

PARLIAMENT OF KENYA

THE NATIONAL ASSEMBLY

THE HANSARD

Wednesday, 27th November 2019

The House met at 2.30 p.m.

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

PRAYERS

QUORUM

Hon. Speaker: I direct that the Quorum Bell be rang for the first ten minutes.

(The Quorum Bell was rung)

Hon. Members, we can now transact business.

MESSAGE

REQUEST FOR APPROVAL OF STOPPAGE OF TRANSFERS TO COUNTY GOVERNMENTS

Hon. Speaker: Hon. Members, this is a Message regarding request for approval of stoppage of transfers to county governments. Pursuant to the provisions of Standing Order No.42, I wish to convey to the House that I have received a Message from the acting Cabinet Secretary for the National Treasury and Planning regarding a request for approval of stoppage of transfers of equitable share of revenue for the 2019/2020 Financial Year to county governments.

Pursuant to the provisions of Section 97(2) of the Public Finance Management Act, 2012, the acting Cabinet Secretary is seeking approval of the House for stoppage of transfer to 15 county governments as contained in Circular No.20/2019 dated 19th November, 2019.

For clarity, Section 97 of the Public Management Act, states as follows –

“(1) Where the Cabinet Secretary makes a decision to stop the transfer of funds to a State organ or public entity in accordance with Article 225(3) of the Constitution and provisions of this Act, the Cabinet Secretary shall stop the payment and inform the Controller of Budget in respect of:

(a) the date from when the stoppage of transfer of funds takes effect; and,

(b) the nature of serious material breaches, or persistent material breaches, committed by the State organ or public entity.

(2) Not later than seven days after the date of the decision to stop the transfer of funds, the Cabinet Secretary shall seek approval from Parliament.

(3) Within 14 days after the decision to stop the transfer of funds under subsection (1), the Controller of Budget shall investigate the matter and submit a report to Parliament in accordance with Article 225(7) of the Constitution.

(4) Parliament shall, within 30 days of the decision by the Cabinet Secretary to stop the transfer of funds, approve or renew the decision of the Cabinet Secretary to stop the transfer of funds and the Cabinet Secretary shall abide by the decision of Parliament.”

The acting Cabinet Secretary has noted that the 15 county governments have contravened Section 94(1)(a) of the Public Finance Management Act, 2012 by failing to make any efforts at clearing eligible pending bills, thus affecting economic growth and inconveniencing small and micro enterprises (SMEs) and other business segments at the county level. In view of the fact that the decision to stop transfer of funds to the concerned county governments was made on 19th November 2019, the acting Cabinet Secretary has complied with the provisions of Section 97(2) of the Public Finance Management Act by seeking Parliament’s approval of the stoppage within seven days.

In this regard, I hereby refer the Message together with Circular No.20/2019 dated 19th November 2019 from the acting Cabinet Secretary for the National Treasury and Planning to the Budget and Appropriations Committee for consideration in light of the provisions of Article 225 of the Constitution and, thereafter, report to the House on the matter within the set timelines.

PAPERS LAID

Hon. Speaker: There is a Paper to be laid by the Leader of the Majority Party. Let us have the Chairperson of the Public Accounts Committee, Hon. Wandayi. Let us have the Chairperson of the Select Committee on Implementation, Hon. Kenta.

Hon. Richard ole Kenta (Narok North, ODM): Hon. Speaker, I beg to lay the following Paper on the Table of the House:

Report of the Select Committee on Implementation on Examination of the Status of the Resolution of the House regarding the Conditional Approval of Ms. Mwendu Mwinzi for Appointment as Ambassador of Kenya to Seoul, South Korea.

Hon. Speaker: Very well. We will wait for Hon. Wandayi to appear. He had indicated that his Committee had already approved its consideration of the accounts of the national Government for the 2016/2017 Financial Year and was ready to table that Report. I will allow him to do so at a later time.

Next Order!

NOTICES OF MOTIONS

REJECTION OF MS. MWENDE MWINZI AS AMBASSADOR TO SOUTH KOREA

Hon. Richard ole Kenta (Narok North, ODM): Hon. Speaker, I beg to give notice of the following Motion:

THAT, taking into consideration the findings of the Select Committee on Implementation on its examination of the implementation status of the resolution of the House on 6th June 2019 regarding the conditional approval of Ms. Mwendu Mwinzi for appointment as ambassador of Kenya to Seoul, South Korea, laid on the Table of the House on Wednesday, 27th November 2019 and, pursuant to the provisions of Article 132 (2)(e) of the Constitution and Section 8 of the Public Appointments (Parliamentary Approval) Act, 2011, this House rejects the nomination of Ms. Mwendu Mwinzi for appointment as an ambassador representing the Republic of Kenya.

Hon. Speaker: Very well. Let us have the Chairperson of the Departmental Committee on Transport, Public Works and Housing.

EXTENSION OF PERIOD FOR CONSIDERATION OF A PUBLIC PETITION

Hon. David Pkosing (Pokot South, JP): Hon. Speaker, I beg to give notice of the following Motion:

THAT, notwithstanding the provisions of Standing Order No.227(2) “Committal of Petitions”, this House resolves to extend the period for consideration of the Public Petition before the Departmental Committee on Transport, Public Works and Housing regarding the approval, application and use of new bills low cost construction technology by Hon. Daniel Ouma Ochieng, MP for a further period of 21 days with effect from 1st December 2019.

Hon. Speaker: Hon. Pkosing, you want an extension for how many more days?

Hon. David Pkosing (Pokot South, JP): Hon. Speaker, 21 more days.

Hon. Speaker: 21 more days?

Hon. David Pkosing (Pokot South, JP): Yes.

Hon. Speaker: From which day?

Hon. David Pkosing (Pokot South, JP): 1st December, Hon. Speaker.

Hon. Speaker: Do you know the Calendar of the House?

Hon. David Pkosing (Pokot South, JP): Yes, Hon. Speaker.

Hon. Speaker: When the House goes on recess on the evening of 5th December, unless for reasons to be recorded it is recalled for a special sitting, it may not sit until around 10th February 2020 or thereabouts.

Hon. David Pkosing (Pokot South, JP): Hon. Speaker, I would amend it such that you give us only 10 days after the resumption of the House.

Hon. Speaker: You get an extension of 10 days.

Hon. David Pkosing (Pokot South, JP): Yes, after the resumption of the House.

Hon. Speaker: Is that the Petition by Hon. David Ochieng?

Hon. David Pkosing (Pokot South, JP): Yes. It is a very important Petition.

Hon. Speaker: Hon. Pkosing, are we through so that the HANSARD record will show the correct position? When will the 60 days expire?

Hon. David Pkosing (Pokot South, JP): Thank you, Hon. Speaker. They will expire on 1st December 2019. That is why we are seeking for an extension of 21 more days from that date.

Hon. Speaker: Are you seeking for 21 days from 1st December?

Hon. David Pkosing (Pokot South, JP): Yes. However, I amended that to read, “10 days after resumption of the House on 10th February 2020.”

Hon. Speaker: That is two weeks after the resumption of the House.

Hon. David Pkosing (Pokot South, JP): Yes, Hon. Speaker.

Hon. Speaker: Fine, Hon. Pkosing. You will submit your report on the Petition two weeks after the House resumes in the Fourth Session in February.

Leader of the Majority Party, there is a Paper you will lay on the Table of the House.

PAPER LAID

Hon. Aden Duale (Garissa Township, JP): Hon. Speaker, I beg to lay the following Paper on the Table of the House:

Circular No.20/2019 of 19th November, 2019 and the request for approval of stoppage of transfers to county governments from the National Treasury.

Hon. Speaker: I have already referred this Paper to the Budget and Appropriations Committee.

Hon. Aden Duale (Garissa Township, JP): This is on the pending bills.

Hon. Speaker: Next Order!

ORDINARY QUESTIONS

Hon. Speaker: There is a Question by the Member for Gatanga, Hon. Nduati Ngugi.

Question No.516/2019

PROGRESS REPORT ON IRREGULAR TRANSFER OF PROPERTY IN THIKA

(Question deferred)

Hon. Speaker: The next Question is by the Member for Mathioya, Hon. Peter Kimari Kihara.

Question No.517/2019

PLIGHT OF RESIDENTS UNDER OLDER PERSONS CASH
TRANSFER PROGRAMME IN MATHIOYA CONSTITUENCY

(Question deferred)

Hon. Speaker: The next Question is by the Member for West Mugirango, Hon. Vincent Kemosi. The Member for Gatanga has asked for a deferment of his question. His request is assented to.

Question No.518/2019

STATUS OF NYAMIRA TOWN WATER PROJECT

(Question deferred)

Hon. Speaker: The next Question is by the Member for Moyale, Hon. Qalicha Gufu Wario.

Question No.519/2019

RELIEF FOOD DISTRIBUTION IN MARSABIT COUNTY

Hon. Qalicha Wario (Moyale, JP): Thank you, Hon. Speaker. I rise to ask Question No.519 of 2019.

(i) Could the CS provide details on relief food distribution in Marsabit County, especially in Moyale and Sololo sub-counties?

(ii) What mechanisms has the Ministry put in place to ensure that the relief food reaches the desired population?

(iii) What long-term measures has the Ministry instituted to address food shortages in ASAL Areas that are arable but lack water?

Thank you, Hon. Speaker.

Hon. Speaker: The Question is referred to the Departmental Committee on Administration and National Security for response. The other Questions are deferred alongside the Question by the Member for Gatanga.

Next Order!

BILL

THE GAMING BILL

(Hon. (Dr.) Victor Munyaka on 21.11.2019)

(Debate concluded on 26.11.2019)

Hon. Speaker: Hon. Members, debate on this Bill was concluded. I will put the Question.

(Question put and agreed to)

(The Bill was read a Second Time and committed to a Committee of the whole House tomorrow)

COMMITTEE OF THE WHOLE HOUSE

THE NUCLEAR REGULATORY BILL

Hon. Speaker: Sorry, Hon. Members. At the request of the Chairman of the Departmental Committee on Energy who is reportedly engaged in public participation on another matter, this Order is taken out of the Order Paper. It will be considered tomorrow in the afternoon. Hon. Members, for the convenience of the House, I will re-arrange business in the

following Order. The business appearing as Order No.11 will be Order No.10 which is the Report on Extension of Time Limit to Submit and Publish Central Bank of Kenya Annual Reports for the Financial Year 2018/2019 by the Public Investments Committee (PIC). Following that, the Motion on Annulment of the Land Registration (Electronic Land Transactions) Regulations, 2019 by the Committee on Delegated Legislation which appears as Order No.13 will be Order No.11. Order No.12 will be the Motion on Report on the Supplementary Estimates for Financial Year 2019/2020. Business will be transacted in that Order and then the rest will follow.

*(Committee of the whole House on
The Nuclear Regulatory Bill deferred)*

Next Order!

MOTIONS

ADOPTION OF REPORT ON EXTENSION OF TIME LIMIT TO SUBMIT CBK ANNUAL REPORTS FOR 2018/2019 FINANCIAL YEAR

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

THAT, this House adopts the Report of the Public Investments Committee (PIC) on the Extension of Time Limit on Submission and Publishing of Central Bank of Kenya (CBK) Financial Reports, laid on the Table of the House on Wednesday, 20th November 2019 and, pursuant to the provisions of Section 90 of the Public Finance Management Act, 2012, approves the extension of time limit for submission and publishing of the Financial Reports of the of Central Bank of Kenya for the Financial Year 2018/19.

The National Assembly through a Communication from the Chair dated 5th November 2019 referred the PIC on the matter for determination on whether the House can resolve to extend the limit for submission and publishing of financial statements by the CBK to Parliament, and mandated the Committee to submit its report by 20th November 2019; which we graciously did. As you are all aware, there exists a vacancy in the Office of the Auditor-General. Therefore, the reports of this Bank and other entities have not been signed until a substantive Auditor-General is nominated by the President. The nomination will go through Parliament and eventually the President will appoint the specific person to that position.

Section 54 of the CBK Act, Cap 491 requires the Bank to submit to the CS, National Treasury a report of the Bank's operations together with the financial statements that have been certified by the Bank's auditor within three months after the close of each financial year. It is with this in mind that you received a letter from the CS for the National Treasury requesting that this House resolves to extend. However, a point to note is that the letter that the CBK wrote to the National Treasury was dated 30th September 2019, which was literally the deadline for this submission. Thereafter, the National Treasury wrote to Parliament on 24th October 2019. They asked for this extension posthumous. That means they were already past that extension but they requested for this extension. The onus is on you but our job was to resolve on what we should be able to do.

I need to bring to the attention of the House that, in our investigations, there are certain entities that have mandated timelines where they need to have their audited reports presented. One is the CBK, the Capital Markets Authority (CMA), Ethics and Anti-Corruption Commission (EACC), Kenya Power, KenGen and East Africa Portland Cement. KenGen, East Africa Portland Cement and Kenya Power have to do so because of the fact that they are in the Nairobi Stock Exchange. The CMA together with the EACC have a legal basis where there is a timeline. I am not aware neither was it in our jurisdiction, but I thought it wise to bring it to the attention of this House that those two entities need to request for extension of timeline from this House.

The other entities in the Nairobi Stock Exchange have already sought for an extension from the CMA. The CMA granted an extension to Kenya Power, KenGen and East Africa Portland Cement. That extension was up to November, but by the time of tabling this Report, that extension was up to November 30th. We are hoping that they are going to extend further considering that we still do not have an Auditor-General. However, Parliament needs to be oblivious of the fact that CMA and EACC should have sought for an extension of timeline to be able to table their reports.

Section 12 of the Act contemplated the transition period from when the substantive Auditor-General vacates office up to the period when the substantive office holder is appointed. This will allow for continuity of work. However, the High Court, through Petition No.388 of 2016, Transparency International Vs the Attorney-General and two others, expunged Section 12 of the Public Auditor Act together with other sections of the Act for being in contravention with the Constitution.

The Constitution is clear that the Auditor-General shall be nominated by the President and that nomination has to be approved by Parliament. Thereafter, Parliament sends that approved name to the President who thereafter appoints. In the argument, the High Court ruled that we cannot have a person who is acting. The Constitution is clear on how an Auditor-General is supposed to be picked. From the foregoing, there is a lacuna in law. That lacuna has failed...

Hon. Speaker: Hon. Abdullswamad Nassir, I am aware that Article 93 establishes the Parliament of Kenya which shall consist of the National Assembly and the Senate, but for avoidance of doubt, Article 229(1) reads:

“There shall be an Auditor-General who shall be nominated by the President and with the approval of the National Assembly, appointed by the President.”

The usage of the word “Parliament” excites some people elsewhere. This is very clear. Approval is by the National Assembly notwithstanding that the National Assembly is part of Parliament.

Hon. Abdullswamad Nassir (Mvita, ODM): Thank you, Hon. Speaker, for that guidance. Yes, Parliament describes both the Senate and the National Assembly. Equally, next week, we will be tabling another report on the Kenya Ferry Services (KFS) disaster. In that report, I hope you will allow me when I am presenting our case that the Constitution is very clear that the National Assembly is the one that is meant to oversee State organs, including the KFS. The role of the Senate is equally very well framed in the Constitution. Thank you for guiding this House on that matter.

There is a lacuna in law. That lacuna has failed to guide the transition process of the Auditor-General without a substantive successor or an elaborate process of recruiting the next Auditor-General three months before the expiry of the term of the serving Auditor-General, which is bound to hold back crucial reports that are required to be tabled in Parliament as the reports cannot be forwarded to Parliament owing to the fact that the law requires them to be signed by the Auditor-General.

At this point, it is equally important that the next Auditor-General was going to be picked. I am assuming, considering that this House is going on recess unless of course you rule otherwise. If this process is not going to be finalised by next week, we are going to have a serious dilemma because this country is not going to have any audit reports at all. The next person in line, if that person is not going to be someone who has served in the Office of the Auditor-General, will merely be appending signatures without going through all those audit reports. There is danger and we are hoping those who are in charge out of those who were invited ... We invited the CBK but it failed to attend. It is a fact that you gave a deadline to present this report. Ideally, PIC would not wish to take written submissions but as per your earlier rulings that audit committees like ourselves need to ensure that we see the author of those particular requests, we tried to inform the Cabinet Secretary. We heard through the grapevine that there was a Cabinet meeting even though that information was not conveyed to Parliament in official capacity. We wanted to find out whether the CBK or the National Treasury had sought for advice from the Attorney-General's Office. We invited the Attorney-General as well. They wrote back informing us that there was a Cabinet meeting.

The Solicitor-General was in the Departmental Committee on Justice and Legal Affairs in Parliament on earlier invitation. We also chose to invite the Chair of the select committee nominated by the President to come up with the names. Unfortunately, the Chairperson and his members failed to attend. We cannot substantively state whether the Auditor-General's names have already been presented or not to the President for onward forwarding to Parliament.

In conclusion, in the absence of a substantive office holder, the annual reports cannot be signed. There is already a huge backlog. We already have six legal and constitutional deadlines that have been signed over and above the ones that have to be signed from county levels to every other level of Government accountability. Now, it is up to this House to extend the time for submissions of the Report as contemplated in Section 50 of the Public Finance Management Act Cap 42(1)(c).

Hon. Speaker, with your guidance, the Public audit Act No.34 of 2015 will be committed to the relevant Committee because it needs to be amended to provide for succession management in instances where there is a vacancy in the Office of the Auditor-General. That means the Act has to be very clear that three months or six months prior to the exit of the Auditor-General, the Presidency should have nominated the names which should be coming to Parliament. In the event of the Auditor-General being incapacitated to perform his duties because of illness or death, then we need to know within what period of time the Presidency should nominate another person for appointment as Auditor-General.

Lastly, it is our position that the process of appointment of the next Auditor-General should be expedited to enable that Office to continue with its mandate.

I beg this House to approve this Report. Before I request my brother, Hon. Owen Baya, to second, today is a very sentimental day for me, the people of Mvita and Kenya at large. It marks 14 years since the former Member of Parliament for Mvita, the late Hon. Nassir passed away. So, I just wanted it to be a reminder and allow my brother Hon. Owen to second me on this one.

Thank you.

Hon. Speaker: Of course, even as he seconds, Hon. Abdullswamad, it is important that once the Report is adopted, it should, indeed, be served upon the Cabinet Secretary for the National Treasury for them to know that there is concern and that there are several entities that are supposed to be audited by the Auditor-General, and whose reports cannot be signed by any other person other than somebody holding the office substantively.

Hon. Baya, you have the Floor.

Hon. Owen Baya (Kilifi North, ODM): Thank you very much, Hon. Speaker. I second the Report.

Thank you.

Hon. Speaker: Very well.

(Hon. John Paul Mwirigi rushed into the Chamber)

No! You do not run like that. You just stand where you are. Hon. John Paul Mwirigi dashes like a truly young and energetic person.

(Question proposed)

Hon. Wamalwa, I am assuming that you are a Member of the Committee.

Hon. (Dr.) Chris Wamalwa (Kimini, FORD-K): Thank you, Hon. Speaker. I rise to support this Report on the request for extension by the CBK. I am a Member of PIC. I am sorry I am late because I have just come from the unveiling of the BBI Report by His Excellency the President at the Bomas of Kenya.

One thing I want to say is that this country is for all of us. Indeed, His Excellency the President was very positive in his remarks. He said we should look at the document. Do not come and say so and so has read on my behalf, and therefore, I should not read. We should read the report so that we can debate from an informed perspective so that we can refine what has been presented by the BBI Taskforce for the posterity of this country. I thought that was good so that Kenyans can know as we move forward.

