REPUBLIC OF KENYA

THIRTEENTH PARLIAMENT

NATIONAL ASSEMBLY

THE HANSARD

VOL. III NO. 13

THE HANSARD

Tuesday, 5th March 2024

The House met at 2.30 p.m.

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

PRAYERS

Hon. Speaker: Hon. Members, Leaders of the Majority Party and the Minority Party, congratulations. Your good conduct is continuing. We have quorum to transact business.

(Several Members walked into the chamber.)

Order, Hon. Members, take your seats. I have two Communications to make.

COMMUNICATIONS FROM THE CHAIR

RELATIONS BETWEEN THE HOUSES OF PARLIAMENT

Hon. Members, you will recall that when I took the Oath of Office and assumed the role of the Speaker of the National Assembly on Thursday, 8th September 2022, I also solemnly undertook to uphold comity between the two Houses of Parliament and between the National Assembly and other arms of Government. In undertaking to ensure the improvement of bicameral relations between the two Houses, I was cognisant of the unpleasant disputes relating to the processing of legislative business between the Houses. Regrettably, the disputes culminated in a court action that is currently on appeal at the Supreme Court of Kenya. Subsequent to my election, I have consistently engaged the leadership of the House and that of the Senate in discussions to reach an amicable resolution of outstanding matters relating to processing of legislative business between the Houses. I am glad to note that the leadership of Parliament is united in its abhorrence to previous incidents where the Houses have publicly exhibited discord and division while engaging each other on respective mandates of the Houses.

I, therefore, wish to inform the House that the leadership of Parliament, comprising the Speakers of both the National Assembly and the Senate and Leaders of the Majority and Minority parties of both the National Assembly and the Senate met on Thursday, 29th February 2024. As part of the agenda, the meeting deliberated on enhancing bicameral relations between the two Houses. The meeting addressed the status of the ongoing litigation between the Houses, noting that the Supreme Court of Kenya granted the Houses an extension of 120 days to engage in out-of-court negotiations and record consent. Further, the leadership of Parliament observed the tremendous progress made in the negotiations and interrogated various options for formalising the processing of legislative business in Parliament. In this regard, the leadership noted that the National Assembly is already seized of the Houses of Parliament (Bicameral Relations) Bill, 2023 (National Assembly Bill No.44 of 2023), which is sponsored by Hon. Samuel Chepkong'a. The Bill was read a First Time on 17th August 2023. For purposes of expeditiously arriving at a legislative solution to govern bicameral matters, the leadership of Parliament adopted the Bill as the lead/compromise Bill on bicameral relations. In addition, the leadership of both Houses of Parliament agreed that the National Assembly would fasttrack the processing of the Bill. Once passed by the House, the Bill shall be promptly referred to the Senate, with a view to conclude its consideration the soonest possible.

In the spirit of fostering comity between the Houses, the leadership of Parliament further resolved to engage in alternative dispute resolution mechanisms in any future bicameral disputes before resorting to court action. This will ensure that bicameral matters are addressed internally in a manner that upholds and respects the privilege of Parliament.

I conveyed the resolutions of the leadership of Parliament to the House Business Committee at its meeting held today, Tuesday. I wish to report that the House Business Committee adopted the letter and spirit of the resolutions by the leadership of Parliament. Further, the Committee resolved to prioritise the Second Reading, the Committee of the whole House stage and the Third Reading of the Bill. This shall enable the House to conclude the consideration of the Bill before the House proceeds for the Easter recess that is scheduled to commence on Friday, 22nd March 2024.

The meeting of the leadership of Parliament and its resolutions reflects the shared commitment of the two Houses to the seamless processing of legislative business. Both my counterpart Speaker and I have accorded key priority to the amicable resolution of disputes between the Houses. As aptly observed by the Leader of the Majority Party at the meeting of the leadership, both I and the Speaker of the Senate have served in the National Assembly and the Senate at different times. You will agree with me that no other persons are best placed to ensure that the Houses of Parliament uphold comity and maintain the best relations as contemplated by the framers of the Constitution.

In light of the foregoing resolutions by the leadership of the Houses of Parliament and the House Business Committee, I direct the Departmental Committee on Justice and Legal Affairs to urgently conclude its consideration of the Houses of Parliament (Bicameral Relations) Bill, 2023, and table its report on or before Tuesday, 12th March 2024 for the reasons given.

The House is accordingly guided.

(Several Members walked into the chamber.)

Hon. Members at the back, take the nearest seats. I have a second Communication to make. Hon. Ndindi Nyoro, what is the nearest seat to you?

ACTUALISATION OF RECOMMENDATIONS OF NADCO REPORT

Hon. Members, as you are aware, the National Dialogue Committee was established by the National Assembly and the Senate vide resolutions passed on 16th August 2023 and 29th August 2023, respectively. The Committee was established to, among other things, facilitate dialogue and consensus building and recommend appropriate constitutional, legal and policy reforms on issues of concern to the people of Kenya, in line with the Constitution and the laws of the Republic of Kenya and respecting the functional and institutional integrity of State organs. The National Dialogue Committee was to submit its report to Parliament and to the leadership of the Kenya Kwanza Alliance and Azimio la Umoja-One Kenya Coalition on constitutional, legal and policy reforms connected to the identified issues of concern to the people of Kenya. Upon conclusion of the national dialogue process, the Committee tabled its Report to Parliament for consideration.

The Report, which contains various recommendations, including proposals to amend the Constitution and various statutes, was adopted by the National Assembly on 22nd February 2024. Similarly, the Senate adopted the NADCO Report on 21st February 2024. At meetings held on Tuesday, 27th February 2024 and Thursday, 29th February 2024, the Speakers of the

Houses of Parliament and the leaders of the Majority and Minority parties in both the National Assembly and the Senate deliberated on modalities for implementing the recommendations contained in the Report. The meetings agreed that:

1. The proposals to amend the Constitution as contained in the NADCO Report be referred to the Departmental Committee on Justice and Legal Affairs of the National Assembly and the Senate Standing Committee on Justice, Legal Affairs and Human Rights for consideration.
2. The following legislative proposals be introduced in the National Assembly—
   (a) The Independent Electoral and Boundaries Commission (Amendment) Bill, 2024;
   (b) The Ethics and Anti-Corruption Commission (Amendment) Bill, 2024;
   (c) The Leader of Opposition Bill, 2024; and,
   (d) The National Government Coordination (Amendment) Bill, 2024.
3. The following legislative proposals be introduced in the Senate—
   (a) The Election Offences (Amendment) Bill, 2024;
   (b) The Elections (Amendment) Bill, 2024;
   (c) The Statutory Instruments (Amendment) Bill, 2024; and,
   (d) The Political Parties (Amendment) Bill, 2024.
4. The Clerks of the Houses of Parliament to communicate to other entities the recommendations that require action by the said entities.

Hon. Members, noting the clear roadmap adopted by the leadership of the Houses of Parliament, I take this opportunity to thank the Speaker of the Senate, and the Leaders of the Majority and Minority parties in the National Assembly and the Senate, for their steadfast commitment and for providing a clear strategy to actualise the recommendations of the Report.

Having said that, it is noted that Article 256 of the Constitution requires that any proposed amendments to the Constitution shall be considered by both Houses of Parliament. In this regard, and following consultation with the Speaker of the Senate, leadership of the Houses of Parliament, the proposals to amend the Constitution and to various statutes as contained in the Report of the National Dialogue Committee, now stand referred to the Departmental Committee on Justice and Legal Affairs.

I direct the Departmental Committee on Justice and Legal Affairs of the National Assembly to hold joint sittings with the Senate Standing Committee on Justice, Legal Affairs and Human Rights, in accordance with the National Assembly Standing Order 202A and the Senate Standing Order 230. The two committees are required to expeditiously consider the proposals to amend the Constitution and recommend to the Houses the manner of actualising the recommendations of the National Dialogue Committee.

It is further noted that the proposals to amend the Constitution may necessitate further amendments to, or enactment of new statutes. In this regard, any proposed amendments to new statutes that are consequential to the proposals to amend the Constitution shall also stand referred to the two committees.

The need to ensure that due process in the enactment of legislation as provided in the law and the Standing Orders of both Houses of Parliament, cannot be gainsaid. The two committees are, therefore, directed to ensure strict adherence to the due process in considering the proposed amendments during the joint sittings. Finally, this matter, being one of immense importance and public interest, the committees are directed to undertake the assignment expeditiously and to submit a report within forty-five days from today.

I thank you.

(Several Members walked into the chamber)

Hon. Members, take the nearest seats. I still have one more Communication to make.

DELEGATION OF MEMBERS OF EALA

Hon. Speaker: Hon. Members, allow me to recognise Members of the East African Legislative Assembly (EALA) attending the 3rd Meeting of the Second Session of the Fifth Assembly in Nairobi.

(Applause)

I wish to introduce to you a delegation of Members of the EALA who are seated in the Speaker's Row and the Speaker's Gallery. The delegation is led by the Speaker of the Assembly, the Rt. Hon. Joseph Ntakirutimana. Welcome Mr. Speaker and sorry for mispronouncing your name. Also present are the *Ex-officio* Members, including:

1. The Hon. Deng Alor Kuol, Minister of East African Community Affairs (South Sudan) and Chairperson, EAC Council of Ministers. Is Deng Alor in the Gallery? It is important to note that yours truly and Hon. Deng Alor were Ministers for Foreign Affairs at the same time; him for Sudan and yours truly for Kenya;
2. The Hon. Peninah Malonza, Cabinet Secretary, Ministry of East African Community (EAC), ASALs and Regional Development (Kenya);
3. The Hon. Gen. (Rtd) James Kabarebe, Minister of State for Foreign Affairs in charge of Regional Co-operation from the Republic of Rwanda;
4. The Hon. (Dr) Peter Mathuki Mutuku, Secretary General, East African Community; and,
5. The Hon. (Dr) Anthony L. Kafumbe, Counsel to the Community, East African Community.

(Applause)

While I might not recognise every member present by name, I wish to acknowledge the Regional Chapters represented by the following Chapter Chairs:

1. From the Republic of Burundi, the Hon. Karerwa Mo-Mamo - Chair Chapter and Member, EALA Commission;
2. From the Democratic Republic of Congo (DRC), the Hon. Masirika Nganiza Dorothée – Chair Chapter and Commissioner;
3. From the Republic of Kenya, the Hon. Hassan, Hassan Omar – Chair Chapter. He is a former Senator from Kenya;
4. From the Republic of Rwanda, the Hon. Amb. Fatuma Nyirakobwa Ndangiza – Chair Chapter and Commissioner;
5. From the Republic of South Sudan, the Hon. (Dr) Leonardo Anne Itto - Chair Chapter;
6. From the United Republic of Tanzania, the Hon. Kizigha Angela Charles – Chair Chapter and Commissioner; and,
7. From the Republic of Uganda, the Hon. Odongo George Stephen – Chair Chapter and Commissioner.

(Applause)

They are accompanied by various Members of staff led by the Deputy Clerk, Mr. John Mutega.

The Members are in Nairobi where they are holding the 3rd Meeting of the 2nd Session of the Fifth Assembly which commenced this week and will run from 3rd to 20th March 2024 right here at the Parliament Buildings. We have allocated them the Mini-Chamber at County Hall as their chamber for deliberations and various committee rooms.

This Meeting, which involves both Plenary and committees sittings, is held on rotational basis amongst the EAC member States, in accordance with the provisions of Article 55 of the Treaty for the establishment of the EAC.

The Sittings will among other things, deliberate on important regional matters, legislations proposed for harmonisation, and strategies to bolster socio-economic development within the East African region. In addition, EALA's commitment to promoting the principles of good governance, democracy and regional peace will remain at the core of the House discussions during this critical session.

Indeed, the Meeting was officially opened and addressed by His Excellency (Dr) William S. Ruto, CGH, President of the Republic of Kenya and Commander-in-Chief of the Defence Forces during a Special Sitting held today morning, Tuesday, 5th March 2024.

On my behalf and that of the National Assembly, I welcome the Members of the EALA to the country and wish them fruitful engagements during their Sittings in Nairobi.

I thank you.

(Applause)

Hon. Ruku GK (Mbeere North, DP): On a point of order, Hon. Speaker.

Hon. Speaker: Yes, Hon. Ruku. What is the issue?

Hon. Ruku GK (Mbeere North, DP): Thank you, Hon. Speaker. I spent quite a number of months looking into the Election Act 2011 and proposed a number of amendments that I forwarded to the Legal Department of this House. I was at the signing stage before forwarding the amendments to the Departmental Committee on Justice and Legal Affairs. Is it possible for my proposed amendments to be included in your direction of the Election (Amendment) Bill from the National Dialogue Committee Report? I spent a lot of time to come up with those proposed amendments.

Forgive me for my naivety if I err when it comes to the issues of parliamentary procedures. I can see the Leader of the Majority Party is looking at me. I know he also spent some hours at the Bomas Hotel of Kenya…

Hon. Speaker: Make your point. Hon. Ruku. The Election (Amendment) Bill is born out of the National Dialogue Committee Report that is originating from the Senate. So, your Bill that is pending before this House will take its course without any interference.

Next Order.

PAPERS

Hon. Speaker: Leader of the Majority Party.

Hon. Owen Baya (Kilifi North, UDA): Thank you very much, Hon. Speaker. On behalf of the Leader of the Majority Party, I beg to lay the following Papers on the Table:

1. The following Legal Notices from the Ministry of Lands, Public Works, Housing and Urban Development:
   (a) Legal Notice No.23 of 2023 relating to the Land Adjudication (Amendment) Regulations, 2023, and the Explanatory Memorandum;
   (b) Legal Notice No.24 of 2023 relating to the Physical and Land Use Planning (Planning Fees) (Amendment) Regulations, 2023, and the Explanatory Memorandum;

(c) Legal Notice No.25 of 2023 relating to the Survey (Electronic Cadastre Transactions) (Amendment) Regulations, 2023, and the Explanatory Memorandum;
(d) Legal Notice No.26 of 2023 relating to the Valuers (Forms and Fees) (Amendment) Rules, 2023, and the Explanatory Memorandum;
(e) Legal Notice No.27 of 2023 relating to the Land (Amendment) Regulations, 2023, and the Explanatory Memorandum;
(f) Legal Notice No.28 of 2023 relating to the Community Land (Amendment) Regulations, 2023, and the Explanatory Memorandum;
(g) Legal Notice No.29 of 2023 relating to the Survey (Amendment) Regulations, 2023, and the Explanatory Memorandum;
(h) Legal Notice No.35 of 2023 relating to the Land Registration (Revocation) (Amendment) Regulations, 2023, and the Explanatory Memorandum; and,
(i) Legal Notice No.36 of 2023 relating to the Land Registration (General) (Amendment) Regulations, 2023 and the Explanatory Memorandum.

2. The Fourth Quarterly Report of the Ethics and Anti-Corruption Commission for the year ended 2023 covering the period 1st October to 31st December, 2023, from the Office of the Attorney-General and Department of Justice;
3. Reports of the Auditor-General and Financial Statements on Criminal Assets Recovery Fund – Assets Recovery Agency for the years ended 30th June, 2019, 30th June 2020 and 30th June 2021;
4. Reports of the Auditor-General and Financial Statements for the year ended 30th June, 2023, and the certificates therein in respect of:
   (a) Inter-governmental Relations Technical Committee;
   (b) The Political Parties Fund;
   (c) State Department for Industry;
   (d) State Department for Shipping and Maritime Affairs;
   (e) State Department for Housing and Urban Development;
   (f) Receiver of Revenue Statements – State Department for Lands and Physical Planning;
   (g) Independent Electoral and Boundaries Commission;
   (h) National Gender and Equality Commission;
   (i) Warehouse Receipt System Council;
   (j) Veterinary Medicines Directorate;
   (k) Kenya Leather Development Council;
   (l) Agriculture and Food Authority;
   (m) National Cereals and Produce Board Staff House Mortgage Fund;
   (n) Universities Fund;
   (o) Jomo Kenyatta Foundation; and,
   (p) The Judiciary Fund.

Thank you, Hon. Speaker.

Hon. Speaker: Before we go to Order No.6, Hon. (Dr) Pukose has requested to raise an issue at Order No.5. I will grant him an opportunity.

(Several Members stood in the walkway)

Order, Hon. Members! Take your seats. Hon. Pukose.

STATUS OF DOCTOR'S PETITION

Hon. (Dr) Robert Pukose (Endebess, UDA): Thank you, Hon. Speaker. Yesterday, the medical doctors held demonstrations in this town. They handed over their Petition at the gates of Parliament, and also left me with a copy. Their officials thereafter, went to the Table Office and handed over their Petition. However, I am not seeing it on the Order Paper. Probably, it has not been brought to your attention. It is a grave matter for doctors to leave their work to go and demonstrate in the streets even though the Constitution allows them the right to picket.

As you are aware, they recently went to the Ministry of Health and their approach was centred on issues of posting of interns, absorption of medics on permanent and pensionable basis and training. It has been long since their Petition was handed over to Parliament. Hon. Speaker, I request that you give direction so that the Petition can be expeditiously resolved and our doctors can resume their duties.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Ichung'wah, on the issue raised by Dr Pukose, I direct that tomorrow morning, Hon. Deputy Speaker, you will allow Dr Pukose to present that Petition to the House and give it the normal 30 days.

(Hon. Muchangi Karemba stood in the gangways)

Order, Hon. Karemba. Take your seat.

The Deputy Speaker will allow you in the morning. The Clerk of the National Assembly will assist you to re-cast and reframe the Petition properly so that you can present it to the House. If you agree to be the agent of necessity to the doctors.

Hon. (Dr) Robert Pukose (Endebess, UDA): Thank you, Hon. Speaker.

Hon. Speaker: Order No.5. Chairperson, Budget and Appropriations Committee, Hon. Ndindi Nyoro.

