

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Tuesday, 23<sup>rd</sup> February, 2016

The House met at 2.30 p.m.

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

### PRAYERS

### COMMUNICATION FROM THE CHAIR

#### DISCHARGE OF MEMBERS FROM COMMITTEES

**Hon. Speaker:** Hon. Members, I want to encourage you to pay attention to what is happening.

Hon. Members, I have this Communication from the Chair which is on discharge of Members from Committees. I wish to report to the House that I am in receipt of a letter dated 16<sup>th</sup> February 2016, from the Minority Party Whip notifying me that the CORD Coalition has discharged the following Members from Committees:

- (i) Hon. Khatib Mwashetani, MP, who is discharged from the Departmental Committee on Environment and Natural Resources.
- (ii) Hon. Salim Idd Mustafa, MP, who is discharged from the Departmental Committee on Labour and Social welfare and the Joint Committee on Parliamentary Broadcasting and Library. He is the Vice-Chairperson of the latter Committee.
- (iii) Hon. Gideon Mung'aro, MP, who is discharged from the Departmental Committee on Lands.

Hon. Members, the letter which is written pursuant to the provisions of Standing Order No. 176 also intends to discharge Hon. Khatib Mwashetani, MP, from the House Business Committee (HBC) and the Budget and Appropriations Committee. However, it is a fact that the Member for Lungalunga Constituency is not a Member of the HBC which was constituted by this House on 9<sup>th</sup> February 2016.

You are also aware that the Budget and Appropriations Committee is yet to be reconstituted. This, therefore, implies that the intended discharge of the Member for Lungalunga from these two Committees was inadvertent. The affected Members are accordingly informed and the Clerk's Office is given this Communication to effect.

Thank you very much.

**Hon. Chepkong'a:** On a point of order.

**Hon. Speaker:** What is your point of order, Hon. Chepkong'a?

**Hon. Chepkong'a:** Thank you, Hon. Speaker. Of course, you know I am not standing on a point of order against you. I am standing on a point of order in respect of the names that you have mentioned. These are very honourable Members of Parliament. I know that it has been done pursuant to Standing Order No.176. The Constitution is very clear. Members of Parliament are expected to be independent of their parties. When discharging their duties as Members of Parliament, whether you are in this House or outside, you do not cease to discharge your duties because you have left the House and you are operating outside. You are still playing your oversight role.

If you think that your party is not acting in the best interest of this country, you have the right to point it out. When you point out, in a democracy, people's views must be respected. Just to discharge somebody because he has associated with Chepkong'a who belongs to Jubilee---

**Hon. Wakhungu:** You are speculating.

**Hon. Chepkong'a:** I am not speculating. There is freedom of association and freedom of speech.

I have reminded Hon. Chirs Wamalwa that we come from the same region. He ought not to be shouting at me. One of these days, I am going to call elders to speak to him. This is the second time. A third one, we will go there.

I am very sympathetic to these Members. Why I am rising on a point of order is because I brought an amendment to these Standing Orders which I know is somewhere in the Procedure and House Rules Committee. I was asking whether it is in order to discharge Members while the Minority Whip knows that there is a pending amendment to delete that particular Standing Order which is unconstitutional.

I am seeking your direction whether it is in order to de-whip people when there is a substantive amendment supported by over 50 Members of Parliament. It is a very serious matter of concern because my Motion is supported by over 50 Members of Parliament. Even those ones smiling on the opposite side are also very sympathetic to those who have been de-whipped. It is just that they have been stopped from speaking. They also fear that they will be de-whipped but we are also sympathetic to them.

We also have our own rebels within our side and you know them. We can take parliamentary notice of them but, we do not act in a very undemocratic manner by de-whipping people because they have different views, including my own neighbour in Uasin Gishu. He spoke the other day and Hon. Jakoyo Midiwo was very happy that he spoke in the manner in which he did. He was congratulating him in my presence. So, I thought it was out of order but we did not want to de-whip him because he is exercising his democratic right.

**Hon. Speaker:** Hon. Chepkong'a, now---

**Hon. Chepkong'a:** I am on a point of order. I do not what point of order he---

**Hon. Speaker:** Yes, but you cannot use a point of order as an excuse to debate.

**Hon. Chepkong'a:** I am not debating, Hon. Speaker.

**Hon. Speaker:** You have mentioned Hon. Chris Wamalwa and Hon. Jakoyo Midiwo. It is all in respect to matters that are not before the House.

**Hon. Chepkong'a:** They were just making faces so I was just alluding to their faces. They were grimacing and I thought you needed to take notice of them. On a concrete note, my Motion is pending before a Committee which you Chair. I want to request that, that matter be brought to the House so that we can debate it substantively.

**Hon. Speaker:** Very well. The best way is to write to the clerk of that committee to find out the position with regard to that proposal because it has been before that committee for quite some time. As far as I am concerned, Standing Order No.176 is still applicable. Parties and coalitions are at liberty to apply it where appropriate. They can even apply Article 103 by claiming to deem that Members have left their political parties.

**Hon. Midiwo:** On a point of order.

**Hon. Speaker:** I do not think there is anything else to debate, Hon. Midiwo. He claimed to rise on a point of order. I am telling him that he should write to the Clerk of the National Assembly so that his matter can be brought up for the House to consider. Next Order!

## PETITIONS

### RELOCATION OF SUB-COUNTY HEADQUARTERS

**Hon. (Ms.) Mbalu:** Thank you, Hon. Speaker. I have a Petition from the residents of Kibwezi East Constituency on the relocation of sub-county headquarters.

I, the undersigned, on behalf of residents of Kibwezi East Constituency, draw the attention of the House to the following:

THAT, administration units, in particular the sub-counties, are important in the delivery of various services required by residents, including issuance of National Identification Cards and offering security services;

THAT, Section 15 of the National Government Coordination Act requires that sub-counties be headed by Deputy County Commissioners, who are to be based within the sub-county for effective service delivery;

THAT, currently the headquarters of Kibwezi East sub-county is located in the neighbouring Kibwezi Town;

THAT, residents of Kibwezi East sub-county are disadvantaged since they have to travel long distances to access services at the sub-county offices;

THAT, several consultative meetings between leaders and residents of Kibwezi East Constituency have been held and resolved that Kambu Town is the most ideal location to host the sub-county headquarters;

THAT, Kambu Town has sufficient Government buildings and adequate office space, vacant and available for use including CDF offices under construction which can be used to host sub-county administration offices and offer Government services;

THAT, petitioners have lodged several appeals to the Ministry of Interior and Coordination of National Government regarding the matter but their efforts to resolve the matter have been futile.

THAT, multiple follow-ups by the residents have not received any redress to date.

THAT, the matter presented in this Petition is not pending before any tribunal or court of law.

Therefore, your humble Petitioners pray that the National Assembly, through the Departmental Committee on Administration and National Security,

- (i) Recommends relocation of the Kibwezi East Sub-county headquarters from the current location that is in Kibwezi Town to Kambu Town.
- (ii) Makes any other order or direction that it deems fit in the circumstances of the case.

The Petitioner will ever pray.

It was presented by Hon. Jessica Mbalu, Kibwezi Constituency today 23<sup>rd</sup> February, 2016 on behalf of the residents of Kibwezi East Constituency.

Thank you.

**Hon. Speaker:** The next is Hon. Kimani Ichung'wah.

#### PRESENCE OF ARMED MILITIA IN KIAMBU COUNTY

**Hon. Ichung'wah:** Thank you, Hon. Speaker. On behalf of the people of Kikuyu Constituency and a number of petitioners from the entire Kiambu County, I wish to draw the attention of the House to the following:

THAT, the residents of Kiambu County have existed peacefully with minimal cases of insecurity reported.

THAT, in the recent past groups of armed militia have emerged, comprising of goons for hire and members of the outlawed *Mungiki* group, who are terrorising residents across the county.

THAT, the said criminals are allegedly enjoying protection from elected leaders and the security arms within Kiambu County and more specifically the Administration Police within Kiambu County.

THAT, these gangs have continued to wreak havoc in many parts of the vast county with unabated impunity.

THAT, the presence of these gangs has led to escalated insecurity and conflict especially in Thika Town, culminating to the closure of Madaraka Market in Makongeni of Thika Town in January 2015.

THAT, during this incident, several people were injured and one trader shot by this armed militia group. They further attacked and shot at four Members of Parliament (MP) in Thika on that fateful day.

THAT, further, on 22<sup>nd</sup> November, 2015, the said group allegedly set the Madaraka Market in Thika on fire and property worth millions of shillings was destroyed in that inferno.

THAT, the County Government of Kiambu is allegedly using this militia group backed by the Administration Police to evict traders from the said market.

THAT, on 22<sup>nd</sup> January 2016, the same militia group attacked two MPs who were proceeding to Ndumberi, stoning their cars and attempted to draw guns at the MPs in full glare of the Administration Police who were guarding and standing outside the County Government headquarters in Kiambu Town.

THAT, the efforts to resolve this matter have been futile and

THAT, the matter presented in this Petition is not pending before any tribunal or court of law.

Therefore, your humble Petitioner prays that the National Assembly, through the Departmental Committee on Administration and National Security:-

- (i) Recommends immediate deployment of more security personnel to enforce law and order in Kiambu County and ensure that this illegal militia is disbanded.
- (ii) Ensures that the Petitioners' plight is addressed and,
- (iii) Makes any other orders or direction that it deems fit in the circumstances of this case.

Hon. Speaker, just to add, I can indeed confirm about these militias because on two occasions, in January 2015, I was a victim in Thika Town when the said militia attacked a vehicle that was carrying Hon. Alice Ng'anga, Hon. Mburu Kahangara of Lari and myself. A lady was shot that day. We reported the matter to the District Criminal Investigation Officer (DCIO) and the Criminal Investigation Department (CID) in Thika Town and to date not a single arrest has been effected.

Bullets were fired at our cars culminating in the shooting of a lady who is still incapacitated to date. Towards the end of last year, the same militia group in the wee hours of the morning attacked and with the protection of Administration Police burnt down a market that takes care of a population of probably 15,000 people within and without Thika. Under the full glare and protection of Administration Police, the same gang was last month mobilised from slum areas in Nairobi such as Mathare, Kariobangi and other areas of the county.

**Hon. Speaker:** I thought you were presenting a Petition. This is now a debate. Is it a Petition?

**Hon. Ichung'wah:** Yes, Hon. Speaker.

**Hon. Speaker:** So, what are you praying in the Petition?

**Hon. Ichung'wah:** Hon. Speaker, I had finalised that bit. It is just that the Hon. Majority Whip interrupted you. I had sought your permission to proceed and explain to Members of Parliament because it is a very touchy issue.

**Hon. Speaker:** Yes it may be touchy but finish there so that I give one or two other people the Floor to comment.

**Hon. Ichung'wah:** Thank you, Hon. Speaker.

**Hon. Speaker:** Did I see Hon. Serem wanting to comment about militias?

*(Hon. Serem tried to access a microphone)*

Hon. Members, you must carry your cards. Let us agree now. From tomorrow anybody that comes here without their cards irrespective of where you have left them---. Many of you are coming to me pleading that you have left them in some place and that you have been taken short on the way. You cannot drop your cards all over. So, please from tomorrow anybody coming to the Chamber without their cards can kiss goodbye to contributing. Hon. Serem, proceed.

**Hon. Serem:** Thank you, Hon. Speaker. I pray that the issue of Mercy Keino, a beautiful girl from the Kalenjin Community who was murdered in Nairobi--- We want the same information to be availed to us. Since the MP has confirmed that the same militias are roaming in his community, we also want to be told the sponsors. Who murdered this young girl? This is

because, as he has alleged, it seems the police must have been compromised and are not willing to assist this country to give us the murderers of this young girl from Kericho who had a bright future. Somebody roaming the streets of Kiambu made sure that she died.

Thank you.

**Hon. Speaker:** Let us have Hon. Jamleck Kamau.

**Hon. Kamau:** Thank you, Hon. Speaker. I support the Petition by the Hon. Kimani Ichung'wah. This issue of goons for hire is serious. I ask the Departmental Committee on Administration and National Security to dig deep into this matter because we are sitting on a time bomb, especially now that we are heading towards the general elections. It looks like these people are being used by elected leaders. It is extremely important for us to dig into the problem and get a solution. When you look at it clearly, it is like they are having protection from security officers and once security officers protect these goons, impunity gets in.

That issue is not only in Kiambu but even in other counties including where I come from in Muranga. Just the other day, the Muranga County Assembly was attacked by goons.

The other day, the Ethics and Anti-Corruption Commission (EACC) officers were attacked by goons. In Murang'a, a whole magistrate was slapped in full view of police officers and nothing happened. Therefore, this is a matter that needs to be taken seriously. I urge the Departmental Committee on Administration and National Security to look into this issue and bring it to a stop.

**Hon. Speaker:** Hon. Kahangara!

**Hon. Kahangara:** Thank you, Hon. Speaker. I would also want to add my voice to the Petition by Hon. Kimani Ichung'wah.