As my Chairman moved this Motion, indeed, we examined this as per your direction. There are many witnesses who were called. On succession planning, the Office of the Auditor-General plays a very critical role as far as examining the accounts or books of parastatals is concerned. We thought it will be good for succession planning if the appointing authority plans so that we do not leave a vacancy in that important position. I know it is not just PIC. It is there even in the Public Accounts Committee (PAC). The Auditor-General plays a very critical role because his signature must be there.

Coming to the CBK, when you look at their historical books, they have not had any issue. They have actually been submitting their books on time. As we speak, they have already finalised the audit but they are waiting for the signature. That is why, as a Committee, we thought that we should give them that extension so that the report can be signed when the Auditor-General is in place. That is for purposes of examining.

Article 125 of the Constitution is clear that a parliamentary Committee can summon anybody anywhere for information. As my Chairman had clearly put it, the Cabinet Secretary was summoned. He did not show up. The CBK, which wanted the extension, did not show up. This is my humble request to the Governor of the CBK because this is not the first time. We have even heard other Committees complaining that he does not show up most of the time he is summoned. Instead, we have those lame excuses. It is important that the work of Parliament is taken seriously. This is a representative of the people and it is important and a must that he appears before the relevant Committee when he is summoned. We never got any explanation. We do not know what happened. We were told that he was held up in a meeting somewhere. Because we did not want to waste much time, we just decided to extend it. The Cabinet Secretary

also did not attend. During President Kibaki's time, he used to emphasise the importance of attending Parliament. He used to tell his Cabinet Ministers that they should prioritise the work of Parliament.

The reason we think of moving towards having Ministers in this House is because of such issues. There are many Cabinet Secretaries who, when they are summoned, do not want to show up. That is why we are supporting the BBI. We want to refine it further so that Members of the Cabinet can come from the membership of this House. I know there is mixed reaction because they have talked of technocrats. Let those technocrats be nominated MPs. That is if they do not want to go for non-elective seats. We have people who have the capacity and capability to be cabinet secretaries. We have my friend, Hon. Baya, who has been yearning. He has been a county secretary. He can be a very good Cabinet Secretary. Hon. Millie Odhiambo can also make a very good Cabinet Secretary. So, we are calling upon Kenyans to support the BBI. We want Cabinet Secretaries to come from this House so that issues of accountability and appearing before committees can be achieved without delay.

We missed you. We missed you because you play a critical role. Of course, some of the proposals will come to this House. However, it is unfortunate that MPs were not recognised when we were there. Next time we have such functions, it is important to note that there is no other authority which has legislative authority other than Parliament. So, whatever they were discussing will end up here. It is Parliament that is going to decide. So, it is important we talk about recognition. I have seen women looking for slots. However, this is not for women to share slots. The slots are for equitable distribution amongst Kenyans of all genders - the youth or whatever the case may be.

I do not want to talk much but to just support the Report and request Hon. Members to support this Motion because it is straightforward. We do not want to have much ado so that we can move to other business.

With those remarks, I support.

Hon. Speaker: Is the Member for Konoin present? He made a request. I think he disappeared. What about the Member for Nambale?

Hon. Sakwa Bunyasi (Nambale, ANC): It is just pre-emptive preparation.

Hon. Speaker: Member for Baringo, is it pre-emptive also?

Hon. (Ms.) Gladwell Cheruiyot (Baringo CWR, KANU): Hon. Speaker, I am not empty. I know the reason you are feeling that people are empty is that there is too much excitement around BBI. However, I want to support this Report. It is important that this country plans its things because of the calendar of events. It is noted that the Auditor-General's time to go home is known. It is unfortunate that his replacement is not planned for. Succession planning for the Auditor-General of this country must be done, reason being if this is not done and reports do not come on time and you realise that this country has a lot of challenges in terms of corruption, then when we hear reports of finance, it becomes so unfortunate. This is because by the time they come probably there would be too many things which would have gone wrong, and which might not be easy to correct.

You have heard a Member of the Committee saying that it was not very easy for them to get the CS to answer those questions. Even the representatives from the CBK were lacking at that time. The BBI is going to help this House and our electorates by making sure that matters that affect the people we represent are attended to within a short time. It is suggested that the CSs come from the House. This is one of the things that make almost every Member of this House to accept that BBI is the way to go, because it has been difficult. I was even affected yesterday

when I went to get an answer from a committee over issues to do with water. Reaching there, it is the same scenario that a report had not been signed. I declined to take the answer. The CS himself was not there, maybe, because of good reasons. But because he had not appended his signature to the answer, I did not accept it.

So, it is important the Auditor-General be put in office in time so that the work of that office can continue without interruption. It is a big shame that a report is there but it is only a signature which is lacking. The signature is lacking because the Auditor-General has not been appointed. I want to commend the Committee and the Chair for going deeper into this so that we know that all our money which is kept at the CBK is safe, and the country does not go under because of misappropriation of funds.

With those very few remarks, Hon. Speaker, I really support the Report. Let us plan ourselves before we plan to fail. Thank you.

Hon. Speaker: Member for Molo, it is your chance.

Hon. Kuria Kimani (Molo, JP): I thank you, Hon. Speaker. Our Constitution gives independent commissions power and sovereignty to protect the interests of the people of Kenya. One such office is the Office of the Auditor-General. The challenge that has been mentioned in this Report is lack of appointment of the Auditor-General in time. It provides a vacuum. Unfortunately, this is not just in the Office of the Auditor-General. If you look at the other independent commission, like the NLC, you will find that the time when they are appointed and the time they report to office, not considering there is even time for court cases, denies Kenyans a chance to be served by those commissions. The SRC for a very long time was also without commissioners. So, this is a call to us as Members of Parliament. Maybe, we should consider amending the parent Acts that give authority to those commissions so that the process of recruitment of commissioners and independent office holders is done before the deadline passes. This is so that we do not have a situation where we are saying Kenyans cannot get answers to their questions because we do not have a substantive Auditor-General.

We should not forget the importance of the Office of the Auditor-General. If you remember, the sharing of revenue is based on the approved audited accounts. The audited accounts can only be approved by appending the signature of the Auditor-General. So, this is a call to the Executive and all the appointing authorities. There are many qualified and deserving Kenyans who can fit in those offices. Some of these commissions, like the Office of the Auditor-General, by the time you are appointing the office holder, you know for sure that in the next two or three years, the term will expire and it cannot be extended. Therefore, we call upon the Executive as the appointing authority and the CSs not to create a lacuna.

Remember also that those commissions are the biggest spenders of our Budget. Most of the money that we are even trying to apportion through the Supplementary Estimates goes to those independent commissions. If they do not have substantive office holders, how does that affect service delivery? I keep saying that the Government should borrow a lot from the private sector and corporates. A company like Safaricom is appointing a CEO who will report next year. The appointment has already been made. For us, an office as substantive as that of the Auditor-General has not been filled, even when we knew for sure three years ago that the term of the office holder would come to an end and it cannot be extended.

The question of us asking questions to CSs and not being answered is a thorny one. I raised a petition on the Floor of this House about the plight of the people of Timsales and, up to now, there is no response. Some of it can be attributed to the CS not being present. We will have the CSs making decisions that are not in tandem with things on the ground or with the real

situation on the ground. I am hoping that the BBI proposal to have some members of the Cabinet drawn from Parliament will address a lot of these concerns about unanswered questions. I used to admire when I was a young man seeing the late Prof. Saitoti sitting on the other side and a Member of Parliament asking him a question and he would respond. Parliament used to be fun to watch. Millions of Kenyans would be watching to see how Ministers sweat to answer questions. Now, to get an appointment from a CS to answer a question, someone approved by the National Assembly - and sometimes when you are following up projects in your constituencies - is a tall order.

With that, I support this Report. Thank you, Hon. Speaker.

Hon. Speaker: The CSs always sat to the right of the Speaker and Members of the Opposition always sat to the left of the Speaker. Indeed, you must have been seeing the late Hon. Saitoti seated somewhere...I can almost tell you where he used to sit... Somewhere where Hon. Gathoni Wamuchomba and Hon. Gladwell are seated. So, you are likely to be inheriting his seat, in advance.

Let us now hear Hon. Musimba.

Hon. (Dr.) Patrick Musimba (Kibwezi West, Independent): Thank you, Hon. Speaker, for giving me this opportunity to contribute to this extension Motion. As much as we support it, fundamental things have become of great concern. One, these bodies we are talking about – the CBK and what the Chair of PIC alluded to, the CMA - are bodies which have been bestowed with serious responsibilities by the people of the Republic of Kenya towards safeguarding the wellbeing of all Kenyans, especially in matters finance. This cannot be diluted just on formality. As we say in law, it is all about the spirit. You cannot hide behind technicalities. Every bank publishes their quarterly accounts and simply puts a qualifying statement that these accounts have not been audited. Nothing stops these bodies from publishing their accounts and writing a qualifier that owing to the vacancy in the office of the Auditor-General, we are not able to get the signature for it to be a legal binding document. It is in the interest of every Kenyan to know the financial position of these bodies.

The CMA and the CBK are bodies which are scrutinised very closely by external agencies which have great interest in our country. We need to know the health of our nation in terms of the Treasury Bills and Treasury Bonds; the continued borrowing in terms of securities for the Government and the projects that have already been planned. As such, in looking at the role of the National Treasury as the supervising body over the CBK, it ought to have already taken that line. In the same spirit, we have the current CS National Treasury in acting capacity. He should take up that mantle and simply say these are the accounts they have put forth. There is an ongoing selection process to get a substantive Auditor-General but a lot of work has already been done by the technical people in the respective bodies. The CBK is audited by an external audit company other than the Auditor-General's Office which comes to assume that role of qualifying those statements in terms of release. As such, this is very important as we give this leeway for extension of the publishing time. They should go out and cease any forms of anxiety in terms of the health of this nation by publishing the same accounts. They will be within the tenants of continuity for this great Republic of Kenya.

Thank you, Hon. Speaker.

Hon. Abdullswamad Nassir (Mvita, ODM): On a point of information, Hon. Speaker.

Hon. Speaker: Sorry! You know you have already spoken. Who do you want to inform? It is never done like that. Unfortunately, I have to continue working even as I sit here because of

what you did earlier in the day. Hon. Patrick Musimba, would you want the information from Hon. Nassir? Very well. You can sort it out there.

Hon. Members, I think the issue raised in this Motion is important for this House and the country. The process of the appointment of an Auditor-General cannot be left to the whims of CSs and other such like mandarins. I think in as much as you are raising concerns somebody should propose an appropriate amendment to the relevant provisions of the Public Audit Act Cap 412. This is to make it mandatory that whenever an Auditor-General's term of office is ending or a vacancy is due to arise, the process of appointing a new auditor-general should commence six months before.

We must tie up some of these things in law, but now the House is due to go on recess on Thursday, next week. Up to now, we have not received any names of nominees and the House will not sit again until around 10th February 2020. During this time, there are too many Government institutions, state organs, agencies and parastatals that will have their audits pending and whose reports cannot be forwarded to the House for consideration. This is because there is no substantive holder of the Office of the Auditor-General.

So, as I indicated to the Mover, this Report should be served to the CS for National Treasury and Planning. Much more importantly, I expected the Committee to come to this House and raise the issue of the CS or the Governor not appearing, because how is the Committee exercising its powers under Article 125. You cannot complain that you invited somebody and they failed to turn up. Yet, you have the power under Article 125 of the Constitution to summon any person to appear before you for purposes of giving information or evidence. So, to come and lament here, you are failing! More importantly, I think it is incumbent upon you to propose appropriate amendments to the Public Audit Act.

Before I give the Member for Kiambu an opportunity to contribute, let me recognise the presence, in the Public Gallery, of Elders of St. James Anglican Church Buruburu who are here to observe the proceedings. We welcome them.

Hon. Gathoni Wamuchomba, you have the Floor.

Hon. (Ms.) Gathoni Wamuchomba (Kiambu CWR, JP): Thank you, Hon. Speaker for giving me this opportunity. Indeed, I want to echo your very weighty sentiments concerning this very sensitive Office of the Auditor-General. I am quick to note that this office has in the past subjected us to a lot of drama and scripts when they read figures that are unbelievable to our ears. This is especially in the reports they have read with very extreme figures trying to convince that our resources are not in safe hands.

It is now very shocking that, as a House, we are going on recess and we do not have hope of somebody sitting as the Auditor-General of this country. It is coming at a time when the economy is struggling and everybody is complaining of lack of money in circulation. Small economies and businesses are complaining and suffering and we expected to see some seriousness when it comes to the Office of the Auditor-General.

We must agree that there are two things which bring a lot of discomfort to voters in Kenya. One is the struggle for economic and political power. Economic power can only be controlled by those who are able to follow what our budgets have been used for. The Office of the Auditor-General is one of the critical offices that help by telling us where our money has gone.

I am wondering that the office seems to have no control of what is happening. Who is supposed to be telling us what is going on? It is sad that the Committee in-charge of this issue is telling us that they are unable to force the CS to appear before them to tell us what the situation

is. The worst thing is that once we strain our economic power, we look for other avenues to have solutions. For example, today we have been given the BBI Report which we have been waiting for. So, we can see the tension that has been there in delivering political and economic power has been brought down.

We congratulate our President Uhuru Muigai Kenyatta and his brother Raila Odinga for having made that wonderful milestone of bringing soberness to our economic and political power sharing in this country. We must be live to the fact that we are MPs and our work is to advise them on where we think things are not going right. Kenya will not be stable economically - especially on issues to do with money - if we are unable to make decisions on such sensitive offices like the Office of the Auditor General.

Hon. Speaker, allow me as an MP for Kiambu County to echo their problems and pain when it comes to money issues. You all know that in Kiambu County, we have issues to do with money and accountability to the extent that some leaders have been taken to court. The Report which has been used to take them to court is the one which came from this Office of the Auditor-General. So, how do we sustain the war against corruption if we do not have a stable and well settled Auditor-General whose terms of work and references are already known so that we can continue with the war against corruption? We cannot win the war against corruption if we do not have proper plans and ensure there are relevant people occupying sensitive offices like the one of the Auditor-General.

Hon. Speaker, as I conclude, I am a woman. Most women of my calibre, those who believed in us and voted for us believe in family planning. If we can plan our families, why can we not plan ourselves economically and have a clear planning strategy on succession. I cannot believe this because it is not very easy for some of us to swallow. That we cannot have a strategy after the current Auditor-General's term expires to know who is next, when and how. If we cannot plan that as a country, we must confess that we have failed the people of this country, honest citizens, and we must go back to the drawing board.

With those many remarks, I congratulate the Committee that presented this matter on the Floor of the House. Well done. I hope you can assure us that before we go on recess, we will have somebody to trust with the Office of the Auditor-General. So, we can steer the spirit of the BBI and stamp authority of what we witnessed today at the Bomas of Kenya.

Thank you, Hon. Speaker

Hon. Speaker: Hon. Members, before we proceed with debate, I indicated earlier on to those who were here about the Chair of PAC because his Committee has done a wonderful job. Hon. Wandayi maybe, you can inform the country because I saw somebody who claims to understand in a small way matters devolution, just because he has been a governor but has since taken a sabbatical leave. I saw him claiming that Parliament deals with Reports which are five years old.

PAPER LAID

Hon. Opiyo Wandayi (Ugunja, ODM): Thank you, Hon. Speaker. I beg to lay the following Paper on the Table of the House:

Report of the Public Accounts Committee on the Examination of the Financial Statements for the National Government for the Financial Year 2016/2017.

Hon. Speaker, as I lay this Paper on the Table. I wish to inform the House and by extension the country that this is the Third Report that PAC of the 12th Parliament is tabling. As I

table this Report, the Committee has embarked on examining the last report that has been circulated to the House by the Auditor-General. That is the Report for the Financial Year 2017/2018, which God willing, we shall be tabling early next year in the next Session.

Hon. Speaker, my Committee is doing very well and I thank you for your support.

Hon. Speaker: Thank you very much Hon. Wandayi. You could as well give notice of the Motion so that the doubting Thomases can have some little peace.

NOTICE OF MOTION

ADOPTION OF PAC REPORT ON FINANCIAL STATEMENTS FOR 2016/2017 FINANCIAL YEAR

Hon. Opiyo Wandayi (Ugunja, ODM): Thank you once again, Hon. Speaker. I beg to give notice of the following Motion:

THAT, this House adopts the Report of the Public Accounts Committee on its examination of the Financial Statements for the National Government for the Financial Year 2016/2017, laid on the Table of the House on Wednesday, 27th November 2019.

Thank you.

Hon. Speaker: Very well, Hon. Wandayi, and congratulations. It is important that people know you are embarking on the last audited accounts. You have said you have embarked on the consideration of the last audited accounts of the Financial Year 2017/2018. This is because those of 2018/2019 have not been submitted. So, anybody out there trying to fault the work of the Committee is merely misinformed.

Let us have Hon. John Mbadi. I think you may have come with some virus.

Hon. John Mbadi (Suba South, ODM): No! Hon. Speaker, where I was, it was purity throughout. It was a re-birth to this country. Kenya was born afresh and you could see the mood in the atmosphere. I think I will have an opportunity another time to talk about this.

Hon. Speaker, I know this is a bit un-procedural because we should have waited for the time to debate this Report done by PAC to say all we want. Just as you have mentioned, there are people out there who probably are not up to speed with what PAC of the 12th Parliament has done. They are the ones expressing ignorance by saying that Parliament is late in approving accounts from the Auditor-General. I wanted to take this opportunity, as the Leader of the Minority Party that chairs PAC through Hon. Opiyo Wandayi, to say that we are very proud of the work that has been done by PAC. Allow me to say this because it is not usual.

Hon. Speaker, Hon. Abdullswamad is asking me about PIC. Let me see his reports and then make comments. Honestly speaking, there was time in this country when we were about six or seven years in backlog of audited accounts. Now we are talking about the 2017/2018 Financial Year which has been audited and not approved by this House. I know before we go on recess, we will try to approve the accounts of 2016/2017. When committees do a good job, it is important for us to say so. This is because when they do not do a good job, we condemn them. So, I congratulate Hon. Opiyo Wandayi because I can see competency in him. I hope God will reward him for whatever endeavours he intends to take because he has shown that competence.

Thank you, Hon. Speaker.

Hon. Speaker: Indeed, Hon. Mbadi, what you are saying is true that PAC of the 12th Parliament has, indeed, performed beyond expectations. That is why those who only understand

history are still steeped in it and should follow the proceedings here. I only hope that Hon. Wandayi will move with speed to get his Report approved. We go back to the Report of PIC and I can see there is a request from Hon. John Paul Mwirigi.

Hon. John Paul Mwirigi (Igembe South, Independent): Thank you, Hon. Speaker. I rise to support this Report because it is high time this country plans matters succession well. This is because when the Auditor-General is not in office, we cannot know the amount of money spent and the limit available. So, it is high time we realised the importance of all positions especially those of Commissions because they are independent bodies which normally run the affairs of this country. Therefore, it is high time the appointment of the Auditor-General is structured in a manner that when a term expires, the Government is prepared with a successor.

This Report has delayed in the Committee and it cannot approve it because there is no sitting Auditor-General to approve it. Economically, this country is run by the reports we receive from the Auditor-General. The money that is supposed to be spent at the county and the national level is supposed to be guided by the Auditor-General.

So, the framework of the way the Auditor-General is put in place should be well described, so that we do not encounter the problem we are encountering.