PAPER

Hon. Ndindi Nyoro (Kiharu, UDA): Hon. Speaker, I beg to lay the following Paper on the Table:

> The Report of the Budget and Appropriations Committee on the Budget Policy Statement (BPS) for the Financial Year 2024/2025 and the Medium-Term and a compendium of the Departmental Committee reports on the 2024/2025 Budget Policy Statement (BPS).

Thank you very much, Hon. Speaker.

Hon. Speaker: Hon. Members, the BPS is a very important item in your Calendar, every year. It has been Tabled, and the HBC has balloted time for it to be debated tomorrow, afternoon. It is already at the Table Office. Let us not hear any Member coming here tomorrow complaining: "I have not read the Report." Each of you is free to pick the Report. You can also visit the Parliamentary Website as it has been posted. Read through and thereafter, come and debate from a point of knowledge and information because we have Members who keep saying that it is too soon and so on.

Clerks-at-the-Table, Order 6.

NOTICE OF MOTION

ADOPTION OF REPORT ON THE 2024 BUDGET POLICY STATEMENT

Hon. Speaker: Chairperson, Budget and Appropriations Committee.

Hon. Ndindi Nyoro (Kiharu, UDA): Hon. Speaker, I beg to give notice of the following Motion:

THAT, this House adopts the consideration of Report of the Budget and Appropriations Committee on the Budget Policy Statement for the Financial Year 2024/2025 and the compendium of the Departmental Committee Reports on the 2024 Budget Policy Statement laid on the Table of the House on Tuesday, 5th March 2024 and, pursuant to the provisions of Section 25(7) of the Public Finance Management Act, 2012 and Standing Order 232(9)(10):

(a) approves the Budget Policy Statement for the Financial Year 2024/2025;
(b) approves the ceilings for the Financial Year 2024/2025 Budget as contained in the First Schedule of the Report; and,
(c) makes the policy and financial resolutions that are contained in the Report.

Thank you very much, Hon. Speaker.

Hon. Speaker: Thank you very much, Chairperson. Next, Chairperson, Special Funds Committee.

(Hon. Fatuma Mohammed consulted with Hon. Speaker)

Hon. Speaker: Say what you were trying to whisper to the Speaker on the microphone.

(Laughter)

Give Hon. Fatuma the microphone.

Hon. Fatuma Mohammed (Migori CWR, Independent): Thank you, Hon. Speaker. We, kindly, request that you give us a few moments because our report is not ready.

Hon. Speaker: When you say a few moments, do you mean this afternoon, tomorrow or the next day? What are you asking for?

Hon. Fatuma Mohammed (Migori CWR, Independent): Hon. Speaker, can you give me a few minutes to confirm with the secretariat?

(Hon. Fatuma Mohammed consulted the secretariat)

We had a meeting with the Permanent Secretary for Interior and National Administration that ended a bit late, and we were not able to finish in good time.

Hon. Speaker: Will you be ready tomorrow?

Hon. Fatuma Mohammed (Migori CWR, Independent): We will.

Hon. Speaker: Okay. I direct that the matter appears on the Order Paper for tomorrow afternoon.

Next Order.

PROCEDURAL MOTION

REDUCTION OF PUBLICATION PERIOD OF A SPECIFIED BILL

Hon. Speaker: Leader of the Majority Party.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Hon. Speaker, I beg to move:

THAT, pursuant to the provisions of Standing Order 120(1)(c), this House resolves to reduce the publication period of the Independent Electoral and Boundaries

Commission (Amendment) Bill, (National Assembly Bill No.10 of 2024), from 14 days to a day.

Hon. Speaker, this was agreed by the House Business Committee, and is part of the compendium of legislative proposals that came from the National Dialogue Committee Report. Appreciating that we do not have a functional Independent Electoral Boundaries Commission, it is rather urgent that we establish a new Commission. So, we want to reduce this publication period from 14 days to a day so that the people of Banissa Constituency can eventually hold their by-elections for a new Member of Parliament to accord them the opportunity to be represented.

With those few remarks, I beg to move, and request Hon. Robert Mbui to second the Motion on behalf of the Leader of the Minority Party.

Hon. Speaker: Hon. Robert.

Hon. Robert Mbui (Kathiani, WDM): Hon. Speaker, I second.

Hon. Speaker: Thank you.

(Question proposed)

(Question put and agreed to)

Next Order.

BILL

Second Reading

THE EMPLOYMENT (AMENDMENT) BILL
(Senate Bill No.11 of 2022)

(Moved by Hon. Muchangi Karemba on 27.2.2024)

(Debate concluded on 29.2.2024)

(Hon. Julius Melly walked into the chamber)

Hon. Speaker: Hon. Melly, take your seat.

(Question proposed)

(Question put and negatived)

(Applause)

(Hon. Kimani Ichung'wah rose up in his place)

Hon. Speaker: Leader of the Majority Party.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Hon. Speaker, there is really nothing out of order. I just wanted to seek your guidance on account of that vote.

This Bill having emanated from the Senate, it is bound to go into mediation. I do not know whether it would be in order for the Chairperson of the Departmental Committee on Labour, Hon. Karemba, to engage with the Proposer of this Bill.

I was watching from my Office when Members were debating this Bill and no Member from this House supported it. About 90 per cent of them opposed it. Therefore, instead of spending the time of this House on mediation, probably, you should direct the Chairperson of the Committee to engage with the Proposer of the Bill in the Senate to consider withdrawing it altogether.

Thank you, Hon. Speaker.

Hon. Speaker: I will give direction tomorrow afternoon.
Next Order.

BILL

First Reading

THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION
(AMENDMENT) BILL
(National Assembly Bill No.10 of 2024)

(The Bill was read a First Time and referred to the relevant Committee)

Hon. Speaker: Next Order.

MOTION

Hon. Speaker: Chairperson, Committee on Selections. Leader of the Majority Party.

APPOINTMENT OF MEMBERS TO THE POWERS
AND PRIVILEGES COMMITTEE

Hon. Kimani Ichung'wah (Kikuyu, UDA): Thank you, Hon. Speaker. I beg to move the following Motion:

THAT, pursuant to the provisions of Section 15(1)(a)(ii) of the Parliamentary Powers and Privileges Act, 2017 and Standing Order 175(3), this House approves the appointment of the following Members to the Powers and Privileges Committee, in addition to the one specified under Paragraph 1(a)(i) of the said Act:

1. Hon. Joseph Lekuton, CBS, MP.
2. Hon. Farah Maalim, EGH, MP.
3. Hon. Festus Mwangi Kiunjuri, MP.
4. Hon. Samwel Moroto Chumel, MP.
5. Hon. Edward Wakili Muriu, MP.
6. Hon. Samuel Gonzi Rai, MP.
7. Hon. Fabian Kyule Muli, MP.
8. Hon. Jayne Wanjiru Njeri, MP.
9. Hon. John Philip Gichoki Kaguchia, MP.
10. Hon. Mishi Juma Khamisi Mboko, CBS, MP.
11. Hon. Jessica Nduku Kiko Mbalu, CBS, MP.
12. Hon. Rose Museo Mumo, MP.
13. Hon. James Onyango Oyoo, MP.
14. Hon. John Okano Bwire, MP.

Hon. Speaker, this is a very critical Committee in this House. It is established pursuant to Section 15(1)(a)(ii) of the Parliamentary Powers and Privileges Act and Standing Order 175 (3). The Committee has many seasoned Members of Parliament like Hon. Farah Maalim, who has also served this House as the Hon. Deputy Speaker. Others who have longevity in service include Hon. Joseph Lekuton, Hon. Samwel Moroto and Hon. Festus Mwangi Kiunjuri. We have blended with new Members like Hon. Edward Wakili Muriu so that they can learn and hopefully be re-elected in subsequent parliaments to carry on the work of this very key Committee.

I must emphasise that this is also a Committee that you chair, as Hon. Speaker. Due to your many other duties, in most circumstances, you are not able to. When we reconstitute this Committee, I hope they will designate a vice-chairperson who ordinarily sits on behalf of the Hon. Speaker. It is the only Committee, other than the House Business Committee, that the Hon. Speaker chairs. It is a very critical Committee in terms of being able to check on what we do as Members. I know there are issues that Members raised when we were discussing the Conflict of Interest Bill in terms of the wealth declaration forms, and this is the Committee that will deal with such issues or other issues that may touch on your conduct as Members of Parliament. That is why we ensure that it has people with some legal knowledge and seasoned Members.

With those many remarks, I want to move and request Hon. Junet Mohamed, who is also a Member of the Committee on Selection, to second this Motion. I beg to move.

Hon. Speaker: Hon. Junet.

Hon. Junet Mohamed (Suna East, ODM): Hon. Speaker, I second.

(Hon. Kassait Kamket and Hon. Gladys Boss stood up in their places)

Hon. Speaker: Order, Hon. Members! Hon. Kamket and Hon. Deputy Speaker, please, take your seats.

(Question proposed)

(Question put and agreed to)

Next Order.

MOTION

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

APPOINTMENT OF MEMBERS TO THE COMMITTEE ON MEMBERS' SERVICES AND FACILITIES

Hon. Kimani Ichung'wah (Kikuyu, UDA): Hon. Speaker, I beg to move the following Motion:

THAT, pursuant to the provisions of the Standing Orders 175(3) and 212B, this House approves the appointment of the following Members to the Committee on Members' Services and Facilities —

1. Hon. Stephen Wachira Karani, MP;
2. Hon. Feisal Abdallah Bader Salim, MP;
3. Hon. Owen Yaa Baya, CBS, MP;
4. Hon. Col (Rtd) Dido Ali Rasso, MP;

5. Hon. Peter Lochakapong', MP;
6. Hon. Brighton Leonard Yegon, MP;
7. Hon. Anne Wanjiku Mugo Muratha, MP;
8. Hon. Charity Kathambi Chepkwony, MP;
9. Hon. Jerusha Momanyi Mongina, MP;
10. Hon. Odhiambo Elisha Ochieng, MP;
11. Hon. Ruth Adhiambo Odinga Busia, MP;
12. Hon. Robert Ngui Basil, MP;
13. Hon. Beatrice Kadeveresia Elachi, CBS, MP;
14. Hon. Paul Abuor, MP; and,
15. Hon. Elsie Busihile Muhanda, MP.

Hon. Speaker, by large, this being a Sessional Committee, we endeavoured to maintain the same membership for purposes of institutional memory. This Committee has done a commendable job. As the Chair of the Parliamentary Service Commission, this is the Committee that oversees your Commission. They have done a commendable job in their oversight of the Commission. We have seen tremendous progress with the Bunge Towers completion. We must commend both you, as the Chairman of the Parliamentary Service Commission, and the meaningful oversight that this Committee has offered under the able leadership of Hon. Wachira and Hon. Feisal. I urge all Members of this Committee to continue their excellent work in ensuring that Members are comfortable as they continue with their work.

Hon. Speaker, as I conclude, allow me to inform the House on what we indicated in the House Business Committee.

(Hon. Marianne Kitany and Hon. Gitonga Mukunji consulted loudly)

It is important that we get everybody's attention, including the Member for Aldai, Hon. Marianne Kitany and the Member for Manyatta, Hon. Mukunji, who are making noise behind me and making it impossible for me to say what I have to.

We have indicated that immediately after the short recess, the Committee on Selection shall be sitting to re-evaluate Members' performance in committees.

(Applause)

I say re-evaluate because an evaluation process will mean not just attendance, but also how actively you participate in committee sittings.

We have also purposed, as leadership, to look at Members' attendance in the Chamber. We have a challenge. The Hon. Speaker often takes his seat and waits for Members for up to 10 minutes to find their way to the Chamber at 2.30 p.m. and yet, we all know that the House begins at 2.30 p.m. Therefore, your participation in the Chamber, committees and how actively you participate…. Chairpersons have indicated that there are Members who appear in committees, sign and exit. That is not participation but attendance. Therefore, we are evaluating your active participation in committees since we are almost halfway through our parliamentary term. We will evaluate who keenly participates in the Committee they are nominated to. When the term of this House began in 2022, many Members came to the leadership asking to be placed in the Budget and Appropriations Committee, the Departmental Committees on Finance and National Planning and Transport and Infrastructure, and the Members' Services and Facilities Committee. However, a year down the line, you will find that a Member has only attended three meetings of those committees and yet, other Members did not get an opportunity to serve in those committees. But they would use that opportunity to engage in those committees actively.

Therefore, I would like to notify Members that it will not be business as usual. The Members of the Liaison Committee have agreed that chairpersons of committees will share with the respective Chief Whips of the Majority and Minority Parties details of Members they have problems with regarding active participation. Immediately after recess, we will ask you to agree with us to enhance the efficiency of the House in processing business by having Members who are keen on attending Committee meetings and participating in the House serving in those Committees.

With those many remarks, I beg to move and request Hon. Junet Mohamed to second once again, since he was very active in the Committee on Selection and also as the Chief Whip of the Minority Party.

Hon. Speaker: Hon. Junet.

Hon. Junet Mohamed (Suna East, ODM): Hon. Speaker, I rise to second. The Members' Services and Facilities Committee is very important. Many Members do not want to serve in this Committee because they think it is just about *mandazi* and tea. This is the Committee that ensures that we have good facilities in Parliament, good tea and *mandazi* and that Parliament is hospitable.

Last week, Hon. Paul Abuor, who serves in this Committee, came to my office. He shed tears, asking how he could only serve on the Members' Services and Facilities Committee. We had to assign him to a Departmental Committee. Members underrate this Committee.

I remember the late Hon. Jakoyo Midiwo only served in this Committee in the 11th and 12th Parliaments. He used to say that he only wanted to serve on the Members' Services and Facilities Committee. In the last Parliament, one of the most distinguished Members who served in this Committee was none other than the Leader of the Majority Party, Hon. Kimani Ichung'wah. I remember that when the names of the Members who had been appointed to the Committee were being approved in the House, I told him that if my tea was not very good, he would be in trouble. He took up the task very well, and we had good tea.

Members spend a lot of time away from their homes while in Parliament. They spend almost 12 to 13 hours a day working in Parliament. This Committee should do a good job and ensure that we work in a good environment and that lunch and tea are served on time.

I beg to second.

Hon. Speaker: Thank you, Hon. Junet.

(Question proposed)

Hon. Members: Put the Question!

Hon. Speaker: Should I put the Question?

Hon. Members: Yes!

(Several Members stood in the gangways)

Hon. Speaker: Hon. Members who are upstanding, can you take your seats?

Hon. T.J. Kajwang’ (Ruaraka, ODM): On a point of order, Hon. Speaker.

Hon. Speaker: Yes, Hon. Kajwang’

Hon. T.J. Kajwang' (Ruaraka, ODM): Hon. Speaker, this is a very special Committee to all of us. It is the reason that I am alive today. If somebody wanted me to leave Ruaraka, just a little valium added to my food would get me out of this place. Could you use Standing Order 1 and ask these Members to stand up if they are in the Chamber, so that we can get to know them? No other Committee is more important than this one in the life of a Member of this

House. Would I be asking for too much if you asked them to rise if they are in the House so that we can see them? We do not meet some of them in our usual places because we have not yet familiarised ourselves with each other.

Hon. Speaker: I presume that you should know your colleagues.

(Loud consultations)

Order, Hon. Members. Hon. Kajwang', you have a duty to know your colleagues and, more so, those who are serving in a Committee that you describe as being your lifeline in the House.

(Question put and agreed to)

MOTIONS

CHANGES TO COMMITTEE MEMBERSHIP

Hon. Kimani Ichung'wah (Kikuyu, UDA): Hon. Speaker, I beg to move the following Motion:

> THAT, further to the resolution of the House on Thursday, 27th October 2022 appointing Members into various Committees and pursuant to the provisions of Standing Order 173, this House further approves the appointment of Hon. Paul Abuor, MP, to replace Hon. Peter Kalerwa Salasya, MP, in the Departmental Committee on Regional Development.

I request the Deputy Chief Whip of the Minority Party, Hon. Mwenje, to second.

Hon. Speaker: Hon. Mwenje.

Hon. Mark Mwenje (Embakasi West, JP): Thank you, Hon. Speaker. I beg to second.

(Question proposed)

(Question put and agreed to)

Hon. Speaker: The Chairperson of the Committee on Public Debt and Privatisation, Hon. Shurie.

ADOPTION OF REPORT ON THE 2024 MEDIUM-TERM DEBT MANAGEMENT STRATEGY

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

> THAT, this House adopts the Report of the Public Debt and Privatisation Committee on its consideration of the 2024 Medium-Term Debt Management Strategy, laid on the Table of the House on Thursday 29th February 2024 and, pursuant to the provisions of Section 15(4) of the Public Finance Management Act of 2012, and Standing Order 232A(7) and (8):
>
> 1. Approves the 2024 Medium-Term Debt Management Strategy.
> 2. Makes the policy and financial resolutions contained in the schedule to the Order Paper.