The people of Kiambu are, indeed, being harassed by the militia groups that are being referred to. We are all aware of the havoc that was caused by the *Mungiki* in this country some time back. As a country, we cannot allow those sects to come back. The people of Kiambu County and other counties in this country have a right to assemble, demonstrate, petition and to ask for their rights in whatever way. From what we have seen, every time people assemble to either petition or demonstrate, members of the militia groups come out to intimidate them by stoning people - including Members of Parliament who are taking part in such demonstrations. We have also seen them brandishing their guns. The unfortunate thing is that this has been happening in the presence of police officers. The Inspector General of Police (IGP) should tell us in whose payroll those goons are, and to who they are answerable. When such things happen, we should be worried. It shows that the IGP is not in charge of the police. The people of Kiambu County love peace. They want to have peace and a good environment in which they can do their businesses.

Hon. Speaker, we are also worried about the motives that the militias and their masters have. They must be under somebody's payroll. The petition that has just been presented to the National Assembly should assure the people of Kiambu that they will continue doing their businesses and move freely. They have a right, under the Constitution, to assemble and demand for services from the national Government and County Government. The people of Kiambu need to be assured. What we have seen happening in Thika and elsewhere should worry us, especially given that we are approaching the general elections. This problem may escalate and go to other areas. We are petitioning the Government to intervene and assure our people of their security, so that they can continue doing their businesses and rightfully demand services from the Government because they are taxpayers.

*(Hon. Dawood and Hon. ole Sakuda consulted while standing between the Chair and Hon. Kahangara)*

**Hon. Speaker:** Just to remind Members like Hon. Dawood, Standing Order No.103(2) says that no Member shall pass between the Chair and any Member who is speaking, or between the Chair and the Table, except in so far as it is necessary for the purpose of administration of oath or affirmation of allegiance.

Hon. Dawood, your colleague is speaking and you stand next to him like you have been planted there and yet, you are not transparent. I am incapable of seeing the Member to know whether he is standing or not. You are in breach of the Standing Orders to which you could easily earn the wrath of the Chair. This also applies to Hon. ole Sakuda. You need to know and note the provisions of that particular Standing Order.

Finally, Hon. Jude Njomo,

**Hon. Njomo:** Thank you, Hon. Speaker. I stand to support the petition by Hon. Ichung'wah. It seems like that there is a new way of doing things in Kiambu County – that, if you cannot do them legally, you can do them using gangs. This has happened so often that people are now wondering what will happen next. It started in Thika, where a gang of goons was sent to burn Makongeni Market. Nothing was done to them. Instead, they were given protection by Administration Police (AP) officers. The goons in Thika used unmarked cars. It is now happening over and over again. I remember a case where a blogger was arrested and forced to go to Mombasa to answer to some charges. Several Members of Parliament from Kiambu County went to Mombasa in support of that blogger. Over 100 hired goons thronged the court room to make it difficult for the Members who had travelled to Mombasa to give moral support to the blogger.

Hon. Speaker, if those goons are not stopped now, they will be our future problem. They will be the next *Mungiki*. What happened sometime back will happen again. A few weeks ago, Hon. Ichung'wah, Hon. Alice, “*Baba Yao*” and I were escorting---

**Hon. Speaker:** Hon. Njomo, we do not have a Member by the name “*Baba Yao*”. The name that you use in the village cannot be imported to the Chamber. We do not have any Member known as “*Baba Yao*”; certainly, not one that the Chair knows of.

**Hon. Njomo:** Thank you, Hon. Speaker. He is Hon. Waititu.

**Hon. Speaker:** You can never inform the Chair. You are not informing the Chair about those names.

**Hon. Njomo:** Hon. Speaker, I will ask him to inform you whether he has changed his names.

**Hon. Speaker:** Are you through with your contribution?

**Hon. Njomo:** Hon. Speaker---

**Hon. Speaker:** Hon. Njomo, this is not a debate. The matter is going to the Committee.

**Hon. Njomo:** Hon. Speaker, I was just saying that if we do not contain the militias, they will cause problems, particularly as we head to the next general elections. They are being prepared to be stronger, more powerful and more usable by the politicians who are using them. That is how *Mungiki* and *Al-Shabaab* started. We will jeopardize our security if we do not contain those militias, who have been made powerful by some well-known elected politicians.

**Hon. Speaker:** Next Order!

## PAPERS LAID

**Hon. Katoo:** Hon. Speaker, I beg to lay the following Papers on the Table of the House today, 23<sup>rd</sup> February, 2016:-

The Ministry of Defence Memorandum to Parliament on Ratification of the Agreement on Defence Cooperation between the Government of the Republic of Kenya and the Government of the United Kingdom of Great Britain and Northern Ireland.

The Report of the Auditor-General on the Financial Statements of the Grand National Union for the year ended 30<sup>th</sup> June 2010 and the Certificate therein.

The Reports of the Auditor General on the Financial Statements for the year ended 30<sup>th</sup> June 2011 and the Certificates therein, in respect of:-

- (i) Progressive Party of Kenya.
- (ii) Maendeleo Party of Kenya.
- (iii) Grand National Union.
- (iv) Independent Party.
- (v) The National Agenda Party of Kenya.

The Reports of the Auditor-General on Financial Statements for the year ended 30<sup>th</sup> June 2012 and the Certificates therein, in respect of:-

- (i) Independent Party.
- (ii) Forum for Restoration of Democracy - Kenya.

The The Report of the Auditor-General and the Financial Statement of the National Agenda Party of Kenya for the year ended 30<sup>th</sup> June 2013 and the Certificate therein.

The Reports of the Auditor-General on the Financial Statements for the year ended 30<sup>th</sup> June 2015 and the Certificates therein, in respect of-

- (i) Wiper Democratic Movement.
- (ii) National Alliance.
- (iii) Forum for Restoration of Democracy - Kenya.
- (iv) Judges and Magistrates Vetting Board.
- (v) Capital Markets Authority.

The Annual Report and Financial Statement of Karatina University for the year ended 30<sup>th</sup> June 2014 and the Certificate therein.

**Hon. Speaker:** The Report on Ratification of the Agreement on Defence Cooperation between the Government of Kenya and the Government of United Kingdom of Great Britain and the Northern Ireland is referred to the Departmental Committee on Defence and Foreign Relations.

The Chairperson of the Constitutional Implementation Oversight Committee (CIOC), Hon. Njoroge Baiya.

**Hon. Baiya:** Thank you, Hon. Speaker. I beg to lay the following Paper on the Table of the House today, 23<sup>rd</sup> February 2016:-

The Report of the Constitutional Implementation Oversight Committee on consideration of extension of the term of the Transition Authority (TA).

**Hon. Speaker:** The Chairperson of the Departmental Committee on Justice and Legal Affairs, Hon. Chepkong'a.



**Hon. Chepkong'a:** Thank you, Hon. Speaker. I beg to lay the following Paper on the Table of the House today Tuesday, 23<sup>rd</sup> February 2016:-

The Report of the Departmental Committee on Justice and Legal Affairs on its consideration of the Presidential Memorandum on the Small Claims Court Bill, 2015.

I thank you, Hon. Speaker.

**Hon. Speaker:** The Chairperson of the Departmental Committee on Labour and Social Welfare, Hon. Were.

**Hon. Were:** Hon. Speaker, I beg to lay the following Paper on the Table of the House today Tuesday, 23<sup>rd</sup> February 2016:-

The Report of the Departmental Committee on Labour and Social Welfare on its consideration of the Presidential Memorandum on the National Employment Authority Bill, 2015.

Thank you.

**Hon. Speaker:** The next Order!

## NOTICES OF MOTIONS

### ADOPTION OF REPORT ON TRANSITION AUTHORITY

**Hon. Speaker:** Hon. Njoroge Baiya.

**Hon. Baiya:** Thank you, Hon. Speaker. I beg to give notice of the following Motion:-

THAT, this House adopts the Report of the Constitutional Implementation Oversight Committee on consideration of extension of the term of the Transition Authority, laid on the Table of the House on Tuesday, 23<sup>rd</sup> February 2016.

Thank you, Hon. Speaker.

**Hon. Speaker:** Next Order! Sorry, Hon. Keynan. You are giving notices of various Motions.

### ADOPTION OF PIC REPORTS

**Hon. Keynan:** Thank you, Hon. Speaker. I beg to give notice of the following Motions:-

THAT, this House adopts the 20<sup>th</sup> Report of the Public Investments Committee on audited financial statements of State corporations, laid on the Table of the House on Thursday, 3<sup>rd</sup> December 2015.

THAT, this House adopts the Public Investments Committee Special Report on the procurement and financing of the National Social Security Fund Tassia II Infrastructure Development Project, laid on the Table of the House on Wednesday, 30<sup>th</sup> April 2014.

THAT, this House adopts the Public Investments Committee Special Report on the procurement of the tender for the proposed Kenya Bureau of Standards, Coast Regional Office and Laboratories in Mombasa, laid on the Table of the House on Wednesday, 4<sup>th</sup> June 2014.

THAT, this House adopts the Public Investments Committee Special Report on Kenya Airports Authority Duty-Free Shops Contract at the Jomo

Kenyatta International Airport and Moi International Airport from 1989 to 2015, laid on the Table of the House on Tuesday, 1<sup>st</sup> December, 2015.

Thank you, Hon. Speaker.

**Hon. Speaker:** Order, Members! Before we proceed, allow me to recognize members of the Barack Obama Leadership Programme who are seated in the Speaker's Gallery. They are from the following schools:-

Rose of Shalom Academy in Nairobi, St. Mary's School, Nairobi; Melvin Jones Lions Academy, Nakuru; Kilimani Junior Academy, Nairobi; Lukenya Academy, Machakos and Loreto Convent Valley Road, Nairobi.

*(Applause)*

They are all welcome to observe the proceedings of the National Assembly.  
Next Order!

## STATEMENTS

### FORMATION OF TRIBUNAL TO PROBE THE CONDUCT OF JUSTICE TUNOI

**Hon. Speaker:** Hon. Linturi.

**Hon. Linturi:** Thank you, Hon. Speaker, for giving me this opportunity. I rise on a matter of very serious national importance for which I am seeking your guidance and intervention. On why I seek your intervention and guidance and the intervention of this august House, allow me to, at least, lay some ground or basis for this particular request.

Hon. Speaker, you will realize that Article 1 of the Constitution of Kenya clearly states that the sovereign power belongs to the people. That sovereign power is only exercised through Parliament and the legislative assemblies in the counties, the Judiciary and the Executive. If you go further, you will also find that under Article 3 of the Constitution of Kenya, every Kenyan has a duty and obligation to respect, uphold and defend the Constitution of Kenya. Parliament is the assembly of representatives of the people of Kenya. Under Article 95 of the Constitution - and which I would like to read for purposes of avoidance of doubt and especially Sub-article (2), the National Assembly represents the people and the constituencies. Sub-article 2 reads:-

“The National Assembly deliberates on and resolves the issues of concern to the people.”

Article 95(5)(a) and (b) read as follows:-

“The National Assembly—

- (a) reviews the conduct in office of the President, the Deputy President and other State officers and initiates the process of removing them from office; and,
- (b) exercises oversight of State organs.”

Hon. Speaker, I am quoting these particular sections so that Parliament understands and recognises the fact that the matters I am bringing forward are within their jurisdiction and mandate. So, I will rush further to Article 171 of the Constitution of Kenya. This is where the Constitution establishes the Judicial Service Commission (JSC). The JSC is a creature of the Constitution and by virtue of Article 171(2)(e) when you look at the composition, you find that

under Sub-Article (2)(e) the Attorney-General of Kenya is a member of that particular important commission.

Hon. Speaker, if you allow me again, I want to take the Members to Article 156 of the Constitution that specifies the functions of the AG of the Republic of Kenya. It says:-

“(1) There is established the office of the Attorney-General”.

Sub-Article 4(a) says:-

“The Attorney-General—

(a) is the principal legal adviser to the Government.”

I want to raise this matter in connection with the matter that is in the public domain, a matter that has caused a lot of anxiety to this country with regard to the formation of a tribunal to probe the conduct of Justice Tunoi. I am raising this issue because if we remember very well, the team that was formed at the initial stage to establish whether the affidavit that was given to the Chief Justice (CJ) and any material to be substantiated, the Attorney-General of the Republic of Kenya was a member. It is out of the recommendation from that sub-committee that the JSC, in its wisdom, decided to do a report to the President of the Republic of Kenya recommending the formation of a tribunal to probe Justice Tunoi. What worries me is that yesterday, there was some information that had gone public that the President required time by yesterday - or was not in a hurry to form the tribunal because there was a matter that was pending before a court of law challenging the retirement age of Justice Tunoi.

Hon. Speaker, when you look at Article 168(5) of the Constitution of Kenya, it says that when the Judicial Service Commission does its recommendations to the President, the President is under obligation. The words used in the Constitution read:-

“(5) The President shall, within fourteen days after receiving the petition, suspend the judge from office and, acting in accordance with the recommendation of the Judicial Service Commission— ---”

What continues to worry me is that the President of the Republic of Kenya has a serious legal adviser by the name of the Attorney-General and many others who are paid from public coffers. As we sit here, we continue seeing the provisions of this Constitution being violated because of the wrong advice that is given to the President by his advisers. My question is: Because this Parliament has powers to review conduct of State officers, is it not worthy to sit down and ask questions as to whether the current Attorney-General of Kenya is really living up to the expectations of his office?

