23<sup>rd</sup> to 27<sup>th</sup> July 2018.

Thank you, Hon. Deputy Speaker.

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

NOTICES OF MOTIONS

REPORT ON THE RIGHTS OF PERSONS WITH DISABILITIES

**Hon. Maina Kamanda** (Nominated, JP): Hon. Deputy Speaker, I beg to give notice of the following Motion:

THAT, this House notes the Reports of the Select Committee on National Cohesion and Equal Opportunity on the 11<sup>th</sup> Session of the Conference of States Parties to the Convention of the Rights of Persons with Disabilities, held in the United Nations Headquarters on 12<sup>th</sup> to 14<sup>th</sup> June 2018, laid on the Table of the House today, Wednesday, 21<sup>st</sup> November 2018.

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

## QUESTIONS

**Hon. Deputy Speaker:** We will start with the first Member to pose a Question, that is, Hon. Clement Muturi Kigano, Member for Kangema.

*Question No.047/2018*

### RESOLUTION OF THE MIGINGO ISLAND DISPUTE

**Hon. Clement Kigano** (Kangema, JP): Hon. Deputy Speaker, I rise to ask the Attorney-General the following Question:

- (a) When will the Government resolve the dispute between Kenya and Uganda on Migingo Island, including instituting legal proceedings before the East African Court of Justice?
- (b) What steps is the Government taking to delineate Kenya's territorial boundaries?

**Hon. Deputy Speaker:** That particular Question is due for a written reply by the Attorney-General.

The next one is by the Member for Kajiado Central Constituency, Hon. Elijah Memusi.

*Question No.188/2018*

### MEASURES TO ADDRESS SHORTAGE OF CANCER DRUGS

**Hon. Memusi ole Kanchory** (Kajiado Central, ODM): Thank you, Hon. Deputy Speaker. I beg to ask the Cabinet Secretary for Health the following Question:

- (a) Explain why there is a shortage of cancer drugs despite the fact that cancer is a national concern?
- (b) What measures has the Ministry put in place to ensure availability and adequate supply of cancer drugs in all public health facilities?
- (c) Could the Ministry consider making available free cancer screening services in all public health facilities?

**Hon. Deputy Speaker:** Very well. That particular Question will be replied to before the Departmental Committee on Health.

Next is the Member for Tharaka, Hon. George Gitonga Murugara.

*Question No.185/2018*

## HARASSMENT OF MOTORISTS BY POLICE OFFICERS IN MARIMANTI

**Hon. George Gitonga** (Tharaka, DP): Thank you, Hon. Deputy Speaker. My Question is directed to the Cabinet Secretary for Interior and Coordination of National Government.

- (a) Is the Cabinet Secretary aware of claims that the Kenya Police officers at Marimanti Police Station are engaging in vices that include corruption, illegal erection of road blocks with the aim of obtaining bribes from motorists, *boda boda* cyclists and other road users, and general harassment of citizens?
- (b) What action is the Ministry taking against these police officers and in particular the Officer Commanding Police Station at Marimanti Police Station for condoning and engaging in the above vices?

**Hon. Deputy Speaker:** That will be replied to before the Departmental Committee on Administration and National Security.

Next is the Member for Kwanza, Hon. Ferdinand Wanyonyi.

*Question No.189/2018*

## CONSTITUTION OF AFFA BOARD OF DIRECTORS

**Hon. Ferdinand Wanyonyi** (Kwanza, FORD-K): Thank you, Hon. Deputy Speaker. My Question is directed to the Cabinet Secretary for Agriculture, Livestock and Fisheries.

- (a) Is the Cabinet Secretary aware that the Agriculture, Fisheries and Food Authority (AFFA) does not have a substantive board of directors and further that the secretariat is on temporary terms of service?
- (b) When will the said board be gazetted?

Thank you, Hon. Deputy Speaker.

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

Next is Hon. Catherine Waruguru, Member for Laikipia County.

*Question No.190/2018*

## ISSUANCE OF TITLE DEEDS TO RESIDENTS OF LAIKIPIA COUNTY

**Hon. (Ms.) Catherine Waruguru** (Laikipia CWR, JP): I beg to ask Question No.190/2018.

- (a) When will the Cabinet Secretary consider facilitating issuance of title deeds to persons residing in Likii, Majengo and Solio Villages in Nanyuki; Maina Village in Nyahururu and Kandutura Village in Rumuruti of Laikipia County?
- (b) What steps has the Ministry taken to resettle squatters at Kwa Mbuji land near KDF Garrison Army Barracks in Nanyuki?

**Hon. Deputy Speaker:** Very well. That will be replied to before the Departmental Committee on Lands.

Next is Hon. (Dr.) James Kipkosgei Murgor, Member for Keiyo North.

*Question No.192/2018*

## ROAD ACCIDENTS ALONG ITEN-KABARNET ROAD

**Hon. James Murgor** (Keiyo North, JP): Thank you, Hon. Deputy Speaker. My Question is directed to the Cabinet Secretary for Transport, Infrastructure, Housing and Urban Development.

What action is the Ministry taking to reduce the high number of road accidents reported along Iten–Kabarnet Road, and in particular, at Kolol area, where a total of 13 accidents leading to six deaths have occurred in the last 10 months?

**Hon. Deputy Speaker:** Very well. That one will be replied to before the Departmental Committee on Transport, Public Works and Housing.

The last one is by Hon. Safia S. Adan, Member for Marsabit County. Do you have your card? You can use the microphone in front of you.

*Question No.193/2018*

## CONFLICTS IN MARSABIT COUNTY

**Hon. (Ms.) Safia Sheikh** (Marsabit CWR, JP): Hon. Deputy Speaker, my Question is No.193/2018.

What measures is the Ministry putting in place to ensure that the root causes of conflicts in Marsabit County are addressed including settling of people that are displaced?

**Hon. Deputy Speaker:** Very well. That will be replied to before the Departmental Committee on Administration and National Security. That marks the end of Questions.

What is your point of order, Hon. Jomo Washiali?

**Hon. Benjamin Washiali** (Mumias East, JP): Thank you, Hon. Deputy Speaker for the opportunity. We are doing very well in terms of asking Questions, but as a House, we are doing poorly in terms of supplementary questions. That is why you will find that many of the Questions coming up are more or less similar in nature. A Question that has been asked by the Member for Tharaka Constituency about police mounting unnecessary roadblocks is a very common aspect and many of us have had that experience.

We already have a Communication from the Chair that before a Member attends the sitting of another Committee as a friend, he must get the permission of the Chair of that Committee. That denies quite a number of us an opportunity to participate in the session and raise supplementary questions.

The venues provided by Parliament are also inhibiting because they are small. Even Members who would like to ask supplementary questions may not have space to sit.

**Hon. Deputy Speaker:** You are not being fair at all, Hon. Washiali. I see your real interest in the Question Time. If it is an issue of space in Parliament, you are in the leadership. Those are issues that can be canvassed by the House Business Committee, which you are part of.

Secondly, the Member for Tharaka Constituency is asking a Question that is specific to his constituency. It is not generalised. He is speaking to the police officers at Marimanti Police Station. He is right. You can also ask yours. If you ask one about Mumias East, it does not, in

any way, conflict with this one. It may be a general Question if he had asked about the traffic policy in Kenya, but he asked a very specific Question. He is right.

In terms of Members attending sessions of committees and asking supplementary questions, I would be very happy to get the complaints of Members who have gone to particular committees and have been denied permission to ask supplementary questions. We do not want to talk of hypothetical situations. Let us talk about specific situations that arise and handle them.

I expect you, as a Member of the House Business Committee (HBC), and the Majority Whip, to be the one getting the complaints and passing them over to the rest of the leadership. Much as your concerns are fairly reasonable, they can be sorted out in the manner I have just indicated. I have heard you. We will try and create mechanisms for Members to ask supplementary questions, but the Members are the ones who are supposed to ask them. You only give them an opportunity to ask if they really require that. Let us proceed. I have heard you.

What is it again, Hon. Waititu?

**Hon. Francis Waititu** (Juja, JP): Hon. Deputy Speaker, whatever you are responding to, Hon. Washiali had asked before. This is the second time you have answered that question. I know you have forgotten, but it is on record. I do not know what he is looking for. Members of Parliament are asking Questions.

**Hon. Deputy Speaker:** If the position you have just indicated is true, and I have no reason not to trust you, then it means Hon. Washiali is violating the very same thing which he is complaining against; that similar questions are being posed to committees and Cabinet Secretaries. If that is the case, then you have violated it. You are not coming to the House with very clean hands. Let us proceed anyway. Hon. Members, I do not think that is a matter we need to look at too much.

Next Order.

## PROCEDURAL MOTION

### EXEMPTION OF BUSINESS FROM PROVISIONS OF STANDING ORDER NO.40(3)

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

**Hon. Aden Duale** (Garissa Township, JP): Hon. Deputy Speaker, I beg to move the following Procedural Motion:

THAT, this House orders that the business appearing as Order No.10 in the Order Paper be exempted from the provisions of Standing Order No.40(3) being a Wednesday Morning, a day allocated for business not sponsored by the Majority or Minority Party or business sponsored by a Committee.

The HBC, in our sitting last night, approved this Procedural Motion. Order No.10 is on the 22<sup>nd</sup> Report on audited financial statements for State corporations from the Public Investment Committee (PIC). Because we have until 6<sup>th</sup> December to conclude this year's session, the HBC felt that this Report is important. We also have the Public Accounts Committee (PAC), which is also very important. We can give it a slot so that the matter of the audited accounts is dealt with. It is important to the country and the House. This was just a Procedural Motion. We will continue with the Constitution (Amendment) Bill this afternoon.

I heard a Member of Parliament this morning on a radio station, who is very much obsessed with the name "Hon. Aden Duale", say that what Hon. Aden Duale says is not what he

believes in. The only person who can read my heart is my wife and the Almighty God. From where I sit, he cannot be my wife. So, he should keep off my matters. It is very cheap.

I beg to move and ask the Leader of the Minority Party to second.

**Hon. John Mbadi** (Suba South, ODM): Thank you, Hon. Deputy Speaker. I rise to second this Motion. Ordinarily, this is basically a Procedural Motion. Order No.10 is a Report on audited financial statements brought to this House by the PIC. We want the House to allow us to debate the Motions that are not brought by Private Members. It is only one this morning. This House complained previously that PAC and PIC were not submitting their reports. Now that we have them in the House, we want to start with the PIC this week and we will deal with the PAC next week.

I want to thank the two committees for, at least, honouring their obligation and bringing their reports.

I second, Hon. Deputy Speaker.

*(Question proposed)*

*(Question put and agreed to)*

Next Order.

## BILL

### *Second Reading*

#### THE COUNTY PENSION SCHEME BILL

*(Hon. Charles Njagagua on 14.11.2018)*

*(Resumption of Debate interrupted on 14.11.2018)*

**Hon. Deputy Speaker:** We are resuming debate. The balance of time is one hour and 15 minutes. Hon. Members who have contributed know that the Standing Orders do not allow you to contribute a second time in this particular one. Since there was no Member who had a balance on the Floor, I will give opportunity to the Member on top of the list, Hon. Iringo Kubai, Member for Igembe Central.

**Hon. Kubai Iringo** (Igembe Central, JP): Thank you, Hon. Deputy Speaker for giving this opportunity to contribute to this Bill. I thank my colleague, Hon. Njagagua, for bringing this Bill to this House. I support it.

Pension funds are very important to any citizen or anybody who has been working throughout his or her life. It is prudent for a pension fund to be established for workers in every sector in this country, so that once one retires, he has something to go home with. It is disheartening when somebody retires and no pension has been put in place. When you go home, you have nothing to do. You have no income. You live like a pauper. I remember when we were debating here the other day, we were talking about pension for parliamentarians. When somebody leaves Parliament and does not have any back up or any money to keep you going, you walk in the streets and look as if you have never worked for this country. Therefore, those

members of our society who are staff of county governments need pension as much as everybody else. Therefore, it is a bright idea to bring this Bill forward so that the employer, who is the county government and the pensioner can put some money into an account and when one retires, he or she is given a lump sum to carry home. Then the pensioner gets a monthly pension to keep him and his family going.

As much as we are supporting this Bill, it should be structured. I have gone through the Bill and it has structures for management. It provides for the establishment of a trustee, who will oversee the pension scheme. It is a very important one. The people who will be re-elected or nominated as trustees must be vetted properly, so that we can have people of good moral standings to take care of the funds and check on misappropriation that we have seen in many other sectors.

The centralised format as proposed by the Bill where a central body will manage the funds for the 47 counties, is also very important. Once the money is put together and managed by one team, the benefits will accrue to every employee uniformly across the country. This will ensure that we do not have structures for every county where benefits do not accrue uniformly. I support a central management team because it is a very prudent way of managing the funds.

Hon. Deputy Speaker, once the funds are put together, they can be invested. The board has the mandate to invest the money to create more funds which can always be disbursed to pensioners and they can live a happy life when they retire.

I support the Bill.

**Hon. Deputy Speaker:** Members should be that brief because the matters are the same.

Hon. Baya Yaa.

**Hon. Owen Baya** (Kilifi North, ODM): Thank you, Hon. Deputy Speaker. I stand to oppose this Bill. It is on record that Parliament passed a similar Bill, which has journeyed through the process of Parliament up to the Senate level. Today, another Member has brought a similar Bill with other issues put in it to confuse the whole process, but we know at the end of the day there are vested interests in the Bill that we are processing today.