Hon. Speaker: Let us now hear the Member for Makueni.

Hon. Daniel Maanzo (Makueni, WDM-K): Thank you, Hon. Speaker, for giving me an opportunity to comment on this very important Report. The Office of the Auditor-General is very important in the country. Institutions which report to the Auditor-General act pursuant to Acts of Parliament which regulate them. For example, Section 54 of the Central Bank of Kenya Act has to be fulfilled. The role played by the CBK is very critical. Presentation of audited accounts is very important in terms of planning and release of information. Some of its activities are constitutional. They are provided under Article 229 of the Constitution in terms of giving Kenyans information.

The Auditor-General alerts Kenyans how their taxes have been spent and whether the budget has been complied with or not. The office also informs Kenyans where there are issues. If money has been lost pursuant to the reports, Parliament can then make recommendations including prosecution by the relevant authorities. However, the moment reports are not presented, or are delayed for one reason or another, whether extension is sought from Parliament as it is being done in this case to extend time because the Auditor-General was not in office, it delays the country in many aspects. The economic performance of the country is largely guided by the audited accounts. Quite a number of businessmen do business with the Government and it means we will have an issue when it comes to preparing the next budget because we will have issues pending from the past.

I really congratulate the Committee for the good job it has done and for presenting the Report. We should move with speed to ensure that this country has an Auditor-General. When it comes to renewal of the term of office, it should be done in good time and the country moves on with its activities. I thank you, Hon. Speaker, for giving me an opportunity to make a comment on this Motion.

Hon. Speaker: The Member for Gatanga, it is your chance.

Hon. Joseph Nduati (Gatanga, JP): Thank you very much, Hon. Speaker. I also support the Report of the Committee. It is very wrong to have the Office of the Auditor-General vacant for such a long time. This can be seen in many Government offices where we have many people working in acting capacity. In fact, if you go to many public offices, you will find that most of the staff have had their contracts extended beyond the 60 years age of retiring. We cannot plan

our succession. It is wrong. I would like to urge the Public Service Commission (PSC), because it is responsible for promotion of staff, to promote people on time.

I used to work at the Ministry of Public Works. If I was still there, I would be one of the youngest members of staff because PSC has refused to employ young people. They have even refused to promote the ones who are there thus creating a very huge gap. When it comes to promotion, they set conditions which cannot be attained by people who work there. That is why we are currently suffering a lot as a country because the staff are not motivated. There are huge gaps and it is high time we modernised the way we do our work at the Civil Service. Otherwise, as we discussed today at the Bomas of Kenya, Kenyans are yearning for services, which they keep complaining about, because we are not able to motivate our staff. This is caused by us.

The other thing I wanted to talk about is the need to look at the way we do our interviews. It is taking very long. The advertisement process is becoming even longer than public procurement. People have complained of the way we procure goods and services. The way we are also procuring our people to work in offices is taking too long, and as Parliament, we need to review and see whether we need to go through a rigorous method of just appointing somebody. Why can we not plan succession properly in our offices?

With those few remarks, I support the Report. Thank you.

Hon. Speaker: The term of office of the former holder of the Office of Auditor-General ended on 31st August 2019. By Saturday, this week it will be three months since he left office. Surely it means there had been no plans. Is that Hon. Millie? Today she is wearing some very interesting hairstyle. I think she has come from some place. Please, take up this matter. I know Hon. Millie Odhiambo has always risen to the occasion. It cannot be that an office as important as that of the Auditor-General can remain vacant for this long and then the Committee is complaining that reports from the CBK and other institutions cannot be signed because the law says it is only the substantive holder of the office who can do that. If we plan when elections are going to be held for so many Members of Parliament, why is it that we cannot plan for succession of one office holder? Surely, it speaks volumes about whoever is responsible for this process. The House is due to go on recess, and yet no name has been forwarded to this House for approval. It means that for a very long time, the country will be suffering out of the ineptitude of some people somewhere in the public service or wherever. Is there a panel? Maybe the Chairman should have explained. Hon. Abdisalan, the Member for Wajir North, you are the Vice-Chair. You could also comment on that before Hon. Millie Odhiambo comes to your aid.

Hon. Ibrahim Ahmed (Wajir North, ODM): Hon. Speaker, I also rise to support this Motion. I think this is deliberate negligence by the Executive. The Executive ought to have put all the required measures in place to ensure that an Auditor-General is appointed and his name submitted to Parliament for approval. It is unfortunate that to date, no action has been taken.

Besides the CBK, other entities like the Capital Markets Authority (CMA), the Ethics and Anti-Corruption Commission (EACC), Kenya Power and Lighting Company, KenGen, East Africa Portland Cement and other institutions are required by 30th September 2019 to submit audited reports. However, this cannot be done because the substantive office holder has not been appointed. When the Governor appeared before us, he said that Section 54 of the CBK Act, Cap 491, requires the Bank to submit to the Cabinet Secretary for the National Treasury, within a period of three months after the close of each financial year, a report of the Bank's operations together with the financial statements that have been certified by the Bank's auditor. However, he said that this cannot be carried out just because the Auditor-General has not been appointed.

Section 90 of the PFM Act Cap 412(c) provides that Parliament may extend the time limit. It says:

“Any House of Parliament may, by resolution, extend the time limit other than a time set in the Constitution for submitting a statement or other document required to be submitted under this Act.”

It is in this view that we will request an extension of this period.

I am aware that the Public Finance Management (PFM) Act No.34 of 2015 ought to be amended to provide for succession management in instances where there is a vacancy in the Office of the Auditor-General. With the amendment of the Public Audit Act No.34 of 2015 to handle issues of succession management, we will be better placed to ensure that we are not in this kind of position where reports cannot be submitted to Parliament.

As at now, our request is that we extend the period for this team. That aside, we must reprimand the Executive for the delay. There is no reason why we are three months past the period and the name of the proposed Auditor-General has not been submitted to this House. With your direction, the Office of the Clerk can write to the Executive to inform them about our reservations and dissatisfaction with this gap. That way, we will be in a better position to handle this matter.

I support the Motion.

Hon. Speaker: Are you in any way suggesting a period for extension? What is the duration of this extension you are seeking? Your Vice-Chairman has no idea. Are you waiting for Hon. Millie Odhiambo to come to your aid? I noticed that as you contributed, you were looking at her with a lot of sympathy. You are seeking sympathy. That is why I am looking for a copy of your Report to see the length of this extension, so that if the House agrees with you and then there is no action, action can be taken against you. We cannot extend endlessly. Is it Hon. Abdusalan or Hon. Nassir?

Hon. Abdullswamad Nassir (Mvita, ODM): Hon. Speaker, when I was doing my presentation, I was very categorical that we invited the Cabinet Secretary for the National Treasury and the Governor of the Central Bank of Kenya. We equally had in mind the fact that you had given us a deadline of 20th November to present this Report. In the written communication that was done by the Governor of the CBK to the National Treasury, and by the Cabinet Secretary of the National Treasury to Parliament, they had no indication. Naturally, it is my assumption that the House will extend the period. Otherwise, they will need to seek another extension. It is the same way the three institutions in the Nairobi Stock Exchange (NSE) have sought an extension from the CMA up to November hoping that by 30th November the President will have put things in order.

In our Report, it is very clear that there is a lacuna in law. The PIC deals with reports from the Auditor-General on a daily basis. We are more than willing to submit those amendments. There is nowhere that talks about a specific timeframe.

Hon. Speaker: I am sorry, Hon. Nassir. There is a mistake that is obviously on the face of the record. In your recommendations, you have indicated from three to six months. That should be the particulars of the Motion. That should be captured. When you are replying, this should be captured, so that it is not an open-ended extension. That is why I told you earlier on that upon adoption - if at all the Motion will be adopted - the Report should be served upon whomever it is, be it the Cabinet Secretary for the National Treasury, the Governor of the CBK or whoever it is.

Hon. Abdullswamad Nassir (Mvita, ODM): It should be served upon the Head of the Public Service as well.

Hon. Speaker: It should be served upon whatever head of any other service. I may not know how many heads there are. There could be many heads. Wherever you would want it served or placed on some head, it should be done.

Hon. Abdullswamad Nassir (Mvita, ODM): I appreciate your support, Hon. Speaker.

Hon. Speaker: It is important that they also know that you are also checking them, on behalf of the House. We do not want them to think it is an open-ended extension. The staff should help you craft that Motion properly when you are replying.

Let us hear the Member for Tigania West.

Hon. John Mutunga (Tigania West, JP): Thank you, Hon. Speaker, for giving me an opportunity to add my voice to the comments made on this Motion.

The auditing process is important, especially when it comes to prudent financial management practice. When audit is not done on time, the follow-up actions are not properly informed. It, therefore, means that we might delay many processes in this country, including allocation of money next year. Consequently, implementation of projects could be delayed because they have not been allocated money. Any further delay of this process is not tenable, especially being aware that we will not be here to discuss the Report or the nominees and approve them because of the recess. Even if they are given six months, it appears we might have to do this work in a hurry around February. That means we will not do a thorough job as we probably could have done. What I see is negligence of the Office of the Auditor-General, which should not have happened.

I am a Member of the Budget and Appropriations Committee. I remember during the budget-making process, we had invited the Auditor-General. He was very clear to us that he would be leaving by August, which means he knew and must have communicated to the other authorities in time. In the contractual arrangement, it must be stipulated that he should inform or notify the Office within a certain period of time, which he must have done. Since he did his part, which we assume because we know who Ouko is, we believe there are people elsewhere who are not doing their jobs. Maybe, this House should also seek to know the people who are sleeping on the job and demand that appropriate action be taken against them. We should have the audit process going on uninterrupted. A delay in the audit process may lead to delay in many other things. If we have a backlog in the auditing process, we may not even have sufficient business for the committees that oversee Government agencies that have been tasked with the management of public resources. That is why the process of replacing the retired Auditor-General should have been expedited.

We are talking about the amendment. Even if we amend, we may still fall into the problems of not having enough time. The Office of the Auditor-General works with many institutions across the country. If we do not fix this matter, we might have a crisis in the Office of the Auditor-General and the work might be done shoddily. If audit work is not done properly, we could run into issues that border on mismanagement. As a House, we need to demand to know exactly who is not doing his bit, leading to delays in the audit function. We also need to know when the process of appointing a new Auditor-General will commence or whether it will be expedited, because it involves many commissions.

With those few remarks, I support the Report.

Hon. Speaker: Let us hear the Member for Gem.

Hon. Elisha Odhiambo (Gem, ODM): Hon. Speaker, I rise to add my voice with respect to the appointment of the Auditor-General. There seems to exist some lethargy at the Public Service Commission, which also exists in the respective parastatals. It is only in this country that we have Chief Executive Officers (CEOs) who act for over 24 months. As you may remember, the acting CEO of the National Social Security Fund (NSSF) was just confirmed when the Secretary-General of the Central Organisation of Trade Union (COTU) threatened to go to court. We have a scenario where the acting CEO of the Kenya Broadcasting Corporation (KBC) has acted for 12 months. The CEO of the Kenya Power and Lighting Company (KPLC) acted for 13 months after which he was replaced. We also have the longest serving acting CEO of the National Government-Constituencies Development Fund (NG-CDF).

We all know that the term of the Auditor-General is fixed. Government institutions are aware of that. Mr. Ouko, who registered a sterling performance at the Auditor-General's Office, was aware and notified the PSC at the Office of the President. Like my colleagues have voiced, a decision must be taken. Maybe, we have too many old men at the PSC who do things at their own time without necessarily taking cognisance of the loss that the country is going through, especially with regard to the fact that a number of the reports cannot be adopted until a substantive holder of that office signs them.

Hon. Speaker, I rise to support and agree with you in totality that the Public Investments Committee must be specific on the period of time they want this extension to be done. We had a re-birth of Kenya today. I saw many Members of Parliament who respected your direction, Hon. Speaker, attending the launch of the BBI. I know after today, execution of tasks will be done at a better speed than before.

I support the Motion. Thank you.

Hon. Speaker: Let us hear the Member for Ndaragwa.

Hon. Jeremiah Kioni (Ndaragwa, JP): Thank you, Hon. Speaker. I thank you for giving me the opportunity to contribute to this Motion. From the outset, it is important to note that as the Chairman of the Constitution Implementation Oversight Committee (CIOOC), we are dealing with the implementation of the Constitution and trying to establish its status this far.

It is amazing that a number of officers in the Civil Service have not appreciated what these things entail. When you have the Office of the Auditor-General, which is an independent office created by the Constitution, vacant for three months, you sabotage the implementation of the Constitution. It is a very serious thing that has been done. One would even need to educate those concerned why it was necessary to create that office independent of the national Government. It was because we thought that by doing that, we would function in a more efficient manner without being hindered. When the Executive fails to appoint the Auditor-General, they are doing exactly what we were fearful of when the Constitution was passed. The Central Bank of Kenya, the Capital Markets Authority, the Ethics and Anti-Corruption Commission, KPLC, KenGen and the East African Portland Cement cannot process their accounts because the Auditor-General is not in office. It is important that other than just giving an extension of time to the authorities and as you said those heads, it is important to prescribe some punishment - I do not know of what nature - for failure to do it.

As my colleague said, I was one of those who were at the Bomas of Kenya a short while ago. One of the things that came out was the need for us to make sure that our institutions are functioning. We need to strengthen them. We are here in the same afternoon with an institution that is being crippled by not appointing the person who should make it function. I believe if we all paid attention to the provisions of our Constitution and implemented it up to 90 per cent, the

BBI would not be as heavy as it is today. A lot of the issues which are contained even in the BBI Report have a lot to do with our inability or our refusal to implement the Constitution as it is. Sometime next year, county governments and the country will say that Parliament refused to approve the audited accounts and they will base the revenue allocation on the wrong year yet the problem lies somewhere else.

As I support this Motion, it is important to be very specific at the kind of time we will approve. Two, it will be important to know exactly who has failed to implement the Constitution because we all took an oath to abide by the provisions of the Constitution. I support the Committee. Coming from Bomas of Kenya, to discuss this Motion is not a very sweet thing.

Thank you.

Hon. Speaker: We know that the Auditor-General holds a fixed term of eight years. To plan for succession should be easy. It is not the five years which the rest of us have which sometimes are dependent on certain vagaries of nature.

The Member for Kitui Central, you have the Floor.

Hon. Makali Mulu (Kitui Central, WDM-K): Thank you, Hon. Speaker for giving me the chance to support this unfortunate Motion. It requests this House to approve extension of the timeline of submission of financial reports of the CBK. The reason being advanced for this request is because the Auditor-General did not sign the Report because the person who is there now is in an acting capacity. We must realise that this extension will cause a lot of challenges in our financial operations.

First, we have this annual ritual where at the end of the year, the CBK Board presents a cheque to the Government which advances dividends for that particular year. By extending these timelines, we are saying that that ritual will not take place this year. For the CBK to release dividends to the shareholders, and the national Government is one of them, the report has to be approved by the shareholders.

Hon. Speaker, as the Budget and Appropriations Committee, we had a meeting the other day with the Office of the Auditor-General. The two officers who came from that office told us that they have a list of reports which have been finalised, but they cannot be submitted to this House just because we do not have a substantive Auditor-General in office to sign them. This House has pronounced itself to the fact that we need to carry out some special audit of some specific programmes in the Government. In a situation where such a report will inform even budget-making process, you realise that when the Auditor-General has not signed the report, we have to pend the final decision on those programmes. This is a serious matter. I really want to support what you have said.

As a country, we cannot afford to move forward this way where constitutional offices remain vacant for a time before we get people to occupy them. You have put it very rightly that the Auditor-General's tenure of office is not one term. As you have said, that term is eight years. I cannot believe that somebody is in office for eight years and we know the time he will exit and we cannot plan. There is this common saying that says that failure to plan is planning to fail. As a country, we are automatically planning to fail. I do not think any Kenyan wants to see this country fail.

Majority of us have just come from the Bomas of Kenya where we were looking at the Building Bridges Initiative Report. As part of those highlights, one of the things which Kenyans out there are saying is that this Government is not working for them, but for themselves. This means that Kenyans out there are not getting value for money in what the Government is doing. Basically, Kenyans are saying that we have a lot of resources which can improve their welfare,

but they think that they might be misdirected. The only office which can help Kenyans appreciate the fact that funds are being used for intended purpose is the Office of the Auditor-General. When the Auditor-General is not in place to tell Kenyans that their resources are being used properly, then we are not helping ourselves when we say that resources must be used prudently in the BBI Report.

The other point which has come out very clearly in that Report is the issue of corruption. Who tells Kenyans about the level of corruption in this country? We pass the budget every year. The Office of the Auditor-General tells Kenyans that they have independently looked at the financial statements and are convinced that 30 per cent of their resources have not been applied properly. It has been three months with nobody doing that. Are we now telling Kenyans that we can allow officers in charge of ministries, departments and agencies (MDAs) to continue using public resources as they wish? As a country, we cannot afford this. I want to encourage the Members to support this Motion. I like your proposal that the Committee concerned should take up this matter immediately and do the necessary amendments, so that the appointment of these constitutional office holders is anchored in law.

As I conclude, I request the Members that in case the name of the Auditor-General is submitted to this House while we are on recess, I do not think you will be demanding too much, in case you summon us for a special sitting to come and approve the person who will be nominated or proposed. It will serve a national interest for us to come and debate that particular individual. If we, as a House, agree, we will approve the person, so that he or she can occupy the office as soon as possible even before February. We will come back on 10th February and it means we will have already lost four months in 2019 and then we will lose another two months in 2020. That is not good for this country.

With those remarks, Hon. Speaker, I support this Motion. Thank you.

Hon. Speaker: I have consulted with the Chairman of the Public Investments Committee and a letter will be issued to whoever is responsible. If this matter is being delayed at the Public Service Commission, get the Chairman and the Secretary of the Commission - whoever is the Chief Executive Officer - to appear before your Committee on a day which you will set next week. Listening to the sentiments of the Members, it is very serious for this position to be left hanging. I have agreed with the Chairman that that letter will be issued. Either the Chairman or the CEO of the PSC must appear before the Commission. More appropriately, both of them should appear before the Committee because this matter is too serious to be left to chance. I have heard what Hon. Makali has said. Indeed, the Office of the Auditor-General is too sensitive. We can appear to be so careless to leave it hanging for such a long period. There are other timelines within the Constitution that are supposed to be obeyed. Reports should be submitted within timelines. Some of them will expire when we will be on recess. However, it is not the fault of this House. It is the laxity of others or lack of seriousness.

Let us now hear the Member for Mwea.

Hon. Josphat Kabinga (Mwea, JP): Thank you, Hon. Speaker. I support this unfortunate Report. I share your concerns and those of other Members who have raised similar concerns. It is really disturbing to see that the Central Bank of Kenya is ready with its reports which have already been audited. The auditors who audited these reports were appointed by the former Auditor-General.

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

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

So, the Auditor-General knew he was leaving. He knew that this Report is due at a particular time. That is why he appointed auditors to go and audit the CBK. It is not clear as to whether this same Auditor-General who left knew he was leaving office. It is also not clear as to what he expected out of the audit he asked his officers to do. It is really disturbing and not clear as to what is happening in the Office of the Auditor-General. The Committee needs to go beyond this particular Report and understand what is happening there. Could it be that the delay in employment is meant to favour somebody who could be far in line? These are questions that one may not fail to ask. At this particular time in this country, unemployment is a big issue. So many qualified people are out there looking for jobs. One cannot understand why we have a delay of such an appointment because we have many Kenyans out there who are qualified to take up this job.