SCHEDULE

POLICY AND FINANCIAL RESOLUTIONS RELATING TO THE 2024 MEDIUM TERM DEBT MANAGEMENT STRATEGY

A. POLICY RESOLUTIONS

1. THAT, in the next Medium Term Expenditure Framework (MTEF) cycle, the National Treasury ensures consistency between the Medium-Term Debt Management Strategy and the Budget Policy Statement regarding the optimal borrowing strategy and the fiscal consolidation path;
2. THAT, the National Treasury ensures that the fiscal deficit and subsequent public borrowing projections are realistic by incorporating forecasts on any potential in-year changes to interest rates, exchange rates, and contingency spending;
3. THAT, to address the emerging escalation of domestic interest rates alongside domestic interest payments, within 60 days of adoption of the Report, the National Treasury submits a report to the National Assembly providing practical measures to reduce the domestic debt service burden to sustainable levels;
4. THAT, in line with the resolution of the National Assembly on the 2023 Medium Term Debt Management Strategy, the National Treasury publishes guidelines that will ensure that the Treasury Single Account is established and operational by July 1st, 2024;
5. THAT, within 30 days of the adoption of the Report, and subject to Section 50 of the Public Finance Management Act, 2012 (Amended in 2023), the National Treasury submits a comprehensive report to the National Assembly on the breach of the debt anchor of 55 percent (+5) of Gross Domestic Product and the remedial measures undertaken to ensure adherence to the debt threshold;
6. THAT, in order to promote fiscal sustainability, reduce debt distress and to slow debt accumulation, any deviation from medium term fiscal deficit path designed by both the Budget Policy Statement and the Medium-Term Debt Management Strategy, and any resultant readjustment to loan financing, should be pre-approved by the National Assembly;
7. THAT, the National Treasury ensures the customization of the MTDS for the next MTEF cycle to Kenya's specific debt challenges by providing specific measures to deal with undisbursed loans and related commitment fees, measures to resolve risks emanating from non-performing loans owed by state-owned enterprises, and estimation of contingent liabilities;
8. THAT, in order to help enhance public participation in public debt matters, the National Treasury publishes simplified, citizen-friendly documents to accompany the technical reports on public debt submitted to the National Assembly; and
9. THAT, at least two months before the end of the current financial year, the National Treasury submits to the National Assembly:
   (i) the Annual Borrowing Plan that addresses any deviations from the 2024 MTDS in financing the FY 2024/25 Budget Estimates, attendant cost and risks of the deviations and policy measures to address them; and
   (ii) a schedule of all projects for which borrowing is to be undertaken in the FY 2024/25.

B. FINANCIAL RESOLUTIONS

1. THAT, the fiscal deficit target for the medium term is approved and set at 3.9% of GDP for FY 2024/25; 3.3% of GDP for FY 2025/26, and 3.3% of GDP for FY 2026/27, in line with the fiscal consolidation path; and

2. THAT, the country's borrowing strategy is approved at 55 percent for net external borrowing and 45 percent for net domestic borrowing as contained in the 2024 Medium Term Debt Management Strategy.

This is the second Report on the Medium-Term Debt Management Strategy that was considered by the Public Debt and Privatisation Committee in the 13th Parliament. I sincerely thank Members of the Committee who diligently worked to ensure that this Report was tabled in this House.

The Medium-Term Debt Management Strategy (MTDS) delineates the strategies and initiatives to be implemented by the National Treasury in financing the fiscal deficit that is projected for the Financial Year 2024/2025, and is projected to amount to Ksh703 billion or 3.9 per cent of the GDP. The 2024 Medium-Term Debt Management Strategy has evaluated four alternative funding strategies and their impact on the inherent costs and risks associated with the current public debt portfolio. Therefore, it recommends a borrowing strategy to finance the fiscal deficit for the Financial Year 2024/2025, comprising a net borrowing ratio of 45 to 55 per cent of net domestic borrowing to net external borrowing, respectively.

The proposed strategy aims to maximise concessional borrowing for external financing while minimising commercial borrowing, thereby mitigating the cost of debt. On the domestic front, the strategy seeks to reduce refinancing risk by increasing the issuance of medium-to-long-term bonds. Adherence to this strategy will be key to achieving public debt sustainability. Public and publicly guaranteed debt stood at Ksh11.25 trillion as of January 2024, comprising Ksh5.06 trillion in domestic debt and Ksh6.19 trillion in external debt. In nominal terms, this represents 69.7 per cent of GDP.

Kenya's debt indicator, as set under the Public Finance Management (PFM) Act 2012, was adjusted in November 2023 to a debt anchor of a threshold of 55 per cent plus 5 that is to be achieved by 2028. Kenya's public debt stock is projected to reach 67.2 per cent in 2024. The subsequent downward movement to 55 per cent is premised on implementing the fiscal consolidation plan as indicated by the fiscal path and economic growth. In this regard, we urge discipline and commitment to this path.

As we move into the financial year, we should understand that the current debt stock is characterised by elevated costs and risk factors that are evident through rising weighted average interest rates, heightened refinancing pressure and exposure to real exchange rate risks. Consequently, this indicates an overall hardening of borrowing terms that amplify the cost of sustaining fiscal deficits as compared to previous fiscal years.

Public debt continues to be a significant driver of our expenses. It is subsequently crowding out development expenditure. Notably, the proportion of interest servicing expenditures as a share of GDP has increased from 3 per cent to 5.5 per cent over the past decade. This could have had a crowding-out effect on development expenditure, which declined from 10.3 per cent to 4.4 per cent over the same period. There is a need to reverse that.

As indicated by movements of the weighted average interest rates of the total debt portfolio, the interest rate risk stood at 7.7 per cent as of June 2023, following a general increase in interest rates that was observed for both external and domestic loans over the past year. Furthermore, the share of debt on fixed interest rates declined while the share of exposure to variable rates increased. This indicated an increase in the interest cost of the debt stock in the coming year.

On the refinancing risk, it is noted that the Average Time to Maturity (ATM) of the stock of debt decreased between December 2022 and June 2023, while the percentage of total debt maturing within one year increased slightly. This indicates an increase in the refinancing pressure and calls for proper implementation of liability and cash management to minimise the impact of implementing the budget.

The Exchange Rate Risk refers to the vulnerability of the public debt portfolio to exchange rate volatility. A review of the valuation effect following the depreciation of the Kenya Shilling against the US Dollar and the Euro, which jointly account for 88 per cent of the denomination of the debt stock, resulted in an increase of the debt stock by over Ksh800 billion.

Given these circumstances, conventional debt management policies may prove inadequate in addressing the challenges faced by the country. Such challenges include the accumulation of undisbursed loans that necessitate annual payment of commitment fees, possible inefficiency in utilising borrowed resources, and a growing level of contingent liabilities. Therefore, heightened vigilance in debt management and adherence to fiscal consolidation measures is imperative.

After deliberation and consideration of contributions by various stakeholders, the Committee gave the following non-financial proposals:

1. That, in the next Medium Term Expenditure Framework cycle, the National Treasury ensures consistency between the Medium-Term Debt Management Strategy and the Budget Policy Statement regarding the optimal borrowing strategy and the fiscal consolidation path.
2. That, the National Treasury ensures that the fiscal deficit and subsequent public borrowing projections are realistic by incorporating forecasts on any potential end-year changes to interest rates, exchange rates, and contingency spending.
3. That, to address the emerging escalation of domestic interest rates alongside domestic interest payments, within 60 days of adopting the Report, the National Treasury submits a report to the National Assembly providing practical measures to reduce the domestic debt service burden to sustainable levels.
4. That, in line with the Resolution of the National Assembly on the 2023 Medium-Term Debt Management Strategy, the National Treasury publishes guidelines that will ensure that the Treasury Single Account is established and operationalised by 1st July 2024.
5. That, within 30 days of the adoption of the Report and subject to Section 50 of the Public Finance Management Act of 2012, as amended in 2023, the National Treasury submits to the National Assembly a comprehensive report on the breach of the debt anchor of 55 per cent plus 5 of GDP and the remedial measures undertaken to ensure adherence to the debt threshold.
6. That, to promote fiscal sustainability, reduce debt distress and slow debt accumulation, any deviation from the medium-term fiscal deficit path designed by both the Budget Policy Statement and the Medium-Term Debt Management Strategy and any resultant readjustment to loan financing should be pre-approved by the National Assembly.
7. That, the National Treasury ensures customisation of the Medium-Term Debt Management Strategy for the next Medium Term Expenditure Framework cycle to Kenya's specific debt challenges by providing specific measures to deal with undisbursed loans and related commitment fees, measures to resolve risks emanating from non-performing loans that are owed by state-owned enterprises and estimation of contingent liabilities.
8. That, in order to help enhance public participation in public debt matters, the National Treasury publishes simplified, citizen-friendly documents to accompany the technical reports on public debt that is submitted to the National Assembly; and,

9. That, at least two months before the end of the current financial year, the National Treasury submits to the National Assembly:
   (a) The Annual Borrowing Plan that addresses any deviations from the 2024 Medium-Term Debt Management Strategy (MTDS) in financing the Financial Year 2024/2025 Budget Estimates, attendant cost and risks of the deviations and policy measures to address them; and,
   (b) A schedule of all projects for which borrowing is to be undertaken in the Financial Year 2024/2025.

Hon. Speaker, the Committee also makes the following financial recommendations:

1. That, the fiscal deficit target for the medium term is approved and set at 3.9 per cent of GDP for Financial Year 2024/2025; 3.3 per cent of the GDP for Financial Year 2025/2026 and 3.3 per cent of GDP for Financial Year 2026/2027 in line with the fiscal consolidation path; and,
2. That, the country's borrowing strategy is approved at 55 per cent (+5 per cent) for net external borrowing and 45 per cent for net domestic borrowing as contained in the 2024 MTDS.

Hon Speaker, I beg to move. I request Hon. Makali Mulu, the Vice-Chairman of the Committee, to second.

I thank you, Hon. Speaker.

Hon. Speaker: Who is seconding you?

Hon. Abdi Shurie (Balambala, JP): Hon. Makali Mulu.

Hon. Speaker: Hon. Makali Mulu, go ahead.

Hon. (Dr) Makali Mulu (Kitui Central, WDM): Thank you very much Hon. Speaker. Let me start by thanking my Chairman for moving this important Motion. Before I get to the body of the Report on Consideration of the 2024 Medium-Term Debt Management Strategy, let me make some opening remarks.

Hon. Speaker, first, I thank you, your Office, and the Office of the Clerk of the National Assembly for allowing our Committee to present this Report to the House before the Chairman of the Budget and Appropriations Committee presents the Budget Policy Statement. This is very critical because whatever budget deficit we agree on should inform the Budget Policy Statement so that the two Committees, the Budget and Appropriations and the Public Debt and Privatisation, are seen to be aligned.

The other important issue is to remind Hon. Members that we are discussing public debt as a country because we are spending more than we are collecting. When we look at our revenue, the amount we are collecting and the amount we spend, we realise that public debt is a critical issue in this country.

Let me give an example. When we look at the current Financial Year, it is projected that about Ksh2.5 trillion will be collected. In the coming Financial Year, we project to collect about Ksh2.9 trillion in ordinary revenue. When we look at those figures and compare them with where we are today, we realise that we are currently short by about Ksh300 billion. This means that if the trend remains, by the end of the year, we will not have achieved our projected revenue collection, which in turn will increase our deficit. It means the Ksh2.9 trillion projection for the next Financial Year will start with a negative of Ksh300 billion, assuming this year's projection becomes the base year. We need to be more realistic with revenue projections and be thorough in the assumptions that are made to determine them.

The other important point is the issue of expenditure. We have often said that we do not look at the expenditure side of the equation as a country because the more we spend, the more we increase the budget deficit. Therefore, we need to ensure that we focus on core expenditure items. When we spend, we must look at the items we are supposed to spend on and make sure that they will generate more revenue for this country so that we can grow the economy.

Hon. Speaker, we have projected a Ksh3.9 trillion budget this year. In total, we project borrowing about Ksh703 billion. One thing we need to question as a House is whether the amount we are approving today or tomorrow of Ksh3.9 trillion will remain throughout the year. Experience and practice have confirmed to us that there are in-year deviations. For example, this year, we approved a budget with a deficit of 4.4 per cent. As of now, it has been adjusted upwards to 5.5 per cent. In the process of this adjustment, even though it can be justified, was this House involved in making that decision? As a House, if we want to be effective, and since we have a Public Debt and Privatisation Committee, it is important that the in-year deviations are discussed by this House and approved.

In the process of discussing this matter, there are a few things that I want to note. Average interest rates have increased, leading to an increase in the total amount of loans, and the average change to maturity of loans is getting shorter, making it worse for us. Also, we cannot ignore the exchange rate when discussing public debt matters.

The other important issue is that we approved a debt anchor of 55 per cent, and we said we need to see it go down. It was 63 per cent at the time, but it has now gone up to 69 per cent of the GDP. It is increasing instead of decreasing. As a House, we need an explanation as to why the figure is increasing, instead of decreasing. We do not have that explanation.

Hon. Speaker, I second.

Hon. Speaker: Order, Hon. Members.

(Question proposed)

Before I give the contributors a chance, allow me to acknowledge the following schools in the Public and Speaker's Galleries. We have Moi Girls' School Nairobi, Kibra Constituency, Nairobi County, and St. Francis Secondary School, Subukia, Subukia Constituency, Nakuru Country.

On your behalf and my behalf, I welcome the students and their teachers to the House of Parliament.

Hon. Members, I can see that the screen is full. I believe you have logged in to contribute to this Motion. Hon. Julius Melly. Leader of the Majority Party, do you want to be the first to contribute?

Hon. Kimani Ichung’wah (Kikuyu, UDA): Yes.

Hon. Speaker: Okay.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Thank you, Hon. Speaker. I rise to support the Report on the Consideration of the 2024 Medium-Term Debt Management Strategy.

Hon. Speaker, allow me to begin by thanking….

Hon. Speaker: Hon. Members, those who wish to contribute to this Motion should remember that in a Procedural Motion on limitation of debate, the time allocated to each Member to contribute is five minutes, including the Leader of the Majority Party.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Thank you, Hon. Speaker. I hope the Clerks-at-the-Table have noted that you have taken about 30 seconds of the five minutes.

(Laughter)

I thank the Chairman and Members of the Committee. I particularly thank Hon. Makali Mulu, who is a very diligent member of the Committee, along with the Chairman.

I rise to support this Report and many of the recommendations, especially on our fiscal consolidation process from 3.9 per cent of GDP that is envisaged in the Financial Year 2024/2025 to 3.3 per cent of GDP in the Medium-Term Debt Management Strategy for two years after the next financial year.

The fiscal consolidation programme will encompass two aspects: Revenue generation and expenditure. The Departmental Committee on Finance and National Planning will bring the Finance Bill, 2025 later in the year that will deal with revenue generation matters. What is more important is expenditure and how we, as a country, can rationalise it. This is where we have a huge challenge. As Hon. Makali Mulu has said, the changes in the medium-term debt management strategy usually emanate from reviews of our expenditure. Every supplementary budget comes with additional expenditure, at the time when there is decline in revenue collection. I hope that the National Treasury will adhere to what the Committee and House recommends this time, should we adopt this Report and its recommendations. If the National Treasury discovers that our revenues are either not performing or improving within the year, then it is imperative that it also reviews the expenditure side of our Budget. This is because it is a challenge that we have. The Chairman of Budget and Appropriations Committee, Hon. Ndindi Nyoro, has been very keen on this. However, I ask him that we actualise the House resolutions this year.

This is not only about the National Treasury but also the county Governments. Recently, a Member said that even our counties have borrowed from their big brother, the National Government. County Governments make budgets based on projected revenues that are never realisable. Kiambu County has collected Ksh1 billion in the half year against a projection of Ksh7.98 billion. It is impossible to achieve the revenue targets that they had in the next four months to the end of the financial year. The same happens in the National Government. Therefore, it is imperative that when the National Treasury realises that the Kenya Revenue Authority (KRA) is not up to speed in terms of the projected revenue collection, it should review the expenditure downwards. It is time that the Budget and Appropriations Committee has food for thought on whether we put an embargo on new expenditure. I know this has been there, but we need to make sure that additional capital expenditure is checked.

The other thing that we must check is our recurrent expenditure. I often see advertisements for jobs in the Public Service in the newspapers. Many of them may not necessarily be replacement of people who have left office. At the end of the day, this will lead to a very huge recurrent expenditure that will negate the fiscal consolidation that we are trying to pursue.

As I conclude, and as I said, the National Treasury must ensure that fiscal consolidation is not only a term that exists in our books and those reports, but it is something that they must actualise this time round.

Hon. Speaker, with those remarks, I beg to support the Motion.

Hon. Speaker: Hon. Robert Mbui.

Hon. Robert Mbui (Kathiani, WDM): Thank you, Hon. Speaker, for giving me this opportunity to also contribute to this debate. Two things come to my mind on this issue of the 2024 Medium-Term Debt Management Strategy. First, before Members vote on this Motion, we must be very careful to know what exactly we are voting for. This is the beginning of the budget cycle. If we are not clear about what is happening, we may just agree to things and then we start complaining later on. We must note that this is the beginning of the budget cycle and it is part of it. As we vote for it, we must be careful.

Secondly, we, as politicians, must also be careful on what we say, even during the campaign time because there are things that we have to do eventually. Sometimes, it is very humiliating and humbling to eat a humble pie. When we passed the Finance Act, 2023, some Members who had voted for it started complaining publicly later on about some sections in it.

Thirdly, passing the 2024 Medium-Term Debt Management Strategy enables and allows the Kenya Kwanza Government to borrow more. The promises they made during the campaign trail were that they were against Government borrowing. They demonised the previous President and said that borrowing was a very bad thing. However, they continue to borrow. We are planning to borrow more money. This regime can teach the previous one a lot of things on borrowing. This is because they are now going further into using other marketing instruments like Green, Blue, Samurai, Panda and Sukuk Bonds, among others. There is a better and more intention of borrowing from that strategy.

Borrowing is not necessarily a bad thing. Even in our investments, we borrow money so that we can do good things with it. What matters is not what one uses the money for, but how he spends it. If you borrow and put up an investment that gives you good returns, then it is a good one. However, if you borrow money and then you consume it or use it for normal day-to-day operations, then that is a problem. There is also a problem when one borrows to pay bad loans. This is not a good strategy. Unfortunately, I have seen a tendency where the current borrowing is at a much higher cost than the previous one. The Government borrows so that it can settle loans that were borrowed at lower interest rates and thus, they pay higher interest rates based on the current plan. We have to be careful about those things.