This is an issue we cannot afford to take lightly. As defenders of the Constitution and considering the powers that are given to that office, I think it is important for us, as Parliament, to intervene. Hon. Speaker, time has come for you to give guidance to this House. The longer we stay, the more we get into murky waters and, before the end of the year or any other time, the Constitution will have been mutilated. Kenyans will continue feeling uncomfortable by the manner in which Parliament, the Executive or anybody else continues to disrespect or abuse the Constitution.

Thank you, Hon. Speaker. I seek your guidance.

**Hon. Midiwo:** On a point of order.

**Hon. Speaker:** I see the Deputy Leader of Minority Party, Hon. Midiwo, also wants to express himself.

**Hon. Midiwo:** On a point of order, Hon. Speaker. The issue raised by Hon. Linturi is very weighty. This morning, hon. Linturi, a couple of other Kenyans and I were in a public

debate and we were confronted with this issue. First of all, let me thank the President for listening to good reason, now that he has appointed a tribunal. This thing was going to get murkier. The bottom line is about the advisers of the President; the Attorney-General, a contingent of many advisers and the good lawyers we had before like Abdikadir and other people around the President. We cannot sit here and let them think that the whole House of Parliament and institutions like the Law Society of Kenya (LSK) and the Judiciary are stupid.

We must be guided on how to deal with public servants who are on taxpayers' payroll and are constantly engaging us in a war on things when we should not. Article 168(5) of the Constitution says:-

“The President shall---” The word “shall” does not have too many meanings, unless hon. Githu Muigai has created another English dictionary. It does not require the debate that we have been treated to for the last four or five days. From the Office of the Attorney-General in this Parliament, for about three years, we have had to fight.

**Hon. Chepkong'a:** On a point of order.

**Hon. Midiwo:** I am on a point of order, “Mr. Nyangores”.

**Hon. Speaker:** Hon. Chepkong'a, you have just walked in and you have not even heard that hon. Jakoyo Midiwo, who is on a point of order, has recognized the appointment of the tribunal. Most likely, that is what you wanted to tell him. So, you should have listened to him.

Proceed.

**Hon. Midiwo:** Hon. Speaker, you must realize hon. Chepkong'a was here. You are even lenient to him by giving allowing him to raise a frivolous point of order, which he could not even explain. Those are some of our lawyers. We must all understand that hon. Chepkong'a is now very busy worrying about the rift in the Rift Valley, and that is why he was mentioning hon. Sudi. There is too much rift. They have no peace. On this other side, we are happy.

The point I was making is that Bills which have been coming to this House constantly, Bill after Bill, which have come from the Office of the Attorney-General, we have had to raise constitutional issues on this side. A time has come for this country to move forward by recognizing that we have a new Constitution. We must re-look at how the Director of Public Prosecutions (DPP) behaves, the role of the Attorney-General and the role of the legal advisers to the President, so that this country can be peaceful once and for all.

Hon. Speaker, you must give guidance. If the Attorney-General constantly breaks the law, what is the remedy? We cannot have an Attorney-General who constantly gives the impression that the wrong law is law.

Thank you, Hon. Speaker.

**Hon. Speaker:** Hon. Members, do not get excited about this one. Hon. Chepkong'a, what is your point of order?

**Hon. Chepkong'a:** On a point of order, Hon. Speaker. You know I was listening very carefully and it is only that I had gone to pick some documents. It is just that my good friend, hon. Linturi was misleading the House. So, as I was walking in, I assumed that my good friend, hon. Jakoyo was also misleading the House. Fortunately, for the first time, he has spoken the truth today. He knows that our good President has actually appointed a tribunal chaired by Sharad Rao himself. As you know, he was the former Chair of the Judges and Magistrates Vetting Board.

Hon. Linturi was totally out of order. The only thing that I totally disagree with both of them is to imagine that Professor Githu Muigai does not understand the law. It is they,

themselves, who do not understand the law. As the Chair of Justice and Legal Affairs Committee, I have not seen anywhere, where Professor Githu Muigai needs to be advised or misadvised otherwise. The Attorney-General is well grounded in law. He taught me jurisprudence and you know that is philosophy of law. For someone to teach philosophy of law, he must be well grounded in law. By the way, for your information hon. Jakoyo Midiwo, when he taught me, I scored an “A.” So, I have no doubt that I have got good brains. To get an “A”, you must be having good brains.

In fact, as a Committee, we do not have a problem with the Attorney-General. There is no advice that he has given which we think, in our opinion and view, is misguided in any way. He is well grounded in law. He will give advice but; as to whether the advice is taken or not, it is the responsibility of the person who has been advised. So, you cannot argue that the Attorney-General has not given any advice. If Hon. Members feel he has not given any advice, it is their duty to invoke the Standing Orders, come up with a petition, refer it to our Committee and we will invite those Members to interrogate the good professor. I am afraid that whoever will appear before our Committee may seem different and lose their passion for speaking in this House. They are well-advised to speak to me privately before they open their mouths.

**Hon. Speaker:** Hon. Manson Nyamweya, you seem to have something burning to say.

**Hon. Nyamweya:** Thank you, Hon. Speaker. I totally concur with Hon. Chepkong’a. In the leadership structure, you are the Speaker of this House. Any decision you make is the decision of the Speaker of the National Assembly and not that of your advisers. It is not the decision of the Clerk of the National Assembly. For the hon. Member to make up a story that the President has not made a decision because of the Attorney-General, is very unfair. The decision rests with the President. He is the one who decides. The Attorney-General only gives an opinion. That is where it ends. The person who makes the final decision is the President of the Republic of Kenya. He is sure to protect the Constitution of the Republic of Kenya. It is not fair for us at this time, as Members of the National Assembly, to bring names of other State officers. If they have an issue, let them table a substantive motion. They should not bring matters through the back-door, trying to blame certain State officers for a decision which rests on one person, namely, the President of the Republic of Kenya. He has made the decision.

I concur with Hon. Chepkong’a. If there is an issue, let the Members raise it separately. But they should not bring non-issues about State officers who are doing their job diligently. In my opinion, Attorney-General Githu is doing his job very well, as far as I am concerned. I may be wrong, but it is my opinion. He only gives advice about a decision. The rest is executed by the President.

**Hon. Speaker:** Hon. Members, I do not think there is a matter for debate.

Let me, first of all, draw your attention to the various Articles of the Constitution that Hon. Mithika Linturi stood on, requiring that I give direction. It is settled in law that under the Constitution in Article 135, a decision of the President of the Republic of Kenya in the performance of any of the functions that he is required to do under the Constitution shall depict his seal and signature. Looking at the functions conferred on the President under Article 168 with regard to the formation or setting up of a tribunal to probe, in the first instance, the Chief Justice, that function must be performed by the President himself and the decision must be communicated in a manner that shows that it has his seal and his signature. Have we seen anything that the President has done, in his seal and his signature that suggests that he has not acted in accordance with the requirements of Article 168(5)?

**Hon. Members:** No!

**Hon. Speaker:** Remember there are other functionaries who work under the President. Those are not presidents. Even as we comment on certain things, we must look at the document, if any, that has been proffered to the public. Does it have the President's signature and his seal? This point was emphasised in the report by the Public Accounts Committee, then chaired by Hon. Ababu Namwamba, urging that the President must act in accordance with Article 135, every time he is performing a function that he is required to under the Constitution. Therefore, I suspect that we are now discussing a matter that has not yet happened because we have not seen anything that is in his seal and signature.

Suffice to say, we live in interesting times when all manner of functionaries will make communications which could be casual. They could communicate administrative matters within the Executive and assume that it is the President's communication. However, on a matter as serious as the one provided for in Article 168, it is clear and mandatory that the decision to set up a tribunal must be by the President and nobody else. Whether the Attorney-General, as principal adviser to Government as provided for in Article 156 (4) does or does not advise, the decision under Article 168 is the President's. The Constitution understood that whoever is President understands what is required of him or her, whenever a decision is made by the Judicial Service Commission (JSC).

Therefore, I do not think that there is any matter that I need to give guidance on, Hon. Linturi. As Hon. Midiwo and Hon. Chepkong'a have just confirmed, the information that we have is that a tribunal has been set up. The deadline for the setting up of the tribunal was midnight tonight. We are still within time. We could obviously get excited because we have seen certain communication from other places, but not communication from the President in terms of what the Constitution requires.

Article 95 (5) about this House performing its oversight role and commencing the process of removing the President, Deputy President and other State officers - and they are very many - still rests with us. But the procedures must be followed through petitions, just like Hon. Chepkong'a has said. For now, until a petition is presented, I cannot make a determination as to whether there is any State officer who requires the attention of any of the Committees and, more particularly, the Committee chaired by Hon. Chepkong'a.

For the time being, let us wait. Maybe, you could revisit this matter tomorrow morning, Hon. Linturi, if there will be communication as to the President's decision in terms of Article 168 (5) of the Constitution.

**Hon. Speaker:** Hon. Serut.

**Hon. Serut:** Hon. Speaker, we might be discussing a matter which has already been overtaken by events. A tribunal has already been set up.

**Hon. Speaker:** Hon. John Serut, I urged earlier that it is fair for people to pay attention. I have just confirmed that. Hon. Midiwo has said it. Hon. Chepkong'a confirmed it. You are flogging a dead horse. Hon. Midiwo, do you want to contribute to this?

#### MISREPORTING BY MEDIA ON HOUSE LEADERSHIP RETREAT

**Hon. Midiwo:** Hon. Speaker, I want to contribute on a different matter. Thank you for your indulgence. Over the weekend, we had a House leadership meeting or retreat in Mombasa, which was more of a public nature because the media attended. Since we came back from

Mombasa, there have been reports about Members of Parliament asking to be paid salaries after the date of the General Elections of 8<sup>th</sup> August next year.

Hon. Speaker, I am baffled because you and I, and many Members here were in that meeting for two days consistently, and the meeting was generally open to the media. Some of the media persons are parliamentary news reporters and I imagine they were invited and facilitated using public funds. The *Daily Nation* has consistently tried to give an impression that we, at any point in our meeting, talked about some payment or increment of salaries to Members of Parliament (MPs). It is despicable! It is unfair to this Parliament. The Chairman of the Independent Electoral and Boundaries Commission (IEBC) was there and the only thing which was referenced in that meeting---

*(Hon. Keter consulted loudly)*

Hon. Speaker, protect me from the *Nyangoreses*. The MPs from Rift Valley are fighting.

**Hon. Speaker:** The youthful Member for Nandi Hills, ever active, kindly consult in low tones.

**Hon. Midiwo:** Hon. Speaker, that was on a light touch. The only thing which touched on elections and departure of Members of Parliament was the date of election, which is a responsibility of this House. Generally, the meeting agreed that there is very little that can be done and that preparation must be made towards the election date of 8<sup>th</sup> August, 2017. I did not hear - and I challenge the media which was there with cameras - to name the members of the meeting who asked for any payment, in which form and where, to the extent that a reputable media house like the *Daily Nation* bashes MPs in its editorial. I see more than meets the eye.

We have just finished a discussion which you have ruled very well over the Judiciary and corruption. I have been in this city for a very long time and I see the newspaper to be intending to divert debate away from the issue of looting in the National Youth Service (NYS) and the issue of Justice Tunoi. If you see the consistency in which the *Daily Nation* has bashed MPs in the last three days, it cannot go unchallenged. It is uncalled for, unwarranted and not substantiated. We were in that meeting and nobody talked about salaries for MPs. It will be wrong to bash the whole Parliament while only the leadership was there and the media was invited. I thank you for making the meeting open to the media. There is more than meets the eye. We want our media to stop playing politics. The media can shape opinion even if they only told the truth. Whatever they are intending to do, we will not allow them. We shall keep our eyes on the ball. If it is corruption, whether in the Judiciary or the NYS, we will not let the Nation Media House stop us from talking about the substantive issues that affect the people of Kenya.

Thank you, Hon. Speaker.

**Hon. Speaker:** Hon. Members, that is largely true. I would like to appreciate the point made at the retreat just for the media to remember that there is a judicial pronouncement that the 11<sup>th</sup> Parliament shall be the sacrificial Parliament which must sacrifice some months, if only to come to the requirement of holding elections on Tuesday, 2<sup>nd</sup> August in the fifth year. There has been a judicial pronouncement to that effect. I do not understand where the issue of the salaries of MPs for eight months has come from. Everybody knows that salaries are earned and not anticipated. I think everybody wants to play their own kind of politics. The meeting did not make any representation that anybody was to be asked to pay anything like that. The best we can do is to ask them to revisit or rewind their minds and see the truth and say as it was. The meeting

agreed that sacrifices have to be made by one of the Houses, and it was the 11<sup>th</sup> Parliament. Anything beyond that would be wishful thinking.

Next Order!

## MOTIONS

### ADOPTION OF REPORT ON CRISIS FACING THE SUGAR INDUSTRY IN KENYA

THAT, this House adopts the Report of the Departmental Committee on Agriculture, Livestock and Co-operatives on the Crisis Facing the Sugar Industry in Kenya, laid on the Table of the House on Thursday, 12th March, 2015, subject to deletion of Paragraph 101.

*Hon. Nooru on 16.2.2016)*

*(Resumption of Debate interrupted on 18.2.2016)*

**Hon. Speaker:** Hon. Omar Mwinyi had a balance of four minutes.

**Hon. Member:** He is not in.

**Hon. Speaker:** If he is not in, let us then have Hon. John Kobado, Member for Uriiri.

**Hon. Kobado:** Thank you, Hon. Speaker, for giving me the opportunity to add my voice to this important Motion. In its amended form, the Report adds a lot of value to this House because we should not be using House privileges to settle political scores.