To anchor the integrity of Parliament, it should not be used by interested people and cartels. This House needs to make a statement: that this Bill does not pass until the Senate finishes with the other Bill. So, I urge the Members to continue to respect the fact that Parliament needs to be for parliamentarians and not bring in vested interests that at the end of the day make the Parliament system look like it is not serious. We have a similar Bill in the Senate which needs to complete its journey. We know it will pass. If not, we can have another Bill. We cannot have two processes that aim at doing the same thing.

Thank you very much, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** Next on the list is Hon. Mohamed Sheikh.

**Hon. Mohamed Mohamud** (Wajir South, JP): Hon. Deputy Speaker, I withdraw. Sorry about that.

**Hon. Deputy Speaker:** Hon. Mutua Barasa. That is not a familiar name, but proceed anyway.

**Hon. Didmus Barasa** (Kimilili, JP): Hon. Deputy Speaker, I rise to support this Bill. Creating a universal retirement pension scheme to manage all county government employees is good for easier management and audit for compliance.

This Bill also seeks to cure the very disease that has bedeviled the county governments for a very long time where they deduct money from their workers, but do not remit it to

retirement schemes. It seeks to provide punitive measures and explores ways of recovering the money to the pension scheme.

This Bill is very important because it also provides some value addition to ensure that all county government workers get life insurance covers for themselves. Whether we have another Bill in the Senate, this House conducts its business and the matter will be handled at that level. This is going to revolutionise the reforms in the pension sector of the country. We must comply with all the laws and we must also ensure that we have a framework that ensures that the money deducted from the workers finds its way to the pensioner.

With those few remarks, I support the Bill.

**Hon. Deputy Speaker:** Hon. Sankok.

**Hon. David ole Sankok** (Nominated, JP): Thank you very much, Hon. Deputy Speaker. I donate my time to Hon...

**Hon. Deputy Speaker:** Hon. Wanjira Wangari. Hon. Sankok, you are completely out of order.

**Hon. (Ms.) Martha Wangari** (Gilgil, JP): Thank you, Hon. Deputy Speaker. From the outset, I support the Bill. A Private Member's Bill is never an easy thing to do. I know Hon. Njagagua has worked thoroughly on this Bill. How it comes to the Floor of the House is another thing. Now that it is here, it is not a new issue to me. We dealt with it in the Senate in the 11<sup>th</sup> Parliament. I was the Vice-Chair of the Labour Committee and we went through the motions that actually had approved the Bill for publication then. It was tabled in the House and, of course, died with the life of Parliament before it came to the National Assembly.

Pension for county government workers is very important. In fact, this Bill is long overdue and delayed. It has caused so much anxiety to county government employees in the executive and in the assemblies. As it is, I would like to refer Members to Section 132 of the County Governments Act. Before the promulgation of the current Constitution, it was anticipated that there will be transition of pension from the defunct county councils and municipal councils to what is now the county government.

Section 132 says clearly that subject to the transitional provisions, all members, officers and staff of a county government shall subscribe to an existing pension scheme for officers and staff of local government. The Urban Areas and Cities Act of 2011 states clearly that officers of a board shall on commencement of this Act subscribe to an existing pension scheme approved by the Retirement Benefits Authority. That means a lot of effort and resources will go towards establishing a retirement benefits scheme. A lot has been put to the Local Authorities Pensions Trust (LAPTRUST) now referred to as the County Pensions Fund and had been put in the Local Authorities Pensions Fund (LAPFUND).

In 2010, the National Treasury issued a circular to put this into perspective. Circular No.18 of 2010 was intended to reinforce the requirements of Section 132 of the County Governments Act and Section 49 of the Cities and Urban Areas of 2011. Unless there is a compelling reason for us to do a totally new scheme that will take time, it is very easy for us to transit the existing pension fund. A technical committee was formed led by the Retirement Benefits Authority and encompassed the National Treasury, actuarial scientists who are authorities in these matters, and the Senate at that time. It also had representation of the workers unions which sat for almost seven months. They came up with a directive and what was supposed to be done. Merging the schemes will almost be impossible because every scheme, be it LAPTRUST or LAPFUND, has its own assets and liabilities. What is important is to ensure

that the transition is clear, the members' benefits are protected and none of them will be lost in the process.

The Attorney-General, as the legal advisor to the Government, issued an advisory in 2017. The advisory read that the LAPTRUST umbrella retirement Fund; the County Pension Fund, is the existing pension scheme for officers and staff of the defunct local governments as envisaged under Section 132 of the County Governments Act. There has not been a contrary advisory sought from the Attorney-General to negate this fact. The advisory goes ahead to say that it is important that LAPTRUST is anchored in an Act of Parliament. What does that mean? It means it will operate, be checked and regulated under the law. More importantly, who are the consumers or beneficiaries of the pension fund?

The first entity to be consulted is the Council of Governors (CoG) because they are the ones who are supposed to be benefiting from this pension scheme. Indeed, the CoG submitted a memorandum in support of the Bill that time, as it is right now. They issued a circular dated 19<sup>th</sup> September 2014 which we scrutinised. If you look at the Bill right now, at Schedule 3, you will see the sponsoring agencies. That time, county governments were about 43. Right now, I can see that almost every county government agrees and is a sponsor of this Bill. The associated organisations are clearly enumerated in the Bill namely, the workers unions, the County Government Workers Union and the water companies that are localised in the counties. This has taken a lot of consultation. It is not something that has sprung up from nowhere. I can tell you that because I was involved in the process.

Initially, the defunct county councils were covered by LAPTRUST and LAPFUND. With LAPTRUST, as a proposed county pension fund now, the contribution then was 12 per cent by employee's contributions and 15 per cent per employer's contributions. What is before the Senate proposes to reduce it to 7.5 per cent. We should be encouraging workers to improve their savings in terms of pension. If you do not have it, it encourages poverty, dependency and uncertainty in terms of the future of the workers. There are more than 45,000 workers who are members of this Fund. My proposal, in joining with what is in the Senate right now, is that, maybe, just as the national Government works, we should have two separate schemes, one for the executive as it is in the Pensions Act. Every other civil servant in the national Government is under the Pensions Act, but we have a specific pension arrangement for the National Assembly. What is in the Senate can be transitioned to accommodate all the workers at county assemblies. This Bill will cover governors and the executives with their teams so that they are separate and this will reduce the collision and friction that is there.

I congratulate Hon. Njajagua because this Bill will deal with all transition issues. The board that has been put in place is clearly enumerated on how it will be appointed. The only amendment I would want to suggest at the Committee stage is on the representatives. When we say a representative of county governments to be appointed by the Cabinet Secretary, that would bring an issue of conflict. Let the CoG send their own representative independently. Let the Public Service Commission send their representation through the Cabinet Secretary, but not appointed by the Cabinet Secretary. Let the county assembly boards send their representatives through the Cabinet Secretary, but not appointed by the Cabinet Secretary. That would mean that we would protect the integrity of every institution as has been given in their own specific clause and we will give them autonomy to choose the person they think fits very well because what is required has already been put in law and has been well enumerated.

This Bill also has an issue on *sharia* compliance. I remember we debated it then. I still think it is a good idea. It was brought by the specific practitioners of the Muslim faith. They felt

that the current pension schemes do not take care of their interests as Muslims and their faith. To protect their interest, this Bill has a whole section on it and a team has been incorporated to go through it and make sure that it is *sharia* compliant. That is a plus to this Bill. The underlying aim is that we need to enact this law as quickly as possible. More importantly, let us separate the schemes to have the executive separate from the assemblies so as to mirror what there is in the national Government for the Legislature and for the national Executive.

I support. Thank you.

**Hon. Deputy Speaker:** Very well. Hon. Makali Mulu.

**Hon. Makali Mulu** (Kitui Central, WDM-K): Thank you, Hon. Deputy Speaker. Let me also add my voice to this important Bill. I support this Bill. Initially, I was opposed to the procedure because I felt that as a House, we discussed all these issues and agreed they are important to the country. We need to pass a message clearly. It is not the work of the National Assembly to push the Senate to do its work. If the Bill has been lying for some time, this is the reason Hon. Muriuki is bringing this Bill. We passed the Bill for the Senate to do their work and we can have an Act, so that workers can get their pensions, but up to now, we do not have any Act of Parliament.

I support the Bill. If this is going to push the Senate to conclude the other one, then we would be home and dry. I have said that because there are two Bills, namely, the County Retirement Benefits Bill and the County Pensions Bill, that are almost similar in terms of intention. There would be need at some point to make sure that all the good things from this Bill and all the good things which we had approved in the earlier Bill are harmonized so that, at the end of the day, we have one law which takes care of county governments. We all know the benefits of a pension scheme. As workers, there is nothing an employer can give you at the end of the day which is better than pension. You will draw pension until you die. To some extent, even your family members might benefit for a period of about five years. There is no question as to whether this makes sense or not since it is a good law. What we are discussing is the issue of when we are going to have this law in place so that county governments can start enjoying the benefits of this law. That is why I support it. I supported the earlier one, but it is still stuck somewhere in the Senate. I do not know why.

When you look at the Constitution, the work of the Senate is to take care of the interests of the counties. When you marry a wife, you promise her that you will take care of her and she promises that she will take care of you. Because you have an agreement that you will take care of each other, you go that extra mile to make sure that you take care of your wife and she goes an extra mile to make sure that she takes care of you as a husband.

The law says that the Senate exists to support and make sure that the interest of the counties is properly protected and promoted. The only person who is supposed to promote those interests is the person sitting on the interests. At one time, Kenyans said that at times we need to look at the functions and the importance of the Senate. They might be justified. I plead with the Senate that they get over this row. Hon. Wangari has just said that we spent so much time discussing this Bill and here we are discussing it again and wasting the precious time of this House. But now that they have not passed that law, we have a reason to discuss this.

I have looked at the Bill and there are some good things. Pension scheme funds are supposed to be invested so that they can generate more money and the workers can benefit more. When you look at this Bill, it makes very clear provisions in terms of fund managers, fund administrators and the county pension fund so that these funds are invested in areas which confirm highest returns. As a result, workers will be able to draw higher returns when they retire.

When you look through, the Bill makes provision of personal liability on those who will be overseeing the scheme. This is best practice in pension schemes. At one point, I was a trustee of a pension scheme and I can tell you, if properly managed, workers of county governments and assemblies will benefit very much when they retire as a result of this Bill.

With those comments, I support the Bill.

I hope when this House supports the Bill, it is going to push the Senate to get, at least, one in the centre and then we can harmonise the two Bills to have one law which takes care of the county government employees.

With those remarks, I support

**Hon. Deputy Speaker:** Hon. Koyi Waluke.

**Hon. John Waluke** (Sirisia, JP): Thank you, Hon. Deputy Speaker for giving me an opportunity to also contribute. I support the Bill. We have two Houses, namely, the Senate and the National Assembly and each House should do its work and not be pushed.

This Bill has been there for quite some time and we expected the Senate to have finished with it. The public has made observations. There is talk that the Senate duplicates the work of the National Assembly. I do not know, but that should not be there. The process of the pension scheme is to ensure that workers in the counties benefit. Therefore, it is very important. I thank the Member who brought this Bill so that we can deliberate on it and make sure that our people benefit.

With those few remarks, I support.

**Hon. Deputy Speaker:** Thank you very much. Before I give opportunity to the next Member to speak, let me recognise, in the Speaker's Gallery, students from St. Austine Academy in Dagoretti South Constituency, Nairobi. Thank you very much.

*(Applause)*

I will come to my left and give a chance to Hon. Osotsi.

**Hon. Godfrey Osotsi** (Nominated, ANC): Thank you Hon. Deputy Speaker for giving me this opportunity to contribute to this Bill.

From the outset, I oppose the Bill. We cannot allow Parliament to be used to legislate on matters which are clearly canvassing business for personal interests. I am saying this because this Bill was rejected by the National Treasury.

*(Applause)*

The National Treasury is the institution responsible for matters relating to management and regulations of pension schemes in Kenya. It had objections to this Bill. The National Treasury is responsible for policy decision on retirement benefits and related financial services as enshrined in the Public Finance Management Act.

*(Loud consultations)*

**Hon. Deputy Speaker:** Hon. Members, especially the Mover of the Motion, you want to hear what your colleagues are saying then you will be able to respond. You will have an opportunity. So, when I see you wanting to rise, I do not think it is the right thing. Just listen to

the Members. You will have opportunity to reply. You will clear any issues that you have problems with.

Hon. Wamalwa, you will be the next to speak. Why would you want to interfere with your colleague who is on the Floor?

Proceed.

**Hon. Godfrey Osotsi** (Nominated, ANC): Thank you for protecting me. I was saying that it is important for this House to note.

**Hon. Deputy Speaker:** For you, the Member for Gilgil, you have just spoken. So, keep your peace. Allow other Members to also say something. You said yours in peace.

Proceed!