From the Report, it is very clear that the former Auditor-General had time to prepare himself. He had time to assign some officers responsibility to incur expenses. He prepared himself by assigning officers to various audits and he had all the time. If there was all that time and he had prepared himself, was he communicating with the authorities that are responsible for his replacement or it was a calculated delay? This is disturbing. As my brother, Hon. Kioni said, we are just coming from the important BBI launch. One of the key areas of the BBI is to ensure that we are careful in how we utilise resources that we generate in this country. The only way to ensure that resources are well utilised is by audit. If there are no audit reports, then we are already violating one of the wishes of the BBI.

It is also disturbing that within our roles, we have areas where we are saying that if a certain office holder is not there, the entire process is stopped. It does not go through. These audit reports are ready, but because somebody is not there, we cannot have them tabled in Parliament. I also take note that the Head of the Public Service wrote to the acting Auditor-General sometime back to alert her that she was not authorised to sign some of the documents. So, they are pending knowingly. I wonder whether the Committee has checked with the Head of the Public Service to look at why he wrote that letter and when he is expected to facilitate the process. He is the Head of the Public Service. All these agencies, including the Public Service Commission fall under his docket. He is able to influence and ensure that he accelerates the appointment of an Auditor-General. The PSC falls under the Departmental Committee on Administration and National Security and I am interested to know whether it is the commission that is delaying the deployment of an Auditor-General. As I mentioned, Kenyans out there get disturbed when they hear that we have areas where we are not able to recruit or we are delaying recruitment for no reason. Many youths are looking for jobs. They do not have opportunities for work. We understand this is an experience intensive position, but by appointing an Auditor-General, we are opening another position that cascades down until we can have a youth employed.

Therefore, we need to do all we can to ensure that we do not waste any moment in this country, not just about the Auditor-General, but move with speed to ensure that this is done every time we have opportunity for employment. We should continue to pick on young men and women who are looking for jobs. We are discouraging the young men and women when we delay appointment into these kinds of jobs. We are here debating, a whole afternoon, and talking about reports that cannot come to the House because there is a delay in appointment of an

Auditor-General; a position which has been in place for many years. We knew the Auditor-General was retiring and he had prepared himself to leave.

The Head of the Public Service also knew the position was falling vacant. It is a very important position which looks at our resources. It is a position that can make many institutions, as alluded in the Report, to stop operations if we were to be strict on the requirements, especially on the submission of financial reports.

As we support this request to extend the timelines, the Chairman of PIC should ask the exact timelines that are required. I have noted from the Report that there was an attempt to meet the Attorney-General and the Committee was not able to. I hope they will reach out to him to understand what is happening. They should also reach out to the Head of Public Service and the Public Service Commission. If it is the PSC that is sleeping on the job or delaying the process, I think our Committee will be interested in knowing, so that we can help in calling them to explain why they are delaying the process.

I, therefore, support and hope that we will not fall into this kind of a situation again. We should not spend another afternoon discussing delays in employment. This country is in problems as far as employment is concerned and it is unfortunate we can be talking about not employing when we know we have many qualified people who are looking for jobs.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Patrick Mariru): We shall have Hon. Kevin Wanyonyi, the Member for Kwanza.

Hon. Ferdinand Wanyonyi (Kwanza, FORD-K): Thank you, Hon. Temporary Deputy Speaker for the opportunity.

From the onset, I cannot reconcile that we do not have a substantive Auditor-General in the Republic of Kenya. I just want to echo the sentiments of my brother, the Member for Mwea. We have many Kenyans in this country. I have just come from the Bomas of Kenya and, Hon. Temporary Deputy Speaker, I do not know whether you had the chance to be there. The Minister for Foreign Affairs from Tanzania made it very clear that they respect this country because this is where people are. We are very educated. We should not be asking for a position like this. I cannot reconcile this. It is only when I walked in that I realised this is part of our business today. We do not have an Auditor-General because there was a delay. What causes the delay? Unless somebody has an interest in looking for somebody from somewhere else, maybe from Europe, to come and fill the position, I cannot reconcile that we do not have an Auditor-General three months down the line. Mr. Ouko worked very well for this country for eight years and we must have had a succession plan. I do not understand.

Therefore, I am even tempted to say that the extension be declined and we force the Executive to come to this House to explain why they have taken that long to appoint an Auditor-General. The moment you give an extension, you are agreeing that they should continue in the status quo. I would decline to give an extension. This is one way of saying that this is well done. Do not give an extension because there is no reason for us to have taken more than three months from 31st August 2019 when Ouko left. I thank him. He did a very good job for this country and nothing should stand still because he left. I cannot reconcile. I am a senior Kenyan and I cannot reconcile this. Unless there is an interest somewhere, somebody has an interest to bring in somebody else to do the job, this is fair enough. The best we can do, and I do not want to agree with other people who are saying that we should extend time, is to refuse to approve the extension and force the Executive to come and explain to the House and Kenyans why they have taken more than three months to pick the Auditor-General. We have very many problems. If you

come to my place, Trans Nzoia, Coast or North Eastern, you will get somebody who can do that job even better than Mzee Ouko.

If the worse comes to the worst, we should continue and give them some four or five days, maybe two or three weeks. Even if we are on recess, we should be recalled to settle this issue because everything is at a standstill. Many things are not moving. We have a list of parastatals that are not able to move because reports have not been signed by the Auditor-General. I want to differ with my friends that we do not necessarily have to extend time. As Hon. Makali said, failure to plan is planning to fail. So, we know somebody somewhere has an interest. Let us not beat about the bush. Somebody has an interest in not appointing someone to substantively occupy the Office of the Auditor-General. Therefore, I want to oppose that the House should give the Committee an extension of time. We want to know why the delay is there. I do not want to support the request.

Thank you.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Let us hear Hon. Wetang'ula.

Hon. Tim Wanyonyi (Westlands, ODM): Thank you, Hon. Temporary Deputy Speaker. I also want to support the Report. It is very disturbing that an office as serious as the Office of the Auditor-General could remain vacant. It speaks volumes about the managers of this country. I remember we do not even have a substantive Cabinet Secretary for the National Treasury. We have an acting one. At one point in time, we did not have a substantive Cabinet Secretary for Interior and Coordination of National Government. We had an acting one. That was after Hon. Nkaisserry passed on. There are too many acting chief executive officers of government agencies. This is a practice that should end. We need to fill these vacancies. We have Kenyans who are qualified. We also need transition. When somebody is exiting from office, the next office holder should be appointed even when the other one is still in office, so that there is some kind of continuity to ensure a smooth transition. When we leave offices vacant like this, we create a vacuum. We create a situation that people may exploit to do funny things. You can imagine what could be going on because there is a lot of standstill in Government offices. They cannot be audited, some reports are being delayed or some action is being delayed because of these vacancies. Somebody must have slept on the job. They should wake up and do their work. The Committee should take this matter very seriously and conclude it urgently, so that we do not go on recess before we resolve the issue. We should make sure the offices do not remain vacant.

Hon. Members will remember the circus we have in the Judiciary as a result of the President declining to appoint judges. That has also brought a lot of issues on the independence of the Judiciary. These are constitutional bodies. The Judiciary is the third arm of the Government, and it must be taken seriously. We would like to urge the Government and the agencies and offices involved, like the Public Service Commission, to take up this matter as quickly as possible. The Office of the Auditor-General has remained vacant for the last four months. It may even go for six months. We do not know. This means even the fight against corruption will be compromised. If the Auditor-General is not exposing some of the issues going on in the Government, then we will not have information to deal with matters of corruption.

The past holder of the Office of the Auditor-General, Mr. Edward Ouko, did an exemplary work. He was very passionate about audit issues, and he was very sensitive when dealing with issues. Even areas of the Government that had never been audited were audited. Some of the scandals that we have seen were exposed through his work. So, we would like to urge that this matter be taken very seriously.

As Parliament, we need to also stamp our authority. The Committee should move with speed and summon the officers to appear before it and tell the country why we do not have people occupying these offices. Who is delaying the appointment of an Auditor-General and for what reason? What is the purpose? What is it that they are doing?

As I support the Motion, I urge that this matter be resolved as quickly as possible.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Janet, just hold on. Your neighbour came in earlier than you.

Proceed, Hon. Hulufu Oda.

Hon. Hassan Hulufu (Isiolo North, KPP): Thank you, Hon. Temporary Deputy Speaker. I would like to also support the Motion on extension of time for submission of the Central Bank of Kenya Financial Report for the 2018/2019 Financial Year. I would like to add my voice to concerns raised by some Members who have spoken. This extension is occasioned by the vacancy in the important Office of the Auditor-General. It is very unfortunate that a constitutional and independent office - the office which helps us as a country to ensure that all the national and county government organs entrusted with public funds are held accountable - can remain vacant this long.

The term of the former Auditor-General was fixed at eight years. It was known to everybody when his term would end. After the term of Mr. Ouko ended, the vacancy was gazetted, advertised, names of Kenyans who applied to replace him were published in the newspapers and later on, we saw the shortlist. After that, things went silent. Of course, as Kenyans, we can only guess that certain people whose names were required to be among the three to be submitted to the appointing authority did not find their way into the short-list of the three. As the people's representatives, we should take this matter very seriously. We cannot afford a situation where the Office of the Auditor-General can remain without a substantive occupant. This is the office which helped us to unearth very many scandals. I would like to congratulate the former occupant of that office, Mr. Ouko, who was very independent in execution of his duties. He could not yield to any intimidation from any quarters. I am sure there are people who do not want another Ouko to occupy that office. As we support the extension of time for submission of this Report, the Committee that oversees the Public Service Commission should contact them to find out why it has taken this long for the process of recruiting the replacement of Mr. Ouko to be finalised.

With those few remarks, I support the extension.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Nassir Sheriff, you have an intervention.

Hon. Abdullswamad Nassir (Mvita, ODM): Hon. Temporary Deputy Speaker, I wish to move an amendment as per the Speaker's earlier advice. I think the problem was in the drafting of the Motion in the Order Paper. In our Report, we had indicated the timeline that we are talking about. So, I wish this House to discuss this particular Report with the following amendment:

THAT, the Motion be amended by inserting the following words immediately after the words 'Financial Year 2018/2019'—

'for a period not exceeding six months, pursuant to provisions of Sections 54 and 55 of the Central Bank of Kenya Act (Cap. 491 of the Laws of Kenya)'.

Hon. Temporary Deputy Speaker, I request Hon. Raphael Peter Wanjala to second.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Order, Hon. Shariff. Before you give your neighbour opportunity to second, it is important to explain a bit the import of that

amendment because it is a very important amendment, so that Members can be on the same page with you.

Hon. Abdullswamad Nassir (Mvita, ODM): Hon. Temporary Deputy Speaker, in the Report, we explained that the provisions of the law do allow the House to extend the time line for the Central Bank of Kenya to submit that Report and we included that in our recommendations as well.

“That the House to resolve to pass our Report...”

Needless to say, in the Order Paper, it did not include the wordings which had the timeline. So, it is important because a Member had raised it and the Speaker made a ruling rightfully that the House will end up extending over a period that is unknown, which is very dangerous. Equally, I wish to also add that the substantive Speaker, when he was here, said that by next week, he will be calling those who are in charge. We have been tasked to do the job of choosing the Auditor-General and by next week, we will see how we can submit necessary amendments on the Public Audit Act. I am requesting Hon. Raphael Bitta Wanjala to second.

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

Hon. Raphael Wanjala (Budalangi, ODM): Thank you, Hon. Temporary Deputy Speaker, I second.

(Question of the amendment proposed)

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Members, the implication of that amendment by the Chairperson is that the Members who will speak to this will not speak to the original Motion. Whoever I give opportunity from now on will have to speak specifically to this amendment because the House has to make a decision on whether the Motion should be amended as proposed by Hon. Nassir. He proposed an amendment to the earlier Motion that the Members have been debating for the last one hour or so. So, whoever I give a chance, please, do not speak to the original Motion. Speak to this amendment, so that the House makes a decision on whether the Motion needs to be amended. After that, if the House decides that the Motion be amended as proposed by Hon. Nassir, we shall go back to the original Motion as amended and the Members will continue debating. That is the procedure.

We shall start with Hon. Mabongah Mwambu. I hope Hon. Members have a copy of this amendment.

Hon. Mwambu Mabongah (Bumula, Independent): Thank you, Hon. Temporary Deputy Speaker. With the amendment, some clarity is brought out because we need to have specific timelines for dealing with the issue of nominations. As much as we have seen that there are many gaps in the Public Service Commission, and the way they do their work, I agree with the amendment, but I need to allude to something that is of great concern in the public service. In this country, people have been appointed to offices even without applying for the jobs. We have a number of them.

The last speaker has just spoken and it is important to point out this. I may not find some time again to speak on the same. If they have to continue with the procedure of appointing the new Auditor General, they should stick to the list of candidates that they had shortlisted and published, so that the best candidate is picked from the shortlist and not brought through the back door. That is my concern. I support the amendments. Let us have the specific timelines of the extension, so that the CBK can submit its audited Report of the 2018/2019 Financial Year.

Thank you.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Very well. It is a thin line, Hon. Mabongah and the other Members who will speak to this. Please, restrict yourself to this amendment and do not worry because even if you spoke to the amendment and the House made a decision about the amendment, you will still get an opportunity to speak to the original Motion amended or not, if you had not spoken to it. Let us have Hon. Janet.

Hon. (Ms.) Janet Nangabo (Trans Nzoia CWR, JP): Thank you, Hon. Temporary Deputy Speaker. I support the Motion as amended by Hon. Nassir. I agree with my colleagues concerning the matter of the Auditor General. It is very embarrassing for this country to find that we are not working the way our Constitution stipulates. When we talk about this extension, it brings out a lot of issues and it is clear we are not following the Constitution. So, we can allow the Committee to be given the six months they are asking for, but they must work on the timeline so that we can get an Auditor-General as fast as possible. The former Auditor-General, Mr. Ouko, did a good job for this country. When we had him, he showed us the way forward and the procedure of auditing all the stakeholders. It is also embarrassing when we sit in this House discussing issues which the Executive can take up. Issues come here which we debate, but when they go for implementation, we get many problems. Today, when we were talking about the BBI, it was embarrassing when somebody was asking about the issue of...

The Temporary Deputy Speaker (Hon. Patrick Mariru): Is there an intervention, Hon. Wachira Kabinga? What is out of order?

Hon. Josphat Kabinga (Mwea, JP): Thank you, Hon. Temporary Deputy Speaker. I thought you have just directed that we are discussing the amendment that has been proposed and not the substantive Report that we are continuing to discuss thereafter.

The Temporary Deputy Speaker (Hon. Patrick Mariru): You are right, Hon. Wachira Kabinga. Hon. Janet, you are gravitating towards the original Motion. I was almost bringing you back. Please, speak to the amendments.

Hon. (Ms.) Janet Nangabo (Trans Nzoia CWR, JP): Thank you, Hon. Temporary Deputy Speaker. I thought you said we can also touch on the substantive Motion.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Janet, I did not say that and I cannot have said that. The situation we have now is that an amendment has been proposed by Hon. Nassir. Hon. Members are restricted to speak to the amendment only, so that the House makes a decision whether the original Motion will be amended or not, then we shall revert to the original Motion as amended or not amended. At that point, you will still get a chance to speak to the original Motion if you had not spoken to it. So, Hon. Members, restrict yourselves to the amendment.

Hon. (Ms.) Janet Nangabo (Trans Nzoia CWR, JP): Thank you, Hon. Temporary Deputy Speaker. I support the amendment because it can regularise issues concerning the Auditor-General. I support the Committee on matters of the Central Bank bringing in structures, so that we can support this law fully.

I support.

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

Hon. Sakwa Bunyasi (Nambale, ANC): Thank you, Hon. Temporary Deputy Speaker. I have very little to say on this.

First, I support the intended extension of time. This will help in getting documentation properly done. It is repetitive since I do not know if this has been requested before. However, we

will address some of the underlying reasons why this is being extended when we begin discussing the substantive Motion.

I support the amendment

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

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Thank you, Hon. Temporary Deputy Speaker. I support the amendment to the Motion. It is not fair to leave it blank because the extension can be there forever. Capping it for a certain number of months is the right procedure, so that, at least, those responsible for appointing the Auditor-General have a period of six months to do what they are supposed to.

With those few remarks, I support.

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

Hon. Josphat Kabinga (Mwea, JP): Thank you, Hon. Temporary Deputy Speaker. I have a problem supporting this amendment because I have read the Report. The Committee is yet to meet the relevant agencies that determine when the Auditor-General will be appointed. The Committee has asked for a period of six months before doing as the Speaker advised them, that they should consult with the relevant agencies including the Public Service Commission, so that we can know where we are in this process.

I want the Chair of the PIC to tell us where he got this time estimate given the interdependency of the various agencies that are supposed to participate in the appointment of the Auditor-General. From the Report, it is very clear that as long as we do not have an Auditor-General in place, we shall not have this Report. So, for us to talk about six months... The Chair is not listening.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Kabinga, the House is listening.

Hon. Josphat Kabinga (Mwea, JP): I would like to hear from him how they arrived at six months before meeting the relevant agencies including the PSC to know if they have already started the process of recruiting the Auditor-General.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Let us have Hon. Sherriff Nassir replying to that amendment.

Hon. Abdullswamad Nassir (Mvita, ODM): Thank you, Hon. Temporary Deputy Speaker. I beg to reply and say that this will continue tomorrow if the House Business Committee (HBC) agrees. This is very simple. We sought guidance from the substantive Speaker to call the concerned people. I want to advise my colleagues that we wrote to the respective bodies. Unfortunately, because of the timelines put in place by the Speaker, the Committee was forced to write this Report without informing the PSC. However, we stand guided.

I beg to reply.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Members, we will pend putting the Question on this amendment to a subsequent time for obvious reasons. As I said, when the House makes a decision on this amendment, we shall revert to the original Motion.

(Putting of the Question deferred)

Next Order!

ANNULMENT OF LAND REGISTRATION
(ELECTRONIC LAND TRANSACTIONS) REGULATIONS, 2019

The Temporary Deputy Speaker (Hon. Patrick Mariru): Chairperson, Committee on Delegated Legislation. Hon. Maanzo, the last time I checked you were not the Chair or you want to speak on her behalf?

Hon. Daniel Maanzo (Makueni, WDM-K): Hon. Temporary Deputy Speaker, I have been requested by the Chair to hold brief.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Please, proceed.

Hon. Daniel Maanzo (Makueni, WDM-K): Hon. Temporary Deputy Speaker, I beg to move:

THAT, this House adopts the Report of the Committee on Delegated Legislation on its consideration of the Land Registration (Electronic Land Transactions) Regulations, 2019 (Legal Notice No.101 of 2019), laid on the Table of the House on Wednesday, 13th November 2019 and pursuant to the provisions of Section 18 of the Statutory Instruments Act, 2013 and Standing Order 210(4)(b) annuls in entirety the said Regulations.

The Select Committee on Delegated Legislation is established pursuant to the provisions of Standing Order No.210(4)(b) and has power to scrutinise and certify that all regulations submitted to the National Assembly are in compliance with the Constitution of Kenya and all other Acts of Parliament.

In this Third Session, the Committee received 75 instruments for consideration. I am happy to report that the Committee expeditiously considered all the instruments without seeking extension of time and none lapsed in our hands. Out of the 75, the Committee recommended annulment of 38 of them, approved 36 and one (1) will be considered before the end of the current Session.