It is also unfortunate that there is a lot of borrowing from the local market. The late President, His Excellency Mwai Kibaki, stopped borrowing from the local market. That immediately opened up and stopped crowding out the private sector. Business people took loans from banks. Before the late President Kibaki's tenure, even opening accounts with some of those major banks was almost impossible. That is because the minimum deposits were so high as they were dealing directly with the Government. It is something that we need to look into. Why should we allow our Government to borrow from the local market and crowd out the private sector?

I also want to point out that the National Treasury does not take this House seriously. We are aware that they have told this House several times that they would release funds meant for the National Government Affirmative Action Fund (NGAAF) and National Government Constituencies Development Fund (NG-CDF), but they have not honoured it. This has happened four times. I have said this because the Committee's recommendations confirm the same. Recommendation five says that within 30 days of the adoption of this Report and subject to Section 50 of the Public Finance Management (PFM) Act, the National Treasury will submit a comprehensive report to the National Assembly on the breach of the debt anchor of 55 per cent of GDP. We are at about 70.8 per cent of the GDP. That means that when the National Treasury gave an undertaking, they did not fulfil it. We are now giving them time to go and fulfil something that they did not fulfil, when they had the opportunity.

In the last discussions on the Medium-Term Debt Management Strategy, we talked about the National Treasury opening a single account. We are repeating ourselves.

Hon. Speaker: Your time is up. Hon. Joseph Makilap.

Hon. (Dr) Robert Pukose (Endebess, UDA): He is not in the Chamber.

Hon. Speaker: Hon. Omboko Milemba.

Hon. Omboko Milemba (Emuhaya, ANC): Thank you, Hon. Speaker, for giving me this chance to speak on this Motion on the Report on the Consideration of the 2024 Medium-Term Debt Management Strategy. It emanates from the International Monetary Fund (IMF). It is supposed to create awareness in the countries on how to fix the deficits in their budgets. However, I also believe greatly that this must be customised to different countries. In this case, it needs to be customised to Kenya so that it can work well for us.

The deficit in the Report before us is likely to be above Ksh703 billion and this needs to be fixed. This strategy is showing us how the National Treasury will fix this through the policy and financial resolutions. It is very important for this House to discuss this matter, thanks to the fact that it is coming earlier than the budget, unlike last year when the opposite happened.

Hon. Speaker, it is important to understand that there are situations within our system that are creating huge debts for us that can be fixed as indicated in the Report. Looking at Recommendation No.5, it talks about the adoption of a single account by the National Treasury even though Hon. Mbui stopped there because he got tired. We said this last year and we will continue to say and hammer it until the need for a single account at the National Treasury is accepted. How often do we borrow money while we have it in our own banks?

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

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

During the Committee sittings, we received very many case studies, showing how the Government has borrowed money which is deposited in our banks. It has stayed there for more than five or seven years and the banks are lending it to the Government in form of treasury bonds and treasury bills. So, it ends up borrowing its own money which it took from outside at a high interest rate. Then, it is given to a department or ministry and it goes back to the bank. Again, it is given to the Government as local borrowing in form of treasury bonds and treasury bills. This is making our borrowing escalate for no proper reason. Therefore, there is need for the National Treasury to create a single account. Although we repeated this last year, we have to hammer it down until it is done.

Another case study which is showing what is making our borrowing to escalate, is the high commitment fees and timelines for disbursing loans. During the Committee sittings, we saw that Kenya has been loaned money by several institutions, but the National Treasury has not utilised it. Somehow, the country is still paying commitment fees for those loans year-in, year-out, even though they are unutilised. This has escalated our borrowing and it is very bad. I urge the Government to go slow in committing itself to taking loans that it is not ready to utilise.

As I conclude, I also want to speak on the issue of various expensive loans that are taken but, unfortunately, are not utilised. Like an Hon. Member said earlier, sometimes, we end up taking expensive loans to pay cheaper ones. This is dangerous because of the deficit we have in our budget.

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

Hon. Deputy Speaker: Member for Baringo North, Hon. Joseph Makilap.

Hon. Joseph Makilap (Baringo North, UDA): Thank you, Hon. Deputy Speaker, for giving me this opportunity. I rise to support this Report that has been brought by my Committee. Public debt has become a stigma for our country. It needs to be controlled so that we can finance programs in this country without struggling to pay the debt.

As a Committee, one thing we realised and which some Members have raised is that a lot of money to the tune of Ksh4 billion is pending in various international banks. This has been paid as commitment fees for loans we have not received or used. As you are aware, the Public Finance Management (PFM) Act, 2012 is very clear, that we borrow for development and are expected to inject that money into the economy, through programs which in return bring revenue that can be used to finance other programs.

Hon. Deputy Speaker, absence of resources for programs like agriculture and roads which are meant to generate revenue for our economy, means that we are not doing much for our country. I urge Members to support the implementation of those raft of proposals that have been recommended by our Committee to the National Treasury, so that we can have value for money. Can you imagine a commitment fee to the tune of Ksh4 billion? That money is enough to build a road from Barwessa to Kolowa, and which can transverse about three or four constituencies in Kenya. That money cannot be accessed because the loan has been approved.

Borrowing is expensive. We need to control the interest rates because, at the moment, if you are in the private sector, you get a loan at 22 per cent. This has come as a result of Government borrowing from commercial banks. What does this mean? It means that commercial banks lend money to the Government because it is offering a good interest rate. The implication is that it becomes very expensive for individuals, commercial enterprises and private companies to borrow from commercial banks. The consequence is that if citizens and business people are unable to borrow from our financial institutions, we will not collect enough taxes to run the economy because the loans are expensive and businesses cannot afford them.

Hon. Deputy Speaker, one proposal we brought through our Chairperson is that we should not get a loan to re-finance another loan but to fund programs. If we borrow money from a financial institution, it must fund a particular program as indicated by the National Treasury so that we can have a positive outcome.

For us to grow our economy, we need to reduce our appetite for huge fiscal debts. As a country, we have to live within our means. For us to continue with our programs, we must reduce the fiscal debts. The source of public debt in Kenya is as a result of high fiscal deficit in our budget. As a country, we need to reduce our development programs and live within our means so that we can grow our economy using our own resources.

Hon. Deputy Speaker, I support the proposals and recommendations that have been made because they will grow our economy and we will have a sustainable…

Hon. Deputy Speaker: Hon. Beatrice Elachi, Member for Dagoretti North.

Hon. Beatrice Elachi (Dagoretti North, ODM): Thank you, Hon. Deputy Speaker. I also rise to support this Report and appreciate the work that has been done by the Committee in terms of looking at how our country is strained by debt, the risks involved and what we need to do.

When you look at the Report, you realise the Controller of Budget (CoB) has provided serious insights that we need to ask ourselves a few questions whether we like her or not. One thing she has brought out clearly is that there is no way the Government can spend Ksh4 billion or Ksh5 billion on debt interest composed of domestic interest payments. We then come with Ksh300 billion that is foreign interest payments worth Ksh105 billion. She questions us and says that if we continue with this trend, the country will be distressed. Parliament has been given the opportunity to interrogate those reports and the budget but, one thing this House can do to help the country is by looking at different natural resources that we have, like minerals, and determining how we can use them to pay some of those debts.

We agree to pay interest on debts that have not been disbursed. In the last administration, that was the biggest challenge. We borrowed money that we were unable to spend and later found ourselves owing very high interest rates. We thereafter started complaining. Today, we are here and have raised everything we can but, most importantly, how do we balance ourselves and look at the different sectors and parastatals that are ailing. It is time we agreed that there is so much that the national Government can do to create revenue to deal with our current debt.

Additionally, when you read the Report, the Auditor-General in advising the Government and states that the Government continues to pay commitment fees incurred on undrawn amounts regarding loans signed between the Government of Kenya and foreign lenders. If that is what is happening, how do we re-negotiate those loans since we have not spent them? I believe we can re-negotiate. We can take cheap loans to repay the existing ones. This will reduce the strain that is currently affecting the country. The National Treasury has to question the need for some loans and ensure they are spent on the intended purpose. With time, some of them have been overtaken by events. We, therefore, should ask ourselves whether we need the loans. When we get our budgets, we wait to see how the National Treasury will advise us, that, yes, we have our budgets and this is the total amount we want to spend, but we have a framework of how we can re-evaluate and work within the budget regardless of over-estimation. Let us spend what we have. As I support this, I am waiting to see...

Hon. Deputy Speaker: Hon. Ndindi Nyoro.

Hon. Ndindi Nyoro (Kiharu, UDA): Thank you, Hon. Deputy Speaker. First, I would like to thank and congratulate Hon. Shurie and the entire Committee, including the Vice-Chairperson, Hon. (Dr) Makali Mulu, who is also a member of the Budget and Appropriations Committee.

I will go straight to the point because I want to highlight a few things. When the Kenya Kwanza Government came into power, the President was very categorical that Kenya had to reverse its gears concerning borrowing. The Budget and Appropriations Committee alongside the Public Debt and Privatisation Committee and the Departmental Committee on Finance and National Planning have been able to gradually reduce the deficit. In the last financial year, Kenya had a deficit to GDP ratio of about 5.7 per cent which, at some point, came down to 4.5 per cent and later to 5.5 per cent after the supplementary budgets. Although we will be debating the Budget Policy Statement (BPS) tomorrow, what we have managed to do for the next financial year is to bring down the deficit from Ksh886 billion to about Ksh703.9 billion, which is about 3.9 per cent deficit to GDP ratio. This is a good path in managing our appetite to borrow.

Secondly, we sometimes read in the newspapers about the amount of money that has been borrowed. The truth of the matter is that Kenya does not borrow money outside the budgeted deficit. We have seen an escalation of the debt portfolio due to the fact that 50 per cent of our debt, which is approximately Ksh11 trillion, is domestic, while the rest is foreign. 70 per cent of our foreign debt is dollar-denominated. When the shilling loses its value by 20 per cent, this rolls over to our foreign debt portfolio. This will increase the debt, for instance, by Ksh1 trillion without borrowing a shilling. This is because our debt is in shillings but 50 per cent of the debt is borrowed in external currencies. Whereas Kenya is adopting a conservative model of borrowing less, we have also seen some of the major economies over-borrowing. Currently, the United States of America has a 120 per cent debt to GDP ratio of over Ksh34 trillion, which has also caused a standoff at the Congress. In the United Kingdom, the debt to GDP ratio is over 100 per cent, but we cannot compare our economy to those of the developed economies because our cost and use is different. We will continue to borrow less because we cannot afford to continue digging the hole of debt.

When we talk of debt, we look at several things. For instance, Japan has the highest debt to GDP ratio in the world of over 250 per cent, but we have to look at the cost. In Kenya, the cost of borrowing domestically... Recently, we had an infrastructure bond of over 17 per cent which is tax free. For the last 10 years, Japan has had bonds with negative yield; meaning a negative interest rate. The more reason we cannot compare ourselves to them. The ramifications of Japan over-borrowing have led to inflation which, in turn, has caused their real GDP to remain constant for the last 30 years. Kenya is a gross borrower and, therefore, does not lend to anyone. Some of those big economies report gross borrowing but they also....
My time is up.

Hon. Deputy Speaker: Hon. Njeri Maina, Member for Kirinyaga, just give me a minute to recognise some schools. I wish to recognise two schools seated in the Public Gallery:

1. Milimani Secondary School from Naivasha Constituency, Nakuru County.
2. Nairobi River Primary and Junior Secondary School from Embakasi West Constituency, Nairobi City County.

Before you proceed, Hon. Maina, let me allow Hon. Mark Mwenje to welcome the teams.

Hon. Mark Mwenje (Embakasi West, ODM): Thank you, Hon. Deputy Speaker. Let me take this opportunity to welcome Nairobi River Primary and Junior Secondary School students from Embakasi West. I thank the school for the splendid job they have been doing. We have done four additional classrooms in the school. It is good the students are here to see this is where we get funds to build their classrooms. I encourage them and believe that there are future Members of Parliament from among the students.

On behalf of the entire House, I welcome all the students. Thank you.

Hon. Deputy Speaker: Thank you. You may proceed, Hon. Njeri Maina.

Hon. Njeri Maina (Kirinyaga County, UDA): Thank you, Hon. Deputy Speaker. I rise to support the Report by the Committee. This House owes a fiduciary duty to electorates. It is therefore important to examine our Medium-Term Debt Management Strategy to ensure that any monies are applied accordingly. The ideal situation is that the net external borrowing does not exceed 55 per cent and the domestic borrowing does not exceed 45 per cent of the GDP.

We must, therefore, examine key priority areas that need funding by this House. We must also continue to ensure there is continuity in Government projects. Cutting down recurrent expenditure is also something that we should consider. The fiscal policy that we have must reflect the financial constraints of this nation. That is what I call walking the talk. Since the Kenya Kwanza Government took office, it has borrowed less. I want to disabuse the notion that it has borrowed more as the Kenya Kwanza Government. I refer to my good colleague and friend, Hon. Ndindi Nyoro, that when the shilling depreciates, the value of our debt increases too. Around 70 per cent of our debt is in US dollars. That is the net effect we see in the increase of our debt. It is not about the debt; it is about whether the debt is sustainable.

Countries like the United States of America have debts over 128 per cent of their GDP. As of 2023, the US had more than US$32 trillion debt. The question that we must continuously examine is whether we have a sustainable debt and whether we can manage the same for posterity. The G7 nations like Canada, Germany and the rest have net debts of around 128 per cent. We must continuously engage in this conversation to ensure that we examine policies that do not denigrate our development agenda but ensure that, for posterity, we sustain the same and can pay our debt.

Thank you.

Hon. Deputy Speaker: Hon. Donya Dorice, Member for Kisii.

Hon. Dorice Donya (Kisii County, WDM): Thank you, Hon. Deputy Speaker. I rise to support this Report. There was a time when I was a member of the Board of Management (BoM) at Awendo Sugar Company. I saw over 100 unused vehicles. Those are Government assets. If you moved around the country and identified unused Government assets, they could be sold. You could make the process quicker so that the money collected can be used to run Government activities. Anytime there is borrowing, they say we have to fund such activities, forgetting that we have our own sources from where we can collect money and use it to run Government projects and activities.

Each borrowing must have a purpose and approval. If I took a loan from any bank in Kenya today, I would be given a limit on when to pay, interest and purpose. We are never clear on what we want. It is easier to borrow from other places than to allow the Government to give a clear procedure on how it can have its idle assets sold to limit the amount of money it borrows.

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Member for Manyatta, Hon. John Gitonga.

Hon. Gitonga Mukunji (Manyatta, UDA): Thank you, Hon. Deputy Speaker. A nation's strength ultimately consists of what it can do on its own and not what it can borrow from others. Around 13 years ago, our debt was less than Ksh1 trillion. Right now, we are talking about close to Ksh11.25 trillion. We need to borrow less as we move forward. The next generation must not find this country in crisis in form of debt. I congratulate the Committee for the Report. As a House, we need to be keener on issues of borrowing in this country and the programmes we are borrowing to finance. I propose that, as we look at handling debt, we need to factor in audits, especially by well-trusted auditors, even international ones, to check on the viability of programmes and projects that we fund with debts. That will help us to get value for money because we are net borrowers. We cannot say we will live without borrowing. Let us borrow and ensure we maximise the opportunities and value for money.

I will deviate a little bit and go back to the borrowing in Kenya right now. I call upon the National Treasury to look at the interest rates that banks give to ordinary business people. If you borrow from a bank, 20 per cent of your profit goes towards repaying the debt. That means people have a problem financing their operations. I call upon the National Treasury to check on that. I understand inflation, but it is important to have local solutions, especially for our businesses. We also need to review laws. It is always good to say we are a thinking and working nation. We passed the Finance Bill, 2023 last year. Some things are working, others need improvement, while others need to be re-thought. While we are preparing to consider another budget and Finance Bill in June, some of the taxes we introduced and were to increase our collection have not worked right. We must review that as a House and ensure that we come up with ways of raising revenue that are not too much into killing the businesses that are being operated in the country.

On the turnover tax that we introduced to our farmers, it is important because we are a asking the House to review it and reduce what is required from farmers, so that we do not have a case where farmers get frustrated and have to use the internet in trying to solve issues.

As I close, we need to work on the savings that this country is accumulating. I am happy that the Government has come out strongly to see how it can improve our savings so that we can stop borrowing too much from foreign entities and get crushed by paying using dollars.

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

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

We need to work with the Kenyan Shilling and negotiate on our interest rates so that we can have this country sorted out as we move on.

That is my submission. I congratulate the Committee. Thank you.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Mugambi Rindikiri? He is not in the House. Hon. Geoffrey Ruku, Member of Parliament for Mbeere North? He is also not in the House. Hon. (Dr) Robert Pukose, Member of Parliament for Endebess, do you want to contribute to this?

Hon. (Dr) Robert Pukose (Endebess, UDA): Thank you, Hon. Temporary Speaker, for allowing me to contribute to the policy and financial resolutions relating to the 2024 Medium-Term Debt Management Strategy.

From the onset, this strategy states that, at least two months before the end of the current Financial Year, the National Treasury submits to the National Assembly the annual borrowing plan that addresses any deviations from the 2024 Medium-Term Debt Strategy in financing the 2024/2025 Budget Estimates, attendant cost and risks of the deviations and policy measures to address. To help enhance public participation in public debt matters, the National Treasury shall publish simplified, citizen-friendly documents to accompany the technical reports on public debt submitted to the National Assembly. As you are aware, many people do not understand some of the technical terms that are used in some of those reports. Therefore, it will be very important that the National Treasury publishes simplified citizen-friendly documents to accompany the technical reports on public debt.