Hon. Speaker, reports are not only meant for records, but they are critical instruments for decision-making. On that note, this Report is coming a little late when decisions about privatisation of the five State-owned factories have more or less been concluded. I want to believe that if this Report came in a little earlier, it would have provided an important input for decision-making.

If you look at this Report critically, the monsters we need to deal with and address are the cartels or the sugar barons. The Report clearly brings out the ineffective surveillance infrastructure. We have seen cases where imported sugar is loaded on a holding ship in the Indian Ocean before it is brought to the port, and then given police escort up to Uganda. The sugar is then brought into this country through our porous borders. The agencies that are supposed to stop contraband sugar from coming in through effective surveillance are completely un-coordinated. We are talking about the Kenya Revenue Authority (KRA), Kenya Ports Authority (KPA), Kenya Bureau of Standards (KEBS), Police Service and the National Intelligence Service (NIS). Their work is completely un-coordinated.

However, sometimes, we say that if you want to bend iron, you do it when it is still red hot. We expected this Report to have come in much earlier when we expected it. There is every indication that this Report is not the original Report that we expected. I sit in the Departmental Committee on Agriculture, Livestock and Co-operatives, and I can attest to that. There must have been a lot of external interference with the outcome of this Report, starting with the Committee. You remember it called for your intervention to get this Report tabled on the Floor of this House, having been in this House for one-and-a-half years - 18 months.



You also remember that it is this particular Report that landed the entire Departmental Committee on Agriculture, Livestock and Cooperatives in the Offices of the Ethics and Anti-Corruption Commission (EACC) to answer to charges of corruption.

Hon. Speaker, when a report is prepared and there are delays, you open room for speculation. This is exactly what happened. The Report delayed with no proper explanation. As a Member of the Committee, at some point, I had an opportunity to chair the sub-committee that was writing this Report. I can say, without fear of contradiction, that there was, to a great extent, external interference trying to shape the outcome of this particular Report.

It is also questionable that a Report that was tabled in May 2015 took a whole 10 months, close to one year, before it could be tabled for discussion. This again touches on the House Business Committee (HBC) which you chair. So, we wonder why that delay was there. By coincidence, at the time that the HBC was sitting to discuss this Report, the Head of State, His Excellency Uhuru Kenyatta, was in Uganda negotiating a deal with the President of Uganda, Yoweri Museveni.

**hon. Member:** President-elect.

**Hon. Kobado:** I am corrected; I am told it is President-elect, Yoweri Museveni.

Hon. Speaker, this raised eyebrows! If you look at the Report--- Of course, we have been talking about the legal advisers of the Head of State. Although we were talking about legal advisers but, you can see this is another case of trade mis-advise.

If you look at Item 58 of the Report, it talks about intra-regional trade and rules of origin. It states:-

“There is an urgent need for verification missions to visit countries which have high export history”.

It goes on to say that:-

“This specifically applies to Uganda and Rwanda who do not have regulatory bodies specific to the sugar sector.”

How then do we negotiate with a country whose regulatory body has collapsed or is even non-existent? This raises eyebrows.

With regard to the cheap sugar that comes in, the Report is very clear. It has more or less named the sugar barons. If you look at Item 100, the companies have been named. The majority of the companies that have been named in this Report have origin in Uganda. We have Quick Sellers, Uganda; Arua Mercantile incorporated in Uganda; Uchumi Commodities incorporated in Uganda and Rising Stars also incorporated in Uganda. How then does the President negotiate a sugar deal with a country like this? These are issues that raise eyebrows.

Those of us who come from the sugar belt, we feel the Government is not honest. There is a scheme to kill the sector. When you kill the sector, we are talking about close to 7,000,000 Kenyans whose livelihood depends on sugar. We really have to critically find a way of getting things on the road because, as we try to privatise, we should take cognisance of the fact the sector has been fully devolved. If we had the input of this Report, some of the decisions we are rushing to make in regard to privatisation could not have been done.

With those many remarks, I strongly support this particular Report, but with some amendments.

**Hon. Speaker:** Hon. Esther Gathogo.

**Hon. (Ms.) Gathogo:** Thank you, Hon. Speaker. I had a point of order, but the Member has finished making his contribution. He was saying that the Government is killing the sector. He

said that President Uhuru Muigai Kenyatta, went to Mumias with Kshs2 billion goodies to correct whatever mess was made by other people. I do not know whether that is what you call “killing the sector.”

Thank you, Hon. Speaker.

**Hon. Speaker:** Hon. Malulu Injendi.

*(Hon. Kobado interjected)*

There is nothing when you have finished, Hon. Kobado. Do not worry about that.

**Hon. Injendi:** Thank you, Hon. Speaker. I also rise to support this Report, particularly on the fact that we have exactly known who the persons who are killing our sugar industry are. I would urge that since the Report has indicated who the persons are, the Government should act quickly to remedy the situation. Currently, because of what has been happening in the sugar industry, most of the people who rely on income from that product in western Kenya are suffering in poverty. Because of importation of illegal sugar into the country, most of those persons have failed to harvest their sugar-cane. There have been delays and low payments.

I would also want to thank the Committee for this Report. I attended one of the meetings and the factories that came in as stakeholders like Mumias Sugar Company stated why it was ailing. It pointed at some factories from my constituency, Malava. It argued that it was suffering because West Kenya Sugar Factory was poaching sugar from its catchment area. When West Kenya Sugar Factory came on board to state why it was suffering or why it was having a problem in production, it pointed at the existence of Butali Sugar Factory as the reason why it was having less sugar-cane. I want to thank the Committee because the import of this was to close the two factories in Malava - Butali Sugar Factory and West Kenya Sugar Factory.

What is ailing our sugar factories is not the existence of the many sugar factories in western Kenya, but the existence of traders. Even some Members of this Parliament, I recall one of them saying last week that he imports sugar and yet, he is not a farmer. I would urge that for us to control the importation of illegal sugar, we should allow those factories to import what falls short of what they produce.

I thank the Committee for coming up with a good Report. Hon. Esther Gathogo has said the Government was giving us goodies. Those were not goodies. That was just money due to us as voters, as Kenyans and as dues to Mumias Sugar Factory as part of this country. She should not call them goodies. We want to tell the Government that we may not want to receive those goodies all the time. We do not want to be told that we receive goodies all the time. We urge the Government to come in quickly and stop that practice in the country and deal with illegal importers.

Hon. Speaker, I support.

**Hon. Speaker:** Let us now have Hon. David Ochieng.

**Hon. Ochieng:** Thank you very much, Hon. Speaker. I am happy to contribute to this debate because this is not the first time we have a report on sugar in this country. The feeling I have is that we have dealt with sugar on a very wrong premise. Sugar is among the strategic products. It is among the strategic crops in the world. If you look at all the countries that produce sugar like Malawi, Sudan, Mauritius and Brazil, you will find that sugar is not just a product that is made for profit. It is not just a product that is made for sale. Sugar is a source of livelihood for very many people. So, countries that deal with sugar put a lot of money in the sugar sector not to

make profit but to ensure that sugar production goes on as a going concern. Whether profits are made or not is never an issue. The issue is whether farmers are able to get their monies back and whether the country is able to produce enough sugar.

Mauritius produces a lot of sugar but it never consumes it. It sells it to the European Union (EU) and imports cheaper sugar from its neighbouring countries because of the programmes that are all over the world. For example, the EU has given Mauritius and Kenya, alongside most African countries, a chance to sell sugar in their countries at very high price. Kenya should also look at this kind of scenario. We can produce sugar, sell it to countries that will buy it at high prices and then import cheaper sugar for our consumption. This is even as we ensure that our farmers are shielded.

Corruption in the sugar industry has to be handled the way Koreans handled development trajectory in the early 70s, 80s and 90s, when Goldenberg scandal was happening in Kenya. In Malaysia, Singapore and Korea, if the government had a scheme to help farmers and you are found to have done things that would make farmers lose, you are hanged. You would die if the action you have taken undermines and compromises the lives of very many people. This is what the barons in the sugar industry do in this country. It is a shame that we say that Kenya is efficient and is more developed than Malawi and Sudan and yet we still produce sugar at double the price that Sudan produces its sugar. We also produce sugar at double price than Malawi. So, how developed are we?

As I contribute on this Report, I want to say that this Parliament and the last Parliament have done a disservice to farmers. We have tended to concentrate more on who should go where, who should do what and whose names we want to call in terms of sugar. Let the 11<sup>th</sup> Parliament be the Parliament that will address the root cause of the problem in the sugar industry once and for all. The issues are raised here and what needs to be done is in this Report. Handling low productivity, payment of farmers or handling illegal imports are all here. I wish the ministries and politicians would, for a moment, take a breath and say that, at least, if they do something in the agricultural sector, they will help farmers.

There is this fallacy of people thinking that sugar is only grown in western Kenya, and that sugar only helps the Luhya community. Sugar helps the whole country. All the way from Mombasa to North Eastern, sugar is the livelihood of very many people. I have watched debate on the sugar sector for the last few days. We think that sugar is the only mainstay for western Kenya and most people from this region want to talk about it. Sugar is a mainstay for very many people. So, we should address the sugar industry holistically without apportioning blame. We should have a new start and say that we will try and ensure that farmers are paid on time. We should weed out brokers and ensure that farmers get their dues. We should ensure that the Government follows factories that operate in this country to ensure that the money put in by taxpayers is used well. It is only in this country where we still use the 1902, 1912 and 1947 technology to produce sugar. Other countries have moved on to have sugarcane that matures in 12 months.

Sugarcane is grown in my constituency, Ugenya. Some of it takes 36 months to mature. I am now clearing a farm to build a college. Sugarcane has been on that farm for the last 48 months and it has not been harvested. It is now going to waste. So, as a people, we must agree that this is what we want to do. If we cannot agree that way, then we should forget about sugar. Let us not disturb farmers and tell them to plant sugarcane which is not harvested and if it is harvested, farmers are not paid.

I think we need to address the following in the sugar industry. One, let us ensure that our tax regime in that industry mirrors our values and what we think the sugar industry portends to us in the country. Let us have the best infrastructure in this country for production, distribution and sale of sugar. We cannot keep talking about it as if our hands are tied behind our backs and there is nothing we can do about it. As Parliament and Government, we have the tools to ensure that the sugar industry helps farmers.

Hon. Speaker, if you visited most parts of this country, including coast, you will find that children just stay at home because the sugar industry has failed. People cannot pay school fees; cannot access water and cannot have housing because their livelihoods depend on what we, as politicians and Government functionaries, keep talking about. Money is spent in investigations. We name names and say so and so should be investigated but nothing happens.

Hon. Speaker, I agree with what you said last week that the Committee on Implementation should wake up and start taking the work of this Parliament seriously. We cannot keep asking questions and get good answers but there is no follow-up. We need the Committee on Implementation to follow up on the implementation of this Report so that the sugar industry can once more operate the way it used to.

My father-in-law worked for Mumias Sugar Company all his life but he cannot receive his pension. We have to supplement it every other month because the factory cannot afford to pay pension to its former employees. It is not a small matter. The sooner we handle that industry, the better for this country.

As I finish, sugarcane, wheat, rice and maize are crops which we should not play with. We should not allow corruption to clear crops that are the mainstay of this country.

I thank you.

**Hon. Speaker:** Let us have Hon. Mary Wamboi.

**Hon. (Ms.) Munene:** Thank you, Hon. Speaker, for giving me this opportunity to speak about the sugar industry. We have been writing the Report on sugar for a long time. We have also discussed about this industry for almost three years now. The Report is being debated in this House and I support it. Farmers are suffering because some people are importing sugar when our sugar is still in the factories' warehouses. There are also people who say that they are importing sugar and yet they buy it locally and when it reaches the border it is brought and sold in this country at a throw away price. If they want to import sugar, the Government must make sure that sugar from Mumias Sugar Company is sold at a higher price so that importers can buy their sugar from outside. Who is suffering? It is the farmers who have problems.

The Government is trying to help the sugar industry but there is a big problem which we need to look at. Let the Government chip in when there is a problem in any industry. We have a problem in the sugar industry and we have talked about this Report for a long time. I am happy because at last we said: "Enough is enough. Let the Government go back to the drawing board and see what the problem is in the sugar industry."

Somebody has said that some people want to kill the sugar industry. When our President went to Uganda, he did not go there because of sugar. We said that if anybody is aware that the President signed any deal on sugar, let him come forward. Let us not politicise the plight of farmers in this country. Let us help them because we know them. Farmers will not have problems if they have money. This is because they will get something to eat. There is a big problem in Mumias Sugar Company. We cannot say that so and so has done this and that when we are not sure. We cannot do a report of witch-hunt.

I support this Report and God bless the sugar industry.

**Hon. Speaker:** Hon. Members, I can still see some interest on this Report. Yes, Hon. Thomas Mwadeghu.

**Hon. Mwadeghu:** Ahsante, Mhe. Spika. Ninaona Mwenyekiti ana wasiwasi. Nilikuwa nikitafuta tafsiri ya Kiswahili ya Ripoti hii lakini ninashukuru, imeandikwa kwa lugha ya Kiingereza. Nitachukua nafasi hii kuwatafsiria wale ambao labda lugha ya kimombo inawaleta shida.