(Loud consultations)

The Temporary Deputy Speaker (Hon. Patrick Mariru): Order Members! Order! I can see the Leader of the Majority Party seems to have a bit of consultation. Just lower your voice. I am not aware there is a Prime Minister in the House or an aspiring one. For now, consult in low tones, so that we are able to follow the proceedings.

Hon. Maanzo, proceed.

Hon. Daniel Maanzo (Makueni, WDM-K): This is a track record that the Committee is immensely proud of. Hon. Temporary Deputy Speaker, I will now delve into the subject matter of the Motion.

The Land Registration (Electronic Land Transactions) Regulations, 2019 were made by the Cabinet Secretary for Lands and Physical Planning in exercise of the powers conferred by Section 110 of the Land Registration Act, No.3 of 2012.

The Regulations were published vide Legal Notice No.101 of 2019 on 28th of June 2019, received by the Clerk of the National Assembly on 1st August 2019 and tabled before the House on 6th August 2019. I will highlight some of the provisions of the Regulations.

The Regulations seek to provide for the procedure of conducting electronic land transactions, electronic submission and registration of documents in all registries where an electronic registry is maintained.

Regulation 4 provides for an Electronic Registry System in the registries set out in the Schedule, through which all land registry transactions shall be carried out. The Schedule only provides for the Nairobi Registry.

Regulation 3 provides for the definition of a 'user'. Regulations 5, 6 and 7 provide for the process of registration, the Chief Land Registrar's role in approving user applications, terms and conditions of user agreements and the obligations of a user. Regulation 8 provides for reasons for and the power of the Chief Land Registrar to restrict, suspend or terminate a user's access to the system. Regulation 9 provides for the process of termination of a user's access.

Regulation 10 provides for the process of appeal against the decision of the Chief Land Registrar to restrict, suspend or terminate a user's access to the system. Regulation 11 provides guidelines for the use of the system to draw and engross conveyancing documents by authorised and qualified persons under the Advocates Act.

Regulations 12, 13 and 14 provide for the creation of electronic documents and instruments, electronic generation of documents for registration and lodging of documents for registration respectively. Regulation 15 provides for payment procedure through existing Governments payment platforms.

Regulations 16 and 17 provide for the procedure to be followed by a registrar in the registration and recording process.

Regulation 18 provides for public access to the information maintained electronically through a search via an online platform. Regulation 19 provides for the limitation of liability and warranties made by the Cabinet Secretary and other Ministry officials.

I will move to scrutiny of the Regulations. The Committee considered the Land Registration (Electronic Land Transactions) Regulations against the Constitution, the Interpretations and General Provisions Act (Cap 2), Laws of Kenya, the Land Registration Act, (No.3 of 2012) and the Statutory Instruments Act (No.23 of 2013). Pursuant to Section 16 of the Statutory Instruments Act, the Committee conferred with the regulation making authority through a meeting held on 1st November 2019 in Diani, Kwale County. The delegation was led by Ms. Farida Karoney, Cabinet Secretary for the Ministry of Lands and Physical Planning.

I will now move to findings. Having listened to the regulation making authority and examined the Regulations against the Constitution and other relevant laws, the Committee observed that:

1. On consultations with the National Land Commission, Article 67 of the Constitution stipulates that one of the functions of the National Land Commission is to advise the national Government on a comprehensive programme for the registration of title in land throughout Kenya. In addition, Section 110(2) of the Land Registration Act requires the Cabinet Secretary to take into account the advice of the Commission in making regulations. Contrary to Article 259(11) of the Constitution, consultation with the NLC was not adequately demonstrated, neither was it stated in the enabling clause of the Regulations.
2. Contrary to Section 11(1) of the Statutory Instruments Act, the Regulations were not submitted to the National Assembly within the statutory timeline contemplated, having been published on 28th June 2019, received by the Clerk of the National Assembly on 1st August 2019, and tabled before the House on 6th August 2019. The Regulations ought to have been received by the Clerk of the National Assembly on 30th July 2019.

3. On public participation, the regulation making authority submitted that it appointed a Taskforce on Electronic Land Transactions under the Land Registration Act, 2012, Land Act, 2012 and the Community Land Act, 2016 vide Gazette Notice No.7859 Vol. CXX No.90 dated 3rd August 2018. The taskforce was mandated to study and review land sector-related laws with a view to formulate guidelines for electronic registration of land transactions and conveyancing systems and submit draft guidelines on the same. The Ministry submitted through its Explanatory Memorandum that it conducted public participation with various stakeholders including the NLC, the Council of Governors, the Law Society of Kenya, the Institute of Surveyors of Kenya, the Kenya Institute of Planners, the Town and County Planners Association of Kenya, the Kenya Property Developers Association, the Kenya Bankers Association and the Land Development Governance Institute. The taskforce also published a public notice inviting members of the public to participate and submit their views and proposals in public hearings hosted by the taskforce. The hearings were held between 2nd and 11th October 2018 in Mombasa, Nakuru, Uasin Gishu, Nairobi, Embu, Kakamega, Kisumu, Machakos, Garissa, Nyeri, Kisii and Marsabit counties. The Committee concluded that the Ministry did not demonstrate that it conducted sufficient public participation in the development of the Regulations, contrary to Section 5 and 5A of the Statutory Instruments Act.
4. On Regulatory Impact Statement, the Land Registration (Electronic Land Transactions) Regulations, 2019 require a Regulatory Impact Statement within the meaning of Sections 6, 7 and 8 of the Statutory Instruments Act since they are intended to prescribe guidelines for electronic land transactions, land being a critical sector throughout Kenya. The provisions of the Regulations are pertinent to the right to own property, land in particular, and right of access to information. The regulation making authority failed to submit a regulatory impact statement contrary to Sections 6, 7 and 8 of the Statutory Instruments Act, 2013.
5. Regulation 5 makes provisions for registration in the prescribed forms which have not been provided for in the Regulations or the Schedules.
6. Various provisions of the Regulations give the Chief Land Registrar very broad powers that are subject to abuse. For instance:
 - (i) Regulation 6(1) gives the Chief Land Registrar power to approve or refuse to approve a person as a user and had the potential of abuse and infringement on the rights to property and access to information. The Regulations should have specified the circumstances under which the Chief Land Registrar may refuse to approve a person as a user; and,
 - (ii) Regulation 6(5) allows the Chief Land Registrar to impose additional conditions for approval as a user. The Regulations have not specified the said conditions or rationale for imposing them. This gives the Chief Land Registrar too much discretion that may be abused.
7. Regulation 10 requires the Cabinet Secretary to constitute a committee of nine representatives from various stakeholders to hear and determine appeals against the decision of the Chief Land Registrar. The Committee recommends that several committees ought to be constituted for expeditious resolution of disputes.
8. On lack of clarity on payment procedure, Regulation 15 provides for payment procedure through existing Governments payment platforms, oblivious of the fact that there are no clearly defined payment platforms.
9. On limitation of liability, Regulation 19(2) speaks to the limitation of liability of the Cabinet Secretary and the officers of the Ministry responsible for land. Members opined that Regulation 19 as presently drafted completely limits the liability of the National Government, making only the Cabinet Secretary and Ministry officials liable. In addition, the provisions of Regulation 19(2) have been adequately addressed in the Land Act, 2012 and the Land Registration Act, 2012 and, therefore, should be excluded in the Regulations.

I will now move to recommendations.

Hon. Temporary Deputy Speaker, pursuant to Standing Order 210 (4)(b) and section 15 (1) of the Statutory Instruments Act and having examined the Land Registration (Electronic Land Transactions) Regulations, 2019 against the Constitution, the Interpretations and General Provisions Act (Cap 2) Laws of Kenya, the Land Registration Act, No.3 of 2012 and the Statutory Instruments Act, No.23 of 2013, and the respective laws pursuant to which they are made, the Committee recommends that the House annuls in entirety the said statutory instrument for the aforementioned reasons.

The regulation making authority is reminded about Section 19 of the Statutory Instruments Act which stipulates that once this House adopts a resolution to annul an instrument, the instrument shall stand revoked and the regulation making authority shall publish the revocation within fourteen (14) days.

As I conclude, allow me for the umpteenth time, on behalf of the Chair of the Committee on Delegated Legislation, to acknowledge the tireless efforts of the Members of the Committee for their exceptional commitment to great work ethic and spirit of excellence to serve. I am proud of the Members of the Committee on Delegated Legislation.

I beg to move. I also request Hon. Oundo, the Member for Funyula Constituency and a Member of the Committee to second the Report.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Let us have Hon. Oundo Ojiambo, the Member for Funyula.

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Thank you, Hon. Temporary Deputy Speaker for this opportunity. As I second this Motion, I would like to remind my colleague that Funyula Constituency only sends titled men and women to represent them in Parliament.

I belong to the Committee on Delegated Legislation. I support the Motion. Land is a central issue in the country because of its importance and centrality in the process of production, cultural and political dispensation. Therefore, these Regulations were meant to implement or actualise Article 60 of the Constitution of Kenya, which is the broad part of land administration that calls for efficient and effective land administration. Electronic land transactions are part of that process of making it efficient to transact land matters. It is also part of what we had brought in the land policy that called for progressively removing or minimising human contact between the various users of land details because that is the best way to avoid corruption and fraud that are perpetuated in the land sector.

The importance of the land information management system is critical for the safety and security of this country. It is critical for proper functioning of the banking industry because every person who deals in land is required to make sure that whatever information he gets is accurate. That is why an electronic land information management system is critical. When we drafted the Constitution of Kenya in various Articles, we came up with the National Land Commission that seems to be the apex of land administration and management in this country. Therefore, the roles of the NLC and the Ministry have been clearly stated in the various land laws. Therefore, the two must work in tandem to ensure that we deliver on the broad aspects of land reforms that we have yearned for many years in this country.

Reviewing the specific Regulations at hand, the Committee made a decision to annul the same in respect of a few issues that we noted. Fundamentally, Article 256 of the Constitution requires that any regulations made by any regulatory-making authority - be it the Ministry or wherever it is - must be done in consultation with the NLC. When the Committee listened to the Cabinet Secretary and the technocrats, we were not convinced that there had been adequate

consultations with the NLC. This raises the question: Does a mere invitation to attend a stakeholder meeting constitute consultation? We must also appreciate that that was probably the time we did not have a substantive NLC. That could have resulted in failure to demonstrate adequate consultation.

Secondly, the issue of land transactions is important to Kenyans that it was necessary that there be a regulatory impact assessment report. The Ministry did not provide this. Thirdly, knowing the importance of land, it would have even been more prudent for them to go further and prepare some kind of social impact assessment report to ascertain to what extent the Regulations would affect Kenyans generally, and specifically, users of the land information management system. The Ministry did not demonstrate that they did the same.

More fundamentally was the issue of lack of public consultation. Our Constitution is explicitly clear that for any legislation, be it subsidiary legislation or a directive, that has an impact of legal force, there must be public consultation. The mere fact that the Ministry purported or indicated without providing any proof that they hosted some stakeholders is not enough. They could have called their friends in a room and taken a cup of tea. That could not constitute public consultation. The mere fact that they said they put an advert in the newspaper, which they could not provide, could not have been adequate public participation. Issues of land are so central. The Ministry should have gone out of its way to make sure that they have adequately consulted the public and that public input has been incorporated in the Regulations.

Finally, reading through the Regulations as they were, they seemed to confer excessive powers to the Chief Land Registrar. That office was becoming a law unto itself. This being a public document or a public process, there should not have been such restriction as to the Chief Land Registrar to decide who becomes a user to restrict access to the information. Therefore, as a Committee - and we are proud to have done so - we had a serious discussion with the Ministry. We pointed out to them the shortcomings of the Regulations and they agreed with us that they will go back to the drawing board and come up with regulations that truly reflect the will of the people and comply with the laws and the Constitution being the supreme law.

With those few remarks, I beg to second the Motion.

(Question proposed)

The Temporary Deputy Speaker (Hon. Patrick Mariru): We shall start with Hon. John Bunyasi.

Hon. Sakwa Bunyasi (Nambale, ANC): Thank you, Hon. Temporary Deputy Speaker. I first of all support the Motion. I agree with the Seconder, Dr. Oundo, who is my neighbour back home, that land is central to development and our social structures. Any attempts that improve the way in which we ease its utilisation, improve the accuracy of its utilisation or reduce the abuses that have gone on in the land registries are extremely useful. There is no society that we know of that has been able to take off development-wise without sorting out their land affairs. A society can sit on resources that are not being released to those who can use them better. It can lose confidence in its registry such that modern institutions like banks are unable to make use of it. It can also cause enormous conflict within communities and society. Anything that improves its accuracy is of paramount importance over all the other things we do. Even if you think of our current focus on the Big Four Agenda, if the land sector does not work, half of all of those things will not be realised. Anything that goes towards reducing the evil hand of man - because sometimes the hand of man is evil - is useful.

We still need our professionals and technicians in land affairs to be qualified at all levels. It is not just the high-end professionals like Dr. Oundo. We require a lot in the middle and lower ranks because that is where errors may be made that may not be captured. Even in our resources, we think about our land management strategies and the land policy. Knowing what goes on in the Ministry of Lands and Physical Planning, and without casting aspersions on anybody and trying to be as modest as possible... I can go public; to use polite words, I really think that the Ministry has been a disaster. This direction will uplift the confidence that we have in the system.

Forty years ago, there were parts of this country - which I will not mention for reasons of prudence - where the land registry was so convoluted that no banks could touch them. It was so convoluted that land buyers were extremely wary. Those areas were expanded. This will be a futuristic way of looking at how we can arrest this situation.

With those few comments, I support the Motion.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Before I give the opportunity to Hon. Makau, shall we have the Leader of the Majority Party?

Hon. Aden Duale (Garissa Township, JP): Thank you, Hon. Temporary Deputy Speaker. I rise to support this Motion. Many people do not know that when the Committee on Delegated Legislation annuls a regulation or statutory instrument, it is important for the sector ministries or even the House to first see the reasons it has used.

There are people out there who will ask why they have annulled the regulations. If they involve the House before the publication of the gazette notice, then that regulation will not be annulled. One of the reasons the Committee on Delegated Legislation annuls a number of statutory instruments is on technicalities.

For example, the Statutory Instrument Act says that the moment an institution publishes gazette regulations; they must be submitted to the House within seven days. People send regulations which were gazetted in 2018 to the Clerk's Office for me to table and submit them to the Committee on Delegated Legislation regulations. So, they are dead on arrival. I will give you an example of all those 23 regulations from the Kenya Civil Aviation Authority.

The Director-General brought them to the House, but published them in 2018. I told him that I would table them, but they were dead on arrival. The Clerk's office should write to the Government. They must read the law. If they do not do public participation and the Committee is convinced beyond reasonable doubt, that it was not done, that is another technicality for annulling regulations. If there are serious stakeholders who appear before the Committee and say that they are seeing the regulations for the first time and the institution that brought that gazette and the regulations cannot provide evidence in writing; which are the minutes and participation memoranda, then there is a technicality.

I always stand with the Committee on Delegated Legislation. When they annul regulations, I usually read the Report. Unlike other committees, the business of the Committee on Delegated Legislation in approving or annulling a regulation is based on the law. They do not go to the stuff of the regulation. They ask whether it was brought to the House within the required timelines, was public participation done or it conflicts with the Constitution or any other Act of Parliament. When they were dealing with the regulations on the debt ceiling, the Budget and Appropriations Committee and the Department Committee on Finance and National Planning gave them the other aspect which is the debt level. The Committee on Delegated Legislation was not concerned about the debt level but the law. Was the law complied with in formulating those regulations?

When they approve regulations, they do not come to the House. Members only see the annulment of regulations in this Committee. There is an impression out there that the Committee on Delegated Legislation annuls everything. As Hon. Bunyasi said, these particular Land Registration (Electronic Land Transactions) Regulations are important. Land is a factor of production. Hon. (Dr.) Oundo will agree with me because I sat with him in the Mediation Committees. Unless we set right the factor of production which is land, whether it is the Big Four Agenda or Standard Gauge Railway (SGR), we will not get it right. The central point of the mix of the economy of the country is land.

I support the Committee. They have raised a number of technical issues why they have annulled the regulations. To go on record, what only comes to the Floor of the House from this Committee is the annulment of regulations. If they approve regulations, they write directly to that institution and say that they have done it because they are in order. They annul regulations but they also approve many others. However, that does not need to come to the Floor of the House.

I beg to support the annulment of the Land Registration – Electronic Land Transactions – Regulations, 2019

The Temporary Deputy Speaker (Hon. Patrick Mariru): The Leader of the Majority Party is quite on target. You seem to have understood very well the working of that Committee. I heard it elsewhere that this is a Committee which annuls regulations. It is good to appreciate the other hundreds of statutory instruments which are approved. According to the law, they do not need to be tabled in the House.

There is the second point about the pre-publication scrutiny. Maybe, the Government agencies need to appreciate that when you have a pre-publication scrutiny with this Committee, then you panel beat some of the gaps and the possibility of approving the regulations are higher rather than to wait for them to be annulled.

Let us hear Hon. Makau.

Hon. Patrick Makau (Mavoko, WDM-K): Thank you, Hon. Temporary Deputy Speaker. At the outset, I support the annulment of these regulations. When I listened to the Leader of the Majority Party articulate the mandate of the Committee, I felt that he really understands the whole gist of the matter.

The rider of these Land Registration (Electronic Land Transactions) Regulations is public participation. One of the key stakeholders in this area is the National Land Commission (NLC). I learnt that it was not consulted. Article 67 of the Constitution articulates the functions of the NLC. If you do not involve them, it is serious ignorance. Sixty per cent of the land in Kenya is not surveyed. If the Ministry of Lands and Physical Planning introduces electronic land transactions, this would be a mega fraud. I cannot wait for the BBI Report to come here, so that CSs can come from this House. Some of these CSs do not understand the needs and likes of Kenyans. If the CS for the Ministry of Lands and Physical Planning represents people like me; he/she can understand that 60 per cent of land in Kenya is not registered. If you introduce Kenyans to electronic land registration and transactions, you will punish them. They will be in a vulnerable position.

I am an expert in land matters. I can tell you for free that if these regulations are approved, we will have mega fraud in land. You will have your parcel of land somewhere in Mombasa and you hear that it was registered electronically and charged. By the time you go to court, you will never know what happened to your land. When the Committee on Delegated Legislation comes up with such recommendations, I agree with them. They dug into pregnant issues. The Government is also a major stakeholder in land registration in this country. If

Parliament, for example, was not consulted, how do we allow such regulations to be sneaked in? I agree in totality with the Committee that these regulations be annulled and thrown away with immediate effect.

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

The Temporary Deputy Speaker (Hon. Patrick Mariru): Order, Hon. Makau. What is your intervention the Leader of the Majority Party?

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Speaker, Hon. Makau is an expert in land matters, not in terms of professionalism, but because he was the Mayor of Masaku. It is not in order for him to say that it has been sneaked. These are official regulations that were tabled. I agree with him that they have serious issues, but they came to the House officially. He can paraphrase it.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Makau, I am sure you are well advised. They never sneak here.

Hon. Patrick Makau (Mavoko, WDM-K): Hon. Temporary Deputy Speaker, the Leader of the Majority Party is well versed with the Standing Orders of this House. I stand guided.