Hon. Temporary Speaker, the country’s borrowing strategy is approved at 55 per cent for net external borrowing and 45 per cent for net domestic borrowing as contained in the 2024 Medium Term Debt Management Strategy. We should have some fiscal policies that gives us some discipline that we do not deviate so much. Article 223 of the Constitution allows Parliament to approve expenditure by the Government that was not planned for. The

Government can spend, but we have to look at what is in our collections. It is very important that we do not spend beyond what we can collect. We must stick within a certain level of our discipline in our fiscal policies. It is also important that we do not go beyond such that we have to come to supplementary estimates to try and cut down on our costs. Our budget should be limited to what we can collect within our expenditure. For instance, when you go to a supermarket, you can only spend what you have in your pockets. You do not spend what you do not have in your account.

As a country, we need to have fiscal policies and discipline to spend within our means. We should not over-borrow loans that we will be unable to service.

With those few remarks, I support.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Daniel Manduku.

Hon. Daniel Manduku (Nyaribari Masaba, ODM): Thank you, Hon. Temporary Speaker. From the onset, let me inform the House that I am a member of the Public Debt and Privatisation Committee, and it is my wish that the National Treasury adheres to its proposal as stipulated in the Medium-Term Debt Strategy. Ironically, the National Treasury proposes a borrowing strategy of 55 per cent being foreign and 45 per cent being local and yet, in the Budget Policy Statement, they are planning to borrow 63 per cent to 37 per cent this year. Further to that, this House, sometimes back, resolved that the debt anchor be 55 per cent. A few months down the line, our debt anchor to Gross domestic product (GDP) is at 69 per cent. I would have wished to see a situation where that debt anchor gradually starts going down towards a target of 55 per cent. The National Treasury has promised that they should achieve that anchor by June 2028. This House needs to sanction the National Treasury strongly so that from time to time, they are obligated to come and give reports on a quarterly basis.

There is a problem with our debt. When it is borrowed, there is no rule or law on how it is applied in terms of development versus recurrent expenditures. Any good economist will tell you that debt should strictly be applied to development expenditure. It is very sad to see that we have borrowed a lot of money and used it on recurrent expenditure. In my view, going forward, we need to redefine recurrent *vis-à-vis* development expenditure with special emphasis on the development of human resources like teachers, doctors and other people who help in uplifting our social status as a country.

Some Members keep comparing Kenya to countries like Japan and the United States of America, which have exceeded 100 per cent debt to GDP ratios. I want to remind them that those countries have a lot of foreign reserves running to billions of dollars. They also have monies that they have lent to countries like Kenya. So, a comparison to such countries is not appropriate.

Lastly, in all discussions that we have had about public debt, we need to seriously consider having a Public Debt Act so that it can legislate and seal any loopholes that the Public Finance Management Act does not cover. This may reduce the abuse of Article 223 of the Constitution.

Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Edith Nyenze? She has stepped out. Hon. (Dr) James Nyikal, Member of Parliament for Seme, do want to contribute to this?

Hon. (Dr) James Nyikal (Seme, ODM): Thank you, Hon. Temporary Speaker, for giving me this opportunity. I must appreciate what the Committee has done. It is the second time that we are discussing the Budget Management Strategy during the budget process. It is the first time we are doing it before the Budget Policy Strategy which means that we are seriously taking up the matter of looking at our debts and linking them to our budget because that is where the issue lies. Debts on their own are not a bad thing. However, it is important to look at what we do with the debt. It is necessary that we achieve its purpose because it comes from the budget deficit which could either be our recurrent or development expenditure. We should agree that we do not borrow for consumption to finance our recurrent expenditure. However, when we borrow for development, we should plan to ensure that it brings revenue later on. Those are the most important issues when you are dealing with debts. What is the source of debt? As I have said, it is basically a budget deficit. The budget deficit is our expenditure against our revenue. Therefore, if we have a large fiscal deficit, we should look at cutting or reducing our expenditure instead of seeking more loans. Debt is good, but it becomes a problem when you cannot repay it. We have too many problems in this country. The cost of living has gone up because we are servicing the debt. We cannot finance our expenditure. We must reduce expenditure.

This Report has two main parts, one is a list of financial resolutions that are directly related to what we plan to do. The fiscal deficit target is projected at 3.9 per cent of the GDP for the Financial Year 2024/2025. The issue is: Can we adhere to these proposals? Last year, we set this target at 4 per cent and now we are at 5.5 per cent of the GDP! We have a deficit. We can come up with all these resolutions but are we going to adhere to them? The country's borrowing strategy is approved at 55 per cent of the GDP for external borrowing and 45 per cent for domestic borrowing. This is a good thing if we stick to it. Last year, we set this at 53 per cent of the GDP and we went up to 68 per cent. We had also set our debt ratio at 55 per cent and we went beyond that.

Therefore, these policy recommendations are key and without them, the financial resolutions in the Report will not work. We should encourage…

(Hon. (Dr) James Nyikal's microphone went off)

The Temporary Speaker (Hon. Peter Kaluma): Why are you okaying? Will you finish if I add you one more minute?

Hon. (Dr) James Nyikal (Seme, ODM): Yes. We have public participation in the budget-making process and the same should apply to the Medium-Term Debt Management Strategy (MTDMS).

In the recommendations, we have stated that we will have a schedule of what we intend to do with the Budget. We should also bring a schedule of what we have accomplished with the debt we took in the last budget and the returns. This is the only way we can have a meaningful approach to debt management.

Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Peter Kaluma): Next is the Member of Parliament for Kitui Rural, Hon. David Mboni.

Hon. David Mwalika (Kitui Rural, WDM): Thank you, Hon. Temporary Speaker. At the outset, I support this Report and thank the Committee for bringing it here.

I also thank the National Treasury on how it has handled the repayment of the Eurobond. The situation with the Eurobond brought a lot of anxiety in the financial market. Last year, when I was in Washington DC for the International Monetary Fund (IMF) and World Bank talks, everyone thought that Kenya would be the next country after Zambia and Ghana, in terms of loan defaulting. Now we are off the hook. As a result, the Kenya shilling has appreciated against the dollar. Many people were hoarding the dollars in the hope that the Government would mop up the dollars to repay the Eurobond. At least, the dollar market has stabilised now.

The proposals in the MTDMS are not new. They have been there before. The question is: Have they been implemented? When you look at the Report, the 2023 set fiscal deficit was targeted at 4.4 per cent, but the actual deficit is at 5.5 per cent. This means that we do not follow the proposals. We need to be serious as a country. If we want to fight debt, we have to have balanced budgets. I like the Committee's recommendation that the National Treasury should submit to Parliament the list of projects that it intends to borrow for. Currently, we are borrowing for recurrent expenditure. There are no major projects in the country. A country is doing poorly when it starts borrowing for recurrent expenditure and not investments. We need to move towards balanced budgets.

In addition, there have been many roadside promises. When the Head of State makes a roadside promise, it has to be featured in the Budget. This means we have to either re-organise the Budget or bring in Supplementary Budgets further increasing the budget deficit. A budget deficit equals a debt. It is high time those roadside promises stopped and we follow the Budget to the letter. This will reduce the fiscal deficit.

Hon. Temporary Speaker, Article 223 has been over-used and abused. The Auditor-General and the Controller of Budget reported that billions of monies were used under this Article. This creates a deficit and now we have to borrow to fund the projects which the money was budgeted for. It is high time we reduced the use of Article 223.

We need to go for concessional loans which are cheaper than commercial loans. We also need professional negotiators for our loans. I do not think the Eurobond was negotiated by professionals because the US$2billion was to be repaid once. I am happy that this has been re-negotiated and it is going to be paid in instalments. Imagine if we had to pay Ksh300 billion in June this year; this country would collapse. We need professional negotiators. I also love the Committee recommendation on…

(Hon. David Mboni raised his hand)

The Temporary Speaker (Hon. Peter Kaluma): Hon. Mboni, what are you signalling to the Chair by raising your hand? I will add you two minutes.

Hon. David Mwalika (Kitui Rural, WDM): Okay. As a country, we cannot afford to pay Ksh3 billion. We need professional negotiators who can negotiate so that we pay loans in instalments.

The implementation of the Treasury Single Account is something which was proposed a long time ago. However, there is a lot of resistance from the National Treasury or the Government agencies. I was talking to somebody who was telling me that Government agencies and parastatals have over Ksh200 billion held in private banks. However, the Government borrows money from there and pays interest on it. The Treasury Single Account should be implemented so that all that money is mopped up and put in the Central Bank of Kenya. The Government can then borrow the money, use it and repay when in a position to do so.

Borrowing domestically closes up private investment. I was talking to somebody and they told me the interest rate for the bonds is 18 per cent while the interest rate in the bank now is around 20 per cent. How many Kenyans can afford to borrow at that rate? The proposals that have been proposed should be implemented so that, at least, we can move forward.

I support.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Thuku Kwenya, Member of Parliament for Kinangop.

Hon. Kwenya Thuku (Kinangop, JP): Thank you, Hon. Temporary Speaker for giving me the opportunity to contribute to this Report on the Medium-Term Debt Management Strategy.

At the outset, as a Member of the Public Debt and Privatisation Committee, I wish to support our Report. This is a Report that is very important in as far as fiscal planning, Budget, and the Budget Policy Statement are concerned. It is simply a document by the National

Assembly which tries to envision how the National Treasury will manage debts in the coming financial year.

I have taken interest in looking at the Debt Management Strategy of the National Treasury. Parliament must be alive to what is happening in this country, especially the issue of debt. Largely, our budget is financed through borrowing and that is perturbing. Looking back ten years ago, it is sad to say that our borrowing has gone up by around 350 per cent from Ksh2.25 trillion to about Ksh11 trillion to date. That is something that should concern every Member of Parliament because it is our business to oversight the National Treasury. At times, they are just "borrowing happy" to the extent that there are so many loans that have been committed to this country and yet, the absorption rate is so low. The country is made to pay commitment fees for loans that have not hit our coffers! We are borrowing but the money remains in the pockets of the people who lend us the money. I have said it in this House, and I will say it again, that it is a perfect example of walking into a commercial bank, borrowing money but not walking away with the money. You spend the money at the behest of the lender. It becomes a big burden to this country. You can imagine borrowing money but the lender dictates how it should be drawn and yet, you are paying the commitment fee, interest and all that. It, therefore, becomes a trap! We are ensnared in some kind of deep hole or abyss that we are trying to get out of.

It is time for the National Treasury to become serious in as far as debt management is concerned. When we talk about expenditure, the House is always full because people are happy to spend money. But we are not careful to ask where the money is coming from. I have listened to one of the Members contribute and he has ably said that our Budget has two columns as many people would think. That is not so because there is the revenue column which has an aspect of debt and it is quite a chunk! This financial year, we have borrowed close to Ksh1 trillion. It is in this financial year that we passed the Debt Management Strategy that envisaged a situation whereby borrowing would be up to a certain extent. We have surpassed it and no report has come to this House and yet, we resolved that if the National Treasury surpasses the amount that was approved by this House, they should come back with a report explaining why. We have not received that as the Public Debt and Privatisation Committee. Indeed, it should concern us.

On the issue of the Single Treasury Account, whereby all the monies collected by the Government should be deposited in one Government account, allow me to state as follows: As much as we are saying that our borrowing is at 55 per cent this financial year, we cannot live with that. We are borrowing more than is envisaged in this document. We are not living up to the resolutions of this House. I strongly feel that the National Assembly should rise up…

The Temporary Speaker (Hon. Peter Kaluma): Hon. Thuku, I have recognized the fact that you are speaking to yourself. Let me take it that you have concluded your contribution. I will give you a minute to tie your comments well.

Hon. Kwenya Thuku (Kinangop, JP): Thank you, Hon. Temporary Speaker for your magnanimity. As a House, we must live to our calling and responsibility. We must oversight the National Treasury. They should not just be presenting documents to this House and once we interrogate them and pass resolutions, we assume that it is the end of the work of the House. We are not mere spectators in this game. We are not spectators but players; we are part of the budget-making process. The National Treasury must be well advised that any document that they present to this House is for purposes of consumption of this House, which also plays the oversight role. We are going to keep them on their toes so that we bring down the level of debt from wherever it is to a figure that is manageable.

I can see the *Clerk-at-the-Table* is on my case! Kindly be kind to me. The issue of wanton borrowing must be dealt with once and for all by this House. It is only this House that can pronounce itself on the matter. Thank you.

The Temporary Speaker (Hon. Peter Kaluma): The Chairperson, Departmental Committee on Justice and Legal Affairs Committee, and Hon. Martin Owino Peters, I will give you the chance to contribute after Hon. Jackson Kosgei.

Hon. Jackson Kosgei.

Hon. (Dr) Jackson Kosgei (Nominated, UDA): Thank you, Hon. Temporary Speaker. At the outset, I wish to support this Report and Motion.

Allow me to reflect on the rise and fall of empires in history of the last 6,000 years. Historians have summarised reasons that make Governments stand or fall. Sound fiscal policy is a Government plan and decision that determines how much money to borrow and collect in taxes and how to spend it to meet expenditure in the country. If this is not done, it can bring down regimes because it has done so.

Hon. Temporary Speaker, it is important to note that the Constitution we are currently using in this country gives Parliament that solemn role to participate in the financial policy of the country. It meant well because this can sustain the country. It has been found that what sustains a nation is national pride. This is where people are proud of their own country. I remember when the late President Kibaki talked about raising of resources in this country. He came from the point of national pride that *'lipa ushuru ujitegemee'*. Tax compliance enhances sustainability. This should make us proud to be Kenyans because we are the ones who are paying the bills of our civil servants in this country, irrespective of any political affiliation. We are all citizens of Kenya.

In conclusion, this House should look at, and analyse in depth, the impact of any newly borrowed money on our economy and how we can deal with it. I cannot over-emphasize this because colleagues have dealt with it. Otherwise, Hon. Temporary Speaker, I support the Motion.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Martin Owino Peters, Member for Ndhiwa.

Hon. Martin Owino (Ndhiwa, ODM): Thank you, Hon. Temporary Speaker. I want to support this Report. There are some idioms that teach us. For example, debt is slavery to those who are free. If those who are free are grossly indebted, they become slaves of the lender as is in this case. Hon. Sir George is a friend of mine. If you see him repeatedly biting off what he cannot chew, he will choke over it. The situation in our country is serious when it comes to debt. Somebody said that for fiduciary responsibility of this House, let us stop lamenting but oversee the Executive so that it does not go overboard.

How I understand the Budget Policy Statement is that it is a plan of action. We have now come up with the mid-term strategies as the policy action plan that should be followed when doing stuff. In following that, I think, as a House, we amended our Standing Orders that we should get reports from those Ministries every three months. Let us not rely on auditors' reports. All these yearly reports are done too late when things have already happened. However, if we can follow closely and see what is being done after every three months, then we can prevent some of those things. I think that is the right intervention we should tap into.

There is something here, which I think is very grave as well. The fidelity to the plans which we put in place. For example, over 90 per cent of what we pay is interest; not principle. There is also another animal called exchange rate. Every time our shilling is down, we pay Ksh40 billion to the loan because of the exchange rate. So, the National Treasury should be uptight in making sure that the Kenyan shilling does not fall that gravely to the dollar.

I want to make a point that has been cited many times on contingency spending as stipulated in the notorious Article 223 of the Constitution. This is what puts the Government way over what they are supposed to be spending whenever they are allocated money. Perhaps, we need to amend the Article. I know there will be a lot of resistance, but spending before and looking for sanitation later is what is causing all these problems. We should stand up as a House and say: "Enough is enough with this Article."

Lastly, there is an omission here that I thought should have been included in this mid-term strategy - debt re-negotiation. Some debts should just be re-negotiated. There is no way one is going to meet them, especially when they commit the money, do not use it, and it continues to accumulate interest. For us to remain relevant in this market, we should sit with the lender to re-negotiate the loan in order to pay it in a certain way. Otherwise, I thank the Committee. Let us stand for the people of Kenya and say no more borrowing to pay for existing debt.

The Temporary Speaker (Hon. Peter Kaluma): The Member of Parliament for Wundanyi, Hon. Mwashako.

Hon. Danson Mwashako (Wundanyi, WDM): Thank you, Hon. Temporary Speaker. I rise to support the Report on the consideration of the 2024 Medium-Term Debt Management Strategy that has come to this House at the appropriate time. It is important to put things into perspective. Many years back, this country engaged in borrowing both locally and out of the country without involving Parliament. This Report clearly outlines the policy on how the Government intends to engage in borrowing. This is to make sure that the budget deficits for every year, when the budget is passed, can be covered through borrowing. It is important to realize that this debt management strategy is a Government policy. Now that the Government has brought this document to Parliament as per the Constitution and the Public Finance Management (PFM) Act, 2012, it is upon this House to make sure that the policies and aspirations that have been outlined in these documents are fulfilled.

Many times, borrowing in this country has been shrouded in controversy. Remember the times of the Eurobond. It was clear that money came into the country, but one could not trace where it went. Today, as we read this Report, we find ourselves in a situation where there is hope that if this document is to be followed to the letter, as a country, we shall get ourselves a better way of managing our fiscal debts. That way, we will not overburden the current and future generations. There is a principle in the Constitution that talks about inter-generational equity. Today, we may be excited about big projects that are done through money that we borrow from the Chinese and every other partner out there. However, if we are not prudent enough, then we will be over-burdening our future generations to a situation whereby we bequeath our children a country that is not sustainable. Therefore, we will have failed in our duty as people who are supposed to be responsible.

I remember last year the Cabinet Secretary for the National Treasury stated in this House his attempt to change our national debt from an absolute number of Ksh10 trillion to anchoring it at 55 per cent of the Gross Domestic Product (GDP). We raised many issues because it looked like it was just another gimmick to confuse Parliament and the country. This Report indicates that we are currently above a debt to Gross Domestic Product (GDP) ratio of 70 per cent. The Government's ability to reduce debt-borrowing to 55 per cent plus the 5 per cent that it indicated is something that must be looked into, pushed and forced, so that the Government demonstrates that it has the will and heart to bring down the rate of borrowing.