**Hon. Godfrey Osotsi** (Nominated, ANC): It is important to note that the National Treasury is an important institution on matters to do with finance and retirement schemes. That is anchored in the Public Finance Management Act. If the National Treasury has an objection to this Bill, who are we as Parliament to pass it? We must question it. Even the stakeholders appeared before the Departmental Committee on Finance and National Planning and raised objection to this Bill. Members of County Assemblies (MCAs) who have a major stake on matters relating to pension for county government workers had an objection. This Bill proposes to dissolve the LAPFUND. We know that there are procedures to dissolve public institutions or parastatals as the LAPFUND. We do not have any advisory from the State Corporation Advisory Committee on the issue of dissolution of the LAPFUND. However, this Bill is proposing in Clause 42 to dissolve the LAPFUND. It is biased and in favour of the LAPTRUST. This House must interrogate LAPTRUST. This Bill tries to sanitise activities of various private companies that are run under LAPTRUST. I will mention companies like the CPF Financial Services, LAPTRUST Administration Services, Laser Property Management Company, Laser Insurance Brokers, LAPTRUST Infrastructure and Technology and LAPTRUST Umbrella Scheme, among others. This is unacceptable. Why do we want to run a private company using public resources? This House has passed a Bill that is before the Senate on similar issues.

*(Applause)*

We cannot again come here and purport to discuss a Bill which is basically addressing the same issues that this House has discussed and is before the Senate. If anything, they should bring amendments on the Bill that is before the Senate.

*(Applause)*

This Bill under Clause 21...

**Hon. Deputy Speaker:** What is your point of order, Hon. Njagagua?

**Hon. Charles Njagagua** (Mbeere North, JP): Thank you for giving me this chance.

Is the Member in order to mislead the House that this Bill was rejected by the National Treasury? During the public hearings, the representative of the National Treasury, none other than the Cabinet Secretary, gave his opinion. He never rejected it. There is a Report in this House from the Departmental Committee on Finance and National Planning, which does not reject the Bill. Hon. Deputy Speaker, you made a ruling last week. It is unfortunate that these Members were not here when you said that this Bill has to be canvassed. It is not a matter of us going to the Senate. So, is the Member in order to mislead the House?

Thank you.

**Hon. Deputy Speaker:** Hon. Njagagua, I will allow Hon. Osotsi to continue as I check what you have said from the records. It is true that this matter should go on. Thereafter, Members will take their decision. You will make your decision, Hon. Members. It is not up to the Speaker to decide for you.

**Hon. Godfrey Osotsi** (Nominated, ANC): I am in possession of the Report by the Departmental Committee on Finance and National Planning. That is where the National Treasury had reservations. If I can quote part of the Report, the National Treasury said that: "This Bill goes against the recommendations of the Inter-Agency Technical Committee that recommended the establishment of a new scheme, close the existing ones, begin afresh without liabilities and have a scheme that will be run independently." That is the submission by the National Treasury.

In Clause 21 the Bill proposes that this pension scheme will be administered by an internal administrator. This is unnecessary, bureaucratic and costly.

For those few remarks, I oppose the Bill in totality.

**Hon Deputy Speaker:** Hon. Wakhungu Wamalwa.

**Hon. (Dr.) Chris Wamalwa** (Kiminini, FORD-K): Thank you very much, Hon. Deputy Speaker. I rise to support this Bill based on the Report that I have read. This is a House of Debate. It is not a House of rumors. It is unacceptable for a Member to mislead the House. Going through the Report, in line with Article 118 of the Constitution, there is no way a Bill can be allowed to come for Second Reading without the Committee's report on public participation. I have been reading this keenly. When you go through this Report, particularly the executive summary on the public participation that was done by the Committee, you will realise that LAPFUND was there, the county assemblies forum was there, the CoG was there, and more importantly, the National Treasury was there. There is nowhere in the Report that shows that the National Treasury rejected the report. It is not proper for the Member to come to this Floor and mislead us. You must table facts and that is how people will respect you. This is a House of debate. I support this because I have documents which I can table.

We know that when people retire, they become so vulnerable. I see former Members of Parliament who retired or were rejected languishing in poverty. The pension fund is very critical. The Report is in line with what Hon. Wangari has said. She was formally in the Senate and she handled this matter in line with Section 142 of the County Government Act. It is recognizing LAPTRUST as the umbrella body. We should look for a way of harmonising this. Such an incident happened last time when I proposed a Bill on the Political Parties Fund. As we move on, we should harmonise this. This scheme already exists. It will be a waste of resources to start a new one, but when there is a difference in line with our Standing Orders, there is a provision for mediation.

I have just been consulting my leader here. Since the other Bill has not been debated yet in the Senate, we can look for a framework on how they can come together for purposes of improvement so that we can move together in a harmonised manner. This Bill proposes a board of trustees which will have a representative of the CoG, the Public Service Commission, the county public service boards, the county assembly service boards and other nominees from county governments. This shows that the board is all inclusive. On matters pension, you must have an all-inclusive board that will represent the different stakeholders. I am requesting the Members, where there is an issue, we should try to harmonise. My friend, Hon. Seronei, whom I respect so much, has just come and presented a report to me that this was rejected. Looking at the Report, it is not authenticated. A report can only be authenticated if it is signed. Looking at

it clearly, it is actually a draft. A draft report is not authentic and it cannot see the light of the day. Currently, I have a report which was approved for tabling by the Speaker of the National Assembly, Hon. Justin Muturi. I showed my friend and he doubted it. You need to tell us whether this is the proper signature. We want to know which is the right report because the report I have...

**Hon. Deputy Speaker:** Please, Hon. Wamalwa, the direction you are taking is not a very good one for you. So, I want you to proceed. You were arguing and supporting and that was good. Do not ask me to get involved in your debate because if I do...

**Hon. (Dr.) Chris Wamalwa (Kiminini, FORD-K):** Thank you very much for the guidance, Hon. Deputy Speaker. As we move on, the Attorney-General is the chief legal advisor of the Government. I can see the circular which was given by the Attorney-General, which recognises LAPTRUST as an umbrella body. Unless the advice was wrong, I am ready to table this to show that LAPTRUST is recognised as an umbrella pension body for county governments. What we need to take into consideration are the transition clauses so that people at the county government level can have a pension scheme that is going to take care of their interests, especially when they retire. At that age, they are vulnerable. I am humbly requesting the Members who are here today to support this Bill. I can see this Bill is the one that is going to provide a solution to the County Government Pensions Bill.

With those few remarks, I support.

**Hon. Deputy Speaker:** I will then give opportunity to the Member for Tigania West, Mutunga Kunyuithia.

**Hon. John Mutunga (Tigania West, JP):** Thank you, Hon. Deputy Speaker for the opportunity to support the Bill. After so much heat, I would like to try and moderate this situation. This Bill is going to create an opportunity for people to get their pensions managed centrally across the counties in this country. It is an important step in enhancing devolution. It is basically righting the wrongs and further the implementation of the Constitution. The counties drew officers from all over the country. Most of the officers are moving towards their retirement age. There is need for us to give provisions that are reliable and dependable, so that they can rely on them. This Bill provides that platform. I would like to mention one thing concerning the two institutions that are being mentioned in this House. This Bill is creating a new institution called the Counties Pensions Scheme. This is an institution that is going to merge the two and create sanity in what has been happening. It does not seem to give prominence against the other. The retirees are suffering from management of their issues. Some of them ought to have been prepared enough to start a life after retirement. Therefore, a reliable pension scheme is important. However, we need to be cautious with some of these Bills. The Bill provides that the fund should be invested somewhere else. It is not clear where the revenue from the investment is going to be used. We would, therefore, propose that this money goes back to the National Treasury as Appropriation in Aid. Looking at the architecture of the scheme itself, it seems to be quite promising that it will deliver what is required to be delivered across the country in all the counties. So, the Bill stands a chance to resolve the problems that exist. Passing such a law will give confidence to county government workers at all levels and therefore, enable them to receive their money after retirement. One of the problems that we have in this country is payment of money to the aged. This is not necessarily linked to this Bill, but there is need for us to look at that more carefully. Those who are over 70 years old have a lot of problems getting their money. This scheme needs to resolve such problems to make sure that it is smooth and it is easy to access the money.

With those few remarks. I support.

**Hon. Deputy Speaker:** We will proceed. I see Hon. Waruguru, Member for Laikipia.

**Hon. (Ms.) Catherine Waruguru** (Laikipia CWR, JP): If you allow me, I will donate my minutes and request to contribute in the next Motion.

*(Loud consultations)*

**Hon. Deputy Speaker:** Hon. Members, let us allow Members to debate. Let me give this opportunity to Hon. Muturi Kigano.

**Hon. Clement Muturi** (Kangema, JP): Thank you, Hon. Deputy Speaker. I rise to support this very important Bill. Being a Private Member's Bill, I wish to congratulate Hon. Njagagua for the research that he has done on the Bill. I also wish to congratulate Hon. Njagagua for the time he has taken on researching material for this Bill. With a lot of respect, it is fairly dishonest for any Member to try and discourage the effort of a Private Member.

It is also important that whoever stands opposed to this Bill takes opportunity to read the memorandum accompanying it. I have gone through and perused it. It is very well researched by the sponsor. This Bill and the law in it, is long overdue. This is because since the defunct county governments, there has been no other initiative to cater for the staffers of county governments. The Bill is in tandem with our Big Four Agenda. It also augments other efforts like the NSSF in catering for our brothers and sisters in county governments.

It demonstrates a major shift towards achieving a welfare society. It will also try to wade off discrimination because our brothers and sisters who work in the public service feel discriminated. Equally, the Bill is geared towards building capital that is essential for our development and Big Four Agenda. It is a bit fallacious to hear a Member saying that there are some cartels trying to get this capital. If you go through the Bill, you will see that the money is well audited. Provision for audit is there and for running the scheme and there are also tribunals.

With those few remarks, I support.

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

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

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): The Hon. Gitonga Member for Tharaka.

**Hon. George Gitonga** (Tharaka, DP): Thank you, Hon. Temporary Deputy Speaker. I rise to support debate on this Bill and especially because it is a Private Member's Bill. It is a policy and practise of this House to encourage Private Members to bring Bills.

There has been a ruling that this Bill proceeds to debate up to conclusion and therefore we are within our rights to stand to either support or oppose. I do not think we should have any objections because those matters have already been decided on. Therefore, it is for the House to decide whether the Bill passes or not.

This is a very important Bill establishing the County Pensions Scheme. These are schemes that will run through the 47 counties of the Republic and they will be especially beneficial to the employees of the counties. It is elaborate in terms of establishment of the pension scheme and also how it is going to be managed, which is very important. We are aware

of schemes that have been established and have not been run properly. They are always under scrutiny by the Retirement Benefits Authority. Even, there are schemes which have been cancelled because of mismanagement.

These are public funds which must be taken care of through appropriate legislation. That legislation is what we have before this House through the effort of a Private Member. Let me talk about the importance of a pension scheme to the Members of the county governments. In fact, without gainsaying, there have been dismissals in most of the counties when a new regime comes in. There is wanton process of dismissing employees, some with reasons and others without, some fairly and others unfairly. These employees have found themselves in the streets without a job, one day and it is important if they had a scheme which they can fall back to.

We know that there have been cases of litigation in the counties regarding dismissals and some of them have ended in a manner that is unfair to employees who have found themselves destitute. It is because of this destitution that we as a House should come to the aid of employees of county governments, so that they have a fallback position of a pension, in case they find themselves jobless.

It is also important to say that county governments should be discouraged from sacking, dismissing or in any manner terminating employment of employees in unfair and unjust manner. It is not fair and cannot be just that when a new regime takes over a county government its first business in that county are the employees. They try to replace them either as ghost or incompetent workers who were not properly employed with new employees.

Those new employees possibly are recruited on the basis of either political or personal inclination. This is a practice that we should all frown against and discourage. This is why we are saying because it is inevitable that employees of the county governments may find themselves in such scenarios, we have a properly set up pension scheme that will cushion them against such malpractices.

With those few remarks, I support this Bill and urge Members to pass the same.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Olago Aluoch.

**Hon. Members:** Put the Question.

**Hon. Olago Aluoch** (Kisumu West, FORD-K): Thank you, Hon. Temporary Deputy Speaker. I wish to support this Bill by Hon. Njagagua. In so doing, I want to say that the level of legislative draftsmanship which went into this Bill is excellent. I have had Members talk about this Bill. So, I want to give the House the benefit of institutional memory that I have. I had the privilege of serving in the 10<sup>th</sup> Parliament after the promulgation of the Constitution 2010. When the county governments came into force our problem in the 10<sup>th</sup> Parliament was how to ensure that the pension schemes, the annuities and all the others; that had been mismanaged by the municipal councils, county councils and civic council were safeguarded. To do that, in 2011 with the Urban Areas and Cities Act 2011, we came up and inserted the specific provision, Section 49, which reads as follows:

“All members and officers of a board shall, on the commencement of this Act, subscribe to an existing pension scheme approved by the Retirement Benefits Authority.”

In 2012, we created the County Government Act. That was in the 10<sup>th</sup> Parliament. Again in that Act, we inserted Section 132 deliberately. It reads:

“All members, officers and staff of the county governments shall subscribe to an existing pension scheme for officers and staff of a local government.”

These two provisions were meant to protect workers whose salaries were being deducted to go to pension schemes, but were not being remitted to pension schemes. At the end of it, staff

would retire at 65 or 60 and they would have nothing to go home with. It was a very painful experience. You can imagine all of us here, young or old, at some stage we will have to retire. If you retire at 65 or 70 and you go home without anything, I can assure you within two years you will die out of frustration and stress. So, these two provisions were meant to safeguard the interest of the workers.