Tumeisoma na kuelewa Ripoti hii. Ninaomba nichukue nafasi hii kuwapongeza Wanachama wa Kamati husika. Hii inaonyesha wazi kwamba ukichukua fimbo na kuwachapa watu fulani, wanaamka. Tulipomwambia Mwenyekiti hapa kwamba wanazembea katika kazi yao, walifanya bidii na kuhakikisha kwamba ripoti hizi zimeletwa Bungeni na hivi sasa zinashughulikiwa.

Ninaomba ripoti kama hizi zinapofika Bungeni na kujadiliwa, Kamati Tekelezi – ambayo inahitajika kutekeleza maamuzi ya Bunge – iyatekeleze maamuzi hayo. Sioni maamuzi ya Bunge yakitekelezwa. Ninasema hivi kwa sababu niko na ushahidi kuhusu ripoti nyingi ambazo zimepitishwa na Bunge hili lakini mpaka sasa hakuna pendekezo lolote ambalo limetekelezwa. Kamati ambayo inahusika na masuala ya sukari imetueleza na kufafanua jinsi hali ilivyo duni katika sekta ya sukari humu nchini. Tunasubiri tuone iwapo Kamati Tekelezi itafuata maagizo ya Bunge, ambayo yameandaliwa na kila mtu ameyasoma na kuyatilia maanani ili tuyafuatilie.

La muhimu ni kwamba sukari inatumika kwa njia ya kawaida na takriban watu wote humu nchini. Tukiwa na upungufu wa sukari, utasikia kelele kutoka pembe zote za nchini hii. Tukiwa na mapendekezo yanayoweza kuiboresha sekta ya sukari nchini, ni bora kuyatoa. Inastaajabisha kwamba hata fedha zikitengewa shughuli ya kuboresha viwanda vya sukari, punde tu zinapowasili kwenye kampuni husika, pesa hizo hupotea. Kampuni ambayo ilikuwa maarufu wakati nilipokuwa chuoni na wakati nilipoanza kufanya kazi ni kampuni ya Sukari ya Mumias. Kampuni hiyo ilikuwa imebobeza enzi hizo; kila mtu alikuwa akiisifu. Hivi leo kila mtu anastaajabu ni kitu gani kimetokea katika kampuni hiyo ndiyo ikajikuta katika hali yake ya hivi sasa. Sababu ni ufisadi na wizi ama ni utendakazi duni? Sababu ni sukari yenye bei rahisi inayoingizwa nchini? Wakati umefika wa kujiuliza ni lini tutahakikisha kwamba viwanda vya sukari ambavyo tumevianzisha humu nchini vimeimarika na kutimiza malengo na matakwa ya wananchi.

Mhe. Spika, utakumbuka kwamba humu nchini kulikuwa na viwanda vya makonge, bixa, korosho na nyama, miongoni mwa viwanda vingine, ambavyo hivi sasa haviko. Kwani nchi yetu ina nini? Aidha tunaanzisha viwanda tukiwa na nia ya kuvipora baadaye ama utendakazi wetu ni hafifu. Wakati umefika wa kujiuliza: “Jamani, tunaenda wapi Wakenya, na ni kitu gani tunachohitaji kufanya ili tuiboreshe hali hii?”

Katika sehemu ya magharibi ya nchi, wananchi wengi wanategemea sukari katika maisha yao ya kila siku. Wakulima hupanda miwa ambayo wanaitegemea kuwaelimisha watoto wao na kupata ajira zinazowawezesha kulea familia zao. Ni kitu gani kimetokea hivi sasa? Hivi sasa, watu wamefadhaika na kukata tamaa. Hawana mbele wala nyuma kwa sababu ya mambo ambayo tumeyaona kwenye Ripoti hii. Ripoti hii imeeleza kwamba kuna ufisadi wa hali ya juu katika sekta ya sukari humu nchini. Kuna masuala ambayo hayajatekelezwa vizuri. Mara nyingi Serikali huleta kampuni kutoka nje kusimamia utendakazi katika viwanda vyetu vya sukari lakini punde wasimamizi wa kampuni hizo wanapowasili humu huangalia na kuona kwamba kuna nafasi ya kujitengenezea fedha.

Mhe. Spika, kwa sababu tumeisoma Ripoti hii na kuielewa, ninaiomba Kamati Tekelezi ya Bunge iyafuatilie mapendekezo yote kwa uangalifu angalau tuweza kugeuza sura ya sekta ya sukari na kuihifadhi.

Kwa hayo machache, ninaunga mkono Ripoti hii.

**Hon. Speaker:** The Committee is scheduled to present a progress report tomorrow afternoon. Therefore, its Members should listen to what the Members of this House are saying. Let us now have Hon. Richard Makenga.

**Hon. Makenga:** Thank you, Hon. Speaker, for giving me the opportunity to contribute to this very important Report on the crisis facing the sugar industry in Kenya. I support the Report as amended.

The Committee deliberated and looked into very many aspects of the sugar crisis in Kenya. There are some very pertinent issues that affect sugarcane farmers. The farmers' plight has never been considered in a positive manner. Sugarcane farmers in western Kenya are very hard working. They know very well that, that is where they earn their living and get monies to pay school fees for their children. However, they are never motivated. Subsidised fertilisers normally arrive when the rainy season is over. This demoralises farmers to an extent that they do not feel like continuing to grow sugarcane.

The other issue is on unethical practises by some sugarcane millers. It has been reported in this Report that there has been sugarcane poaching. Sugarcane millers have some designated areas within which they are supposed to operate or have farmers grow sugarcane on their behalf. According to this Report, a company like West Kenya does not have a single contracted sugarcane farmer but it buys sugarcane from farmers who have been contracted by other millers. The Committee on Implementation should come out very strongly and ensure that such unethical practices by some millers are stopped so that farmers and millers can enjoy their relationships.

According to this Report, West Kenya Company has constructed a waybridge at a place called "Tanga Kona". The purpose of the footbridge is to access sugarcane from farmers contracted by other millers. That is unethical practice. I would partially blame the Kenya Sugar Board (KSB) since they are the ones who regulate the sugar industry in Kenya. They allow some millers to encroach into other millers' zones. The KSB should be investigated to establish why they allow some millers to engage in malpractices.

I also want to comment on the issue of importation of sugar. This practice has reached very high proportions as a result of impunity. Sugar is imported in containers that pass through scanners and a battery of Government agencies.

Hon. Speaker, it is high time the Government came out strongly and gave a warning to the officers who man these borders and entry points in this country to make sure that sugar is not imported into the country illegally.

Sugar production has been made expensive in this country. The cost of production in Kenya is US\$ 870 per metric tonne while in a country such as Brazil the cost is US\$ 300 per metric tonne. There is a large disparity in terms of the cost of production. So, this cheap sugar is imported from those counties whose cost of production is low. It ends up in this country and competes with the sugar industry in this country. Therefore, the cost of sugar importation should be raised to the level of the cost of production in this country.

Sugar falls under the category of special commodities. The Kenya Sugar Board should come up with a way of protecting sugar farmers in this country and ensure that the farmers' plight is addressed. I do not think that the sugar crisis has been brought about as a result of

globalization. It is important that we protect our industry so that our farmers get empowered. Our farmers should not be disempowered by importing cheap sugar.

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

**Hon. Speaker:** Let us have Hon. Cecilia Ng'etich.

**Hon. (Ms.) Ngetich:** Thank you, Hon. Speaker for this opportunity. I wish to add my voice to what my colleagues have said. I support the Report. Over the years, there has been a tendency of killing our industries. A number of them are not operating now. The sugar industry has had historical and perennial problems. Why they have never been solved leaves a lot to be desired. Sixty five per cent of our youth are out their “tarmacking” because there are no industries to absorb them. As a result, we are entrenching poverty instead of alleviating poverty.

Resources such as time and money have been put in this Report. The only way the public will get value for their money is to see that there is proper implementation. We do not want to be a country where we are known for producing very good policies but they are hardly implemented. We are known in this House to be producing very good reports and yet none is implemented.

I do not want to blame the Committee on Implementation but apart from them monitoring, there should be very clear procedures and actions to be taken should they find that there are people curtailing the full implementation of this Report. We want to see heads rolling and money recovered. It is not just enough to mention someone and take him to court. There should be a way of recovering the amounts of money that are lost due to negligence or embezzlement.

It is time to be serious as a House. We will need reports from committees as to how far they have gone in implementing the reports that are under their responsibility otherwise, the Committee did their best. They have unearthed the problem. We need to save farmers from the agony of losses because farmers rely on sugarcane as suppliers or sugarcane cutters so that they get money to pay school fees. If they are not able to educate their children, we end up with illiterate children and poverty continues within that community.

As per the Report, the people killing the sugar industry are the elite. We have seen reports to the effect that so much sugar has been impounded costing millions and billions of shillings. If you follow the reports keenly, you will realise that it is not a simple person who can afford such an amount of money to import sugar.

So, when you try to follow up, there is the idea of going for the “small fish” and not the “big fish”. We want to see the law being applied to all. Let us see heads rolling when there are mistakes committed. So, the Report should be implemented to its fullest to save these farmers from the agony that they face.

Thank you.

**Hon. Speaker:** Let us have the Member for Shinyalu.

**Hon. Anami:** Thank you, Hon. Speaker. I would like to support the adoption of this Report. This Report requires much deeper consideration and this can come through amendments as well as implementation. It has touched on many pertinent issues that have led to the crisis that we experience in the sugar industry. We should get a little deeper especially on investigation. I would like to see an analysis which shows the socio-economic situation of communities that have been involved in this business.

Live has changed in these sugar zones. People set aside their fields to plant sugarcane and so they cannot grow the traditional crops they used to such as maize and potatoes. They

changed their lives and culture to the extent that if this crisis continues, it is going to have a long-term impact on our socio-economic being in this country. We need to find ways of restoring this situation because it can happen.

Many of the situations that we find ourselves in the sugar industry are because of corruption. People do things outside the scope of law. They are greedy and literally stealing. We need to confront these vices. We need to come up with strategies that will confront these vices in such a way that no one will ever wish to make a mistake of stealing from farmers.

Hon. Speaker, there is also the element of indiscipline in the public service. Most of the sugar factories that have fallen are those managed by the Government. This is because of impunity. Most Government institutions are targeted to be cash cows. The other day I was reading about the National Social Security Fund (NSSF) where people who had been asked to step aside subsequently sneaked back to NSSF and were working without the consent of the Board of Management. This is lack of discipline and impunity of the highest order. The same has also happened in the sugar factories. We need to have discipline and standards of ensuring that discipline in the public service is guaranteed and achieved.

This House should be at the forefront in setting those standards. We should come up with conditions that will make public officers working in such institutions do the right thing and ensure that they have achieved the set goals.

We also need to promote prudence. The cost of producing sugar in this country is all the time high because we have developed a “don’t-care” attitude. We do not care how much sugar we sell. We do not care about the cost at which we produce it. That is why we even go out of our way to import cheap sugar. We should engage the right people, like agro-economists, to give us the right dimensions in dealing with the sugar industry. We will then not have to import cheap sugar because our own sugar will be cheap.

Hon. Speaker, I would like to differ with my friends on the suggestion that we should keep the price of sugar high. We should keep the cost of production low so that the price of sugar can be even lower. That way, we will be promoting our own socio-economic scale. We will also be promoting consumption from within and we will not require importing at all.

There is also the issue of the cost of production of this Report. We have heard of several meetings that were held. I am sure that the Chairman will talk of several retreats that the Committee has gone to in order to come up with this Report. We still see some unfinished businesses in it. We need to find a way of engaging specialists – people who can come up with baseline reports – so that when the Report comes to this House, it does not only list problems but also provides solutions and strategies. The decisions that we will make hence forth, and the directions that we will give as a House, will be from an informed position.

There has been allusion to a report by the KPMG. The report referred to is a draft. The recommendations of that forensic audit report have not been taken care of. We cannot make long-term recommendations on the basis of a draft report. There should be a way of getting forensic audit reports on these matters. There should be a way of getting the truth about everything that is alleged to avoid the blame game we find ourselves in all the time, in which case we shame ourselves because we do not have enough information.

I would like to propose that we follow up the issues that have been raised by the Committee in this Report to the end, even if it means engaging consultants and people who have information. Such people should be able to dig out information and carry out basic research to



give us information on how the farmer in the village can come up, and propose ways of dealing with these issues.

We have some peripheral issues which are serious. For instance, how do farmers produce their sugarcane? How do they deliver it to the factory? How is the sugarcane weighed? How much are they paid? How much do they lose? There is a lot of wastage that some farmers end up committing suicide because they cannot get what they expect. At the beginning, it was interesting. People in Mumias married up to six wives because they had a lot of money. All this disappeared because thieves set in and stole all the money. The wives and children they had given birth to are a serious problem to the community. Thank God, the people of Shinyalu were not very much involved in the sugar business. I urge them to continue with the maize business.

Hon. Speaker, with those remarks, I support.

**Hon. Speaker:** This sugar business will make them marry 20 wives!

*(Laughter)*

Hon. Members, I am going to cut debate on this issue because several Members have contributed to it. There is a lot of business that is before the House. I will, therefore, urge Members not to repeat themselves or repeat what others have already said.