Before I conclude, it is recommended that foreign borrowing should be 45 per cent of the total debt and domestic borrowing should be 55 per cent of the total debt. However, this Report clearly indicates that we have reversed that trend. The rate of foreign borrowing is higher vis-à-vis domestic borrowing. We find ourselves facing huge foreign exchange rate risks since our shilling has lost a lot of value and depreciated against the dollar. Most of our debt is in dollars. Therefore, our debt ends up ballooning without real value coming into the country. Therefore, as we balance between costs and risks, we must ensure that …

The Temporary Speaker (Hon. Peter Kaluma**):** I will give you two minutes to conclude.

Hon. Danson Mwashako (Wundanyi, WDM): Thank you, Hon. Temporary Speaker. We must look at the trade-offs. If we borrow more foreign loans, we face huge foreign exchange rate risks. At the same time, if we borrow more locally, we may crowd out investors and the private sector in the country. This trade-off must be well calculated.

I like the part in this Report that states that after its adoption, the Ministry of National Treasury and Economic Planning must submit its debt sustainability analysis to this House so that we know whether our debt as a country is sustainable, and if we can manage it and pay it off.

I sit in the Budget and Appropriations Committee. The Principal Secretary for the National Treasury and Economic Planning appeared before us yesterday and told us that they wish to make the fiscal consolidation path that they have been following friendly, so that we can cover our budget deficits. At the same time, we must continue paying our debts in good time. As we do so, we should not sacrifice cheap debt for expensive debt like we did recently, where we raised the Eurobond at 6.75 per cent and we will be paying it at 10 per cent and yet, we call that sustainability.

It is my hope that this policy will be followed and Parliament will keep the Government in check so that we can get good dividends from this Report. I support.

The Temporary Speaker (Hon. Peter Kaluma**):** Hon. David Gikaria, Chairperson of the Departmental Committee on Environment, Forestry and Mining.

Hon. David Gikaria (Nakuru Town East, UDA): Nakushukuru sana, *Hon. Temporary Speaker*, kwa kunipatia nafasi hii ya kuchangia mjadala huu kuhusu madeni.

Hakuna mtu, familia au nchi isiyo na deni. Huwa unakopa pesa ili ufanye nini? Kuna pesa zinazokopwa zisizo na faida yoyote nchini. Hata unapokopa pesa kwako nyumbani, lazima ujiulize utalipa vipi. Lazima uwe na mshahara wa kutosha. Kama ni Serikali inayokopa, lazima ikusanye pesa na iwe na mikakati ya kukusanya hela ambazo zitasaidia kulipa madeni hayo. Lazima ujiulize pia unakopa kutoka kwa nani? Ni nini kitakachofanyika ikiwa utashindwa kulipa? Tunapaswa tujiulize maswali mengi wakati tunakopa hela, iwe ni mtu binafsi au nchi. Wizara ya Fedha imetuelezea kuwa hatujatenda vizuri na tunajua hiyo ni kweli.

Mhe. Spika wa Muda, unakumbuka kuwa pesa zilikuwa zinachukuliwa kufanya miradi ambayo haikuwa ya kuwekeza hela tu, ila ilitoa mapato pia. Hakuna wakati tuliambiwa kazi ambayo hela hizo zilifanya au njia zilizotumika ili tuseme kwa Kiingereza kuwa tumepata *value for what we have borrowed*.

Nashangaa kuwa Wizara ya Fedha bado inaweka mikakati ya kupunguza madeni tangu tupate *Independence,* mikakati ambayo tunaendelea kukiuka. Wenzetu wachache hapa wamesema kuwa tuweke mikakati hiyo na tufanye kazi yetu kama Wajumbe. Hiyo siyo kazi ya *Executive* hata kidogo. Tumepitisha mambo haya yote katika sheria zetu. Chochote ambacho *Executive* inataka kufanya, sana sana kuhusiana na haya maneno, lazima kipitie katika Jumba hili. Ikiwa Jumba hili litapitisha mambo hayo, hatuwezi kumlaumu mtu mwingine. Lawama ni kwetu sisi Wajumbe. Lazima tukae chini na tujiulize pesa tunazokopwa ni za kufanyia nini. Tutapata mapato gani tukikubalia Serikali ikope pesa ili ifanye miradi? Tutaweka mikakati gani ya kupunguza madeni?

Tunaishukuru Kamati husika kwa kazi nzuri iliyofanya katika Ripoti hii. Tunaomba kuwa isiwe tu matamshi na kuandika maneno kwenye karatasi kisha turudi kufanya kinyume na ile mikakati tulioweka.

Kuna njia nyingi ambazo ndugu zetu katika Wizara ya Fedha na Kamati ya Bajeti wamezingatia lakini ni muhimu tusipitishe madeni haya kwa watoto ambao bado hawajazaliwa. Tunapoyachukua haya madeni, ni lazima kila mtu abebe mzigo wake kwa wakati unaofaa. Ni makosa sana mimi nibebe mzigo na nimwachie mwingine aje alipe kama vile ilivyotendeka. Nitaubeba mzigo wangu kwa sababu najua nina miaka fulani ya uhai, na nikimaliza miaka yangu, atakayekuja kulipa sio shughuli yangu. Bunge hili lina jukumu la kusimamisha fikira kama hizo katika siku zijazo. Isikuwe kuwa mimi kama Mjumbe sijali kile nitakachofanya katika miaka mitano nitakayokuwa hapa kwa sababu yule atakayekuja baada yangu ataubeba mzigo huu.

Tunaomba Wizara ya Fedha na Kamati ya Bajeti kuweka mikakati ya kupunguza madeni. Tunapigia upato Ripoti hii ili ipite lakini ikishapita, tusiambiwe kuwa madeni yetu yamefika Ksh15 trilioni kisha tuanze kuilaumu Bunge ya mwaka jana au mipango ya yule Rais wa awali. Tunapaswa tuzingatie mambo hayo na kuweka mikakati. Yale mambo ambayo wameahidi wana…

The Temporary Speaker (Hon. Peter Kaluma**):** Member for Bomet County, Hon. Linet Chepkorir. On a very special request, make your contribution.

(Hon. Linet Chepkorir consulted with Hon. Josses Lelmengit)

Is she consulting with Hon. Josses Lelmengit? It is normal for some of the best leaders we have in the country today to consult. Make your contributions.

Hon. Linet Chepkorir (Bomet County, UDA): Thank you, Hon. Temporary Speaker. I was still consulting. I have just come to the House but I will contribute before the end of this debate.

The Temporary Speaker (Hon. Peter Kaluma**):** I did not get you well, Member for Bomet County. Are you waiting to contribute on the next one? Let us have Hon. Stephen Mogaka. Before Hon. Stephen Mogaka contributes, Hon. Josses Lelmengit had made a request.

Hon. Josses Lelmengit (Emgwen, UDA): Thank you for giving me this opportunity to add my voice on this debate and to let you know that I support this debate. I also thank the Public Debt and Privatisation Committee for coming up with this Report on the Medium-Term Debt Management Strategy.

First, I thank the President. During the last financial year, he tried and persuaded the Committees of this honourable House to cut down the Budget by close to Ksh300 billion. In this case, the principle is: Do not spend money you do not have. Truly, we need to cut down on the Budget because we understand the challenges we have as a country, especially the extent of borrowing we have done over the years. Right now, close to Ksh73 of every Ksh100 we collect goes to debt payment. The rest, less than Ksh30, goes to recurrent and development expenditure. We are on the red line. We have a big challenge.

The other question is to the National Treasury. Do we prudently use the money we borrow on projects within the country? Is it allocated to different regions in this country fairly? That is so that we can see a fairer distribution of those resources across board whenever we pay debts as a country or through the taxpayers' money. All Kenyans are paying taxes. This is the big question for the National Treasury.

Again, are we budgeting for corruption? This is the hardest thing we need to deal with. As much as we need to borrow this money, we need to use it prudently. We need to cut down on luxurious expenses within our Ministries. For example, one time I asked the President where we would get money to finance the operations of this Government. He said that running a Government is like running a family. What do you do whenever you do not have money as the breadwinner of the family? One easy way for a lazy person is to continue borrowing without considering the generations to come that will be required to pay the foreign debt. The other way is cutting down expenses and living within our means. For example, instead of buying a 300 ml Coca-Cola that goes for Ksh400 in a very expensive and luxurious hotel, you can still buy the same in a local or retail shop at Ksh50. I support the Motion that we need to cut down expenses and borrowing.

I would like to encourage and persuade the National Treasury to stick to the previous guidelines we provided—borrowing up to 65 per cent from external sources or foreigners, and up to 35 per cent from domestic sources. Why do we go overboard? We need to be true to our word so that we can win the Kenyans' trust.

Lastly is on expenditure. We need to ask the Executive to spend this money prudently so that we can stop budgeting for corruption. This entire time, people within our constituencies have been asking why we budget for corruption. People are exaggerating the expenditure of money towards different projects. Just as the President put it last time: *tumeishiwa na wajinga* in this country. People understand the cost of constructing a certain road, a classroom and so on. They question whenever they see we have hiked the tendering prices for particular projects. We need to ask the Executive.

The Temporary Speaker (Hon. Peter Kaluma): Member of Parliament for Karachuonyo Constituency. The best finance mind we have in the House. Proceed.

Hon. Adipo Okuome (Karachuonyo, ODM): Thank you for the compliment.

Let me start by saying that before we borrow, we should first find out why we are borrowing. Let us not borrow money for recurrent expenditure. Let us borrow money that will help us invest in this country. That is very important. If we know what we are borrowing for and we borrow for what purpose, we should be able to follow up on the progress of implementation. We should be receiving reports quarterly, on the progress of the work as it is going on, so that we make sure that the project which has been started using a loan is completed. This is very important. Many times, we have spent a lot of money on a project that cannot be completed.

The other important point is the cost of borrowing. We should be very conscious of the cost of borrowing, which is interest. This is when we can see whether to borrow locally or from external sources. When our money goes down in value when we have borrowed from external sources, the loan increases in amount without any benefit. This is because of the value of the money as we pay the loan we borrowed. When we look at that cost, it will call upon us to see how our Kenya Shilling behaves. We expose ourselves to more debts if the Kenya Shilling is not protected. We expose ourselves to local problems in our purchases, especially purchases from without the country, meaning buying from outside Kenya. That also becomes expensive.

What I really want to emphasise is that we should also look at the time we are borrowing. If we are borrowing at a time when the Kenya Shilling is very weak, we will be getting dollars at a very high cost. That gives us a repayment burden. In fact, I would even think of the possibility of borrowing at a time when the Kenya Shilling is strong even if the excess can go to our reserve so that we use this reserve when things get worse with our money.

The other thing that is also increasing the problem of borrowing is the so-called pending bills. That is another borrowing. Let us call it what it is. We are borrowing from the wrong people. We are borrowing locally from contractors. This adds to our burden when we are repaying our debts. Therefore, I wanted us to be holistic in looking at these issues to avoid the possibility of creating a burden that is impossible for us to pay.

Thank you for giving me time to contribute to this noble debate. I support.

The Temporary Speaker (Hon. Peter Kaluma): The Member of Parliament for West Mugirango, Hon. Stephen Mogaka.

Hon. Stephen Mogaka (West Mugirango, JP): Thank you, Hon. Temporary Speaker, for giving me this opportunity and for also giving my elder a chance to go ahead of me. I want to support the Report of this Committee and give my input.

It is commendable that this Report complies with the Public Finance Management Act as well as the Standing Orders. To that extent, *kudos* to the Committee.

What is a bit disappointing about the Committee is their observation about the level of public participation during the consideration and preparation of this Report. Public debt is a matter of public concern. To have a Report in the National Assembly without public participation quite undermines public interest. I do not know why the public did not get to know that there was this session going on and if they knew, why they kept off from it. Going forward, I suggest that the Committee goes an extra mile to ensure that even if we are going to conduct our proceedings live, the public should be involved. This is very important because it is the public that puts pressure on the Government to fulfil its election manifesto and election pledges which end up in the Appropriation Act and which invariably creates a budget deficit that has got to be filled through both external and domestic debt. Therefore, going forward, I want the public to be an integral part particularly in x-raying the level of public debt so that they give their input on the strategy that we need to employ, as a nation, to manage debt.

My second observation is that there is no doubt that the National Treasury presided over the creation of the public debt, and it is the same National Treasury we are going to rely on going forward to implement the Medium-Term Debt Management Strategy (MTDS). I urge this Committee to go the extra mile for the sake of the Republic to ensure that the recommendations in this Report are followed to the letter. If we get off the road, we will suffer the public wrath and default on our financiers which will interfere or bring down the credit rating of this country that has a stellar performance in redeeming the Eurobond and meeting its international obligations.

I also want to suggest to the Committee that, now that we are in the ICT era, let us create a platform for making online surveillance of what is happening with our public debt. The last I heard is that the public debt register is manual. Let us live the current age and let the Committee be upbeat to help us do the right thing.

I call upon ourselves, as a House, to do our oversight role because, at the end of the day, this MTDS is extremely good. Let it not be yet another policy paper that will be gathering dust in the archives of our good Government offices in the Executive. Above all, I urge members of the public to be patriotic and support the country and the Budget because those debts were incurred to do projects. When duty calls upon the citizens of this country to make their contribution through taxes and to redeem those debts as well as support the development agenda, I call upon us all to rise to the occasion and do our obligations.

I thank you, Hon. Temporary Speaker, for allowing me to contribute.

The Temporary Speaker (Hon. Peter Kaluma): The Hon. Julius Melly.

Hon. Julius Melly (Tinderet, UDA): Thank you, Hon. Temporary Speaker. First of all, I laud the Chairperson and the Public Debt and Privatisation Committee, Hon. Shurie and his Committee, for doing a wonderful job. I hope that the National Treasury is going to stick to the issues that have been raised. Every other time, the National Treasury issues a very good Budget Policy Statement and a very good framework on MTDS. However, there is no consistency between the two. The other day, as a House, we sat and went through the Budget Policy Statement because it forms the basis under which we fund our Budget. It gives the policies, frameworks and programmes that underpin the estimates that we are going to have. But we realise that it has become a circus. We have a very good document, but it lacks the programmes underpinning the funding. So, we want the National Treasury to be consistent on that. The Medium-Term Expenditure Frameworks (MTEF), the Debt Management Strategy and the Budget Policy Statement should speak to one thing so that we move on as one.

The National Treasury should come to this House to get approvals especially on issues that make us borrow and increase debt. The other day, we had issues with borrowing because our debt went up because of interest rates, exchange rates and contingency spending. The US Dollar at one time was Ksh120, but it is now Ksh160. As a country, we are going to pay more in the international market. Those are the issues we are now telling the National Treasury to look into so that when they make a forecast to borrow, they should know how the interest rates are moving and the contingencies at hand. This will, therefore, enable them to borrow within a framework that they understand very well.

The other issue is that it is very clear that the National Treasury shall submit a report to the National Assembly providing practical measures to reduce the domestic debt service burden to a sustainable level. If this is not done, borrowing within the local market is going to be a problem. The interest rates will go through the roof if we do not have a capping. Capping will spur development and borrowing by ordinary people. If we cannot do that, interest rates will go very high and the banks will not have any money to lend. They will only lend the Government because it will be the only one that will be able to pay.

I thank the Committee for recommending that the National Treasury shall submit a comprehensive report to the National Assembly on the breach of the debt anchor of 85 per cent. This has been said severally. The National Treasury is a very important Government department that has the responsibility of ensuring that public debt is managed and does not go beyond the 55 per cent or plus five digits. That is the reason why we are saying that it has a very big role to play in ensuring that, that aspect is kept and they report to this House because we represent the people.

Because the issues raised here are very important, I ask the Committee on Implementation and the Budget and Appropriations Committee to look into this particular issue. Every time we pass important policy matters that are placed before this House, let them be stuck to and let the relevant committees ensure that they are implemented to the letter.

I thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Peter Kaluma): Member for Taita Taveta County.

Hon. Haika Mizighi (Taita Taveta County, UDA): Ahsante, Mhe. Spika wa Muda, kwa kunipatia nafasi nichangie Hoja hii. Naunga mkono Ripoti ya Kamati ya Deni ya Umma na Ubinafsishaji. Kukopa na kukopeshana kupo. Lakini ni lazima tujue tunakopa fedha kwa malengo na mikakati gani ya kuhakikisha tunaboresha maisha ya wananchi. Tumeona pesa zimekopwa mara nyingi na zinafika nchini. Baadaye, tunapata manung'uniko kwamba hazikufanya ile kazi ama hazikwenda kwa walengwa. Wakati tunakopa zile pesa, ni vyema tuwe na mikakati dhabiti ya kuzifanyia kazi.

Jambo la pili ni kwamba wakati hizo pesa zinafika, ni vizuri ziboreshe wananchi wote kwa jumla. Zisitumiwe katika upande mmoja wa nchi na zikose kufika upande mwingine na wakati wa kulipa, wananchi wote wanajumuishwa.

Nikimaliza kwa sababu ya muda, dawa ya deni ni kulipa. Tuna mpango mzima wa kukopa pesa. Pia, ni vizuri tuwe na mikakati mizuri ya ni vipi pesa hizi zitalipwa, ili tusije kulimbikizia madeni vizazi vijavyo. Mtoto hajazaliwa lakini tayari anadaiwa kwa sababu tulikopa pale mbele bila mipango mizuri. Naunga mkono Ripoti hii. Ni jambo njema tunazungumzia hapa Bungeni masuala haya ya kukopa na kukopesha pesa kutoka kwa nchi mbalimbali ama za nje.