Land matters are very emotive. We cannot allow such regulations to be published without proper consultation. That is why I stand here to support this Motion. The nitty-gritties of electronic transactions are well-looked into. You wonder why land matters in most developed countries are still analogue. We are still grappling with ICT knowledge. Sixty per cent of Kenyans particularly the land owners are not ICT savvy. Once we introduce this, you can imagine the majority of Kenyans who will want to access their land status. You are told to go online. Most of our parents cannot do that. We need thorough consultations before these regulations are passed. The Committee is in order to have them nullified until further consultations are done. As representatives of the people, we concur with the Committee and we will see to it that Kenyans get what is good for them.

I am sure even these recommendations did not emanate from the Office of the Cabinet Secretary, but from somewhere. The Ministry is still ruled by cartels. Some of these regulations might have been brought purposely by someone who wants to benefit from somewhere. The constituency that is marred by land problems is Mavoko. Until the other day, 80 per cent of Mavoko land was not registered. Mavoko is in Machakos County, but 80 per cent of its title deeds are titled in Nairobi. That is why land matters were devolved in the new Constitution so that counties could address land matters effectively. That is the reason land registries were removed from Nairobi and devolved to the counties, but up to now you would find all the land fraud particularly in my constituency being conducted from the headquarters. We are still analogue. You can imagine if we were to allow this to go un-consulted, we would have more land lost through electronic transactions.

With those few remarks, I support. Thank you.

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

Hon. (Dr.) Wamalwa Kibunguchy (Likuyani, FORD-K): Thank you, Hon. Temporary Deputy Speaker. I would like to join my colleagues in congratulating the Committee on Delegated Legislation for annulling these regulations. As has been said, land in Kenya is very sensitive. Indeed, land everywhere in the world is very sensitive. Land is the means of production. Land in this country has been one of the reasons we fought hard to get Independence.

To many people land is very dear to their hearts. So, anything that appears on the face of it to perpetuate or introduce some kind of fraud, as right-thinking Kenyans, we need to reject it.

As has been said, many Kenyans are not ICT savvy. As we can see it throughout the world, most of the sophisticated frauds are perpetuated through ICT platforms. For an item that is as sensitive as land, all avenues of consultation should have been as broad and as wide as possible. What we have heard from the Committee and I agree with them, is that there was no adequate public participation. So, if the public did not participate as much as possible, these regulations need to be annulled.

The other aspect is about the Chief Land Registrar. This individual has been given a lot of powers. We know that power corrupts and absolute power corrupts absolutely. This individual needs to be given a “speed governor” to slow him down so that he is not given absolute powers as has been alluded to. When we have electronic land transactions, we want to make sure that all the loopholes where fraud can be perpetuated are sealed. For us to be satisfied with that and for us to go together with the new development in terms of electronic land transactions, we have to be satisfied that all the loopholes are sealed.

I agree with the Committee that we need to go back to the drawing board to make sure that these regulations are looked at afresh and with as many people and as many groups as possible.

With those remarks, I support the Committee. Thank you.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Let us now hear Hon. Wambugu Ngunjiri.

Hon. Ngunjiri Wambugu (Nyeri Town, JP): Thank you, Hon. Temporary Deputy Speaker. I rise to support the Report of the Committee. I was just thinking about the impact of having our land registry digitised. This is a country where we have not been able to figure out how to secure our digital space. One of the most dangerous things about digital space is its ability to condense crime. We have problems on land ownership, hardcopy title deeds and forged documents.

I start imagining, if we are to digitise our land registry at a time when we have not figured out or completed securing cyber space or have not come up with laws that guarantee that our cyber space is secure, what would happen? I get very scared. I was looking at the Report and I saw some things. When I saw the public participation aspect that was done by the Ministry and the National Land Commission (NLC) I noticed - I do not know whether it was an oversight by the Committee or whether they did not meet - they met stakeholders of land, but did not meet any stakeholders of the digital environment. They did not meet people who deal with security of the digital environment. I find myself wondering. Digitising a registry is not just about picking the documents and putting them on soft copy. It is also being sure that once those documents are put on soft copy, they will not be accessible by anybody apart from the person who is authorised. It worries me because I do not see, imagine or think that the ministry and the people involved in this have thought about how they will make sure that the information that is kept in digital space is secure.

As a Member of the Departmental Committee on Administration and National Security, I know we have been struggling with the issue of cyber security. When this Bill is passed, if we are actually going to think about digitising the land registry, I would like to see an explanation of how that registry will secure its data from unauthorised access.

Land in this country has been behind a lot of conflict. Land has been behind conflicts that are found in most families. Land has been behind conflict in communities. If we are not able and

sure that we have secured the registry in a way that unauthorised people cannot access it, I would encourage us to completely avoid a situation of digitising the land registry. Until we come back with a solution on how we will secure that registry, I would support the annulment of the digitisation of land registry until a time we are able to solve that problem.

Thank you very much, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Patrick Mariru): We shall have Hon. Lodepe.

Hon. Lodepe Nakara (Turkana South, ODM): Thank you, Hon. Temporary Deputy Speaker. I would like to join fellow Members to support this Report.

First of all, for us to have this digitisation in this country, we must give title deeds to all our lands. There are some parts in this country which do not have title deeds. This document helps people to own their land. That is why we are saying, before we rush to digitisation, can we first give the ownership the benefit of owning it by issuing title deeds to the areas that do not have them?

In arid areas people have big land, but they cannot benefit from it. So, I suggest and propose that it is a good idea that we do all land transactions by digitising all the documents because it will be evidence that you have bought that land or you have transferred it to somebody. That will help us to reduce corruption in the Ministry of Lands. We have cartels in this country which are using land transactions as a way of getting money from the people. You can discover one land has been sold to three to four people and each person has a title deed. Then, you wonder when they go to court because each person produces a title deed which came out of Government offices. So, we need to digitise our land transactions so that only one owner goes to records. That is better than having three title deeds on one land. That is why some families are fighting. That is why some communities fight each other. In Mau, those people bought the land and they were even given title deeds. Now, because there were no digitised transactions that were done, those people were evacuated.

It is high time this country went that direction. One of the things we have lacked in the BBI Report that was launched today by His Excellency the President is that all Government transactions and businesses must be done through digitisation so that it can have record left behind. That is because handwritten documents and written MoUs can be bad. Sometimes people trust each other. That trust is broken when you realise that they have conned you money and have taken your property without your knowledge. So, it is high time for us to make sure that we digitise our transactions.

Another thing is that many people who bought land in this country have died and yet their relatives and beneficiaries or people who are supposed to take over do not have the documents. So, it is high time we helped people of that category by telling them to come out so that we can give them the ownership of the land by doing digitisation, via electronic transactions so that they can own the land. There are children whose parents died and they do not know where the documents of the land are. We need to help that category of people. We need to tell them to come out if they have land which is not registered. If they are sure that the land belongs to them and we can get evidence from the chief and other people we can give them ownership documents. There are people who are staying on land like Internally Displaced Persons (IDPs), and yet that land belongs to them. I support and say that we need to encourage people to come out so that they can be the right owners of those parcels of land.

Finally, as we do electronic transactions, we need to make sure that they are all over, including even in your Huduma Namba. That is so, so that all your documents are under your Huduma Namba so that if you press a button, you can follow up wherever you are and see who

has interfered with your documents. That is the way to do it when we transfer logbooks. It is a very good transaction. It is done electronically.

With those few remarks, I support the Motion. Thank you.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Yes, let us have Hon. Jungle Patrick Kimani Wainaina. You have four names, Hon. Jungle.

Hon. Wainaina Jungle (Thika town, Independent): Thank you, Hon. Temporary Deputy Speaker.

I rise to oppose this Report because land has not been digitised for this long. The moment we want to digitise and then we have headwind, we will wait for very long. I am saying this from experience because we have a land registry in Thika. It serves part of Kiambu and part of Murang'a. You meet very many brokers the moment you go to a land registry. Something as simple as land search is such a big issue and it can take even a week or two before you do the land search. Basically, I am looking at a situation where you are allowed to do a search electronically. You can do that at the comfort of your room. I do not think there will be a time as a country we will say that we are ready for anything. However, people will learn as they do it. We need to go ahead with the digitisation. It is a learning process.

I also understand and recognise the fact that the Chief Land Registrar has a lot of power in this one. What we would have done is to amend what we think is not right. I want to mention issues that have happened in Thika. Like now I have an issue of the Delmonte land. The lease to this land is expiring in about two years. If you go to the Ministry of Lands, you will find that the files are not available and somebody has misplaced something. We are talking about a company that brings this country US\$10 billion turnover. When we start joking around with the lease, and this is a company which needs to do their planning for 10 years and it is only two years left and they have no lease, it is a very serious issue. If these processes were digital, these people could do their things fast. The other day we were talking about having this land surveyed and that was a very big issue. So, let us not get complacent with land. Land means money. The fact that somebody is unable to transact on his land and the fact that somebody is unable to have a title deed to his land means the person cannot go to the bank and get money. That means the whole economy is dragging because of issues that we could have sorted out. We could have said we are building the economy because we have got an asset and capital. But we are sleeping on it. So, I oppose this report.

Thank you very much.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Maanzo is the one who moved the Motion. Is he present to reply? He is not. In the circumstances, we shall have a reply the next time this business is slotted in the Order Paper.

Next order!

ADOPTION OF REPORT ON SUPPLEMENTARY
ESTIMATES I FOR FY 2019/2020

Hon. Kimani Ichung'wah (Kikuyu, JP): Thank you, Hon. Temporary Deputy Speaker. In line with Standing Order 48, I beg to move the Motion in an amended form:

THAT, this House adopts the report of the Budget and Appropriations Committee on the Supplementary Estimates I for the Financial Year 2019/2020, laid on the Table of the House on Tuesday, 26th November 2019, and pursuant to the provisions of Article 223 of the Constitution

and Section 44 of the Public Finance Management Act, 2012, PFM Regulation 40 and Standing Order 243—

(a) Approves a reduction in the total Recurrent Expenditure for the FY 2019/2020 by Kshs329,017,004 in respect of the votes as contained in the First Schedule;

(b) Approves an increase in the total Development Expenditure for the FY 2019/2020 by Kshs74,875,403,054 in respect of the votes as contained in the First Schedule;

(c) Approves an overall increase in the total Budget for the FY 2019/2020 by Kshs74,546,386,050 in respect of the votes as contained in the First Schedule; and,

(d) Further makes the policy resolutions contained in the Second Schedule.

FIRST SCHEDULE

<u>(REVISED) FY 2019/20 SUPPLEMENTARY I ESTIMATES</u>			
<u>PROGRAMME CODES & TITLE</u>	<u>GROSS CURRENT ESTIMATES</u>	<u>GROSS CAPITAL ESTIMATES</u>	<u>GROSS TOTAL ESTIMATES</u>
The Presidency	131,793,000	(92,100,000)	39,693,000
0702000 Cabinet Affairs	-	(51,000,000)	(51,000,000)
0703000 Government Advisory Services	-	-	-
0704000 State House Affairs	131,793,000	(21,100,000)	110,693,000
0734000 Deputy President Services	-	(20,000,000)	(20,000,000)
State Department for Interior	278,982,619	1,158,500,000	1,437,482,619
0601000 Policing Services	257,998,445	1,090,000,000	1,347,998,445
0602000 Planning, Policy Coordination and Support Service	440,760,056	830,000,000	1,270,760,056
0603000 Government Printing Services	(62,516,191)	-	(62,516,191)
0625000 Road Safety	-	-	-
06256000 Population Management Services	(357,259,691)	(761,500,000)	(1,118,759,691)

Disclaimer: *The electronic version of the Official Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor.*

<u>(REVISED) FY 2019/20 SUPPLEMENTARY I ESTIMATES</u>			
<u>PROGRAMME CODES & TITLE</u>	<u>GROSS CURRENT ESTIMATES</u>	<u>GROSS CAPITAL ESTIMATES</u>	<u>GROSS TOTAL ESTIMATES</u>
State Department for Correctional Services	281,559,010	-	281,559,010
0604000 Correctional services	313,203,492	-	313,203,492
0623000 General Administration, Planning and Support Services	(31,644,482)	-	(31,644,482)
State Department for Immigration and Citizen Services	112,470,350	(150,000,000)	(37,529,650)
0605000 Migration and Citizens Services Management	112,470,350	(150,000,000)	(37,529,650)
State Department for Devolution	982,105,000	77,900,000	1,060,005,000
0712000 Devolution Services	(43,928,703)	77,900,000	33,971,297
0732000 General Administration, Planning and Support Services	(63,828,764)	-	(63,828,764)
0713000 Special Initiatives	1,089,862,467	-	1,089,862,467
State Department for Development of the ASAL	(86,100,000)	2,817,286,516	2,731,186,516
0733000 Accelerated ASAL Development	(86,100,000)	2,817,286,516	2,731,186,516
Ministry of Defence	(119,516,505)	-	(119,516,505)
0801000 Defence	-	-	-
0802000 Civil Aid	-	-	-
0803000 General	(119,516,505)	-	(119,516,505)

Disclaimer: The electronic version of the Official Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor.

<u>(REVISED) FY 2019/20 SUPPLEMENTARY I ESTIMATES</u>			
<u>PROGRAMME CODES & TITLE</u>	<u>GROSS CURRENT ESTIMATES</u>	<u>GROSS CAPITAL ESTIMATES</u>	<u>GROSS TOTAL ESTIMATES</u>
Administration, Planning and Support Services			
0805000000 National Space Management	-	-	-
Ministry of Foreign Affairs	152,377,975	-	152,377,975
0714000 General Administration Planning and Support Services	15,872,490	-	15,872,490
0715000 Foreign Relation and Diplomacy	(182,572,969)	-	(182,572,969)
0741000 Economic and Commercial Diplomacy	324,279,723	-	324,279,723
0742000 Foreign Policy Research, Capacity Dev and Technical Cooperation	(5,201,269)	-	(5,201,269)
State Department for Vocational and Technical Training	(38,421,786)	608,541,000	570,119,214
0505000 Technical Vocational Education and Training	(8,864,887)	571,500,000	562,635,113
0507000 Youth Training and Development	(5,004,126)	37,041,000	32,036,874
0508000 General Administration, Planning and Support Services	(24,552,773)	-	(24,552,773)
State Department for University Education	(97,470,931)	(3,471,676)	(100,942,607)
0504000 University	(12,957,652)	14,040,000	1,082,348

Disclaimer: The electronic version of the Official Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor.

<u>(REVISED) FY 2019/20 SUPPLEMENTARY I ESTIMATES</u>			
<u>PROGRAMME CODES & TITLE</u>	<u>GROSS CURRENT ESTIMATES</u>	<u>GROSS CAPITAL ESTIMATES</u>	<u>GROSS TOTAL ESTIMATES</u>
Education			
0506000 Research, Science, Technology and Innovation	(16,482,004)	(17,511,676)	(33,993,680)
0508000 General Administration, Planning and Support Services	(68,031,275)	-	(68,031,275)
State Department for Early Learning & Basic Education	(365,326,656)	1,315,000,000	949,673,344
0501000 Primary Education	(55,085,396)	1,285,000,000	1,229,914,604
0502000 Secondary Education	(25,639,235)	30,000,000	4,360,765
0503000 Quality Assurance and Standards	(7,416,199)	-	(7,416,199)
0508000 General Administration, Planning and Support Services	(277,185,826)	-	(277,185,826)
State Department for Post Training and Skills Development	(74,600,000)	-	(74,600,000)
0508000 General Administration, Planning and Support Services	(29,115,000)	-	(29,115,000)
0512000 Workplace Readiness Services	(23,250,000)	-	(23,250,000)
0513000 Post-Training Information Management	(22,235,000)	-	(22,235,000)
The National Treasury	(1,789,962,640)	(294,673,787)	(2,084,636,427)
0717000 General Administration Planning and	(1,524,431,331)	(50,000,000)	(1,574,431,331)

Disclaimer: The electronic version of the Official Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor.

<u>(REVISED) FY 2019/20 SUPPLEMENTARY I ESTIMATES</u>			
<u>PROGRAMME CODES & TITLE</u>	<u>GROSS CURRENT ESTIMATES</u>	<u>GROSS CAPITAL ESTIMATES</u>	<u>GROSS TOTAL ESTIMATES</u>
Support Services			
0718000 Public Financial Management	(235,672,220)	(244,673,787)	(480,346,007)
0719000 Economic and Financial Policy Formulation and Management	(29,859,089)	-	(29,859,089)
0720000 Market Competition	-	-	-
State Department for Planning	(137,441,931)	(313,008,312)	(450,450,243)
0706000 Economic Policy and National Planning	(2,962,481)	(263,008,312)	(265,970,793)
0707000 National Statistical Information Services	-	-	-
0708000 Monitoring and Evaluation Services	(34,971,443)	(50,000,000)	(84,971,443)
0709000 General Administration Planning and Support Services	(99,508,007)	-	(99,508,007)
Ministry of Health	4,819,981,304	2,216,976,787	7,036,958,091
0401000 Preventive, Promotive & RMNCAH	2,178,701,640	638,638,601	2,817,340,241
0402000 National Referral & Specialised Services	846,491,295	100,000,000	946,491,295
0403000 Health Research and Development	-	70,000,000	70,000,000
0404000 General Administration, Planning & Support Services	(99,619,351)	-	(99,619,351)

Disclaimer: The electronic version of the Official Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor.

<u>(REVISED) FY 2019/20 SUPPLEMENTARY I ESTIMATES</u>			
<u>PROGRAMME CODES & TITLE</u>	<u>GROSS CURRENT ESTIMATES</u>	<u>GROSS CAPITAL ESTIMATES</u>	<u>GROSS TOTAL ESTIMATES</u>
0405000 Health Policy, Standards and Regulations	1,894,407,720	1,408,338,186	3,302,745,906
State Department of Infrastructure	(115,589,577)	6,230,000,000	6,114,410,423
0202000 Road Transport	(115,589,577)	6,230,000,000	6,114,410,423
State Department of Transport	(77,910,960)	26,989,003,944	26,911,092,984
0201000 General Administration, Planning and Support Services	(45,398,135)	166,000,000	120,601,865
0203000 Rail Transport	-	28,918,003,944	28,918,003,944
0204000 Marine Transport	(21,544,503)	(2,155,000,000)	(2,176,544,503)
0205000 Air Transport	(8,281,384)	60,000,000	51,718,616
0216000 Road Safety	(2,686,938)	-	(2,686,938)
State Department for Shipping and Maritime	(47,221,038)	-	(47,221,038)
0220000 Shipping and Maritime Affairs	(47,221,038)	-	(47,221,038)
State Department for Housing, Urban Development	(69,667,174)	514,493,736	444,826,562
0102000 Housing Development and Human Settlement	(25,963,725)	-	(25,963,725)
0105000 Urban and Metropolitan Development	(17,010,156)	514,493,736	497,483,580
0106000 General Administration Planning and Support Services	(26,693,293)	-	(26,693,293)

Disclaimer: The electronic version of the Official Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor.

<u>(REVISED) FY 2019/20 SUPPLEMENTARY I ESTIMATES</u>			
<u>PROGRAMME CODES & TITLE</u>	<u>GROSS CURRENT ESTIMATES</u>	<u>GROSS CAPITAL ESTIMATES</u>	<u>GROSS TOTAL ESTIMATES</u>
State for Public Works	(52,192,522)	590,787,661	538,595,139
0103000 Government Buildings	(9,705,641)	706,285,046	696,579,405
0104000 Coastline Infrastructure and Pedestrian Access	(6,240,249)	(115,497,385)	(121,737,634)
0106000 General Administration Planning and Support Services	(26,897,857)	-	(26,897,857)
0218000 Regulation and Development of the Construction Industry	(9,348,775)	-	(9,348,775)
Ministry of Water and Sanitation	(49,351,695)	3,701,981,918	3,652,630,223
1001000 General Administration, Planning and Support Services	(36,007,035)	-	(36,007,035)
1004000 Water Resources Management	(9,268,049)	(440,000,000)	(449,268,049)
1017000 Water and Sewerage Infrastructure Development	(4,076,611)	4,141,981,918	4,137,905,307
1015000 Water Storage and Flood Control	-	-	-
Ministry of Environment and Forestry	(85,350,564)	79,000,000	(6,350,564)
1002000 Environment Management and Protection	(13,965,718)	(5,000,000)	(18,965,718)
1010000 General Administration, Planning and	(38,621,860)	-	(38,621,860)

Disclaimer: The electronic version of the Official Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor.