Next is Hon. Bady Twalib.

**Hon. Bady:** Ahsante sana, Mhe. Spika, kwa kunipatia fursa hii ili niichangie Ripoti hii.

Kwanza, ninataka kuiunga mkono Ripoti hii inayozungumzia mambo mengi yanayohusiana na sukari katika nchi yetu ya Kenya. Kama tunavyojua, zaidi ya watu milioni sita nchini wanategemea sekta hii. Shida kubwa katika sekta ya sukari ni uagizaji wa sukari kutoka nje. Hili ni jambo ambalo linavifanya viwanda vyetu kuvurugika ama kutoendelea vizuri.

Jambo lingine ambalo ningependa kulizungumzia ni ufisadi na usimamizi mbaya wa viwanda hivi. Ninataka kusisitiza kwamba hizi ndizo sababu ambazo zinaleta shida. Tunastahili kujua ni kwa nini viwanda vyetu vinaanguka, na ni shida gani zinazoikumba sekta ya sukari.

Mhe. Spika, ni vyema kuona kamati tekelezi ikifuatilia suala hili na kuhakikisha kwamba Ripoti hii imetekelezwa kikamilifu na kwa wakati unaofaa. Tumeona kamati nyingi zikiwasilisha Ripoti zao Bungeni lakini Kamati Tekelezi haifuatili na kuhakikisha kwamba ripoti hizo zinatekelezwa vilivyo. Tunajiuliza ni kwa nini viwanda vya sukari vinaanguka nchini Kenya? Hatuzungumzii kiwanda cha sukari cha Mumias peke yake bali tunazungumzia kiwanda cha sukari cha Ramisi, na kiwanda cha nyama cha KMC kule Mombasa, ambacho kiko katika constituency yangu. Tunasikitika kwamba viwanda hivi vinaendelea kuanguka badala ya kuimarika. Vinatusababishia matatizo makubwa. Bidhaa hii adimu, ambayo watu wanataka kuitumia, haitatumika kwa sababu kuna shida katika viwanda hivi.

Pia, maafisa wa KRA ni lazima wawe waadilifu na wafanye kazi yao vizuri. Tunaona bidhaa zikiingizwa nchini bila kulipiwa ushuru. Hatimaye watu wanaagiza bidhaa kutoka nchi za nje na kususia kuvikuza viwanda vyetu. Kwa hivyo, ninayaunga mkono yote yaliyopendekezwa kwenye Ripoti hii ili wale wote ambao walifanya uhalifu, na wahusika kwenye mambo yote mabaya, wachukuliwe hatua za kisheria na kuadhibiwa.

Mhe. Spika, kwa hayo machache, ninaiunga mkono Ripoti hii.

**Hon. Speaker:** Hon. Members, I put the Question, which is that the Mover be called upon to reply.

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

**Hon. Speaker:** Let us now have the Mover.

**Hon. Nooru:** Thank you, Hon. Speaker. At the outset, I want to thank the Members of the Departmental Committee on Agriculture, Livestock and Cooperatives; the secretariat of that Committee and the Members of this House for the support they have given us on this Report. This Report has passed through many thick and thin issues. At last we have managed to bring it to the House after the delay. As has been said, we have had many challenges in bringing this Report to the House. Finally, we have to conclude this debate and I thank God.

I want to set the record straight and clear. The Committee's terms of reference as stipulated on page 5 are very clear and categorical. The notion that the Committee was specifically investigating Mumias Sugar Company is neither here nor there. Mumias Sugar Company is just one among the many sugar companies that have faced many problems in this country. We found that the company had problems because it imported, exported and was mismanaged. There were very many issues. I was of the opinion, as the Chair of the Committee that Mumias Sugar Company needs to be investigated as an entity, and not generalising its problems with those the sugar industry faces. So, the issues that the Committee or Members of this House are saying only affect Mumias Sugar Company are neither here nor there. That has to be clear in the mind of every Member or the nation.

The second issue relates to imports which have killed this sector. This is known to everybody. My Committee went further to investigate the Director-General, whom we requested to give us the names of those importers, the so-called sugar barons or the untouchables of this country. As I speak here, we have not got those names. I have called the Inspector General of Police and asked him to tell us how sugar from Kismayu which is hundreds of kilometres away finds its way into this country, but we have not had an answer up to now. It is logical that, maybe, a town along the border can smuggle sugar for consumption purposes. However, it does not add up how tonnes of sugar can cross the border into the country with such high number of police roadblocks without being detected. So, I want to put the Government on notice on the issue of sugar smuggling. This is more so from Kismayu to this country. We suspect this sugar is funding terrorists in this country. So, the Government must look into this matter from the security angle and not only from the economic angle. The Government has to put on notice the sugar barons, the KRA officers, Kenya Police, KEBS and the inter-agencies as recommended in the Report. The Government should act decisively and deal with these issues once and for all.

The third issue concerns privatisation of the sugar sector. This is the way to go. I am saying this because the millers that have problems today are owned by the public. The private millers which are small are doing well and have no problems.

A Member has said here that West Kenya Sugar Company started with obsolete machines which it bought from Mumias as scrap. To date the machines are running. Butali and Kibos sugar companies are also running. Why Mumias? Why do you have to bail out the sugar sector every now and then? The only way out, and as has been recommended by this House, is for the Government to pull out of this sector and privatise it. The impediment in privatising the sugar industry is politics. When Members from sugarcane-growing areas defend some of their people, they kill their people. This is the only sector that the Government has protected since Independence. It is the only sector that the Government has been allocating billions and clearing

debts amounting to billions of shillings belonging to those factories. Fifty-one years down the line we are still bailing out sugar factories. So, members should stand up and say that the Government should privatise this industry because farmers only want their sugarcane to be sold.

I heard a Member say that he is clearing sugarcane that has been in the farm for 48 months. How do you sell when there is nobody to mill? If there are those who have not invested in sugarcane but farmers sell to them, it is a poaching issue. The Indian factories pay on time and farmers are happy with them. That is why they are running away from Government mills because they do not pay.

The Government has tried the best. The COMESA protocol has been extended by six times to protect the sugar industry but that should be the final one. This is the only commodity that the Government levies 110 per cent taxes in an effort to protect it. Therefore, people who come from those areas must stop politics, because that is the only way that it can survive and thrive. You should deal with the sector from the economic point of view.

The final point I want to make relates to the regulatory body. The regulatory body which replaced the Kenya Sugar Board is the Agriculture, Fisheries and Food Authority (AFFA) which has been in existence for the last three years. Up to now that body is not operational because of the way the Act is crafted. It was supposed to elect eight members from different sectors of sugar, coffee, tea, pyrethrum, cotton and other sectors. So, the eight members of the Board are supposed to be elected by Kenyan farmers. That is almost like going into national elections. It has become impossible to elect eight members throughout the country to represent farmers on the Board. So, we need to amend the AFFA Act so that, at least, this Act can be operational and the regulator can do the job it is supposed to do.

With those few remarks, Hon. Speaker, I beg to reply.

**Hon. Speaker:** Move for the adoption of the Report as amended.

**Hon. Nooru:** Yes, Hon. Speaker. I beg to move the Motion as amended.

**Hon. Speaker:** Hon. Members, the Question may not be put for reasons which are well known to you, part of which I have given suggestions about what to do with Article 121 of the Constitution.

Hon. Chepkong'a, as we move closer to the next general elections, we need to be worried about the continued existence of Article 121 of the Constitution.

Let us move on to the next Order.

*(Putting of Question deferred)*

#### SENATE AMENDMENTS TO THE CLIMATE CHANGE BILL

**Hon. Speaker:** Yes, Hon. Amina Abdalla.

**Hon. (Ms.) Abdalla:** Thank you, Hon. Speaker. I beg to move the following Motion:-

THAT, the Senate Amendments to the Climate Change Bill (National Assembly Bill No.01 of 2014) be now considered.

The Climate Change Bill, 2014 was passed by this House on 5<sup>th</sup> March, 2015 and subsequently taken to the Senate. It was returned on 3rd December, 2015.

Hon. Speaker, the Senate made several amendments to the Bill, many of which we, as a Committee, agree with. We only disagree with three of them. Many of the amendments proposed by the Senate are an improvement to the issues raised or are addressing typographical errors.

In the interest of time, let me deal with only the three matters which we disagreed with the Senate. The first one is on the amendment to Clause 7 of the Bill in which the Senate is proposing the deletion of representation of civil society in the Climate Bill Council. The issue of climate change has been well articulated and involves the civil society a lot. We feel that this removal would make this Council weaker and not stronger. So, we declined to agree with the Senate on the matters of the amendment to Clause 7.

The other amendment is still on Clause 7, but we disagree with the Senate on this. The Senate is asking the Members of the Council who are not representing Government entities to be vetted by both the National Assembly and the Senate. Article 95(5)(b) provides:-

“The National Assembly exercises oversight of State organs.”

It is our contention that Article 95(5) of the Constitution provides that the National Assembly is responsible for oversight of State officers. Article 96(4) says:-

“The Senate participates in the oversight of State officers by considering and determining any resolution to remove the President or Deputy President from office in accordance with Article 145.”

Under Article 96(4), the role of the Senate with regard to oversight is limited to the process of impeaching the President and the Deputy President. So, we think that that amendment will be unconstitutional and as such we will not be supporting the same.

The other amendment that we have a problem with relates to the fine of Kshs1 million for a person who disobeys the instructions of the Council. The Senate has increased this to Kshs10 million. We believe that this is punitive given that most of the industries in Kenya are mainly small and medium scale. As such this figure is punitive and we would like this House not to approve that amendment.

The Senate has also added New Clause 25(A), which provides for incentives to persons who are involved in mitigating the effects of climate change. We support this amendment given the fact that it is adding value to the Bill. There were many other amendments by the Senate including the one on Clause 5 that includes the Deputy President as the Vice-Chair of the Council. We support this amendment but if it passes, there is need for consequential amendments because it eventually increases the number of members to this Board from nine to 11.

Since, I am not in the mood of fighting with the Senate, I want to just support these amendments and ask Hon. Chachu to second.

**Hon. Speaker:** So you beg to move?

**Hon. (Ms.) Abdalla:** I beg to move, Hon. Speaker.

**Hon. Speaker:** It looks like you are in the mood of fighting.

**Hon. (Ms.) Abdalla:** No, I stopped.

**Hon. Speaker:** Let us have Hon. Chachu Ganya.

**Hon. Ganya:** Thank you, Hon. Speaker. I want to second the Senate amendments to the Climate Change Bill. Largely, the Senate agreed with the proposition of the National Assembly except for three key areas. Where we disagreed and did not concur is simply because of constitutional reasons or we really felt that we need to have further dialogue before we finalise this Bill.

The amendments from the Senate added value and we took them in very good spirit. For instance, they really felt that in establishing the National Council for Climate Change, the civil society should not have any role being represented in this Council. Globally, civil society is the main driver of climate change agenda. We felt that the civil society in Kenya should also play

their role in terms of safeguarding and ensuring that the Climate Change Bill, once it becomes law is well enacted. We are one of the few countries in Africa, and maybe in the world to have this law. It is a very progressive law. We would really like to see to it that all the key players play a role in ensuring that this law sees the light of day and is well implemented.

As, my Chair mentioned on the issue of the fine, our position from the National Assembly was Kshs1 million. The Senate amended it to Kshs10 million. We felt that was punitive and we need further dialogue with them because most of the companies are not that large or well endowed to pay such a fine.

The final one is about the Constitution. We felt that when it comes to vetting of the Members or the people who work for State organs, that role lies with the National Assembly. The Senate does have a role in terms of vetting but it is purely stated that their role is only when it comes to issues of impeachment of the President or Deputy President. We felt that if we agree to that amendment by the Senate, we might actually violate the Constitution and that is why we need to have further dialogue with them so that they can realise our thinking on that particular amendment.

Hon. Speaker, with those few remarks, I want to second the Senate amendments to the Climate Change Bill.

Thank you.

**Hon. Speaker:** Very well. Hon. Members, I think even as I propose the Question, it is fair to appreciate the good work and the spirit with which our own Committee on Environment and Natural Resources has done. The National Assembly passed this Bill on 5<sup>th</sup> March, 2015 and referred it to the Senate that sat on it until 3<sup>rd</sup> December, 2015. I think that does not show very good synergy between the two Houses. There is need for us to cooperate well to ensure speedy passage of legislations that require consideration by both Houses.

*(Question proposed)*

Do I see a desire to contribute? Hon. Members, if you listened carefully to the mover and seconder, you will find that the issues that the Committee has disagreed with the Senate are the two proposed amendments to Clause 7. They are with regard to involvement of civil society and the penalty. I think the other one is the inclusion of New Clause 25A and Clause 32.

Hon. Members, those of you who may wish to contribute to the consideration of the Senate amendments remember your contribution will be limited to those areas which the Committee has recommended.

Yes, Hon. Makali Mulu.

**Hon. Mulu:** Thank you, Hon. Speaker. The Chair is trying to gag debate by saying it has nothing to do with budget. You have to realize that to get a PhD, you are a general academician. So, when topping you have to take it up and handle it properly. This goes to Moses, who thinks that law is the only thing that matters in this world. Actually, law is only cramming.