In setting up this Bill, I notice the Attorney-General has actually approved. I also note that the Treasury, in circular No. 18 of 2010, also gave directive as follows:

“In particular, you notice that it is critical for the scheme, the LAPTRUST umbrella retirement scheme, which is expected to act as an umbrella scheme for the county governments when they establish their retirement benefits scheme...”

The Treasury gave the directive, having looked at all the circumstances surrounding the issue of pension for staff of county governments. There has been a tug of war that has ended up in court between LAPTRUST and LAPFUND. What I see in this Bill is an attempt to reconcile those two differences so that the interest of workers of county governments are put under one basket and safeguarded. The amount of investment that LAPTRUST has put in place needs to be guarded. This is because since 2011 up to now, the amount of funds that they have received from workers and which they have invested is quite substantial. If this Bill is rejected, it simply means that the amount of investment that has been put in place by LAPTRUST will go into disuse and may not come to see the light of day.

I notice that Members who spoke before me have opposed this Bill on the ground that a similar Bill is pending before the Senate. I want to make it categorical that what we have before us in this Bill is a pension scheme. What is pending before the Senate is not a pension scheme. It is a provident fund and annuities. If anybody doubts what I am saying, consult your actuary. He will explain to you what is meant by provident fund or an annuity. Members and staff of county assemblies are our constituents. We all come from counties.

**Hon. John Mbadi** (Suba South, ODM): On a point of order, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Mbadi, what is out of order?

**Hon. John Mbadi** (Suba South, ODM): Hon. Temporary Deputy Speaker, with all due respect to Hon. Olago, I think he is referring to another Bill in the Senate which was originated by Hon. Sakaja, if I am not wrong. The Bill we are referring to was introduced in the National Assembly and passed in the National Assembly. It is about retirement of staff of the county assemblies. It is not about a provident fund. It is a county retirement scheme, which is the same thing as county pension scheme. However, it is now in the Senate for concurrence. So, the one that Hon. Olago is referring to...

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Mbadi, you are not addressing Hon. Olago Aluoch. You are addressing the House. In any event, we have this Bill before us. We do not have the other one that is wherever it is. So, I do not think it is in order.

**Hon. John Mbadi** (Suba South, ODM): Hon. Temporary Deputy Speaker, I just wanted the House not to be misled to think that the Bill... I am sorry if I was addressing Hon. Olago. I think it is just the position of my body. Probably we need to define, in the Standing Orders, how you should stand while addressing the House. However, I take counsel. Next time I will stand looking at you but addressing an issue which my other colleagues have raised.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Olago Aluoch.

**Hon. Olago Aluoch** (Kisumu West, FORD-K): Thank you, Hon. Temporary Deputy Speaker. That is a point of argument, but I take note of it all the same because Hon. Mbadi and I served in the 10<sup>th</sup> Parliament.

I was saying that the provisions of this Bill will cover the interest of workers of counties. If there is any provision in the Bill that we think is not acceptable, let us amend it, but let us not throw away the baby with the bath water. This is because this Bill is very well thought out. As I sit down, I wish to urge my colleagues, Hon. Members in this House, that let us accept it the way it is, but if necessary, let us introduce amendments in the Committee of the whole House so that we then protect the interest of workers.

I was looking at the gallery and I see distinguished guests who appear to be older than I am. I am one of the oldest in the House. They appear to be older than me. I am sure this concerns them. Thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Order, Hon. Members! I wish to recognise, in the Public Gallery, leaders from Gatanga Constituency of Murang'a County. They are welcome to observe the proceedings of the National Assembly.

We will give this opportunity to Hon. Fabian Muli.

**Hon. Members:** Put the Question.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Members, we must be orderly.

**Hon. Fabian Muli** (Kangundo, Muungano): Thank you, Hon. Temporary Deputy Speaker, for giving me a chance.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Members, Hon. Muli has every right to speak to this because the time allocated for this is still alive. So, allow him to also express himself.

**Hon. Fabian Muli** (Kangundo, Muungano): Thank you, Hon. Temporary Deputy Speaker, for giving me time to contribute to the debate on this Bill. If you look at Article 96(2) of the Constitution, the major duty of the Senate is to participate in making laws and they approve Bills which concern county governments. However, the question is: If they do not approve Bills which are matters of concern to the Kenyan citizens, what are we supposed to do? Article 95(2) of the Constitution says that we are supposed to deliberate on matters of concern to the Kenyan citizens. That is why I am saying it is the mandate of this House to bring any matters of concern, whether they are in the Senate or any other category of discussion.

Today in this nation, we have schemes, programmes and projects which do not have proper policies, Bills or any framework to legislate what is happening, especially when we have the county governments. We are talking about schemes. We have schemes which do not have proper laws. Some laws are not even aligned to the Constitution 2010. That is why I support this Bill. I support it on the point that we need to support the existing programme of this country to have the laws which give a framework on how it is done. The pension scheme is ongoing. It is important and it will be important when we give uniformity of this scheme across the country. The jurisdiction of Kenya needs schemes which are unified and have the laws which show how it is supposed to be done. That is why I stand to support this Bill. Thank you.

**Hon. Ferdinand Wanyonyi** (Kwanza, FORD-K): On a point of order, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Wanyonyi, what is out of order?

**Hon. Kassait Kamket** (Tiaty, KANU): On a point of order, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Kamket, Hon. Wanyonyi is on a point of order. Prosecute yours after his.

**Hon. Ferdinand Wanyonyi** (Kwanza, FORD-K): Hon. Temporary Deputy Speaker, I stand under Standing Order No.95. Seeing the mood of the House and having contributed to this Bill, can we call upon the Mover to reply?

**Hon. Members:** No. No.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Members, just hold your horses. I will put the Question.

*(Loud consultations)*

Order! Order! Hon. Members, you have to read your rules.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Order Members! You have to read the rules. Look at the Standing Orders. Order, Hon. Koyoo!

**Hon. Members:** On a point of order, Hon. Temporary Deputy Speaker! There cannot be anything out of order when the Speaker is on his feet.

*(Hon. (Ms.) Gladys Wanga spoke off record)*

Hon. Wanga, you are out of order! There must be order in the House. Hon. Members, this House belongs to all of us. We must follow the rules. I will put the Question. This is the way to go.

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

**Hon. Kassait Kamket** (Tiaty, KANU): On a point of order, Hon. Temporary Deputy Speaker!

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): There is no point of order, Hon. Kamket. You will have to hold your horses. There is nothing out of order. Hon. Kamket, what is it?

**Hon. Kassait Kamket** (Tiaty, KANU): Hon. Temporary Deputy Speaker, thank you very much. I rise under Standing Order No.96 (1) which states:

“A Member who wishes to postpone to some future occasion the further discussion of a question which has been proposed from the Chair may claim to move “That, the debate be now adjourned” or, in the Committee of the whole House: “That, the Chairperson do report progress.”

My proposal is that we adjourn debate on this Bill because...

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Kamket you are out of order because we have already closed the debate on this. The Mover will just reply.

The Mover, Hon. Njagagua, proceed.

**Hon. Charles Njagagua** (Mbeere North, JP): Thank you very much, Hon. Temporary Deputy Speaker. Hon. Temporary Deputy Speaker, before I reply, I wish to donate five of my

minutes. I will donate two minutes each to Hon. Kangogo and Hon. Rahim, and three minutes to Hon. Kositany, with your kind permission.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Njagagua, the House has made a decision to give you an opportunity to reply. Kindly proceed to do so.

**Hon. Charles Njagagua** (Mbeere North, JP): Thank you very much, Hon. Temporary Deputy Speaker. In response, I thank all the Members who contributed to the Bill. Their contributions have enriched the Bill. In particular, I congratulate Hon. Wanyonyi who noted that persons living with disability should retire at 65 years and not at 60 while we had stated that the retirement age of the pensioners – the members of this scheme - will be at 60 years.

I wish to comment on one matter that was raised by Hon. Osotsi who said that the main purpose of this Bill is to assist certain cartels who are presumed to be running this scheme. He went ahead to mention a few companies. That is very unparliamentary and unprocedural because those people do not have the opportunity to respond to what was said. You must appreciate that Clause 30 of this Bill is very clear that all the monies that will be contributed by the pensioners and scheme members will be audited by the Auditor-General. Those will be public funds which will be exposed to audit every year by the Auditor-General. Therefore, public funds shall not go to waste.

Quite a number of Members have supported this Bill. It will assist retirees to have something to fall back to on their 60<sup>th</sup> year once they retire.

Of much persuasion to this House is what is currently happening with our previous councillors. I am certain that every Member has been approached by former councillors in his constituency. They seek to be paid their pension. That happens because when they were in active employment, their previous employers - the local government and the county authorities - were not remitting their pension contributions. That is the main purpose of the Bill. Those persons currently working in the counties will have something as a fall-back position and safety net once they retire.

We must appreciate that we have taken care of our brothers in the Muslim world. That is why there is a provision for a *Sharia* Supervisory Committee that will advise the board on matters *Sharia*. This scheme will be run in tandem with the Muslim law and will not transgress against the faith and the denomination of Muslims.

I urge this House to pass this Bill so that the people working in the county governments are taken care of once they retire. It will also bring in a welfare society in this country. That will...

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Members, I can discern that there is a lot of excitement about this particular Bill or something else that is coming up later. It is only fair that we give Hon. Njagagua an opportunity to prosecute his reply so that he can even hear himself. Just give him two or three minutes then you will make your decision.

**Hon. Charles Njagagua** (Mbeere North, JP): Thank you, Hon. Temporary Deputy Speaker for coming to my aid. The consultations were too loud.

The Bill states that if you contribute to this scheme, you are exempt from contributing to the NSSF. It means that the members of this scheme will not be exposed to double jeopardy, in that they contribute to both the NSSF and this scheme. We have made that election that if you become a member of this scheme - which is voluntary, nobody is being forced to contribute money to it - you will be exempt from contributing to NSSF.

Again, this Bill tries to operationalise Section 132 of the County Governments Act.

With those few remarks, I pray that the Members of this House deem it fit to support this Bill.

*(Hon. Samuel Atandi ran along the gangway)*

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Atandi, you are not allowed to run in the House. It is important that we acquaint ourselves with our Standing Orders so that we have an orderly House and respect our own rules.

**Hon. Members:** The ‘nays’ have it!

*(Loud consultations)*

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Members, that decision is made by the Speaker. I will retake the Question. It has been fairly controversial. I am allowed to do that, Hon. Nyasuna.

*(Question put and negatived)*

*(Applause)*

Order, Hon. Members! Order, Hon. Mbadi! Hon Members, we will make progress. I direct that the next business be called.

The Chairperson of the Public Investments Committee (PIC), proceed.

**Hon. Abdullswamad Nassir** (Mvita, ODM): Thank you very much, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Serjeant-At-Arms, there are Members who are retreating from the House and crowding the gangway like Hon. Dawood. I can see an Hon. Member making phone calls. This is outright disrespect to this House. If you want to leave the Chamber, do so. Let those who want to prosecute business do so. Member for Mvita, proceed.

**Hon. Abdullswamad Nassir** (Mvita, ODM): Thank you very much, Hon. Temporary Deputy Speaker. First and foremost, I would like to thank you and to give a re-cap of our mandate, as a Committee. Protect me from the Members.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): These Members who are crowding here at the Dispatch Box, kindly consult in lower tones, so that the Member for Mvita can prosecute the business of this House. Hon. Chair, kindly prosecute the Motion as it is. Leader of the Minority Party, can you advise these Members to consult somewhere else, so that the Speaker can hear the Member for Mvita prosecuting what he needs to do?

**Hon. Abdullswamad Nassir** (Mvita, ODM): Thank you very much. I need to appreciate and thank you for bringing some order in the Chamber.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Chair, kindly move fast. Move the Motion as it is on the Order Paper and then you can say all those other things.

There are Members who are standing in the gangways. Hon. Nyasuna, you said that you have a doctor’s appointment. You seem to be having it in the gangways of Parliament.

## MOTION

## TWENTY-SECOND REPORT ON AUDITED FINANCIAL STATEMENTS FOR STATE CORPORATIONS

**Hon. Abdullswamad Nassir** (Mvita, ODM): Hon. Temporary Deputy Speaker, I beg to move the following Motion:

THAT, this House adopts the Twenty-Second Report of the Public Investments Committee on Audited Financial Statements for State Corporations, laid on the Table of the House on Tuesday, 6<sup>th</sup> November 2018.

I need to give a re-cap and I will not take very long even if I am entitled to a whole hour. The contents of the Report will speak for themselves. I want to give an overview. The mandate of this Committee as per the Standing Order No. 206 is to examine the reports and accounts of the public investments; examine the reports, if any, of the Auditor-General on the public investments; and examine, in the context of the autonomy and efficiency of the public investments, whether their affairs of the public investments are being managed in accordance with sound financial or business principles and prudent commercial practices.

This Committee began its sitting from February 2018. So far, we were able to hold 91 sittings in which the reports of the Auditor-General on the accounts of 21 State corporations were examined for various financial years.

In the execution of our mandate, we were guided by the National Assembly Standing Orders, the Constitution of Kenya, the National Assembly Powers and Privileges Act Cap.6, the State Corporations Act Cap.446, the Public Procurement and Disposal Act, 2005 and the current one of 2015, the Public Procurement and Disposal Regulations 2006, Public Audit Act, 2003, Public Procurement and Asset Disposal Act, 2015 among many others.