<u>(REVISED) FY 2019/20 SUPPLEMENTARY I ESTIMATES</u>			
<u>PROGRAMME CODES & TITLE</u>	<u>GROSS CURRENT ESTIMATES</u>	<u>GROSS CAPITAL ESTIMATES</u>	<u>GROSS TOTAL ESTIMATES</u>
Support Services			
1012000 Meteorological Services	(28,415,432)	-	(28,415,432)
1018000 Forests and Water Towers Conservation	(4,347,554)	84,000,000	79,652,446
Ministry of Lands and Physical Planning	(90,160,991)	-	(90,160,991)
0101000 Land Policy and Planning	(90,160,991)	-	(90,160,991)
State Department for Information Communication and Technology	(632,959,270)	614,920,327	(18,038,943)
0207000 P1: General Administration Planning and Support Services	(34,251,442)	-	(34,251,442)
0210000 ICT Infrastructure Development	(47,422,400)	(1,000,000,000)	(1,047,422,400)
0217000 E-Government Services	(524,541,894)	1,614,920,327	1,090,378,433
0221000 Film Development Services	(26,743,534)	-	(26,743,534)
State Department for Broadcasting & Telecommunications	(233,242,236)	(166,000,000)	(399,242,236)
0207000 General Administration Planning and Support Services	(32,183,761)	-	(32,183,761)
0208000 Information And Communication Services	(201,058,475)	(166,000,000)	(367,058,475)

Disclaimer: The electronic version of the Official Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor.

<u>(REVISED) FY 2019/20 SUPPLEMENTARY I ESTIMATES</u>			
<u>PROGRAMME CODES & TITLE</u>	<u>GROSS CURRENT ESTIMATES</u>	<u>GROSS CAPITAL ESTIMATES</u>	<u>GROSS TOTAL ESTIMATES</u>
0209000 Mass Media Skills Development	-	-	-
State Department for Sports	(53,562,340)	100,000,000	46,437,660
0901000 Sports	(53,562,340)	100,000,000	46,437,660
State Department for Culture and Heritage	(122,151,828)	17,000,000	(105,151,828)
0902000 Culture Development	(52,886,234)	17,000,000	(35,886,234)
0903000 The Arts	(30,150,487)	-	(30,150,487)
0904000 Library Services	(7,491,000)	-	(7,491,000)
0905000 General Administration, Planning and Support Services	(31,624,107)	-	(31,624,107)
State Department for Energy	562,666,844	1,571,948,803	2,134,615,647
0211000 General Administration Planning and Support Services	-	-	-
0212000 Power Generation	-	(670,000,000)	(670,000,000)
0213000 Power Transmission and Distribution	562,666,844	741,948,803	1,304,615,647
0214000 Alternative Energy Technologies	-	1,500,000,000	1,500,000,000
State Department for Livestock	(71,811,437)	50,000,000	(21,811,437)
0112000 Livestock Resources Management and Development	(71,811,437)	50,000,000	(21,811,437)

Disclaimer: The electronic version of the Official Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor.

<u>(REVISED) FY 2019/20 SUPPLEMENTARY I ESTIMATES</u>			
<u>PROGRAMME CODES & TITLE</u>	<u>GROSS CURRENT ESTIMATES</u>	<u>GROSS CAPITAL ESTIMATES</u>	<u>GROSS TOTAL ESTIMATES</u>
State Department for Crop Development	(11,193,404)	295,000,000	283,806,596
0107000 General Administration Planning and Support Services	6,959,981	325,000,000	331,959,981
0108000 Crop Development and Management	(13,285,341)	(30,000,000)	(43,285,341)
0109000 Agribusiness and Information Management	(4,868,044)	-	(4,868,044)
State Department for Fisheries, Aquaculture & the Blue Economy	(116,206,663)	-	(116,206,663)
0111000 Fisheries Development and Management	(45,395,200)	-	(45,395,200)
0117000 General Administration, Planning and Support Services	(30,720,604)	-	(30,720,604)
0118000 Development and Coordination of the Blue Economy	(40,090,859)	-	(40,090,859)
State Department for Irrigation	(82,860,214)	20,975,746	(61,884,468)
1014000 Irrigation and Land Reclamation	(55,901,736)	20,975,746	(34,925,990)
1016000 General Administration, Planning and Support Services	(22,747,324)	-	(22,747,324)
1022000 Water Harvesting and Storage for Irrigation	(4,211,154)	-	(4,211,154)

Disclaimer: The electronic version of the Official Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor.

<u>(REVISED) FY 2019/20 SUPPLEMENTARY I ESTIMATES</u>			
<u>PROGRAMME CODES & TITLE</u>	<u>GROSS CURRENT ESTIMATES</u>	<u>GROSS CAPITAL ESTIMATES</u>	<u>GROSS TOTAL ESTIMATES</u>
State Department for Agricultural Research	(102,666,684)	-	(102,666,684)
0120000 Agricultural Research & Development	(102,666,684)	-	(102,666,684)
State Department for Cooperatives	(81,000,060)	(230,000,000)	(311,000,060)
0304000 Cooperative Development and Management	(81,000,060)	(230,000,000)	(311,000,060)
State Department for Trade	(45,953,444)	-	(45,953,444)
0307000 Trade Development and Promotion	(45,953,444)	-	(45,953,444)
State Department for industrialisation	(55,134,392)	3,959,166,089	3,904,031,697
0301000 General Administration Planning and Support Services	(35,778,671)	-	(35,778,671)
0302000 Industrial Development and Investments	(19,355,721)	3,362,398,089	3,343,042,368
0303000 Standards and Business Incubation	-	596,768,000	596,768,000
State Department for Labour	(257,567,983)	(100,000,000)	(357,567,983)
0910000 General Administration Planning and Support Services	(76,575,293)	-	(76,575,293)
0906000 Promotion of the Best Labour Practice	(105,618,321)	45,000,000	(60,618,321)

Disclaimer: The electronic version of the Official Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor.

<u>(REVISED) FY 2019/20 SUPPLEMENTARY I ESTIMATES</u>			
<u>PROGRAMME CODES & TITLE</u>	<u>GROSS CURRENT ESTIMATES</u>	<u>GROSS CAPITAL ESTIMATES</u>	<u>GROSS TOTAL ESTIMATES</u>
0907000 Manpower Development, Employment and Productivity Management	(75,374,369)	(145,000,000)	(220,374,369)
State Department for Social Protection,pensions & senior citizens affairs	(461,625,912)	950,000,000	488,374,088
0908000 Social Development and Children Services	5,809,495	-	5,809,495
0909000 National Social Safety Net	(353,888,382)	950,000,000	596,111,618
0914000 General Administration, Planning and Support Services	(113,547,025)	-	(113,547,025)
State Department for Mining	(80,837,500)	(126,219,961)	(207,057,461)
1007000 General Administration Planning and Support Services	(44,782,628)	-	(44,782,628)
1009000 Mineral Resources Management	(12,079,058)	(131,000,000)	(143,079,058)
1021000: Geological Surveys and Geo Information	(23,975,814)	4,780,039	(19,195,775)
State Department for Petroleum	(32,037,500)	-	(32,037,500)
0215000 Exploration and Distribution of Oil and Gas	(32,037,500)	-	(32,037,500)
State Department for Tourism	(94,004,573)	(919,000,000)	(1,013,004,573)
0306000 Tourism Development and Promotion	(94,004,573)	(919,000,000)	(1,013,004,573)

Disclaimer: The electronic version of the Official Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor.

<u>(REVISED) FY 2019/20 SUPPLEMENTARY I ESTIMATES</u>			
<u>PROGRAMME CODES & TITLE</u>	<u>GROSS CURRENT ESTIMATES</u>	<u>GROSS CAPITAL ESTIMATES</u>	<u>GROSS TOTAL ESTIMATES</u>
State Department for Wildlife	(51,691,157)	100,000,000	48,308,843
1019000 Wildlife Conservation and Management	(51,691,157)	100,000,000	48,308,843
State Department for Gender	(138,550,000)	-	(138,550,000)
0911000 Community Development	-	-	-
0912000 Gender Empowerment	(57,290,829)	-	(57,290,829)
0913000 General Administration, Planning and Support Services	(81,259,171)	-	(81,259,171)
State Department for Public Service	(208,289,602)	(416,571,713)	(624,861,315)
0710000 Public Service Transformation	(134,068,800)	(416,571,713)	(550,640,513)
0709000 General Administration Planning and Support Services	(74,220,802)	-	(74,220,802)
State Department for Youth	(362,365,824)	-	(362,365,824)
0711000 Youth Empowerment	(362,365,824)	-	(362,365,824)
State Department for East African Community	(51,660,615)	-	(51,660,615)
0305000 East African Affairs and Regional Integration	(51,660,615)	-	(51,660,615)
State Department for Regional & Northern	(54,500,012)	(352,850,000)	(407,350,012)

Disclaimer: The electronic version of the Official Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor.

<u>(REVISED) FY 2019/20 SUPPLEMENTARY I ESTIMATES</u>			
<u>PROGRAMME CODES & TITLE</u>	<u>GROSS CURRENT ESTIMATES</u>	<u>GROSS CAPITAL ESTIMATES</u>	<u>GROSS TOTAL ESTIMATES</u>
Corridor Development			
1013000 Integrated Regional Development	(54,500,012)	(352,850,000)	(407,350,012)
State Law Office and Department of Justice	(286,140,252)	(104,000,000)	(390,140,252)
0606000 Legal Services	(81,380,405)	-	(81,380,405)
0607000 Governance, Legal Training and Constitutional Affairs	(44,540,906)	(100,000,000)	(144,540,906)
0609000 General Administration, Planning and Support Services	(160,218,941)	(4,000,000)	(164,218,941)
The Judiciary	-	-	-
0610000 Dispensation of Justice	-	-	-
Ethics and Anti-Corruption Commission	-	10,026,465	10,026,465
0611000 Ethics and Anti-Corruption	-	10,026,465	10,026,465
National Intelligence Service	-	-	-
0804000 National Security Intelligence	-	-	-
Office of the Director of Public Prosecutions	150,000,000	-	150,000,000
0612000 Public Prosecution Services	150,000,000	-	150,000,000
Office of the Registrar of Political Parties	(32,556,074)	-	(32,556,074)

Disclaimer: The electronic version of the Official Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor.

<u>(REVISED) FY 2019/20 SUPPLEMENTARY I ESTIMATES</u>			
<u>PROGRAMME CODES & TITLE</u>	<u>GROSS CURRENT ESTIMATES</u>	<u>GROSS CAPITAL ESTIMATES</u>	<u>GROSS TOTAL ESTIMATES</u>
0614000 Registration, Regulation and Funding of Political Parties	(32,556,074)	-	(32,556,074)
Witness Protection Agency	-	-	-
0615000 Witness Protection	-	-	-
Kenya National Commission on Human Rights	-	-	-
0616000 Protection and Promotion of Human Rights	-	-	-
National Land Commission	(120,992,425)	-	(120,992,425)
0116000 Land Administration and Management	(120,992,425)	-	(120,992,425)
Independent Electoral and Boundaries Commission	(219,000,000)	(43,000,000)	(262,000,000)
0617000 Management of Electoral Processes	212,762,597	(43,000,000)	169,762,597
0618000 Delimitation of Electoral Boundaries	(431,762,597)	-	(431,762,597)
The Commission on Revenue Allocation	(28,938,369)	-	(28,938,369)
0737000 Inter-Governmental Transfers and Financial Matters	(28,938,369)	-	(28,938,369)
Public Service Commission	185,500,000	-	185,500,000
0725000 General Administration, Planning and Support Services	185,500,000	-	185,500,000

Disclaimer: The electronic version of the Official Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor.

<u>(REVISED) FY 2019/20 SUPPLEMENTARY I ESTIMATES</u>			
<u>PROGRAMME CODES & TITLE</u>	<u>GROSS CURRENT ESTIMATES</u>	<u>GROSS CAPITAL ESTIMATES</u>	<u>GROSS TOTAL ESTIMATES</u>
0726000 Human Resource Management and Development	-	-	-
0727000 Governance and National Values	-	-	-
0744000 Performance and Productivity Management	-	-	-
Salaries and Remuneration Commission	-	-	-
0728000 Salaries and Remuneration Management	-	-	-
Teachers Service Commission	(310,327,238)	891,000,000	580,672,762
0509000 Teacher Resource Management	(5,961,298)	945,000,000	939,038,702
0510000 Governance and Standards	(32,574,034)	-	(32,574,034)
0511000 General Administration, Planning and Support Services	(271,791,906)	(54,000,000)	(325,791,906)
National Police Service Commission	(83,790,900)	-	(83,790,900)
0620000 National Police Service Human Resource Management	(83,790,900)	-	(83,790,900)
Auditor General	-	-	-
0729000 Audit Services	-	-	-
Office of the Controller of	(51,829,201)	-	(51,829,201)

Disclaimer: The electronic version of the Official Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor.

<u>(REVISED) FY 2019/20 SUPPLEMENTARY I ESTIMATES</u>			
<u>PROGRAMME CODES & TITLE</u>	<u>GROSS CURRENT ESTIMATES</u>	<u>GROSS CAPITAL ESTIMATES</u>	<u>GROSS TOTAL ESTIMATES</u>
Budget			
0730000 Control and Management of Public finances	(51,829,201)	-	(51,829,201)
Commission on Administrative Justice	-	-	-
0731000 Promotion of Administrative Justice	-	-	-
National Gender and Equality Commission	(98,221,027)	600,000	(97,621,027)
0621000 Promotion of Gender Equality and Freedom from Discrimination	(98,221,027)	600,000	(97,621,027)
Independent Policing Oversight Authority	(1,500,000)	-	(1,500,000)
0622000 Policing Oversight Services	(1,500,000)	-	(1,500,000)
<u>TOTAL</u>	(274,017,004)	51,569,213,543	51,295,196,539
The Judiciary	-	(220,000,000)	(220,000,000)
0610000 Dispensation of Justice	-	(220,000,000)	(220,000,000)
Judicial Service Commission	-	-	-
0619000 General Administration, Planning and Support Services	-	-	-
<u>Total Judiciary</u>	-	(220,000,000)	(220,000,000)
Parliamentary Service Commission	(360,000,000)	-	(360,000,000)

Disclaimer: The electronic version of the Official Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor.

<u>(REVISED) FY 2019/20 SUPPLEMENTARY I ESTIMATES</u>			
<u>PROGRAMME CODES & TITLE</u>	<u>GROSS CURRENT ESTIMATES</u>	<u>GROSS CAPITAL ESTIMATES</u>	<u>GROSS TOTAL ESTIMATES</u>
0722000 Senate Affairs	(360,000,000)	-	(360,000,000)
0723000 General Admin,planning and support services	-	-	-
National Assembly	(150,000,000)	-	(150,000,000)
0721000 National Legislation,representation and oversight	(150,000,000)	-	(150,000,000)
Parliamentary Joint Services	(15,000,000)	(780,000,000)	(795,000,000)
0723000 General Admin,planning and support services	(15,000,000)	(780,000,000)	(795,000,000)
Total Legislature	(525,000,000)	(780,000,000)	(1,305,000,000)
Total Budget	(799,017,004)	50,569,213,543	49,770,196,539

SECOND SCHEDULE

POLICY RESOLUTIONS RELATING TO THE SUPPLEMENTARY ESTIMATES FOR THE FY 2019/2020

The House Further resolves as follows-

- (i) THAT, in view of the emerging concerns of rising debt, the National Assembly initiates a legislation to operationalise establishment of an Independent Debt Management Office within first quarter of 2020;
- (ii) THAT, the Ministries, State Departments and Agencies initiates comprehensive plans (by ring-fencing funds in FY 2020/21 budget estimates) to ensure completion of all stalled and incomplete projects before starting any new projects. No new projects are to be introduced mid-year, by way of supplementary estimates;
- (iii) THAT, each financial year, upon approval of the annual estimates, the Cabinet Secretary for National Treasury ensures that the National Treasury uploads the approved Budget into Integrated Financial Management Information System (IFMIS) in accordance with the PFM Regulations (2015), within seven days of the enactment of the Appropriations

- Act so as to ease implementation of annual work plans, procurement plans and clearance of pending bills and that a status report be submitted to National Assembly every quarter;
- (iv) THAT, the Office of Auditor General carries out a special forensic audit of the National Integrated Identity Management Systems (NIIMS) to establish the value for money and submit a report to National Assembly by end of March 2020;
 - (v) THAT, in their quarterly reporting, all the Ministries, State Departments and Agencies do report, not only on financial performance, but also non-financial performance by programmes/projects and further that the Office of the Controller of Budget complies with Section 9 of Controller of Budget Act, 2016 in Reporting;
 - (vi) THAT, the Universal Health Care (UHC) funding should be channeled through counties as Conditional grants by amending the Division of Revenue Act, 2019. In addition, there is need to strengthen and revamp the National Hospital Insurance Fund (NHIF) as a vehicle of implementing UHC given that it is a more sustainable channel;
 - (vii) THAT, the State Department for Labour fast tracks development of labour export/migration policy to provide a framework for labour export with favourable terms for Kenyans seeking opportunities abroad. The Cabinet Secretary submits a status report on this resolution to the National Assembly by February, 2020;
 - (viii) THAT, the Cabinet Secretary for the National Treasury institutionalises the *Street Children Rehabilitation Trust Fund* and releases Ksh. 153.9 million held in suspense account to enable the Trust Fund to execute its mandate and thereafter submit a status report on this resolution to the National Assembly by February, 2020;
 - (ix) THAT, the State Department for Industrialisation conducts a feasibility study with respect to modernisation programme of the Numerical Machine Complex and submits the report on the findings to the National Assembly within 90 days;
 - (x) THAT, the Office of the Auditor General to submits a special audit report on the deemed Generation of the Lake Turkana Wind Power and submits a report to National Assembly by end of February 2020;
 - (xi) THAT, the approval of payment of Ksh.1.16 Billion to the Loiyangalani - Suswa Transmission Line under the Lake Turkana wind power project be **deferred** awaiting the findings of the special forensic audit, the recommendation of the relevant Committee and decision of the House;
 - (xii) THAT, the National Treasury provides sufficient counter-part funding in FY 2020/21 budget towards the commencement of Loiyangalani-Marsabit-Isiolo and Thika-Nairobi-East power transmission lines. This will safeguard the Ksh. 2.6 billion already paid as insurance, failure to which the National Treasury finds ways and means of recovering the insurance amount ;
 - (xiii) THAT, the Cabinet Secretary for National Treasury submits to the Houses of Parliament, the comprehensive matrix on the implementation of the GoK's Big Four Agenda before the submission of the 2020 Budget Policy Statement. This matrix should include the total cost of the projects, how much has been spent so far and the expected annual allocations until the completion of the projects; and,
 - (xiv) THAT, the National Treasury should not effect, through the IFMIS and/or through Treasury Circulars, any reduction in the approved Budget of Judiciary, Parliament and/or any Ministries, State Departments or Agency before approval by the House as doing is illegal.