Anyway, let me just make my contribution to these amendments. My first point is what the Chair has said about her not being in the mood of fighting and because of this I believe the Committee Members also have let go of some of the things they thought were important that raised a bit of concern. If we make laws and are scared of saying the truth because we do not want to seem to be antagonising the Senate that will not be good for this country. All said and done, I go by the Committee's recommendation.

Under Clause 32, the Senate proposes that we increase the penalty from Kshs1 million to Kshs10 million. The Committee has not supported that amendment. I look at this from two perspectives. The first perspective is that a very low penalty of Kshs1 million would encourage people to commit that mistake and say they could always pay. A very high penalty of Kshs10 million will bar people from doing what is supposed to be done and that could open the gates for corruption. People may say that since the penalty is very high, they would rather be corrupt and pay a bribe for them to get out of that particular problem. Even as they reject the Kshs10 million penalty, the Committee would have been fair to Kenyans by agreeing on a middle-ground of Kshs5 million so that it is not too low to encourage people to commit crimes since they can pay the penalty, or too high to open doors for bribery. The Kshs10 million fine is quite high and Kshs1 million is too low. I would be more comfortable with a figure of about Kshs5 million.

The other area is the issue of participation of the civil society in this Council. I support the Committee's observation. In this country, those doing a lot of work and more so, at the grassroots relating to climate change and providing leadership in this area are the civil society rather than government organisations. It would be unfair to lock this important stakeholder out of the whole process. At the same time, you realise that these civil society bodies have qualified people in terms of expertise. These people can help make serious contributions on matters to do with climate change. I support the Committee on that observation that the civil society should be included.

On the matter of the Senate being involved in vetting, I am a bit concerned. This Bill was passed by the National Assembly in March, last year. After that, it was forwarded to the Senate for debate. It came back to the National Assembly in December. That took an average of nine months. I support the observation to leave out the Senate in the vetting process. If that is the amount of time we will take to sort out matters between the two Houses, then we would rather minimise situations where the two Houses are involved. I support leaving out the Senate in the vetting of the Council members.

With those few remarks, I support the Committee's observations. I wish that the penalty was brought down to Kshs5 million instead of Kshs10 million.

**Hon. Speaker:** Hon. Members, in keeping with our procedures, for us to go to the Committee of the whole House we have to put the Question. As I was telling Hon. David Ochieng', you can see the problems that Article 121 is giving us. Not that the civil society is wrong in everything it does, but they must not be allowed to involve themselves in things that they are not good at. We should proceed but we cannot because of Article 121. It is also fair to appreciate that because of what the Committee has said, if that is carried by this House, then Article 113 will set in, where a Mediation Committee will be formed so that they can negotiate on those three areas.

Let us have Hon. ole Ntutu.

**Hon. ole Ntutu:** Thank you, Hon. Speaker for this opportunity. I rise to support this Motion on the Climate Change Bill.

The Chairperson has explained a lot on the amendments that the Senate proposed. They are self-explanatory. The Kshs1 million fine is okay because most of these small businesses would not be able to afford the Kshs10 million penalty. It is very punitive.

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

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

The civil society is a very important organisation in Kenya. It has brought a lot of changes particularly during the new Constitution. It has done a lot for this country. It is good for it to be included as part of the Council instead of removing them.

The same thing applies to the issue of oversight. It is very clear in our Constitution that oversight is the role of the National Assembly. The Senate was trying to look for a job to do. This is the prerogative of the National Assembly and not the Senate.

I support the Committee's work.

**The Temporary Deputy Speaker** (Hon. Cheboi): Hon. Members, we should go to the next Order so that we can move quickly.

Next Order!

#### REPORT ON REALISATION OF NATIONAL VALUES/PRINCIPLES OF GOVERNANCE

**The Temporary Deputy Speaker** (Hon. Cheboi): Before I allow the Chief Whip of the Majority Party to move this Motion, Hon. Members, this is a matter that has been here for some time. In the next few days, we expect another report from the President when he comes to the House. We will not take a lot of time on it. In any case, for Members who want to contribute, we still have two other Motions which we will deal with so we will be quick on this one.

Proceed, Chief Whip of the Majority Party.

**Hon. Kato:** Thank you, Hon. Temporary Deputy Speaker. Before I move the Motion, I agree with your direction. The following three Motions, namely, Order Nos.11, 12 and 13 were laid on the Table of the House on 26<sup>th</sup> March, 2015. We expect His Excellency the President to lay similar reports for last year in a very short time, probably next month. Therefore, I wanted to alert the Members to be aware of that. The three Motions carry almost the same thing. So, I will not take much time.

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

THAT, pursuant to Article 132(1)(c)(i) of the Constitution, this House notes the Report on the Measures Taken and Progress Achieved in the Realization of National Values and Principles of Governance submitted by His Excellency the President on Thursday, March 26, 2015, laid on the Table of the House on Tuesday, March 31, 2015.

Hon. Temporary Deputy Speaker, His Excellency the President's Report brings about measures taken and progress achieved in the realisation of national values and principles of governance as enshrined in Article 10 of the Constitution. These values and principles give us sense of purpose and guidance on the choice and action that inspire our determination to build a cohesive and prosperous nation that is based on justice, freedom, equity and national unity.

The Republic of Kenya is a democracy founded on national values and principles of governance with the values that underscore our collective aspiration to transcend our ethnic, cultural and religious diversity and live in peace and unity as one indivisible nation. This is clearly shown through the establishment of a devolved government which has continued to give national values and national unity as well as powers of self-governance to the counties and further recognising the right of communities to manage their own affairs and ensure that

equitable sharing of national and local resources and decentralised State organs, functions and services are brought closer to the people.

Hon. Temporary Deputy Speaker, to protect and promote our national interest, national values and principles of governance, His Excellency the President has ensured that all the Government ministries, departments, and agencies contract and report on measures taken and progress achieved every year in the realisation of national values and principles of governance. This initiative of contracting will effectively harness the capacity of Government in addressing socio-economic inequalities, management of ethnic and other socio-cultural diversities, prevention and management of reconciliation of conflicting situations, ensure rule of law, security and order, address unemployment, challenges for our youth and enhance establishment of information communication and information sharing.

Hon. Temporary Deputy Speaker, His Excellency the President, through the Executive Order No.6 of March, 2015 directed ministries, departments and agencies to prioritise programmes and projects that have direct impact on citizen welfare in addition to implementation of their programmes and operations on the provisions and tenets of Article 10 of the Constitution, Public Finance Management Act, Public Officer Ethics Act, Leadership and Integrity Act and basic tenets of corporate governance.

The main objective of this Report is to re-examine the extent to which the national values and principles of governance were actualised in public institutions in 2014 that comprise of constitutional offices and commissions, independent offices, State corporations and Government ministries.

In a nutshell, His Excellency the President's Report has the following objectives:

- (i) Explains the progress made in relation to the commitments of the 2013 annual report.
- (ii) Outlines the measures taken in the realisation of the national values and principles of governance by public institutions in 2014.
- (iii) Highlights the progress achieved in the realisation of national values and principles of governance by the respective public institutions in 2014.
- (iv) Identifies the challenges encountered in the operationalisation process in 2014.
- (v) Recommendations on the way forward for effective operationalisation and institutionalisation of national values and principles of governance in 2015.
- (vi) Provides Executive direction and commitment towards greater achievement in operationalisation of national values and principles of governance.

On the way forward, His Excellency the President has recommended that there is need for:-

- (i) creation of a national identity and exercise of sovereign power by commitment to hasten policy formulation. Enactment of legislation and enhancing capacity in public institutions to address emerging security challenges;



- (ii) sharing and devolution of power through strengthening, collaboration and synergy among public institutions as well as enhancing institutional capacity and public awareness on devolution processes; and,
- (iii) protection of the Bill of Rights by enhancing inclusivity, equity, equality, non-discrimination and protection of the marginalized, creation of a coordinated approach and strengthening institutional capacity and building public trust and confidence and encourage reporting of cases of abuse.

I want to end there as I have just given a summary of what the Report contains. I am sure Members of this House have gone through it and will agree with me that those are the highlights of the Report.

With those few remarks, I beg to move. I would like to request Hon. Chepkong'a, the Chairman of the Departmental Committee on Justice and Legal Affairs to second.

**The Temporary Deputy Speaker** (Hon. Cheboi): Hon. Chepkong'a briefly second because the Mover has brought out almost every bit of the Report.

**Hon. Chepkong'a:** Hon. Temporary Deputy Speaker, indeed the indomitable Hon. Katoo has brought out the very salient features of the Report that the President tabled in the House last year.

I would like to mention a few things that the President mentioned while tabling this Report which I think are key and important. The President mentioned that he is committed to the full implementation of the Constitution. He pointed out in particular important articles in the Constitution that deal with national values and principles of governance as enshrined in Article 10 of the Constitution that requires that all State organs, State officers, public officers and all persons whenever they interpret the Constitution to do so in a manner that will be beneficial to all Kenyans in making policy decisions.

In this regard, the Government formulated Sessional Policy No.8 of 2013 which continues to provide a broad policy framework to determine Kenya's socio-economic policies as well as political transformation in line with Vision 2030.

Hon. Temporary Deputy Speaker, this country continues in its quest to ensure we have good governance to have a strong national identity, effective representation that will provide good leadership, equitable allocation of resources and opportunities, good governance and sustainable development in this country. That has been the key guiding principles that the Jubilee Government has continued to pursue since the President spoke to this House last year.

The Government has continued to pursue a very enlightened policy with regard to national prosecution policy that provides guidelines on prosecution through enshrining that the rights of arrested persons are safeguarded and accorded the right to fair hearing in accordance with Articles 49 and 50 of the Constitution. Towards this end, this House passed the Fair Administrative Action Bill 2014 as required under Article 47 of the Constitution. That Bill ensures that the rights of the people are honoured. It ensures that State officers are fair and expeditious in the manner in which they make decisions. This is to ensure that it promotes expeditiousness, reasonableness, and procedural fairness with regard to administrative actions that these State officers are required to take from time to time. We passed many legislations during our last Session.

The Leader of Majority Party indicated that we passed over 30 legislations during our last Session. That was commendable for this House. As you know, it was brought by the Executive

to ensure that we have a legal framework for provision of legal aid towards ensuring justice for all persons as stipulated under Article 48 of the Constitution.

Hon. Temporary Deputy Speaker, we have passed many other Bills like the Victims Protection Bill, the Persons Deprived of Liberty Bill and the Marriage Act of 2014 which was, indeed, the highlight of the last Session. This will ensure that family rights relating to systems of marriage and the minimum marriageable age are well enshrined in the law that we passed. It was brought to this House by the Executive. That is a very important piece of legislation that has brought together or amalgamated about five or seven legislations. We now have one Marriage Bill to govern marriage in this country including the customary law which was never governed by any law. Now my friend, Hon. Ochieng, seated lonely at the back could as well enjoy the benefits of customary law. As you know, that law is practised in the country where he comes from. The law has now been codified. He does not need to wonder around.

**The Temporary Deputy Speaker** (Hon. Cheboi): Hon. Chepkong'a, you should be---

**Hon. Chepkong'a:** The other one that I wanted to mention is with regard to Road 2000. The Government has worked very hard to ensure that dignity of the people is protected by providing infrastructural facilities that are commensurate with our development. The Government, through the Kenya National Highways Authority (KENHA), the Kenya Urban Roads Authority (KURA), the Kenya Rural Roads Authority (KERRA) as well as the Kenya Wildlife Service (KWS) has been maintaining roads in the entire country. As a result, many roads have been tarmacked. Under the new initiative of Roads 10,000, there was an attempt by the Government to come up with a new programme of ensuring that we tarmac roads which we did not succeed last year. But as you know, the Government came up with a new programme last year to ensure that 2,000 kilometres of roads have tarmac.

Finally, as required by Article 38 of the Constitution on political rights, the Government, through the Independent Electoral and Boundaries Commission (IEBC), has put in place very realisable and practical measures towards special voting for persons with special needs, particularly persons with disabilities, by ensuring that they are provided with adequate facilities when they go to vote. It should be flexible to ensure that they participate in the democratic activities of this country.

With those remarks, I second.

**The Temporary Deputy Speaker** (Hon. Cheboi): Very well. Hon. Deputy Leader of the Majority Party, maybe as word of advice, you might be wary about lawyers and teachers seconding your Motions. Those are the only two categories of professionals who are never taught to summarise. A lawyer would want to take as much time as possible and a teacher would always want to take 40 minutes. I hope Hon. Baiya will not be seconding you on the next one because you can be sure he will take a lot of time.

Once you have moved the Motion, the person seconding should not take more time than you.

*(Question proposed)*

I will give a chance to two Members from each side. I will be very strict on time because as I have said, this is a matter we should be expecting. I would probably give one Member, Hon. Ochieng, very briefly and another Member from the other side very briefly.

**Hon. Ochieng:** Thank you, Hon. Temporary Deputy Speaker. I am a stammerer, so, if you say very briefly, I may not say anything. Allow me to say a few things on this particular Motion.

**The Temporary Deputy Speaker (Hon. Cheboi):** I mean what I have just told you. If you think you want to contribute a lot, I will give you a chance in the next Motion.