In our submissions, we were able to receive information through both oral and written evidence from Chief Executive Officers (CEOs) of various State corporations and relevant witnesses. These were issues that had been raised by the Auditor-General for the various State corporations which are found under appropriate sections of the report of each particular State corporation.

If our observations and recommendations are taken into account and implemented by this House, they will enhance accountability, efficiency, effectiveness, transparency, prudent management, commercial viability and value for money in State corporations and public investments sector as a whole. The record of evidence adduced, documents and notes received by the Committee form the basis of the observations and recommendations of the Committee as outlined in the Report. They can be obtained in the minutes of the Committee's proceedings.

At this point, allow me to first and foremost congratulate and thank this very able Committee. At this juncture, if you will allow me, I would like to call out the names of the Members; my able Vice Chair, Hon. Ahmed Abdisalan; Hon. Rashid Kassim, Hon. Joash Nyamache, Hon. Raphael Wanjala, Hon. Omar Mohamed Maalim, Hon. Ahmed Kolosh, Hon. Justus Kizito Mugali, Hon. Thuku Zachary Kwenya, Hon. John Muchiri Nyaga, Hon. Mary Wamaua Njoroge, Hon. James Kamau Githua Wamacukuru, Hon. (Prof.) Mohamud Sheikh Mohammed, Hon. (Dr.) Chris Wamalwa who also happens to be our Deputy Whip; Hon. Babu Owino, Hon. Gladys Wanga, Hon. Paul Kahindi Katana, Hon. Mohamed Hire and Hon. Purity Wangui Ngirici who also leads the Women Caucus of Members of Parliament of this very House.

Hon. Temporary Deputy Speaker at this juncture, I would also like to thank and congratulate my brother Hon. Tindi Mwale, who was a very active Member of this Committee.

Equally, I thank Hon. Gideon Mulyungi who was also a Member of this Committee prior to the Committee doing its report.

As I had said earlier, we have been able to query 21 State corporations. They range from the Geothermal Development Company (GDC), National Social Security Fund (NSSF), National Health Insurance Fund (NHIF), Kenya Medical Supplies Agency (KEMSA), Kenya Power and Lighting Company (KPLC), National Council for Population and Development (NCPD), Kenya Industrial Research and Development Institute (KIRDI), Kenya Electricity Transmission Company (KETRACO), Kenya Railways (KR) which has the Standard Gauge Railway, Kenya School of Law (KSL), the Competition Authority, National AIDS Control Council (NACC), Nairobi Centre for International Arbitration, Privatisation Commission, National Cereals and Produce Board (NCPB), Centre for Mathematics and Science, Kenya Copyright Board, the Unclaimed Financial Assets Authority, Kenya Library Service, Jomo Kenyatta Foundation and the Technical and Vocational Education Training (TVET).

Before I go into some issues, I would like to point out a number of things we have seen in a majority of the State corporations. One of them is delay in appointment of members of the boards. Majority of the State corporations do not have active boards. As a result, decisions are made without the board giving proper assessment of value for money. Some of them do not have active CEOs. They only have CEOs on acting capacity. As a matter of fact, some of the State corporations to date have acting CEOs. This is because the board compositions of State corporations have been wanting. For example, as of April 2018, the NSSF Board had no chairman. The NIHF Board had two vacant positions. The Kenya Airports Authority had no chairperson. The Kenya Railways Corporation had no chairperson. There are many others.

We recommend that the relevant appointing authority for the respective board members should ensure that all vacancies in all boards of various state corporations are filled within 90 days and the tenure of board members is staggered to avoid where their term expires at the same time. We recommend that this House amends the State Corporations Act to make it clear that no entity should be allowed any financial commitment without having a fully active and constituted board of directors. The Inspectorate of State Corporations should generate and share her status with the presidency and Parliament indicating the state of boards of State corporations. In fact, that should include the current status of boards as well as an indication of which board members are close to completing their terms.

At this juncture, I would like to remind this House that it is this very Committee that censured the Inspector of State Corporations to give a breakdown of State corporations that do not have a board. It is upon giving this information to the rest of Kenya, through this very House, when it was realised that close to one-third of State corporations were not properly constituted. The Executive filled those positions. With regard to the position of CEOs and managers of State corporations, they should not be left vacant for more than a period of 12 months. We can understand that a position should be advertised and competitive recruitment done. But, it is wanting when we see a position vacant for years and have acting CEOs making financial decisions worth billions of shillings.

Another issue we have noticed is lack of ownership documents for land and buildings. This spreads across a majority of State corporations. One of them is the NSSF that has lands in Mavoko and Upper Hill. The National Land Commission (NLC) and the Ministry are yet to resolve issues. The Kenya School of Law owns property in Upper Hill and the National Council for Population and Development owns land in Murang'a, Kisii and Nairobi and several parcels of land belonging to Kenya Railways.

The Committee has observed painful, long-time audit queries. They have been going back and forth, some for decades now and are yet to be resolved. We recommend that accounting officers whose corporations have issues with land should liaise with relevant Government agencies such as the Ministry of Lands and Physical Planning and the NLC among others to ensure they secure ownership documents for all corporations' land.

The difference in our Report and the previous ones is that we have indicated timelines and timeframes that we feel are enough for the NLC. It is not sufficient to recommend that the NLC should resolve these matters. We have gone further and if the NLC feel they need more time than that, they should start reverting to the Committee on Implementation as to why they need a longer time. In many cases, we have given a variance between 90 to 120 or 180 days when issues of land should be cleared.

The Cabinet Secretary for Ministry of Lands and Physical Planning and the chairman of NLC should put caveats on all parcels of land belonging to State corporations that are currently in possession of land grabbers. We saw, the day before yesterday, during the launch of the Kenya Coast Guards, fish landing sites and many other areas which people are now giving back voluntarily to the rightful State agencies which in turn hold the land in trust for the people of Kenya. We urge everyone who took this land to return it to the people of Kenya. The NLC should prioritise and expedite resolving ownership issues surrounding parcels of land belonging to State corporations. We fail to understand why the NLC works with haste when it is private land they are dealing with, but when it is land that belongs to State corporations, they take their sweet time.

The Judiciary should consider prioritising and expediting conclusion of cases involving illegal acquisition of public land with a view of restoring it to the public. Any officer who causes delays in processing of title deeds should be personally and severally held responsible going forward unless the delay is caused by judicial action.

The other thing that we have noticed that runs across is poor implementation of projects and concept of the same. Our intent as a Committee is that we will, in every quarter of the year, present a report. In the next report, you will be seeing issues like the Kenya Airports Authority (KAA) which is not here but issues where implementation of some of these projects is yet to take effect. There is also an issue like the construction of a multi-storey car park that NHIF ended up paying a variation of 338 per cent which was due to change of Government funding policy. We also have the NSSF Hazina Towers which I must congratulate this Committee because at the right moment, we were able to save this country close to Kshs6 billion. I will get to those details later on but close to Kshs6 billion was saved courtesy of this Committee where we ended up having variances that were not making any sense at all.

We have had projects that have taken too long that are in this Report. The Kenya National Library Service Headquarters has been a project that has been ongoing from the year 2012. It was meant to be completed by June 2016. We are ending 2018 but the project is yet to be finalised.

We have the Kenya Industrial and Research Development Institute with procurement of leather processing and production equipment. By March 2015, items worth Kshs129 million were yet to be installed and put into usage. This of course results in vandalism and depreciation of this equipment. The Committee has noted that this resulted in loss of public funds through payment of interests on delayed payments. Our recommendation on the same is that accounting officers should always undertake feasibility studies on any project they wish to undertake before implementing it. Accounting officers should place responsibilities on entities with capacities to

monitor and implement projects to avoid unnecessary termination in variation. The Treasury should endeavour to allocate adequate budgetary provision to State corporations that are undertaking mega projects that are solely funded by the Government so that they are able to complete their projects within their scheduled time and thus minimise loss of public funds through payment of avoidable interests.

With regard to State corporations NSSF should only pay the amount that was recommended by the state Department of Public Works when it comes to the issue of Hazina Trade Centre.

One other thing that we have noted is the quality of audits. At this juncture, I congratulate the Office of the Auditor-General which, despite having serious human resource challenges, has been able to conduct audits. I want Members to understand where our concern is coming from. We are concerned that State corporations that are audited and the audits are done by the office of the Auditor-General have more issues, are more detailed and are of better quality than those State corporations that private auditors audit. I know that despite Section 23 of the Public Audit Act 2015 which allows the Office of the Auditor-General to outsource audit assignments, the Committee has noted a number of issues. For the case of Kenya Power Company, there was a direct indication there were no audit queries, yet that was not the case. It is for that reason that I will indicate what the Committee has been able to do. This applies to a majority of the State corporations in the energy sector which include KETRACO and many others. In the last 19<sup>th</sup> PIC Report, it was clear that strategic Government State corporations should be audited by the Office of the Auditor-General himself.

This Committee, in its recommendation, is insisting that the recommendations of the 19<sup>th</sup> Report should be taken into consideration. We should also amend the Public Audit Act so that we restrict outsourcing of audit of State corporations taking into consideration the strategic impotence and the turnover. Parliament should adopt regulations that guide the outsourcing of audit exercise of State corporations. The guidelines will give the Auditor-General directions on how to outsource. The National Treasury should allocate adequate resources and this House should approve those resources to be given to the Office of the Auditor-General so that they can employ more staff to efficiently audit all Government entities.

In the case which I have been able to talk about of the Kenya Power Company, this Committee has recommended that a special audit be done on a number of issues. One of them was where there was clear fraudulence like the issue of faulty transformer purchase. Secondly, we have given direction to the Office of the Auditor-General to equally give special audit on how the purchase of special tokens was done. We all know Kenyans lost millions collectively. If you are someone who loses a Kshs100 or Kshs200, it goes into billions. We need to know how outsourcing of these token cards was done.

One of the other issues that have been going on in most of these State corporations is variation of tender amounts. An example that I have already indicated was the NHIF. This is how sad it is. A sum of Kshs909 million blew up to Kshs3.97 billion noting an increase of 300 plus percentage. What we have indicated in our recommendation is that Chief Executive Officers and managing directors of State corporations should ensure that there is proper planning of projects, and that this is undertaken with credible...

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Nassir, I do not intend to disrupt you but did you say the figures of variation grew from Kshs900 million to Kshs3.7 billion?

**Hon. Abdullswamad Nassir** (Mvita, ODM): Kshs909 million to Kshs3.97 billion?

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): That is over 400 per cent, not 300 per cent.

**Hon. Abdullswamad Nassir** (Mvita, ODM): 338 per cent.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Very well. Proceed.

**Hon. Abdullswamad Nassir** (Mvita, ODM): I had indicated it was in excess of 300 per cent. The Chief Executive Officers who exceed the maximum contract variation of 25 per cent should be surcharged for the variation in pricing by their respective corporations over and above the allowed threshold in law.

Hon. Temporary Deputy Speaker, we have indicated what should be done. I will talk about implementation of not only the PIC, PAC or the Special Funds Account Committee (SFAC), but also recommendations for every other Committee. I will indicate what our concern is and what needs to be done.

The other issue that cuts across is the issue of investment by State corporations. Some of the investments that have been done have had an issue of unrecoverable loss like where ownership of land is in dispute or is lost thereby failing to realise value for money. An example is the NSSF that has invested heavily in land and buildings in Mavoko. Until today, one of these issues like that of Mavoko had so many other players. This is why we are also concerned with the NLC. Those who actually claimed to own that land ended up surrendering that title. We are wondering why officers at the NLC are taking their time to ensure that they neutralise the situation and return that land to the rightful owner.

Even on a case like that, the NLC has sat tight on the same. There are many others such as the Kenya Railways Corporation where they invested Kshs800 million in a bank that has since died—the Chase Bank. That bank is currently under receivership. Our recommendation is that State corporations should ensure that they diversify their investment portfolios to maximise on profit and safeguard against losses. This House should enact legislation outlining guidelines relating to the investment of surplus revenue. Parliament should enact legislation to regulate the deposit of money in private banks by State corporations.

Regarding implementation of this Committee and many other committees, we recommend that parliamentary Committees form sub-committees that will work closely with the Committee on Implementation to track and report on each Committee's status of implementation of recommendations as well as provide institutional memory during examination of accounts.

Another issue is with regard to special audits. In the process of examining, we as a Committee were able to get information through whistle blowers; we were able to gather more information even as and when we were going through the deliberations. One of the special reports expected before this House will be on the Line Five replacements by the Kenya Pipeline Company. That has also seen a variation in billions. We are going to see another where we have had unaccounted for transit goods destined to neighbouring countries by the Kenya Revenue Authority (KRA). I would like to give a case example here. The whistle blower indicated that there were about a thousand containers that had gone missing. When we engaged the Office of the Auditor General, these figures ended up reaching close to 4,000 containers. They could be missing; their whereabouts is unknown. We need to find out where these containers have gone.