Ahsante.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Commissioner Mishi Mboko.

Hon. Mishi Mboko (Likoni, ODM): Thank you, Hon. Temporary Speaker. I stand to support the Motion on Report on the Consideration of the 2024 Medium-Term Debt Management Strategy. As Members of Parliament, we need to ensure that the strategies and policies which are being laid down should be implemented and enforced, so that we rescue our country from sinking due to public debts. Before we take any kind of a loan, we need to know its purpose. Sometimes, we borrow so that we can finance Government's budget or some projects. However, do we ask questions? Are the projects which we will build finance the loans we have taken? That is a question we need to answer.

Secondly, we should also ensure that there is no corruption. We borrow money to finance development projects. Some people do some deals or use shortcuts to allocate more money so that they can have their 'cut' which makes the country lose a lot. Before we borrow some money, we need to know the kind of a loan we are borrowing. Is it a concessional or commercial loan? A commercial loan keeps on accruing some interests and it will reach a time when we will not manage to repay it. Concessional loans are taken under multilateral and bilateral arrangements. Sometimes, we can renegotiate and maybe get a waiver or be given more time to repay them. We need to know the kind of loans we are borrowing.

We also need to do cost-benefit analysis. If we borrow a loan, we need to know whether we would benefit or lose. We should not be enticed to borrow a loan any time. Some organisations like International Monetary Fund (IMF) and World Bank influence us to borrow loans. If we agree to borrow from them without cost-benefit analysis, it can be very risky. We also need to cut our expenses. This is what other Hon. Members have said, which is paramount. We need to do so to ensure that we do not lose any money.

The public debt in the country is very high right now. Before we borrow some money, we should know the debt sustainability. How are we going to sustain it? Will we do so by knowing the total public debt right now? What will be the risk of borrowing new debts? Those are the questions we need to discuss and agree on before borrowing some money.

We should reduce borrowing money because our debt is in trillions. We are not even talking of billions. We need to put a pause on our borrowing. If we borrow to finance projects, let us just complete those that are there. Let us also emphasise and target the ones which can generate some income or funding, and finance the loans we, as country, have taken. I also want to emphasise on what other Members have said. We keep on borrowing loans which burdens Kenyans and future generations. Our economy is going down each and every day.

When we are borrowing money, we need to know the currency that we are using. Are we using the lender's currency or ours? This affects us because our currency is depreciating. It has become a challenge for us because we have been borrowing using foreign currencies. This is an area we need to emphasise on.

Otherwise, I support this Report.

The Temporary Speaker (Hon. Peter Kaluma): Hon. John Mutunga, you have less than five minutes.

Hon (Dr) John K. Mutunga (Tigania West, UDA): Hon. Temporary Speaker, I wish I could tell somebody else to protect me from you. I have been raising my hand since I arrived here. Something has gone wrong.

The 2024 Medium-Term Debt Management Strategy has been brought to the House so that we can look at it. I like the mood in the House. Today, I have listened to Hon. Members speak on this Motion. I wish this is how we debate issues touching this country. The Committee Members have given their comments. The National Treasury is mandated to develop a strategy to manage debts, as per the Constitution and laws of Kenya, specifically the Public Finance Management (PFM) Act which prescribes how it should be done.

It is purposely meant to manage the cost of debt. It is not only an expose' of how much debt we have and an outlay of the extent to which we have borrowed but, it is also supposed to enable us manage debt. The goals of this particular strategy are basically to reduce debt costs, lengthen the maturity period and support the domestic market. If we have to reduce the debt costs, we must be conscious of how our trend moves. We, as a country, often get into very high debt levels. We already have them. Rising debt levels raises the sustainability concerns. Are we able to sustain very high debts? Right now, we can speak to the fact that Kenya's public debt is sustainable. However, there are very high risks of distress which need to be looked into. If the National Treasury will listen to what Members have said today in this House, then it will keep on monitoring the public debt to the extent that they will make sure that it is managed to levels where the risks are not extremely high or distressful.

It also needs to bring in measures to include fiscal consolidation and optimising funding to mitigate risks. When we have fiscal consolidation… Sometimes, I marvel at the extent to which we are not conscious of fiscal consolidation. We talk about it a lot but when you ask yourself how much we do to make sure that we reduce the fiscal deficit… Every year, we post a budget that has a bigger deficit than the previous year and we keep increasing the money for recurrent expenditure as opposed to the money for development expenditure. Also, we see budgeting for things that are not a priority as far as we are concerned, as a country. The shift in debt composition is an issue that we need to be very careful about. We are more reliant on borrowing domestically than from out there. We need to change that equation. We should focus on relying on long term concessional loans than borrowing the very costly local loans.

The other issue that is important is the servicing cost of the debt. Of course, a drop in the Kenyan shilling will increase the servicing cost of the debt. This is a trend that needs to be monitored very carefully such that, if there is any movement of the shilling, we see how we can bring in the containment measures.

On the diversification of the borrowing, we are limited to a few. We need to open up and diversify abroad. We need to look at which other frontiers we can access, how much of the public-private partnerships (PPPs) are we getting into and how much of the green bonds are we going for so that we can diversify our borrowing.

The other key issue is market reforms. How much of over-the-counter trading platforms have we opened and how much of them can we adopt as a country, if we are to manage this state?

I can see my time has gone. Let me say my final point on transparency and accountability. How much do we expose this to Kenyans so that they can also follow what the Treasury is doing?

The Temporary Speaker (Hon. Peter Kaluma): Mover. I recognise the interest generated but our Standing Orders provide that the time has reached for the Mover to reply. I am not able to extend the debating time.

(Hon Ruku spoke off record)

Hon. Ruku, I know you really wanted to contribute. However, I cannot extend the debate time. The only exception I will create is if the Mover will be philanthropic enough to donate a few minutes to Members. Otherwise, as you all know, once time reaches for the Mover to reply, he has to reply. How many minutes does the Mover have to reply? Ten minutes.

Mover, do you want to be gracious enough to donate a few of your minutes?

Hon. Abdi Shurie (Balambala, JP): Hon. Temporary Speaker, I have no choice now that you have put me on the spot. I can see Hon. Ruku, with all due respect, giving me a look that scares the shit out of me. I will give two minutes to *Mheshimiwa* Ruku and *Mheshimiwa* Wamuchomba.

The Temporary Speaker (Hon. Peter Kaluma): There is somebody behind you.

Hon. Abdi Shurie (Balambala, JP): Ooh Sorry! And *Mheshimiwa* Nyenze as well. Two minutes each.

The Temporary Speaker (Hon. Peter Kaluma): Yes, two minutes each. Hon. Ruku.

Hon. Ruku GK (Mbeere North, DP): Thank you, Hon. Temporary Speaker and the Mover. I rise to put my voice on this issue of public liability management of our nation. It is a concern that has been hanging over the neck of this nation for quite some time. Liability management is key and all departments in the Treasury should coordinate properly so that our debt can be properly managed. For us to manage our liability properly… For example, by the close of last month, there was Kshs411 billion which was maturing as domestic debt for the Government to pay.

Financial shocks are generated if we do not manage our liabilities properly. It is important to recognise that there are clear benefits if debt management is done in the most prudent way. The risk associated with over-burdening the nation with excess debt can be mitigated if the coordination of monetary policies is managed properly, and we become more accountable to Kenyans when it comes to foreign and domestic debts. We will also know when to limit ourselves in borrowing locally or internationally.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Gathoni Wamuchomba.

Hon. Gathoni Wamuchomba (Githunguri, UDA): Thank you, Hon. Temporary Speaker. I rise to support the adoption of the financial resolutions but with a caution. The story of deficit is deafening. Every time we speak about loans and budgeting processes in this House... I was reading an article – and I do not know how credible it was – that was written by somebody who is not in Kenya. That article made me feel scared. The article outlined the extent to which Kenya has borrowed. We have borrowed loans that will be comfortably repaid after 29 years from the day the article was written. That really scares me. That means that, any child that will be born today will have to wait for 29 years to be off the debt. That is not very good news.

This House must interrogate and inter-interrogate the processes of borrowing in this country. Other countries have moved away from deficit to something we call "national sovereign wealth." It is sad that in Kenya, we no longer talk about sovereign wealth; we talk about debts. In other words, what we are investing for our young generation is not generational wealth but generational debt. That means that the future of this country will be sunk in debts. So, even as we speak in this House and say that the Auditor-General must be fired because she highlighted a lot of issues that concern Kenyans in debt, we must ask ourselves if we are being fair to the future generations of this country and to what extent have we created generational wealth that young Kenyans will forever enjoy. Otherwise, the story of deficits and loans is really saddening. As I support this policy and recommendations, I want to be on record to put a caution that, it is time to we start moving from deficit to what we call "national sovereign wealth."

The Temporary Speaker (Hon. Peter Kaluma): Hon. Edith Nyenze.

Hon. Edith Nyenze (Kitui East, WDM): Thank you, Hon. Temporary Speaker for giving me this opportunity. Every financial year, the National Treasury or the Government borrows to finance its fiscal deficit as it is stipulated in the Budget Policy Statement. It also borrows to pay off the maturing debts. However, unstable debt can lead to debt distress where a country is unable to fulfil its financial obligations. If our country reaches that point of distress, it will be pathetic to Kenyans. That is why this calls for debt restructuring so that we can avoid the distress.

There should be control of cashflows to ensure there is no leakage or corruption because money borrowed to do a project will not be well utilised. We should negotiate with our creditors so that we are able to pay our debts in good time to avoid embarrassment and distress. We also need to pay more than the minimum amount required and prioritise paying debts which attract higher interests. We look forward to a time when our country will be stable and debt-free. Even if we have debts, they should not distress Kenyans by being over-taxed to pay them. We look forward to such a time.

Thank you, Hon. Temporary Speaker.

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

Hon. Abdi Shurie (Balambala, JP): Thank you, Hon. Temporary Speaker. I wish to thank all the Members for their contributions. I am glad that this Report generated a lot of interest and, as a Committee, we truly appreciate. I want to put it on record that we did public participation on the Medium-Term Debt Management Strategy (MTDS) which we published in the dailies, although we did not receive any direct contribution from members of the public.

As a House, we are making progress because this is the second time we are debating the MTDS on the Floor. I am sure you have seen the kind of interest it has generated. This has not been the case in the past and we appreciate it.

Hon. Temporary Speaker, I beg to reply and request that pursuant to Standing Order 53(3), you defer putting of the question to another day. Thank you.

The Temporary Speaker (Hon. Peter Kaluma): I consent to the request made by the Mover. The question on this Motion, will be put the next time it is scheduled on the Order Paper by the House Business Committee.

(Putting of the question deferred)

Next Order.

BILL

Second Reading

THE NATURAL RESOURCES (BENEFIT SHARING) BILL
(Senate Bill No.6 of 2022)

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

Hon. David Gikaria (Nakuru Town East, UDA): Thank you, Hon. Temporary Speaker.

I beg to move that the Natural Resources (Benefit Sharing) Bill, (Senate Bill No.6 of 2022), be now read a Second Time.

Hon. Temporary Speaker, I want to start by advising the House that this is a Private Member's Bill from the Senate, that was brought by Senator Mungatana of Tana River County. The Bill went through First Reading on 17th August 2023 and was thereafter, committed to the Departmental Committee on Environment, Forestry, Climate Change and Mining, for consideration and reporting in the House, pursuant to the provisions of the National Assembly Standing Order 143.

In accordance with Article 118 (1)(b) of the Constitution and Standing Order 127(3), the Committee sought views from the public by way of written memoranda and further conducted public participation hearings on the same Bill. Organisations and institutions that made their presentations to the Committee on the Bill included the following: The Ministry of Environment, Climate Change and Forestry, which objected to the Bill for various reasons that are…

(Hon. Kimani Ichung'wah consulted with Hon. Naomi Waqo)

The Temporary Speaker (Hon. Peter Kaluma): Leader of the Majority Party, the point being made by the Chairperson of the Departmental Committee on Environment, Forestry, Climate Change and Mining is very critical. I request you as the leader in the House and all Members to attend to that point.

Hon. David Gikaria (Nakuru Town East, UDA): Thank you very much, Hon. Temporary Speaker. I know how critical this is. Over and above being in the House, when you and I are in the field, we see how critical it is for people to concentrate. Otherwise, you know what happens when one stops concentrating. You concede too many goals and lose!

The National Treasury also came before the Committee. The State Department for Mining...

The Temporary Speaker (Hon. Peter Kaluma): Hon. Gikaria, the point you were making is that the ministry in charge of environment matters opposed this Bill.

Hon. David Gikaria (Nakuru Town East, UDA): Yes, it opposed this Bill.

The Temporary Speaker (Hon. Peter Kaluma): Okay. Proceed.

Hon. David Gikaria (Nakuru Town East, UDA): The National Treasury also opposed this Bill. Their basis was that it talks about revenue sharing at 60 per cent for the National Government and 40 per cent for the counties and this was inconsiderate. The Bill is clamping everything together without taking into consideration the wealth of resource or time taken for them to be available for sharing and so many other aspects.

One of the issues was that there is no way we can compare sand harvesting to gold harvesting and say if one harvests gold, they get… The Ministry of Energy and Petroleum also said for example, if Turkana oil got to the development stage, then Turkana County would be getting around Ksh100 billion out of the 40 per cent allocation from the petroleum product. Currently, they are getting around Ksh20 billion from the county allocation. That is why the National Treasury and the Ministry of Mining, Blue Economy and Maritime Affairs also objected.

The State Department for Energy also opposed resource sharing of geothermal and solar energy. For example, in Garissa, we have a very big solar energy plant that produces about 50 megawatts per day. That State Department was against resource-sharing being capped at a certain percentage. They wanted each ministry to continue getting resources as indicated in their Acts.

The State Department for Petroleum and State Department for Wildlife also objected to the Bill. The Council of Governors (CoG), Kenya Private Sector Alliance (KEPSA), Kenya Wildlife Conservancies Association (KWCA), North Eastern Conservancies Association (NECA), Kenya Oil and Gas Working Group (KOGWG), Nature Kenya and Samburu Women Trust also came before the Committee.

Sometimes, Parliament is accused of not doing public participation. Samburu Women Trust group came before the Committee and gave us some very weighty issues. They supported the Natural Resources (Benefit Sharing) Bill because for example, the Samburu community will get value for their resources. So, the Samburu Women Trust supported but their concern was that if 40 per cent is sent to the counties, it may not trickle down to the community. Again, this is what the Bill does not talk about. So, the Samburu Women Trust said they wanted a bigger share to go to the community. At the end of the day, assuming that you are doing quarrying, the gaping quarry holes that are left will affect the community in terms of practising agriculture like livestock rearing and so many other agricultural aspects. Maybe, when it rains, you end up with a dam that causes death through drowning people and things like that. So, they supported.

We had Peace Net Kenya, Paran Conservation International and Centre of Minority Rights Development, which is a very important group that appeared before us and said they supported it because they do not want to have resources that only benefit people at the national level with no trickle-down effect to the county

Another thing that came up when the Council of Governors (CoG) appeared before us is that, some resources are shared and yet, their source is unknown. Take geothermal, for example. Geothermal is a steam that comes from underground. It is based in Nakuru County but the steam comes from Narok County. How then does the benefit go to Nakuru County without considering Narok? It could even have come from another county. So, those are some of the issues that came out on that material day from the groups that appeared before us, including the Electricity Sector Association of Kenya.

Lastly, there was Wildlife Works. This touches on migration of animals and tourism. There is so much money that is brought by tourists. They said that the animals move from one county to the other.

Hon. Temporary Speaker, the Committee noted various comments in support of or against the provisions of the Bill, as I have already indicated. The Bill has 43 Clauses and seeks to provide a legislative framework for the establishment and enforcement of a system of benefit sharing in natural resource exploitation amongst natural resource exploiters, the national Government, the county governments and the local communities.

As you mine a certain natural resource and make money, we must look at the environmental aspects of it and identify the party that bears the wrath and the cost of that environmental exploitation. I will cite an example that came up again concerning geothermal. They say that the impact of the drilling and extraction that takes place underground is felt in Narok, and that the people there can no longer undertake agricultural activities. These are some of the things that we are saying. As much as we think about the resources that are going to come, even if it is at the national level, county level or the community level, what about the lifetime destruction that comes with that exercise? We might get a million shillings now but later pay it with so much more.

Hon. Temporary Speaker, if you remember the *Kazi Kwa Vijana* programme, some *vijana* in my constituency were given some work without gumboots and gloves. They were earning Ksh1500 per week, but they could end up spending Ksh10,000 because of injuries from *msumari*, for example. They could end up treating themselves using Ksh20,000 to Ksh30,000. So, it depends. Yes, you have received something, but at what cost? What are you leaving us with after you have taken all that is underneath the ground? So, there is need for enforcement of a system of benefit sharing in natural resource exploitation amongst the natural resource exploiters, the national Government, the county governments and the local community.

Hon. Temporary Speaker, most of the people who come to mine are from outside the country. So, what do they do? They mine as much as they can. Then what happens? All the profits generated are taken back to their countries. If it is China, it is taken back to China. For example, Tullow Oil in Turkana, which is a British company, would have made some profits but of what benefit would it be? Would they just be taking all the profit back to their motherland?

Some natural resources are finite, which means if we use them continuously, we will eventually exhaust them. It is true that every resource is in quantities. After years of exploitation, it will be depleted. It is for this reason that the Constitution of Kenya mandates Parliament to enact legislation on the exploitation of natural resources. Just like the other Motion that we have just passed, Parliament has been given a big role. It is important for us to look at legislation, and whatever comes to this House, beyond our political boundaries and parties and talk about Kenya. It is for that purpose that we look at some of the pieces of legislation that we come up with, not because it is going to assist a certain area for a period of time. We need to be nationalists when it comes to law-making.