We tabled this report yesterday in the House. This is the first Supplementary Budget for the FY 2019/2020.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Kimani Ichung'wah, you mentioned that you are moving it in an amended form as per Standing Order 48. That should be on record.

Hon. Kimani Ichung'wah (Kikuyu, JP): I did state that, Hon. Temporary Deputy Speaker, as I began. As I was saying, this is the first Supplementary Budget for the FY 2019/2020 prepared on the backdrop of reviewed economic growth targets and upon realisation by the National Treasury that in view of the underperformance of the revenue estimates in the FY 2018/2019, the revenue estimates for this FY may not be realised and they were slightly overstated. But the National Treasury has taken measures to mop up revenues or surplus monies that were being held by parastatals and other MDAs to the tune of about Kshs78 billion. Therefore, what has been reduced in our targeted revenue by about Kshs100 billion has been mitigated by that mop up of surplus cash that was being held by parastatals.

Because of time, I do not want to say much. This being the first Supplementary Budget, the only thing I wish to note is that it is a Budget that is incremental in nature, which is way out of the ordinary in a supplementary budget. We would expect that with the austerity measures that were expected to be taken; we would be reducing this Budget. In line with that endeavour, as we were told by the CS for Treasury and in view of the expected shortfall in revenue, in our BPS report last year, 2018/2019 and 2019/2020, we did express, as a Committee, our concerns on the realism of our revenue estimates. This remains to date. The Committee has expressed its concerns once again that, as much as we are reviewing this Budget upwards, we are still not very realistic with our revenue estimates. But we want to believe and trust what the National Treasury and the KRA are telling us. We have indeed, allocated additional resources to the KRA to enable them recruit additional staff and support them in reforms that would help them collect more revenue. They have promised that with the recruitment of almost 1,000 officers, they will be able to collect an additional Kshs50 billion that would go towards bridging the Budget deficit that we have this year.

I do not want to go through all the policy and financial recommendations that are in the Report because I am sure Members have read the Report. Just to mention one or two things on what has been a debate on conforming with the legal requirements especially as pertains to the PFM Regulations, especially on programmes on budgets that should not be varied beyond 10 per cent. We have had an engagement with the National Treasury because we discovered that at least 37 programmes were beyond the 10 per cent threshold. As much as they argue that they have varying opinion from the AG who surprisingly participated in the formulation of the PFM Regulations, we have agreed with them that this will be the last Budget. Unless the regulations are amended and they get clarity from the AG on this particular aspect we should, as a House and a law-making body, adhere to the law as it is in our statutes and in our books.

The other issue that is of concern is to do with Article 223 of the Constitution that I have spoken to at length. Again, there is an item of Kshs1.16 billion relating to the Ministry of Energy on the Loiyangalani-Turkana wind power project whose decision we have deferred until the next budget estimates, pending the finalisation of an audit report that the House did resolve at the time we were doing the Budget Estimates earlier this year. It ought to be tabled before this House and be considered by the relevant committees. Therefore, we have deferred that decision.

There has also been concern on payments being made for things like insurance especially on donor-funded projects before budgetary allocations are made. A case in point is in the energy sector, with power transmission project by KETRACO from Loiyangalani-Marsabit-Isiolo-

Thika-Konza. The amount is about Kshs2.6 billion that had been paid for insurance yet no resources had been committed. The project requires about Kshs5.8 billion.

Hon. Temporary Deputy Speaker, the Committee on Energy had reallocated an amount of Kshs500 million. Due to the constraint in resources at this particular time, and the huge budget deficit that we encounter, we have recommended that the National Treasury either institutes measures to recover the Kshs2.6 billion or beginning next financial year, we will provide adequate resources to kick-start this project so that we do not lose insurance money. Also, to institute measures to ensure by the time you commit yourself by paying commitment fees or insurance amounts like this, you will have provided for those particular projects in the budgets.

Concerning the question of budget deficit, it is surprising that we are moving our first Supplementary Budget against the backdrop of very huge budget deficit. We should also not forget that as I mentioned, our revenue projections do not seem to be very realistic as much as we want to give the benefit of doubt to the Government so that it meets the revenue shortfalls in the year.

Hon. Temporary Deputy Speaker, it is a matter of concern that should we not meet our revenue targets this year, we already have the Supplementary Budget financing a deficit of over Kshs100 billion over and above the Kshs635 billion that was there in the approved Budget Estimates. This means if we do not meet our revenue targets this year, we will be looking at more borrowing by the Government in the backdrop of the removal of bank interest rate capping. We are concerned that it may negatively affect the interest rates regime in this country. Much as we have had assurances from the Cabinet Secretary that there will be no more commercial debt borrowing, there might be a chance that we may see additional commercial borrowing or even other forms of borrowing.

So, as a Committee, we want to caution. We have expressed all these concerns in the policy recommendations and the financial recommendations that we have had; that we may be looking at a situation where we may have to borrow more. The only solution remains with the National Treasury in the Second Supplementary Budget to drastically reduce our expenditure, especially for items that will not have been committed by the time we will be doing the Second Supplementary Budget, after we resume from the long recess. We may have to push the KRA to drastically improve their revenue collection. We have hope that they will do so.

Lastly, on resolutions that have been passed by this House, as mentioned on the question of the Lake Turkana Wind Power Project, as much as an excuse has been given that there is no substantive Auditor-General in office to sign the Report, we passed the Budget in June while the Auditor-General left office in August. So, there was time to finalise that audit.

There was also a resolution touching on the universal healthcare. We have expressed concern that the resolution has not been followed. We implore the Executive and the National Treasury to ensure that all House resolutions are followed to the letter.

There were also concerns on the Universal Health Care (UHC) that we may be clawing back on what is a devolved function in terms of functions that are now being performed by the national Government. However, we have been assured that there are engagements between the Council of Governors (COG) and the national Government. We want to encourage them so that we are not in any way seen to be clawing back on the gains of devolution. The national Government has no business going to construct Level I, II, III dispensaries in our counties when we have county governments that are charged with this function.

Hon. Temporary Deputy Speaker, it has been the view of the Committee that these amounts ought to have been better utilised through the counties. They ought to have been given

conditional grants through the Division of Revenue Bill. We have had that assurance from the Cabinet Secretary for the National Treasury; that, they are engaging with the Ministry of Health and the COG. We hope that what may not have been spent by the time we do the Second Supplementary Estimates can be factored in during the next financial year as part of the Division of Revenue Bill.

The Second Supplementary Estimates can be factored in the next financial year as part of our Division of Revenue Bill. This will go a long way in solving the fights between the two Houses over the Division of Revenue.

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

The Temporary Deputy Speaker (Hon. Patrick Mariru): The Leader of the Minority Party, Hon. John Mbadi.

Hon. John Mbadi (Suba South, ODM): Thank you, Hon. Temporary Deputy Speaker. As I second this Motion, I have stood here on several occasions during the processing of budget estimates. I have always emphasised one point on the need to have credible budgets which are based on realism of projections on economic growth, revenues, expenditures and above all public debt.

Hon. Members will allow me to emphasis that the Budget is not just a game of numbers. It is a means through which a country can realise its growth agenda. However, this realisation will remain a mirage, as long as those charged with the responsibility of forecasting this valuable item are not keen. Credible revenue and expenditure projections and public debt are the corner stone of sound and credible budgets. You must get revenue projections, expenditure projections, estimates and public debt projections right, if you want to have a credible budget. Looking back over the last five years, we have never been within the economic growth or revenue targets.

For example, in 2011/2012 we missed the revenue targets by 6 per cent. In the Financial Year 2015/16 we missed it by close to 12 per cent. More recently, 2017/18 we have missed the target with close to 20 per cent. As you can see the trend is worrying and all of us must get concerned. I wonder by how much we are likely to miss the target in 2019/20.

With the over ambitious budget we had of revenue projections upwards to Kshs.1.87 trillion, it is obvious that we will miss the target of this year with a significant amount of money. However, the National Treasury has proposed to revise the revenue projections downwards. But I still believe that revision is still below the actual possible amount with which we will miss the revenue targets.

We have a new CS in the National Treasury. We want to support him because following his pronouncements, we see renewed vigor and passion from a Government officer who is ready and interested in ensuring we have realistic targets and our economy is managed differently. Those of us with financial background are very worried that for these years we had a National Treasury composed of technocrats. We have employed men and women whom we believe are qualified and competent enough to help this country come up with realistic figures and grow its wealth. But, I tell you we have been very wrong.

Therefore, something has to be done by the leadership of this country. We have to speak with ourselves and to the National Treasury and tell them that we will not take any over projections of revenue anymore. It has become a normal trend where agencies appear lamenting on how budget cuts will adversely affect their operations. What should we do? If from the initial stage or stages these agencies could have been allocated resources based on credible budgets, then they can adjust early and live within their means. They would not be talking on being targeted for budget cuts, which is a common perception among agencies. We should start with

realistic budgets. Let us give the agencies realistic budgets within which they can live so that they can adjust their operations, activities and spending. They can cut their clothes according to their sizes.

Look at what we have before us, one, we had projected to borrow Kshs635 billion as public debt for the Financial Year 2019/2020. The projected borrowing may go up because already we are cutting the revenue projection. There is also increased expenditure in this Supplementary Budget. Initially it was 80 billion. At least, we have Kshs80 billion. At least, we have tried, as the Budget and Appropriations Committee, to bring it down, but still we must accept that the budget deficit will be higher than Kshs634 billion we had initially.

Let me remind this House that having the Supplementary Budget is not a desirable budgeting practice since it reduces credibility of budgets. The Budget process is a process as the name suggests. It starts from September when the Budget Review and Outlook Paper is approved, which tells the whole country how we have performed in the previous financial year and how we are likely to progress. But this goes to the Budget Policy Statement and then comes to budget estimates. This House is not supposed to entertain in-year budget revisions, unless it is on account of what is provided for in the Constitution.

The National Treasury should, therefore, ensure that the economic growth numbers are factual and are based on reality, to inform and ensure a credible budget is prepared devoid of in-year revisions. However, it has become a trend that every year we must have two supplementary budgets.

In fact, before 2013 we were used to one Supplementary Budget. Now they are two. I think before we know it, this country will start having three supplementary budgets. It has become like a song. You could even hear the Chairman keeping on repeating. I urge my Chairman, Hon. Ichung'wah that he should not even talk about Supplementary Budget II. Let Treasury talk of these bad manners, but let us not, as a House, encourage Supplementary Budget II. Let us assume that it will be the last Supplementary Budget for this year. If anything, we have a few months to the next financial year. Let the Treasury focus now on the 2020/ 2021 Budget.

The 2010 Constitution provided a framework for sharing nationally raised resources. Just the other day, we took too many months disagreeing on the Division of Revenue Bill. It should be understood that once we do the sharing of revenue that should be it. Each year we have been sharing resources between the national and county levels of government. This sharing of resources is guided by the principle that resources follow functions.

However, we will realise that health and agriculture, which are two devolved functions... If you review the Budget, you will realise that more resources are still being allocated to the Ministries of Health and Agriculture at the national level even more than what used to be allocated before devolution.

In 2011/2012, only Kshs64 billion was allocated to the Ministry of Health for both Recurrent and Development expenditures. However, right now the Budget we approved in June has Kshs92.7 billion. If we approve this Supplementary Budget again, it will go up. We have spoken to the CS for Treasury and we will get more and more involved now with this process at the leadership level. I want the Leader of the Majority Party who is also like the Leader of Government Business and me who is expected to lead the Opposition, although there is no Opposition in this Parliament...

If the BBI passes, we will now have an Official Leader of the Opposition. We will also have the Leader of Government Business who will be the Prime Minister. Probably, I will be the Prime Minister and Duale will be the Leader of the Official Opposition or vice versa. I hear talk

that we are one thing. We are not one thing. We are different. The two of us, together with the Budget and Appropriations Committee, must be more engaged in the budget process to move together with the national Treasury so that this country is saved from this kind of knee-jerk reaction or response to the budget-making process.

Another key concern, as we discuss these Supplementary Estimates, is the National Treasury decision of not respecting the other two arms of Government when it comes to resource allocation. The people of Kenya decided to make the budgets of Parliament and the Judiciary independent from the Executive's control. The National Treasury seems to imagine that Parliament and the Judiciary are just like any other agencies within the Executive and as such, they can revise the budgets of these two arms of Government arbitrarily without consultations and even go ahead and effect the changes on the Integrated Financial Management Information Systems (IFMIS) which is illegal.

I want to talk to our friend the CS, Ukur Yatani. He is a new broom. Let us make sure that the National Treasury respects the two arms of Government as the Constitution stipulates. It should respect the Articles which guide the budgeting for Parliament and that of the Judiciary. Let me remind the National Treasury that the three arms of Government are equal and must be treated so when it comes to allocation of resources. This is the only way to guarantee an effective Government which works seamlessly for public good.

Again, regrettably, the National Treasury has continued with the trend of flouting the provisions of the Public Finance Management Act regarding supplementary budgets. For instance, quite a number of allocations for programmes which various agencies are implementing have been adjusted by more than 10 per cent which is against the law. The justification that we got from the National Treasury was that the Attorney-General advised that the 10 per cent should affect the total budget and not the various budget lines.

The PFM rules and regulations are very clear that on each programme being implemented, you cannot adjust through a supplementary budget or supplementary budgets by more than 10 per cent, either upwards or downwards. The excuse that it is the AG does not fly. The AG is not supposed to write the laws of this country. The AG is supposed to interpret and help us understand the laws, especially where they are not clear. Where they are clear, there is no need to seek the AG's opinion.

A number of new projects have been introduced which grossly undermine the principles of the Medium Term Expenditure Framework (MTEF). To make it worse, the National Treasury has not given an indication on how the additional expenditure will be financed as required by the law. This begs the question on whether the National Treasury is keen on fully implementing the provisions of the law relating to public finance. From the look of things, it seems the National Treasury is partially and not wholly endeavouring to implement PFM laws, yet what is required of them is to follow to the letter the provisions of the statutes. Let me warn the National Treasury that this House will not approve anything contained in the Supplementary Estimates which is contrary to the provisions of the law.

The Committee was and is still concerned about the impact of a high-deficit budget especially under the prevailing economic environment. I have spoken to that. I do not want to belabour the point. The Committee has tried to rationalise the Supplementary Budget further in order to reduce the deficit.

Hon. Temporary Deputy Speaker, there are issues in the Big Four Agenda and the Universal Health Care (UHC). We agree that the Big Four Agenda is the legacy of the President which is very important for this country, rural healthcare and everybody else. We need our

people to be treated. However, we should also not give space for corruption and theft of public funds. I hope you will give me one minute because I am just about to finish. This Ministry must be looked at critically. We told the Cabinet Secretary (CS) for the National Treasury that he has a responsibility in the law to ensure prudent use of our funds in all ministries. So, if he is suspicious that the Ministry of Health is doing things that are not prudent in the management of our resources, it is his responsibility to solve that.

The Temporary Deputy Speaker (Hon. Patrick Mariru): You have one minute, Leader of the Minority Party.

Hon. John Mbadi (Suba South, ODM): With those many remarks, I second the Motion. Thank you.

(Question proposed)

The Temporary Deputy Speaker (Hon. Patrick Mariru): Shall we start with Hon. Makali Mulu?

Hon. Makali Mulu (Kitui Central, WDM – K): Thank you, Hon. Temporary Deputy Speaker for giving me the chance to add my voice to this important Motion. I want to join my colleagues, the Chair of the Budget and Appropriations Committee and Hon. Mbadi, who is also a Member of that Committee in saying that we discussed these proposed amendments, as the Budget and Appropriations Committee.

We made a number of observations which we want to share with Hon. Members as a way of improving the Budget-making process. You realise that Parliament and moreso, the National Assembly, has now a very huge mandate in the Budget-making process. This House cannot be taken for granted when it comes to discussing the Budget. That is why anytime we get these Budget proposals, we, as a Committee, sits down and tries to do justice to the figures as a way of ensuring that we have prudent use of public resources. The figures have been mentioned by my Chairman. So, I do not want to go to them. This is the first Supplementary Budget in the history of this country to increase the overall Budget figures. I want to remind Hon. Members that the Budget we passed in June was Kshs3.02 trillion.

This Supplementary Budget had proposed to increase that figure by about Kshs80 billion. When we are all talking about austerity measures in this kind of economy, it does not send the right signals when we see the overall Budget being increased. That is why the Budget and Appropriations Committee went out of its way to see how to bring the Budget deficit down from about Kshs80 billion to about Kshs49 billion. Some of the cuts proposed here about the Recurrent and Development expenditures were an attempt to make sure that we do not worsen the situation of public debt, which we all know is rising. It is on the basis of the fact that the public debt is rising that the Budget and Appropriations Committee has recommended establishment of an independent debt management office. This will ensure that our public debt can be managed independently from the National Treasury, as a way of making sure that we get value for money, and that we do not overburden our future generations with public debt.

Hon. Mbadi has mentioned that in this Budget, we have a lot of new projects proposed. While we appreciate that there was need to realign the Budget with the Big Four Agenda, we must note that while that makes a lot of sense, the timing is inappropriate. The HANSARD can bear us witness that we said in this House when we were doing the Annual Estimates that the Budget for the Big Four Agenda had not been properly factored into the Budget. We requested that the Executive take time so that it gives a Budget which is aligned to the Big Four Agenda.

That has not been done. Look at the time it is coming. We all want to support the Executive in terms of implementing the Big Four Agenda because it is important to this economy and the people of Kenya, but we cannot allow a situation where the National Treasury thinks that it can bring new projects anytime.

The other important thing that we must notice is that all over this country, there are many stalled projects. There are projects in which we have sunk a lot of public money, but they are not giving value for money to Kenyans. There is no service Kenyans are getting from those stalled projects. Time has come when this country must make a decision on what to do with stalled projects. Do we condemn them and say we are done with them? If we do not condemn them, time has come when we must provide money for them to be completed so that Kenyans can start enjoying the benefits of those projects. If we do that, we will be helping this country.

We have just come from the BBI meeting. One of the things that Kenyans say over the country is that the Government is not working for Kenyans. As the political class, we are working for ourselves, forgetting the masses all over the country. Time has come when we must make sure that stalled projects all over the country are completed so that Kenyans can benefit from them.

There is this animal in town called “IFMIS”. What is coming out is that IFMIS is being used as a tool for controlling the budgets that are passed by this House. This House passes budgets and gives the figures, but when it comes to uploading the same Budget to the IFMIS, the National Treasury changes the figures – I do not know with whose authority. As a House, we must demand that whatever Budget is passed by this House must not be altered. For example, when we pass this Supplementary Budget, this House must demand, through the Committee on Implementation, that the Budget is uploaded onto the IFMIS the way it has been approved by this House. It can only be changed if another Supplementary Budget comes to this House and we subsequently approve the Supplementary Appropriations Act. Unless we have that, we are not doing justice to this country.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Order Hon. Makali! I am afraid it is 7.00 p.m. The House must rise. The good news is that the remainder of your time is safe. There are a number of other Members who wanted to speak to this. Still, the good news is that this business is not concluded. You still have an opportunity when the House Business Committee slots it next time.

ADJOURNMENT

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Members, the time being 7.00 p.m., this House stands adjourned until Thursday, 28th November 2019, at 2.30 p.m.

The House rose at 7.00 p.m.