There is something of concern; a nation that is not able to feed its people is a nation that is literally on its knees. We have asked for a special audit on NCPB mainly on the purchase of maize stocks for the Financial Year 2017/2018. Now, it is even more wanting. Despite their being a variance and an issue in the purchase itself, the fact is that it is because of people not being able to make decisions the right time. Even that maize is rotting while we have bumper

harvest. Because we have a bumper harvest, the NCPB cannot fill its silos because there is maize. How was that maize purchased? Was it purchased in the right way? It is wanting. Worse than that is the way they stored this maize. They cannot even offload the maize in their silos onto the market. Someone needs to take responsibility. The issue of hunger is the reason we are saying implementation, implementation, implementation. It is key.

This Report if adopted by this House will indicate timelines as well. In our Report and recommendations, there is an issue on the purchase of hydrant pit valves by the Kenya Pipeline.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Nassir, without disrupting you, I think there should be more on this purchase of maize stock and the apparent shenanigans that have gone in the maize industry and started the importation of this staple food to Kenya. The public or the Kenyan people expect us to give them a way forward on this. Have you ordered for a special audit in your recommendations here?

**Hon. Abdullswamad Nassir** (Mvita, ODM): Yes, we have. We have ordered for a special audit on both: the purchase and, equally, we want to find out how usable this maize that is currently there is. In fact, it is public knowledge that those in authority are currently saying that no one wants to buy that particular maize. So, how much money has been lost in this process? In our recommendations, including these ones, we will include not only being surcharged but also the most punitive measures on individuals. As I said, we cannot allow people to enrich themselves as Kenyans go hungry. This system has to end. It is an issue that is of concern.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): When do you intend to bring that one to the House?

**Hon. Abdullswamad Nassir** (Mvita, ODM): Unfortunately, the fact that they have to go through the silos in the whole country is what has taken them a bit of time. That is so that the Report can be credible.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Very well, proceed.

**Hon. Abdullswamad Nassir** (Mvita, ODM): The other special audit that this House will get is purchase of hydrant pit valves by the Kenya Pipeline and the issue of Excisable Goods Management System (EGMS). This is the stamping issue that has been done by the Kenya Revenue Authority.

At this point, allow me to give a brief overview of what the Members should expect from this very Committee. One of them is the issue of Kenya Power Company as I had earlier stated. The fact that these private audit firms.... I was a bit shocked when I got into....

*(Hon. David ole Sankok walked in the aisle)*

I think the Hon. Member is seeking attention.

It was a bit shocking when we sat down and realised that the then MD of KPLC actually comes with a single page. In that page he simply says: "You know what? According to us, we are 100 per cent clean." That is on one single piece of paper. At the same time, we are reading the concerns of Kenyans in the media; we are getting issues from whistle blowers as well. We encourage Kenyans to be more vigilant and to put this House to task.

We also encourage members of the Fourth Estate as well to highlight on issues that are affecting Kenyans so that this House can be able to rightfully do what needs to be done. What we have done regarding Kenya Power is to ask the Office of the Auditor General to go back. The issues that have been raised include high power bills. One of them has been occasioned by the

electricity token system. We are asking for a special audit on the system. The second issue is that of faulty transformers. There was the issue of the Geothermal Development Corporation as well. We have indicated and we are insisting that this should be done by the Office of the Auditor-General. When a State Corporation does something, it will always have an effect on another. One of them is the Kenya Electricity Transmission Company (KETRACO). There were delays in a number of their lines. The job of KETRACO is to transmit power and that means that their job is to take power from one source and send it to another. If the line ceases to be there, we will have losses at the point of origin of this power itself. The Committee has therefore recommended that the Office of the Auditor-General should conduct a performance audit to establish whether the process of procuring the Nairobi Ring Project was value for money. This includes loss of power. Every time power becomes expensive, it definitely makes the cost of living in this country go high.

Secondly, there was the issue of implementation of the Lessos-Tororo, part of the NELSAP project. The Office of the Auditor-General should conduct a performance audit to establish whether there was value for money on the same because there was a company in Spain which ended up going down and under.

I would like to give other examples as well. This is the issue of the Kenya National Library Service where, if the National Treasury does not allocate funds for the projects that they have already started and are completed, then every single year the account will be simply milked by contractors. There will ever be a variation caused by interest because payments have not been done. We are emphasizing that these delays should be stopped and they can only be stopped if Treasury allocates rightful amount of money so that those projects are completed. After that, the country can consider doing many other of the ambitious programmes that we currently have in place. I would like to give another example. I remember us walking into the meeting and very casually we were told that a contractor is requesting for Kshs 20 million per week because of delayed works. Not because work was done but because work was delayed. This amounted to Kshs 6.8 billion. Had this Committee not intervened at that very moment, we would have now talked about an audit query of Kshs 6.8 billion that had already been paid. The Ministry in charge of public works had not been involved from the inception of these projects, but when they came in, they were able to break it down and say that these figures should not exceed Kshs 800 million. That is the recommendation of this very Committee that will be adopted by you, Hon. Members.

I can see Members from Nairobi County with us here and this is something that touches on Nairobi. The National Social Security Fund signed a contract with a company which was to do a project called Nyayo Estate Embakasi. They went ahead and made payments for the work that had already been done. Now, what amazes us is that they did not seek authorization from Nairobi City Council and in the middle of construction, the Nairobi City Council stopped it because public facilities such as playgrounds had not been considered in the initial plan. There were concerns from the members of the public at that particular moment and this contract was meant to have expired by 2014. To date, this is an issue that is pending.

In our recommendation we have said that the NSSF should liaise with the Office of the Attorney-General so that they can confirm that the bank guarantee that was given by the contractor can be utilised in any other legal way. If this Kshs 215 million has gone to waste, someone should be held accountable. We are asking the Office of the Auditor-General to conduct investigation to establish whether the Ksh215 million was value for money.

Going forward, was the issue of the Kenya Medical Supplies Authority (KEMSA). The Constitution of Kenya is very clear and we are noting this with concern. Health is a devolved function but we have realised that in the year 2016/2017, the Ministry of Health paid KEMSA Kshs600 million for purchase of drugs. That is an accounting function. We are therefore saying that the national Government needs to limit itself from overly going into functions that belong to the county governments. County governments should provide budgetary allocation so that drugs can be purchased in due time. During the 2015/2016 and 2016/2017 Financial Years, KEMSA lost Kshs352 million through expired drugs. The exact figure is Kshs352,134,551. What caused this? Some of the factors that caused this were the doctors' strike. It happened during the period that medics were on strike. Without doctors, there was no one to prescribe the drugs. So, during this period, Kenyans suffered a huge amount and we are asking anyone before going on strike to ensure that all avenues are exhausted.

The other issue to note is that before the change of guard, the Ministry of Health would supply drugs to hospitals, for example, they would give drugs to Coast General Hospital, Tudor District Hospital and Mvita Clinic. I have used the hospitals in my constituency as examples. Whether you needed them or not, those drugs would be sent to you. Dr. Nyikal is here, I am sure when he contributes he will confirm that. That time, district hospitals would do barter trade amongst themselves. There was no written law. If there was cholera outbreak in Kilifi, the hospital management would approach hospitals in Mombasa, where there was no outbreak, to assist them with their cholera medication in exchange for malaria medication. The model that was used by KEMSA through the Ministry of Health was known as push system. They would simply push the drugs and the hospitals would end up sorting themselves out. Now, they have a system known as pull, where counties' demands are based on the amount of ailments that need drugs.

This goes to show that devolution has truly worked and resources are actually going to the right places. Because of change of guard, there was a huge drop in demand for drugs. The incoming governors decided to freeze everything. When they did that, it included freezing health at the expense and to the detriment of Kenyans. So, there was a huge drop in demand for drugs and when that happened, naturally it caused a very big problem in the health sector.

Our document has been signed by the majority of the Members and accepted by all the Committee Members. It is a 123 page document. This is one of the many Reports that this Committee will table in this House. Again, if adopted, it will ensure that our public investments are utilised in the right way and Kenyans can see value for money. At this juncture, I would like to request our able Vice-Chair to second me on the same.

Thank you, Hon. Temporary Deputy Speaker. I wish to thank the Members and Clerks of this Committee for going overboard and ensuring we have a very good Report. I equally want to thank the Office of the Auditor-General for the support they gave us.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): What is the name of your able Vice-Chair?

**Hon. Abdulswamad Nassir** (Mvita, ODM): Hon. Ahmed Abdisalan. He is already upstanding.

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

**Hon. Ibrahim Ahmed** (Wajir North, ODM): Thank you, Hon. Temporary Deputy Speaker. I rise to second this Motion. I want to join my Chair in sincerely thanking the Members

of the Committee for their commitment and sacrifice in ensuring that this Report was made despite their tight schedules.

I have no doubt that they have executed their mandate diligently without fear or favour. This was not an easy task. We held 91 sittings to deal with various State corporations, to do triangulation of information, make field visits and ensure that an accurate Report was compiled. A good number of the Committee Members including me happen to be new Members. We had a lot of passion in ensuring that a credible Report was compiled and of course, in the process we learnt.

This Committee was guided, as well raised by the Chairperson, by Standing Order No.206 (6) which clearly stipulates the function of the Public Investments Committee. Of course, in execution of our mandate we have also continuously referred to the Constitution of Kenya, the National Assembly Powers and Privilege Act (Cap. 6), the State Corporations Act (Cap. 446), the Public Procurement and Disposal Act, 2005 and 2015 and the Public Audit Act, 2003 and 2015.

I think the Chair was clear and he has elaborately summarised the Report. I also want to join him in raising issues that were cross-cutting along a number of State corporations. Some of these included, of course, the issue of implementation of the Committees' recommendations. It is unfortunate that PIC makes a number of recommendations, however, implementation is either not done or slow.

Just to give an example of this, you will find that three of the previous PIC Reports recommended that the Ethics and Anti-Corruption Commission (EACC) investigates the manner in which the National Hospital Insurance Fund (NHIF) multi-storey car park project was implemented. However, this was not done and a number of similar issues still exist. This clearly shows you that there are gaps with regard to implementation of the recommendations of PIC. I am conscious of the fact that Standing Order No.183 clearly states that Select Committees can establish sub-committees that they may consider necessary for proper discharge of their functions.

We recommend that it is necessary for us to establish a sub-committee on implementation that will directly liaise with the Committee on Implementation with regard to follow-up of this Report. I have no doubt the Committee on Implementation is doing good work. However, implementing reports from the different Committees of this House is not an easy task. Hence, there is need to have sub-committees which will liaise with them in following-up reports for implementation.

That said, it is also important to mention that the sub-committee is conversant with the Report and hence it will be easy to support the Committee on Implementation in ensuring that the same is carried out. You will find a country like India, with its two Houses, Rajya Sabha and Lok Sabha, have a sub-committee in each of their committees that directly deal with implementation issues. The basis is that those who have carried out that exercise are really conversant with their deliberations and hence follow-up for implementation is easy. I strongly recommend that the House approves the creation of these sub-committees to liaise with the Committee on Implementation.

The Chair has also very well raised that there is lack of ownership documents on land and buildings. A number of State corporations like the NSSF have no ownership papers of land in Mavoko and Upper Hill. The Kenya School of Law (KSL), the National Council for Population and Development (NCPD) and the Kenya Railways also lack ownership documents. The National Land Commission (NLC) is very slow in ensuring that land-related issues are resolved.

The tendency they have is that they mostly blame the Ministry of Lands for delay in availing documents.

The recommendations of this Committee are clear that the NLC must expedite processing of ownership documents. It should also prioritise and ensure that ownership documents are provided to State corporations. The management is required to give special consideration in ensuring that the necessary follow-up is met. You will find that a number of them are very slow or do not give the required attention in ensuring that ownership documents are acquired. I think the board of directors should ensure that the senior management, in their performance contract, undertake to obtain ownership documents for the land. It is their responsibility to follow up with their relevant offices to ensure that the same is received.

Hon. Temporary Deputy Speaker, the issue of the quality of audits was also well raised. We have noted that all outsourced audit assignments have revealed unqualified reports while State corporations have been observed to have a number of issues. A good example was the Kenya Power and Lighting Company. If you look at the Financial Year 2012/2013 running all the way to the Financial Year 2016/2017, they are given a clean bill of health. However, currently as we are speaking, senior managers are prosecuted for economic crimes. That tells you that there is a lot that is happening. I am cognisant of the fact that Section 23 of the Public Audit Act mandates the Auditor-General's Office to outsource audit services. However, when you look at Section 23(8), outsourcing of any audit services under this section shall not absolve the Auditor-General of any responsibility concerning the exercise of his or her powers under the Public Audit Act.

If you look at the 19<sup>th</sup> Report of the PIC, this House has resolved that audit assignments for strategic State corporations should not be outsourced. However, the Auditor-General has still continued to outsource audit for strategic State corporations, especially the energy sector. Our recommendation remains the same that the audit for strategic State corporations must be directly conducted by the Auditor-General himself and not outsourced. Article 226(4) of the Constitution clearly states that the accounts of the Auditor-General's Office shall be audited and reported by a professionally qualified accountant appointed by the National Assembly. So, it is the responsibility of the National Assembly to ensure that it appoints an auditor to audit the work of the Auditor-General also. I guess the chairman has donated some minutes and I can see there is a red light.

Hon. Temporary Deputy Speaker, as the chairman has correctly mentioned, because of this...

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Go ahead and second. There was no minute donated to you, Hon. Abdisalan. Be on record as seconding.