I remember sometime back we travelled to Israel when I was a member of the Committee on Administration and Internal Security. There are different political parties in Israel but they told us that when it comes to the security of Israel, everybody becomes an Israeli and they forget about their parties. This is because they have to protect their country and her people. It is that common interest that we all need to look at.

When I was the Chairperson of the Committee on Energy, I remember the time we were legislating on the petroleum revenue sharing mechanism. There are many differences between Turkana County and West Pokot County. The oil is in Turkana County. It is true that it is there, and it is in plenty. For you to extract oil in Turkana, you must get water from West Pokot County. Water is used to push out oil. These are some of the things they say might even bring conflict. West Pokot said it could not give out water to enrich Turkana, and if it had to, they had to split the resource down the middle. Those are conflicts between counties.

It is unfortunate that grazing might bring an issue. A simple thing like grazing brings many problems between communities.

Permit me to highlight the important provisions in the Bill. First, the Bill is applicable to a number of natural resources. The first one is the sunlight. What resource? Of course, solar. If you are to undertake a solar project in Garissa, that is a resource you need.

Second is underground water. Again, this comes between counties. Where is this bed of water underneath here? Maybe, it is a boundary between three or four counties. It talks about forests, biodiversity and genetic resources. Baobab trees from Kilifi have been an issue in our Committee. People are actually taking away the heritage of this country. They are going to plant those Baobab trees in their country. Imagine a farmer being paid only Ksh100,000 and yet, the cost of transportation of the same baobab tree from Kilifi to the Netherlands is almost Ksh10 million. What profit or benefit will a farmer who is paid only Ksh100,000 get? Yet, he spent so much money on transport. Some of the issues we are talking about include biodiversity, genetic resources, wildlife resources, industrial fishing in the lake region and Mombasa, wind power, thermal resources, minerals and petroleum.

The Bill has introduced a benefit sharing provision. In as far as natural resources are concerned, it has proposed the establishment of a benefit sharing authority. This is, therefore, a money Bill because it is creating an authority which will draw money from the exchequer. Article 114 of the Constitution says that all money Bills must originate from the National Assembly. We need advice because it is pointless to debate a matter that is unconstitutional. This is because it will find its way to court and we will blame the judges for doing the right thing. If the Constitution says all money Bills must originate from the National Assembly, any money Bill originating from elsewhere is unconstitutional.

Hon. Temporary Speaker, as a senior legal counsel, you know that there is nothing much we can do about an unconstitutional matter. So, the proposed benefit sharing authority will facilitate benefit sharing agreements among the affected counties, entities and local communities. It will determine the royalties and fees payable to certain sectors, where a written law does not prescribe. As I said, this is an unconstitutional legislation and it will remain so.

The Bill provides for revenue collected to be shared in the ratio of 60 per cent to the national Government and 40 per cent to the respective county governments. Additionally, at least 60 per cent of the revenue assigned to the county governments shall be used for local community projects and 40 per cent for the benefit of the entire county.

This Bill provides that county assemblies will sit to determine how the money will be spent. For example, Nakuru Town East Constituency, where I come from, has urban wards and rural wards. What happens? The urban wards collect a lot of revenue unlike the rural wards but, when sharing revenue in our respective wards, the urban wards are disadvantaged. Members of County Assembly (MCAs) from the rural wards gang up against the urban wards MCAs despite the fact that between 60 per cent and 70 per cent of the total county revenue comes from. This creates inequity. If we are giving so much, why should we get so little? Also, you find that one ward is very tiny while another ward is geographically big.

This Bill proposes that the county assemblies decide on how to share resources. Whatever is discussed in the county assembly does not benefit the county because they disagree a lot since everybody sticks to their side. Where the natural resources are shared by two or more counties, the authority shall, in consultation with the affected counties, determine the benefit sharing ratio among themselves. This will create war between counties. For example, Turkana will never agree with West Pokot on resource sharing matters. This was an observation made by the Committee through public participation.

The Bill proposes that each county with a natural resource shall establish a county benefit sharing committee. This creates other problems because it does indicate when they will sit or where they will draw their allowances from. Is it from the share going to the county, community or national Government? The proposed benefit sharing ratio is very confusing. For example, if three counties claim to share geothermal resources, which are underground, will every county constitute its own committee to make decisions? So, the Committee looked into the sharing formula proposed in the Bill.

Mining and minerals are a reserve of the national Government. This is well established in the Constitution and detailed in the Mining Act, 2016. The role of county governments is limited to implementation of specific national Government policies. Our Constitution classifies land as private, public or community. Who is vested with powers of owning that land? Mostly, it is county governments. Our Constitution says that, where minerals are underneath the land, they become the property of the national Government.

So, it is giving county governments overlapping functions and this will not work. This Bill presents constitutional and administrative implementation challenges by assigning national functions to county governments. This is the overlap we saw. As I said, it originated from the Senate because they were looking for some work to do. Even though I am not a lawyer, I know that Article 61 of the Constitution stipulates that land belongs to the county governments but minerals underneath belong to the national Government.

Benefit sharing is specific to a sector and several Acts of Parliament governing natural resources have already set out benefit sharing frameworks. For instance, last year, we passed the Climate Change (Amendment) Bill, 2023 on carbon projects. That Bill provides clauses on how the national Government, the county governments and the respective communities will benefit from selling carbon credits. I think the percentages are 15 per cent to national Government, 10 per cent to county governments and 5 per cent to the community.

The common benefit sharing ratio for renewable and non-renewable extractive resource is, therefore, inequitable by failing to consider the unique nature of each resource. So, we cannot compare sand with gold or important minerals that are used to make phones and laptops. We need to separate resources. This Bill is not doing so.

The Mining Act, 2016 provides for determination of royalties payable. I want to speak on the thinking of the current administration about mining. The Kwale community collected royalties worth Kshs4 billion. Royalties payable were almost Ksh1 billion to the county. Once the county gets the money, the community is put at the back seat. The community is asking about the Ksh1 billion they were given as royalties for titanium. They are the people who are feeling the brunt of environmental degradation and yet, the county government has put that money on something else. This is where the county marginalises or refuses to release the money to the respective communities that are affected. That is something we were looking into. There are major overlaps of the Bill with existing legislation.

The Bill proposes creation of a benefit sharing authority, which presents additional costs of governance of natural resources and a potential overlap with other Government agencies that are mandated to manage and license the use of natural resource in various sectors. This will present management and administrative challenges. What we are trying to say is that the Bill proposes to create those bodies without telling us where the money to run them will come from. The money is expected to come from the Exchequer and yet, we are already talking about a very heavy wage bill. The Bill proposes that we create that body and have the revenue sharing committees at the county level. All these are wage bill issues we need to consider. When you introduce an authority, a board and an office of director-general or whoever as it is indicated in this bill, it raises a lot of other issues.

The Bill is not also clear on how funds for implementing local community projects will be budgeted, accounted for and such matters reported separately from the revenue assigned to the county governments to be utilised for the benefit of the entire county. Let us assume that we will give that money, as the Bill proposes, and we leave it in the wilderness for the county governments to decide on how to use it. Even if a county government decides to fund a community project, the Bill does not tell us how such project will be identified and implemented. We will be creating funds for people without accountability on their usage even though those funds are meant to benefit the local communities.

Hon. Temporary Speaker, the Committee noted that this is a money Bill, pursuant to Article 114 of the Constitution. As such, it can only be introduced in the National Assembly pursuant to Article 109 (5) of the Constitution. In accordance with the Constitution, the National Treasury has to give its input where a money Bill is concerned. On many amendments with financial implications that have been brought to House, the Hon. Speaker has always told us that the Constitution does not allow us to proceed with such amendments. Having considered the Bill, for the foregoing reasons, the Committee recommends that the House rejects the Bill in its entirety.

In conclusion, I implore upon Members consider the comprehensive Report by the Departmental Committee on Environment, Forestry and Mining as they debate this Bill so that they may make informed decisions. Members should also appreciate the concerns that came out of the public participation. Out of the 19 stakeholders and Government agencies that appeared before the Committee, only four supported the Bill. The others rejected it.

(Hon. Millie Odhiambo-Mabona spoke off the record)

My dear sister is asking which one. I like her. She is one of …

The Temporary Speaker (Hon. Peter Kaluma): Address the Hon. Temporary Speaker.

Hon. David Gikaria (Nakuru Town East, UDA): Thank you, Hon. Temporary Speaker. Hon. Millie Odhiambo is a seasoned politician. I appreciate her.

Some of the groups that appeared before the Committee in support of the Bill are the Samburu Women Trust, the Council of Governors and the Kenya Private Sector Alliance (KEPSA). Nature Kenya was undecided. It supported some clauses of the Bill and rejected others. All the other stakeholders rejected the Bill, as I had earlier indicated.

I urge my colleagues to appreciate the public participation that my Committee conducted. I thank all the Committee Members for their good work and their time. We went out to some areas because we wanted to beat the deadline as per our Standing Orders. I thank my Vice-Chairperson, Hon. Kamuren from Baringo South, and the other 13 Committee Members who shared their experiences, time and gave input. We had very useful engagements with the stakeholders who appeared before us.

We are not rejecting the Bill because we do not want money to go to the counties. There are revenue-sharing formulae under the Petroleum Act, 2019, the Mining Act, 2016, the Climate Change Act, 2016, and the Wildlife Conservation and Management Act, 2013. People are satisfied with the revenue-sharing formulae as per the respective Acts.

I will be asking Members to interrogate the Committee's Report and see its richness. Members have a lot of experience. Hon. Ruku is an expert on carbon credits. We got a lot of valuable information from him on carbon credits because he is an expert in that field. He is one of the renowned experts in that field, and he makes a lot of money from it. His work is to reduce carbon emissions.

Hon. Temporary Speaker, for your information, when you use firewood, you release carbon into the atmosphere. Hon. Ruku reduced carbon emissions by stopping the use of firewood and introducing *jikos* that conserve energy. I do not want to say how much Hon. Ruku makes, but it is good money.

With those few remarks, I beg to move and call upon Hon. Kamuren, the Vice-Chairperson of the Committee, to second.

The Temporary Speaker (Hon. Peter Kaluma): Is it Hon. Kamuren or the Member for Nakuru County who is seconding?

Hon. David Gikaria (Nakuru Town East, UDA): I am sorry, Hon. Temporary Speaker. My apologies. I meant my Vice-Chairman from Baringo County, *Mheshimiwa* Kamuren. I request him to second.

The Temporary Speaker (Hon. Peter Kaluma): Give the microphone to Hon. Kamuren.

Hon. Charles Kamuren (Baringo South UDA): Thank you, Hon. Temporary Speaker. I rise to second this Bill.

The Chairman has clearly touched on all that we agreed on as a Committee. We took time on this Bill. We gave enough time to the public to bring their recommendations and fears. They directed us. In conclusion, we agreed that if this Bill goes forward, it will contradict many existing laws. For purposes of harmony and running those departments in a coordinated way, we better give another opportunity to the concerned to do their homework well because we now have the information. As a Committee, we have agreed to inform the rest of the membership of this House that we reject this Bill for the time being so that we can work on it in the future.

The Temporary Speaker (Hon. Peter Kaluma): Order, Hon. Kamuren. You cannot make such statement while seconding.

Hon. Charles Kamuren (Baringo South UDA): Hon. Temporary Speaker, I just wanted to be specific. However, I stand guided.

With those remarks, I second.

The Temporary Speaker (Hon. Peter Kaluma): Thank you very much, Hon. Kamuren.

(Question proposed)

Hon. Murugara will speak before Hon. Liza Chelule.

Hon. George Murugara (Tharaka, UDA): Thank you very much, Hon. Temporary Speaker.

I think even the Mover and the Seconder of this Bill were in a dilemma on moving a Bill for rejection. Ordinarily, Motions come for support. We are in a catch-22 situation because the Bill emanates from another House. They have had to move and second the Bill as they have done – in the negative.

Hon. Temporary Speaker, but that notwithstanding, and without casting aspersions on the House of the Senate, as Standing Order 87 bars me from doing so, there are many problems in this Bill that necessitates its opposition and a call for its rejection. To be polite, as they say in English, this Bill is a right royal mess emanating from the Senate. In England, the King cannot be wrong. Where he is wrong, they simply say that he is right but it is a mess.

I have looked at this Bill. What concerns me most is that the House of the Senate and the Mover of this Bill in that House may have been oblivious to the fact that all of the matters listed as natural resources are governed by different Acts of Parliament that have different provisions, including sharing revenue between the national Government and the county governments.

The first natural resource listed is sunlight. We may have difficulty understanding how we will be sharing sunlight unless we are talking about energy generated from solar. This cuts across counties and possibly involves the national Government. Surface and underground water is also being shared. Here, again, we have problems with water flowing from one county to another. There may be need for an agreement to be reached on how to share that water, which may cause a lot of problems.

There are very many other resources that are listed here. Every natural resource in the country has an Act of Parliament that governs it. There may be fear and risk of duplicity when it comes to passing a law similar to this one, including when it comes to wildlife resources. We have the Wildlife Conservation and Management Act. We have the Energy Act when it comes to geothermal resources. We have the Mining Act for minerals. We have the Petroleum Act for petroleum and many others resources. There is a possibility that the drafters of this Bill were oblivious of these laws, and it poses a risk when it comes to enactment of a law such as this one.

Hon. Temporary Speaker, I have also looked at the drafting format of this Bill and found some issues. For example, when it comes to the guiding principles of benefit sharing, Clause 4(b) talks about revenue maximisation and adequacy. However, the term “Adequacy” is not defined and yet, it cannot be guaranteed because it depends on what is being shared. Whether it is adequate or inadequate, it is actually shared.

We also have a different way of drafting which is to be found in Section 5(2), paragraph (d). This is where we are forming an authority to govern benefit sharing. It reads that ‘the authority is capable of doing or performing such other things or acts for the proper performance of its functions under this Act, which may be lawfully done or performed by a body corporate.’ There are several issues here. Firstly, in legislative drafting, we cannot talk about “such other things” but rather “such other functions”. When it comes to performance in drafting, it is actually discharge of duties. The question begs as to why we would be saying, “which may be lawfully done or performed by a body corporate”. Body corporates do different things. Why would we import what other body corporates do into a statute like this one?

Another problem I have been able to pick out is the functions of the proposed authority. Clause 5(1)(d) talks about “overseeing the administration of funds set aside for community projects to be implemented under a benefit sharing agreement.” This is the authority that is overseeing sharing of benefits that are set aside for a community – which money, under this Act, is to be administered by the county governments. How does a national authority oversee what the counties do? There is possibly going to be conflicts here. Unless it is resolved, it is a recipe for inter-governmental conflict.

Clause 5(2) is even more interesting. It says ‘the Commission may, in furtherance of its functions, collaborate with such other bodies or organisations within or outside Kenya as it may consider necessary for the better performance of its functions under the Act.’ In essence, this means that the proposed authority can seek collaboration with ministries independently, which may cause problems. When dealing with matters outside Kenya, which authority will move to international organisations and seek collaboration without going through the necessary diplomatic channels of the country? There are many other problems that can be pointed out in this Bill.

Clause 7 (1) of the Bill appoints the authority. This is the most interesting of all the clauses. There is a chairperson who will be appointed by the President, with the approval of Parliament. How can the President and Parliament approve appointment to an authority which is not constitutional? Let me summarise because I can see my time is up.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Murugara, if I give you two minutes, nobody else will have a chance to speak.

Hon. George Murugara (Tharaka, UDA): No problem. We will continue tomorrow. I can happily see that it is slated in the Order Paper.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Millie Odhiambo and Hon. Liza Chelule are very anxious to say something before we adjourn.

Hon. Millie Odhiambo-Mabona (Suba North, ODM): Give him one minute to conclude.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Murugara, you have one minute to wind up.

Hon. George Murugara (Tharaka, UDA): Hon. Temporary Speaker, what is exciting with Clause 7 (3) of the Bill is that the Cabinet Secretary can make some particular appointments of authority members, with the approval of Parliament. This cannot go any further. There is no way a Cabinet Secretary can make any appointment and then seek for it to be approved by Parliament. It has to be made clear that Parliament stands for the two Houses: the National Assembly and the Senate. Is it both of them or one of them which will approve the nominees?

I would have pointed out so many other inconsistencies in this Bill but because my time is up, I wish to voice my opposition and urge the House to reject this Bill.

Thank you very much, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Peter Kaluma): I will give this opportunity to Hon. Millie Grace Odhiambo for House balance.

(Laughter)

Hon. Millie Odhiambo-Mabona (Suba North, ODM): Thank you, Hon. Temporary Speaker. I will start off by thanking the Committee for bringing this Report. I am not very persuaded by their total rejection of the Bill. I will look at the Report more comprehensively to be persuaded by their stand.

However, there are many issues that the Committee has raised that may call for amendments. For instance, this is the Natural Resources (Benefit Sharing) Bill and yet, the Long Title does not refer to international conventions. If we talk about sharing of resources, then we must give reference to international conventions. We cannot talk about it without referring to the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilisation to the Convention on Biological Diversity. It is unfortunate that I cannot raise all the issues today. When this Bill comes up for debate next time, I hope I will get an opportunity to raise them.

Benefit sharing of natural resources has very serious issues at the national level. As a country, we need to address those matters adequately, so that we can protect our natural resources that are shared between Kenya and other countries. At the national level, there are different dynamics. Because of time, I have said this is an introduction. I will look at the specific process of the Bill.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Members, our time is up.

ADJOURNMENT

The Temporary Speaker (Hon. Peter Kaluma): Hon. Members, the time being 7.00 p.m., the House stands adjourned until tomorrow, Wednesday 6th March 2024 at 9.30 a.m.

The House rose at 7.00 p.m.

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