**Hon. Ibrahim Ahmed** (Wajir North, ODM): I have a lot to raise but at this juncture, let me second this Motion.

*(Question proposed)*

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Members, there is quite a bit of interest. I will be guided by the manner in which Members have registered interest. I can tell. The top most in my list is Hon. Wakhungu Wamalwa. I hope I pronounced the first name correctly.

**Hon. (Dr.) Chris Wamalwa** (Kimini, FORD-K): You have done it very well, Hon. Temporary Deputy Speaker.

Thank you, Hon. Temporary Deputy Speaker, for this opportunity. I would like to take this opportunity to support the PIC Report. First, I thank the Chairman, his Vice Chairman and the entire Committee because coming up with such a Report is not easy. I also thank the clerks who have been very committed and who have worked round the table to bring this Report. We do know very well that committees are the ones that generate business for the plenary and the PIC is one of the oversight committees. We have PAC and PIC. The Public Accounts Committee heavily focuses on the ministries and PIC's focus is mainly on State corporations, more importantly when it comes to matters of value for money.

I thank the Chairman and the Vice Chairman. They have moved it very well and I can see the keen interest that the Members have shown. One of the critical issues that cut across this work is we realised that when it comes to State corporations, the Government spends a lot of money but in terms of the governance structure, the boards across the State corporations are particularly not well constituted. This gives a loophole for people to steal public funds. You will find the CEO of a particular corporation reporting to a board with no chairman. When you look at the State Corporation Act, His Excellency the President is the one responsible for appointing the Chair of a State corporation in terms of the board then the relevant CSs are the ones to appoint the members of the board. In some of the critical parastatals, you find the board is not well constituted. You find the CEO at one time manipulating the entire board. He is the one to make decisions. When you look at the governance structure and you look at the theory of governance...

*(A cat walked in the Public Gallery)*

**Hon. Simba Arati** (Dagoretti North, ODM): On a point of order, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): What is your point of order?

**Hon. Simba Arati** (Dagoretti North, ODM): Hon. Temporary Deputy Speaker, is it in order for the cat to walk around and run all over? Is that a Member of Parliament or an observer from the Speaker's Gallery?

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Did you say a cat?

**Hon. Simba Arati** (Dagoretti North, ODM): Yes, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): I will ask the Serjeant-at-Arms to pick up that.

*(Laughter)*

I am sure that will be sorted. I can see the staff are moving very fast on that. Hon. Wamalwa, proceed.

**Hon. (Dr.) Chris Wamalwa** (Kimini, FORD-K): Hon. Temporary Deputy Speaker, the role of the board when it comes to State corporations is to provide oversight in their management. It is supposed to approve some of the strategic decisions for investment. They are also supposed to fire and hire the management. However, when you go to some State corporations, His Excellency the President... We should develop a framework whereby you can have some minimum academic qualifications and minimum experience for people to be qualified to be appointed to the boards of those State corporations. I know very well the Executive has been using this to reward some people who, unfortunately, were rejected when it came to the

general elections. Sycophants were also appointed to those boards. Unfortunately, those people do not have the minimum threshold in as far as academics is concerned. So, it becomes very difficult to have a board of people who have not even gone beyond Form Four to go and oversee a CEO who has a master's degree, PhD and experience, particularly when it comes to financial matters. So, the issue of oversight becomes a problem. We are requesting the Executive, when it comes to appointment of the members of the boards of State corporations, they should appoint people who have the expertise. Look at State corporations like the Kenya Revenue Authority (KRA), KPLC, NSSF, Kenya Airports Authority (KAA), Kenya Pipeline Corporation (KPC) and Kenya Electricity Generating Company (KenGen), they handle billions as far as investments are concerned. So, when the Executive is appointing people in these boards, please look at the minimum qualifications, that is, the academic qualifications and issues to do with experience. Some of them cannot even interpret a balance sheet or a profit and loss account. We are requesting the Executive to do justice when it comes to appointing people to the boards because these boards are at strategic levels and they are the ones to provide oversight to the management.

Having said that, I want to come to the auditors. It is a requirement that where the Government has put investments, they must be audited by the Auditor-General. My colleagues have clearly put it. In some of the State corporations, as much as the Auditor-General is allowed to outsource, we have some strategic parastatals, particularly in the energy sector whereby, in the 19<sup>th</sup> Report of PIC that was passed on the Floor of this House, it was recommended that for issues of auditing, the Auditor-General should not outsource. Unfortunately, the Auditor-General has been outsourcing all through by using auditors from the private sector to audit firms like the Kenya Power and Lighting Company, the Kenya Pipeline Company, the Kenya Electricity Transmission Company Ltd and GDC and we smell a rat. That is why the recommendations in the 19<sup>th</sup> Report stated that the Auditor-General must audit those State corporations himself.

This House cannot legislate in vain. We cannot legislate, come up with resolutions and in the long run, they are not implemented by State corporations. It is important that the Chairman of the Committee on Implementation, Hon. Kenta, who is a senior lawyer and qualifies to be a Judge of the Supreme Court, takes note of this and moves speedily. In the last Parliament, the Committee on Implementation was sleeping on the job. I am happy that Hon. Kenta is picking it up. It is important that you pay attention to reports of oversight Committees so that they form the basis of your work. You must move speedily so that each parliamentary resolution is implemented to the letter. We should not wait. We cannot be wasting the taxpayers' money. We come up with resolutions and they are not implemented. I can see Hon. Kenta is nodding. From now henceforth, you should call the Auditor-General so that in future, the critical State corporations, particularly those in the energy sector such as KPLC, KenGen and KPC are never audited by Klynveld Peat Marwick Goerdeler (KPMG) or Deloitte & Touche. It should be the Auditor-General himself auditing them.

There is also the issue of the land. Across the board, most State corporations have land but do not have the documentation. Some of their land has been grabbed. One of the critical responsibilities of the National Land Commission is dealing with historical injustice and ensuring that those State corporations acquire their title deeds. Instead of the NLC hunting down land grabbers, they have gone there to enrich themselves. That is why the Chairman, Prof. Swazuri, is now out of the Commission. How I had wished that we move speedily so that we can have a Chair of the NLC. It plays a critical role. Across the board, land belonging to State corporations is being grabbed by some people connected to the powers that be and who are

senior Government officials. It is critical that State corporations hasten to acquire documents showing that they own the land.

Looking at the public procurement law, there is the issue of variation of tenders. Some small percentage is allowed. As my Chair and Vice-Chair clearly put it, you find the variation going to 400 per cent. There is collusion with those contractors. It is high time those contractors who collude with the managers are blacklisted so that they are not given any business.

I humbly request Hon. Members to support this Report so that it can be implemented and the Committee on Implementation follows it to the letter.

I support the Motion.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Next is the Member for Manyatta.

**Hon. John Nyaga** (Manyatta, JP): Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity to air my comments. I would like to take this opportunity to thank the Chairman and the Committee for burning the midnight oil to come up with this Report. Sometime last month, we were bashed that we have not presented any report. As a Committee, we decided that we will not table a half-baked report which Members might end up refusing to adopt.

I want to zero in on two State corporations out of this list which are so notorious when it comes to malpractice. There is the NSSF which when they were constructing Hazina Towers, deliberately and blatantly refused to involve professionals in the public works. They decided on their own to come up with a plan without even conducting a feasibility study. When construction of the building was at the 15<sup>th</sup> floor, that is the time they realised that they could not go up to the 36<sup>th</sup> floor. That clearly shows that no feasibility study or due diligence were done. When the project was being reviewed, it was supposed to cost the Kenyan taxpayers Kshs1.9 billion - almost Kshs2 billion. It was supposed to cost that at 36 floors. Now they have reduced the project to the 15<sup>th</sup> floor. What happens to the entire project sum amount which was to be spent?

In Nyayo Estate, they started a project without getting the requisite documents from the City Council, the National Environment Management Authority (NEMA) and the National Construction Authority. That is why they started getting problems with all those other city agencies. They had already paid 10 per cent of the sum which is Kshs215 million, which they stand to lose at the moment.

I request this House to adopt this Report and if possible, read it thoroughly. For most of the projects being done by State corporations, there is no clear road map of when the project will commence, when it will end and the amount of money that will be spent. There is a lot of variation. Variation means adding more money.

The other one is the NHIF. A parking lot which they were to construct was to cost slightly less than Kshs1 billion, that is Kshs900 million. The same project has now ballooned to almost Kshs4 billion. This shows how there is wastage in our State corporations. Currently, almost every State corporation in this Report requires the Auditor-General to conduct a forensic audit in order to get an in-depth understanding of what is happening. Most of them have outsourced that service to private auditors. You find that we give them a clean bill of health. After sometime, you hear there is a problem with the KPLC, KPC and the National Cereals and Produce Board (NCPB). This is a problem which is mostly created by the boards and management of those State corporations. We need to look at this critically if we are to succeed and stop wastage.

The other corporation is KPC. It purchased equipment then after some time they stopped the supplier and engaged another supplier. Ultimately, they are losing money in every valuation that comes up.

There is also the NCPB. They are purchasing maize which the farmers who supply are not being paid for. The same farmers purchase bags. At the same time, you find that the suppliers of those bags are complaining that they are not paid. It creates confusion and the National Treasury ends up spending a lot of money. In all those State corporations, the National Treasury is represented. It begs the question: Who is this? If the National Treasury is represented, why do we have all this wastage?

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Next is Hon. Passaris.

**Hon. (Ms.) Esther Passaris** (Nairobi CWR, ODM): Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity. First of all, I would like to say that I support this Report. I congratulate the Public Investments Committee under the chairmanship of Hon. Abdullswamad Sheriff Nassir for the work that they have done. Being in the Special Funds Accounts Committee, I appreciate what they have accomplished as a Committee. They have audited some of the State corporations we are looking at from 2012. They have examined the audit report from 2012, 2013 up to 2015 and 2016. This is not an easy thing for them to audit 21 State corporations. I really commend them for the work they have done, as a Committee.

As we sit here, I am disturbed that we come in here as committee Members and Members of Parliament who oversee State corporations and many other entities. I am a Member of the Departmental Committee on Health. So, I was aware that KEMSA had tried to write off quite a number of drugs. I also see that the figures that we were aware of are the same figures that PIC has picked on. We are losing so much money in this country through corruption. We are a country that might not even deliver on Sustainable Development Goals (SDGs) because of the amount of money that is being lost out of corruption. I know we had headlines of corruption and the promises that we would do this and that. However, we seem to have eased off on the headlines of corruption. We are looking here at the recommendations. I hope that the Committee on Implementation under the able Chair, Hon. ole Kenta, will move very quickly and come back within a month, when we come back from recess, and tell us what they have done with all these money that is being lost.

We are talking about the NLC and the title deeds. This Government has to stop passing the buck and saying it is this person or institution which is failing. If it is Ethics and Anti-Corruption Commission (EACC) that is not prosecuting cases, the NLC is not issuing title deeds or State corporations where huge sums of public funds were spent are not delivering service, what are we telling the people? We are passing the buck. The fact is all of us are equally responsible to make sure that the taxpayers' money is put into good use. I understand that we have so many State corporations that do not have boards. We have CEOs doing what they want. I hope that when the forensics are done and additional audits are conducted, we will pinpoint and say that we recommend this CEO to be suspended immediately.

We are looking at State corporations like NSSF where lots of money was used in projects. The NHIF used a lot of money to construct a parking lot. Should we actually feel? I sit here and get disturbed. I keep thinking whether all the Members in this House actually understand that we stand here, talk about issues and table such reports and we talk about the losses, then what?

Is EACC working? Are our systems working because we are high in debt and we are losing money? Every Committee comes in here and says the same thing that we have lost money

here. We recommend the EACC to do something about this but it is like we are joking. It is like we have not got it. The country has poverty. We cannot afford to have any more corruption. People cannot afford to bury their dead, get medical care and feed their children. People have communicable diseases because of failures in various areas. This morning, we were discussing whether we are coping with some of the things that are going wrong in this country. We have so much road carnage and cholera outbreak. All these are because we are not fighting corruption. When people start working for Government entities like the State corporations, we reward those who are politically correct but they are not correct for the job. I honestly feel that it is time for us to be sincere about whether we care about sustainable Sustainable Development Goal (SDG) No. 1, which is fighting poverty, Vision 2030 or Agenda 63.

As a country, we do not show that we care. When I look at all the money that is lost here – I hear of the public and fellow male Members of Parliament talk about women coming at a very high cost – it will cost about Kshs200 million. We are losing money and nobody cares. The National Land Commission and the CS, Ministry of Lands and Physical Planning have to issue title deeds. Where titles do not exist, it is important we go back and arrest people.

Our prisons are filled with people who steal Kshs20, Kshs100 or Kshs1,000. They are locked up for six months or two years yet people who work in State corporations, who steal billions of shillings or squander money without caring about investing in projects that will yield results, are free.

The NSSF is about retirement. Today we threw out the County Pensions Bill. Do we want to create institutions that collect money and squander it? The NSSF is about people's retirement and the NHIF is about universal healthcare but they are squandering what they have. Why do they not invest in health? Why do we not invest in old people's homes? Why do we not invest in manufacturing plants for drugs so that they become cheap? Why do we now invest so that we can see this country progress? The poor say that as long as we continue to do what we are doing, and if there is nothing more to eat, they will eat the rich. The people who sit in this Chamber and make decisions are the rich the poor will come for. Poverty is real. It is time we did something about these reports. It is time we said, as Kenyans, that anybody who runs a State corporation or a ministry should think before they make the next big deal to empower and enrich themselves and have parliamentary Committees come here to say how much they have stolen. Private auditors get big fat cheques. They audit such entities and give them a clean bill of health yet we see that institutions like Kenya Power Company have issues. They give unqualified reports because they are private entities. Do we need the west to say that a private audit firm that has given Kenyan parastatals a clean Bill of health is worth it? Where are we headed, as a country? This is so sad! Take a walk. I wish I could put all Hon. Members in a bus and take them to Mukuru kwa Njenga to see how Kenyan children live or take them to Kibera to see how people are displaced and poor. People eat dry *ugali*. They cannot even afford *maziwa lala* and they do not have vegetables. Even if vegetables were to be there, we are talking about food security. What is the quality of the food that we grow in this county? We have to be serious, as a country.

I appeal to all of you, as we look at this Report; there will come a time when we will have to collectively get together and walk to some of the parastatals and ask them what they are doing. I appeal to the President and his advisors to put in place boards of State corporations and put professionals in charge. It should not just be professionals because we once had a dream team. You can be a professional but a thief. Put people of integrity in charge – people who care about the vision of this country, the vision of our forefathers and the prayer in our National Anthem.

The more women we have in Parliament, the less corruption we will have because women are more empathetic towards poverty. Even slay queens are empathic because they are citizens of this country, and they have a right to rule as well.

With those remarks, I support the Report and commend the Committee for the good work they have done.

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

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Sankok, are you insisting on the point of order even after she is done? You are next on my list. You look like you want to forfeit that opportunity.

Hon. Sankok, you have the Floor.

**Hon. David ole Sankok** (Nominated, JP): Thank you, Hon. Temporary Deputy Speaker. This Report has come at the right time. Let me congratulate the Committee for doing a marvellous job. If we adopt this Report as a House, we will save this country from mega corruption.

I also want to commend Hon. Passaris because she spoke with a lot of passion. At the beginning, I was not listening to her but from the way she spoke and the passion she has for the poor of this country and the way she described some issues, I began listening. She said that if we do not fight corruption, then we will create more poor people in this country. If they have nothing to eat, definitely they will come to eat the rich. I am quoting her directly. This is a true statement despite the fact that she erred a bit by saying that if slay queens come to this House, then they will do a marvellous job.

This Report touches on issues of State corporations. I was once a chairman of a State corporation. A lot of taxes of our poor citizens are vested in the hands of those we leave to manage State corporations. What they do is to impoverish this country. It is to make this country poorer day in, day out. I do not know where some of these State corporations receive audit reports because all of them have clean bills of health, they are not corrupt yet money is being lost.

Let me pick some of the State corporations that we know. For instance, the Kenya Airways (KQ) is a State corporation doing business that is being done by Fly540, charging more than Fly540, having more aeroplanes than Fly540 but making more losses. Every day, we are resuscitating it.

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

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Order, Hon. Sankok. What is it Hon. Kolosh, Member for Wajir West?

**Hon. Ahmed Kolosh** (Wajir West, ODM): I would like to inform Hon. Sankok that KQ is not a State corporation.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): It does not look like a point of order, it is information. I am sure Hon. Sankok is well guided.

**Hon. David ole Sankok** (Nominated, JP): Thank you for that. I stay guided.

**Hon. Abdullswamad Nassir** (Mvita, ODM): On a point of order, Hon. Temporary Deputy Speaker .

**Hon. David ole Sankok** (Nominated, JP): I am congratulating the Chair and he is raising a point of order.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Order, Hon. ole Sankok. What is it Hon. Nassir Sherrif?

**Hon. Abdullswamad Nassir** (Mvita, ODM): Hon. Temporary Deputy Speaker, I am saying this so that I can assist Hon. Sankok on the same.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Are you giving Hon. Sankok information?

**Hon. Abdullswamad Nassir** (Mvita, ODM): It is both information and order.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): It cannot be both.

**Hon. Abdullswamad Nassir** (Mvita, ODM): If you will allow me just 10 seconds.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Sankok, do you need that information.

**Hon. David ole Sankok** (Nominated, JP): Yes, I need it from the Chair.

**Hon. Abdullswamad Nassir** (Mvita, ODM): Thank you. As Hon. Kolosh rightfully put it, Kenya Airways is not a State corporation, it is a State investment. What has happened after my meeting with the House Business Committee and parliamentary leadership, in terms of State investment, we as a Committee are going to be getting reports from the Investment Secretary on the performance of these entities. There is no auditing being done on the same that is passing through this House. We will be doing that.

Thank you.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Very well. Hon. Sankok, please.

**Hon. David ole Sankok** (Nominated, JP): Hon. Temporary Deputy Speaker, I am guided accordingly. I accept the guidance from Hon. Chairman not because he is Nassir but because he has done a marvellous job. You know when some of us see a very good report we at times get carried away. It is because we know the loss we are incurring as a country, from all those state investments or corporations to which we entrust billions of our taxpayers' money. You do not feel good when you hear a report of an investment that was supposed to cost Kshs900 million being exaggerated to cost almost Kshs4 billion because of a variation hence delays. This issue of variation of cost after the contact has started is what is milking us billions of shillings. So, this Report has come at the right time.

I support this Report more than 100 per cent. I do not have reservations this time round. I support it totally.

Thank you very much, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Next is Hon. ole Kenta.

**Hon. Richard ole Kenta** (Narok North, ODM): Thank you, Hon. Temporary Deputy Speaker. I am greatly honoured to contribute to this very important Report.

The first thing I would like to do is to congratulate the Committee; this is a thorough and implementable Report. As the Chairman of the Committee on Implementation, I would first of all like to assure the Committee and Members of this House that we shall ensure that Parliament does not act in vain.

*(Applause)*

In fact, we have already tabled nine Reports. I am telling the Committees, especially the PIC and PAC that we shall ensure that reports like this one are implemented.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Order, Hon. ole Kenta. What is it, Hon. Mbai? You seem to have removed it as quickly as you could. Hon. ole Kenta, please, proceed.

**Hon. Nimrod Mbai** (Kitui East, JP): Which Hon. Mbai are you speaking about?

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Yes, Hon. Mbai.

**Hon. Nimrod Mbai** (Kitui East, JP): I am not the one though. Maybe there is another Mbai around.

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

**Hon. Richard ole Kenta** (Narok North, ODM): I can assure Parliament that we shall act accordingly.

In fact, you realise that this country has gone to the dogs when you look at this Report. It is not a new thing. I think what this country needs is an overhaul of the systems in terms of the way things are done. When you look at State corporations, why do you think we are in such a quagmire? It is because we have tribalised them; we no longer look at quality and qualifications but ethnicity of the people we put in place. When you look at these corporations, you will find that the chairman is from one community and the CEO from the same community. It is becoming a trend. As the Chairman said, I think it is time we professionalised such corporations.

We saw a very laughable thing in Narok the other day. Goats were sold to buy the people of Narok the so-called NHIF Cards. I wonder why that was happening because in Narok people are very rich. Where do those goats go to? There is something that is very fishy. The worst thing we are doing is politicising corporations and especially health-related institutions. If such things are to be done, let it be by not only the NHIF but the line ministry; not by political or party elements.

The Chairman has spoken on behalf of the Committee. When you look at the procurement of services and goods, you will realize that that is where the whole problem is. People who are not qualified to construct buildings, silos and anything are given priority to do it and yet they are not qualified. We have seen the issue of maize. It is a very embarrassing thing to this country. Twenty people only are paid billions of shillings and yet the poor farmers go unpaid. It has affected all of us in the country. We have been relying on the National Cereals and Produce Board (NCPB) to take our wheat and maize. The Kenya Meat Commission is dead and the people are suffering as a result. I think the first thing the President should do is to fill those positions with the right people.

Secondly, the people who have mismanaged these corporations should not be let to go scot-free. You would cry because private profiteers were the ones who killed the industry so that those factories can be grabbed. I think we need to contain grabbing if anything is to succeed in this country. We have talked about title deeds. In fact few years ago, NSSF was a choice for purchase of prime land in this country. People were making a killing and were overpricing and getting commissions. In the process NSSF was suffering because of that. That is why the poor people who have retired are not benefiting from the investments. I can tell this country one thing: We were so far in 1963 up to 1978, but after that we went down. We picked up during Kibaki's Government, but we are now going down so fast and so badly that I do not know what to say of this country. I can only appeal to the leadership especially the youth. This is your country, if you do not fight for your rights now and if you do not fight for welfare of this country, if you do not own these corporations, there is nothing anybody else can do.

We fail in making policies. Let us professionalize services. Let us not also duplicate. I do not know what happened. The other day, they were going to amalgamate several corporations to ensure that there is efficiency; a lean and efficient personnel and that people are able to show that they have managed to do what they are supposed to do. That is something that should be pursued and it should not be a political gift to anybody. Maybe what we fear is that people are realizing that if you make these things fewer, then you will have fewer people to claim rights. I would like to appeal to the political losers, they have a right as Kenyans, but do you have to burden this country with your failure? If you did not make it to Parliament, must you be given a State job? The fact that your people have rejected you means that Kenyans should not accept you. You failed because you were not able to deliver. If you did not deliver for your constituency, who says that you can deliver for the Kenyan people?

The other issue is health. I think we made a terrible mistake by assigning the health docket to counties. For instance Narok County never paid KEMSA. Now they are getting medicine from some dubious backstreet pharmacist, which is not even safe. It is our duty to protect the people of Kenya collectively not from constituencies or counties. It is time we resolved the issue of health facilities or health services. The most important thing is to assure this House that as long as I am the Chairman of the Committee on Implementation; I am ready to act if each and every Member of this House, each Committee ensures that our goal is the same to serve Kenyans accordingly and within the constitutional boundaries that we and our forefathers set.

Thank you for this opportunity.

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

**Hon. (Ms.) Mary Njoroge** (Maragwa, JP): Thank you, Hon. Temporary Deputy Speaker for giving me this chance to support the Report of the PIC. Allow me to commend the work that has been done by the Committee together with the assistance of the Auditor-General, to make sure that we get the people that we needed to examine. I want to support many of the Hon. Members who have supported this Report because such reports will see the light of day in this House because we are looking at money and properties that belong to the people of this country. The Chair and Members of the Committee on Implementation need to expedite this. As we went through the issues that were brought by the Auditor-General, we found out that some of the recommendations that were made by the PIC were there before in their 19<sup>th</sup> 20<sup>th</sup> and the 21<sup>st</sup> Report.

If the Committee's recommendations are not followed up by the Committee on Implementation, we might be killing the spirit of the Committee Members. If you look at this Committee Report, it tells us they had 91 sittings to examine and scrutinise documents that had been forwarded to them during that period. If all this time and money is spent by Committee Members to interrogate and then recommendations are not implemented, it is a sign we are killing the spirit of the Committee Members.

Allow me to mention about the land issues mentioned in the Report. If you look at many of the State corporations they have land issues in two ways. Some do not have the title deeds to show that they own their land and others have irregular transfers. In this country, we know that land is scarce and if many State corporations do not have title deeds to show ownership of land, it means we are opening this for abuse by land grabbers who have a very high appetite for land in this country.

I would suggest that we support the recommendations put forward by the Committee so that we can see to it that transfer of land that has been done illegally is corrected and fast-

tracked. I also want to comment on the issue of the delays we have in appointment of CEOs and managers. We found that in many State corporations, their compositions are not up-to-date. Therefore, there is no reason as to why a CEO can be in acting capacity for more than a year. That is why I support the Committee's recommendations that if anyone is in acting capacity for more than a year then automatically, they qualify to be the CEO of that State corporation.

We also need to support the Committee when they come up with the recommendation that the Cabinet Secretary and the Chair of NLC put a caveat on State corporations' lands that are owned by private individuals. I am saying this because we need to ensure that these lands are not abused. If left this way, automatically, we may find by the end of the day, they may not be in the hands of the State corporations as they declare their assets.

When we were looking at the Report, we found that there were many variations of tender documents. This is an area we found to be highly abused by the top officials in State corporations together with other cartels to rob the public money. We found a contract was given, then it was delayed and at long last, it cost billions of shillings.

That is why we get concerned when people complain about the cost of putting in place the two-thirds gender principle. It will only take Kshs.282 million at the end of the year when in State corporations we are losing billions and millions of shillings. Therefore, we need to look at the integrity of the people we appoint. We should look at their academic credentials so that we can fight the cartels that are in these State corporations.

As I conclude, it is good that the area of implementation is really taken care of. If at all we write all these recommendations and the House adopts the Reports that we usually bring here...

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Very well, Hon. Wamaua. You have said that you would conclude but we are not sure how long you will take. It is 1.00 p.m, Hon Members. I want to remind Hon. Members that this Motion has no time limit. I can tell from the interest. It will not end after an hour or two hours. It is as long as Members will have interest in speaking to it. I am sure the House Business Committee will slot it for another time. It has no time limit. As many Members as possible will get opportunity to speak to this. Hon. Wamaua, because the House must rise, you will have a balance of three minutes when this business resumes in the Order Paper.

**Hon. (Ms.) Mary Njoroge** (Maragwa, JP): Thank you.

## ADJOURNMENT

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Members, the time being 1.00 p.m, this House stands adjourned until today, Wednesday, 21<sup>st</sup> November 2018, at 2.30 p.m.

The House rose at 1.00 p.m.