**Hon. Ochieng':** Hon. Temporary Deputy Speaker, I want to contribute to this Motion in regard to the measures taken and progress achieved in the realisation of national values and principles of governance. The realisation of values and principles of governance in this country is a shared role. It is a joint role that must be played having in mind the fact that we are in this country together and the efforts we put in realising these values are to be taken by all of us not the Government alone.

I also start by saying that it really sometimes hurts that the values we are talking about are enshrined in our National Anthem. Like I said last year, and I want to say it today, some Kenyans do not know the words of our National Anthem. It has our values and all the things we are talking about. For us to start talking about the national values and principles of governance, we must start at our roots by knowing what our national call to action is as enshrined in the National Anthem.

In terms of what has been done, a report was brought out last month talking about how our youth think it is good to be wealthy or rich regardless of where you get the wealth from. It worries you and it goes against what we stand for in terms of values. It tells you that probably most Kenyans do not know what our values and governance principles are. I would urge the Ministry of Education, Science and Technology and other concerned Government Ministries to ensure that, at least, Kenyans know our values and principles of governance as enshrined in this Report on Page 2.

It will be important, going forward, to realise these values that Kenya remains a united country, cohesive and the 47 counties do not see themselves as independent governments from the national Government. We have one Government, namely, the Government of Kenya and the other 47 are counties. They need to know that. The idea that people feel that there are 48 countries in this country is wrong. I heard Hon. Chepkong'a saying that I come from a country where they have customary marriages. I come from Kenya and not from a county.

In terms of cohesion and going forward, we need to realise that our system of governance has one national Government and 47 counties and there are no 48 governments in this country, so to speak. In terms of sustainable development, in planning our economy and our investments, for example, the Standard Gauge Railway (SGR), which involves a lot of money, the Government should ensure sustainability by having more Kenyans participating and getting jobs in this process. I have not seen that happen in the SGR, in Galana and in the energy sector as indicated in this Report. I am happy with the laptops project. At least, we have now seen our universities being involved in the provision of laptops. It is going to help us grow and help create jobs.

As I finish, ethnicity, corruption and balkanisation of this country is not going to take us anywhere. It is high time the presidency and all those who work for him realise that this country is one, consisting of 42 tribes, and when giving jobs and any other opportunities, everyone should have an equal take on what happens in this country.

I beg to support.

**The Temporary Deputy Speaker** (Hon. Cheboi): Very well. I am going to give the Floor to Hon. Cecilia Ng'etich and I know that that she is a teacher by profession. Well, this is going to be brief. It definitely cannot be a 40 minutes lesson.

Proceed, Hon. Cecilia.

**Hon. (Ms.) Ng'etich:** Thank you very much, Hon. Temporary Deputy Speaker, for this opportunity. On the Report on the realisation of national values and principles of governance, indeed, the emphasis of public participation in our Constitution is very key in the sense that one would not respect the values and the principles that are formed if they do not participate in it. When you make laws for the people, they have to participate and understand in order to have ownership.

Secondly, I recall that during the good days in school, we were taught about national values. There was a subject known as Civic Education. If that could be instilled at an early age, it would really make sure that children grow being very patriotic and understand the cohesive nature that we need to instil in our country. Therefore, we need to do a lot in the education sector to promote unity and cohesion. This should not divide us, but make us know where we have come from. I remember one time the curriculum was saying that if you are in the Rift Valley, you only have to learn about the mountains and the tea in the region and not the features that are found in other areas.

About social inclusion, indeed, the country has come up with laws that will recognise representation and equity. However, I still want to say that education is an equaliser. When one goes to school, regardless of where you are, you will one day be able to alleviate poverty in your home or community. We talk of free and compulsory basic education. This basic education is from pre-school to Form Four. If this is the intent of the Government, then we are still very far from realising those principles of governance, national values and even social inclusion.

Finally, I want to talk about the rule of law. Laws are there and those who break them should face the wrath of the law. There are people who cannot afford to hire lawyers. So, in social equity, we also need to remember the legal aid for those who cannot afford to hire lawyers for representation, so that they are not locked out. We realise that if you are not strong, the rest who are strong will overcome you. In the animal farm, others are more equal than others. It is time we developed a monitoring and evaluation procedure to ensure that we realise the way the principles and the national values are disseminated to the people. This should be done from a cultural perspective.

Thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Cheboi): If we go with that speed, I will give a chance to one more Member. Let us have Hon. Bady Twalib.

**Hon. Bady:** Asante sana, Mhe. Naibu Spika wa Muda kwa kunipatia fursa hii na mimi nichangie Ripoti hii ya Maadili ya Kitaifa na Sera za Utawala. Hii iko katika Kipengee cha Kumi cha Katiba yetu ya Kenya. Ningependa kusema kuwa katika Ripoti hii yako mengi ambayo yametokea. Tumeona ugatuzi umetusaidia.

**Hon. Mwaura:** On a point of order, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Cheboi): Order! Hon. Mwaura, you have placed your card both on intervention and request. Which one is your preference? What is out of order? Order, Hon. Twalib! I see Hon. Mwaura has pressed the button. Let us hear what he has to say.

**Hon. Mwaura:** Thank you, Hon. Temporary Deputy Speaker. I request whether it is possible to reduce the amount of time that speakers take.

**The Temporary Deputy Speaker** (Hon. Cheboi): That should not be a major issue, Hon. Mwaura, because I can see Members have already reduced the time on their own. So, Hon. Twalib, let us proceed and see if we can save some time for people like Hon. Mwaura who would want to send a new year's message.

**Hon. Bady:** Asante sana, Mhe. Naibu Spika wa Muda. Kama nilivyosema, ugatuzi umetusaidia sana katika nchi yetu ya Kenya lakini ufiisadi bado umekithiri katika sehemu nyingi. Ni lazima tulishughulikie jambo hili vilivyo kama Serikali ili tuwe na maadili mema ya kujimiliki katika nchi hii. Pia, bado hakuna usawa wa kijamii katika kumiliki afisi nyingi sana katika nchi hii. Kuna kelele nyingi sana kutoka kwa jamii nyingi ambazo ni dogo. Kwa mfano, jamii yangu ya Wajomvu ni dogo sana katika nchi hii lakini inatambulika katika makabila ambayo yako hapa nchini. Bado makabila madogo kama haya hayajazingatiwa vilivyo.

Pia, ningependa kuunga mkono mwenzangu, Mhe. Ochieng. Amezungumza kuhusu usawa katika kugawanya kazi katika miradi mikubwa ya nchi. Tukiangalia kama vile mradi mkubwa wa Standard Gauge Railway, ambao unafanyika pale kwangu Miritini, vijana wengi sana bado wanalia kwamba hakujakuwa na usawa wa faida kutoka kwa mradi huu. Ni muhimu tujizatiti na kufanya usawa huu ili vijana wetu wafaidike katika maadili mazuri na tuishi na mipango mizuri ambayo inawekwa na Serikali.

Asante sana, Mhe. Naibu Spika wa Muda. Ninakushukuru kwa kunipatia fursa hii kuchangia. Kama nilivyoahidi nitachangia kwa dakika mbili, sikuongeza hata moja.

**The Temporary Deputy Speaker** (Hon. Cheboi): Thank you very much. Let us have the Member for Kibra.

**Hon. Okoth:** Thank you, Hon. Temporary Deputy Speaker. I appreciate the opportunity. I will also try to contribute quickly to this Report by the President. My first comment comes from Page 65, Item 190 of the Report, where the President says that the transition rate to secondary school has improved to 78 per cent. We need to make commitment to get that to 100 per cent to meet the requirements of the Constitution for free and compulsory basic education up to Form Four. That is important.

The free registration for examination in public primary and secondary schools is a good initiative, but it is also discriminatory against children who do not have access to Government schools and are forced to attend what are now known as informal schools or the alternative providers of basic education schools. Towards this constitutional commitment of access to education, the Government must make sure that beginning this year, we fully budget for this. The President has promised that in five years, he envisions a Kenya with free secondary education. We need to pull that sooner.

On the issue of exam fees, as we wait for full free primary and secondary education, we can start by next year making sure that we waive examination fees for all children in all schools. The Government needs to come up with a formal policy for private/public partnerships in education to make sure that the transition and completion rate from primary to secondary school is higher. That would help a lot. All the partners who are providing support to education of children should also get the capitation per child that they are educating. That will help relieve the burden on parents.

Item 196 talks about informal settlements, slum upgrading and investment in their social infrastructure. As a Member who represents Kibra Constituency, this is a project that would benefit our people, but it is going to slow. The Government has to come up with a more radical approach to it to make sure that the benefits of the housing upgrading in Kibra and similar places

benefit the citizens now and not 10 or 15 years from now. For instance, very sadly, we have over 1,000 modern housing units, one and two bedroom apartments, that have not been occupied over the last 16 months. They were built under the Slum Upgrading Project under the retired President Kibaki and former Prime Minister, Raila Odinga. We need to move with speed. It has been three years and the citizens are not benefiting.

Item 198 notes that the Ministry of Devolution and Planning was involved in the settlement of Internally Displaced Persons (IDPs). I regret to note that there is still a big number of IDPs in Nairobi whose interests were not taken in that programme. We recently met with the Truth, Justice and Reconciliation Commission (TJRC) victims who also, in light of issues such as these, need to be compensated. A reparation fund of Kshs10 billion that the President talked about needs to be activated in a manner that the victims of historical injustices in this country can seek help. I am thinking of people who were tortured, women who were raped and victims of similar crimes, but not just on land issues. That is an important point to wrap up.

One of my last two points is on Item 218, which mentions that the Ministry of Planning and Devolution built four police posts in Kibra Constituency to promote the rule of law and access to justice. This is a good first step. I hope the Ministry of Interior and Coordination of National Government will take the next step and realise the President's vision. The President promised security for all the residents of Nairobi, including those in Kibra Constituency. So far, we rely on a police station in Kilimani, which is in a different constituency with its own issues. The people of Kibra need their own police division with an Officer Commanding Police Division (OCPD), Officer Commanding Police Station (OCS) and a police post. I am even willing to spend the CDF money to establish those facilities because Kibra has been declared a district or sub-county. We are very grateful to the President and the Ministry of Interior and Coordination of National Government. That will really help us. For a long time, we have been relying on Dagoretti and Langata sub-counties.

My final point is on Item 247, which says that the Office of the Attorney-General has submitted universal periodic reports and country review reports. The Office of the Attorney-General, on behalf of the Government of Kenya, is also doing its periodic reports on implementation of the African Charter on Human Rights. These reports have been submitted to the Commission. That is important because for the last four or five years, the Office of the Attorney-General and the Government have failed to submit such reports. It was only in November last year that they submitted the first report. This House needs to hold the Ministry of Interior and Coordination of National Government and the Office of the Attorney-General accountable in meeting an international obligation. This House must be the one that ratifies, tables and looks at those reports.

With those remarks, I support the Report. I thank the President for the steps that have been taken. I am ready to work to make sure that more steps are taken to promote our national values and principles of governance.

Thank you.

**The Temporary Deputy Speaker** (Hon. Cheboi): Let us have the Mover replying.

**Hon. Katoo:** Thank you, Hon. Temporary Deputy Speaker. In replying, I just want to thank the Members who got a chance to contribute in support of this Report.

**The Temporary Deputy Speaker** (Hon. Cheboi): Order, Hon. Katoo! Hon. Mwaura, you will be the first to contribute on the other Report. I deliberately decided that you might be more useful if you have more time.

Proceed, Hon. Katoo.

**Hon. Katoo:** Hon. Temporary Deputy Speaker, I just wanted to inform this House that this Report was tabled, as I said earlier, in March last year, a year ago. Many of the recommendations and the emphasis in this Report have been implemented. I call upon the House to fast-track the debate and approve these reports, so that if some of the recommendations and objectives have money implications or some legislative frameworks are required for their implementation, we can have sufficient time to act appropriately in support of the Executive and more specifically, His Excellency the President, in implementing the constitutional functions.

I beg to reply.

**The Temporary Deputy Speaker** (Hon. Cheboi): Hon. Members, I will not put the Question on this particular Motion.

Next Order!

ANNUAL REPORT TO PARLIAMENT ON THE  
STATE OF NATIONAL SECURITY

**Hon. Katoo:** Hon. Temporary Deputy Speaker, I beg to move the following Motion:-

THAT, pursuant to Article 240(7) of the Constitution and Section 16 of the National Security Council Act, this House notes the Annual Report to Parliament on the State of National Security submitted by His Excellency the President on Thursday, March 26, 2015, laid on the Table of the House on Tuesday, March 31, 2015.

This is about security and I know Members may have a few issues to note. So, I will try to speed up. I am presenting this Report in fulfilment of the requirements of Article 240(7) of the Constitution of Kenya and pursuant to the provisions of Section 16 of the National Security Council Act, 2012, which require the President to give an annual report to Parliament on the state of security in Kenya. This Report presents the national security threats, both internal and external, that occurred within a complexity of legal, socio-cultural, economic and political context that shaped our public safety, territorial integrity and security positions within the regional and international space.

The report states that in the year under review, namely, 2014, the country faced a range of security threats that included global terrorism as manifested in the threat posed by the *Al Shabaab* terrorist group, which is affiliated to *Al Qaeda*. The *Al Shabaab* terror group continues to operate largely from our neighbouring state of Somalia. While efforts by the Kenya Defence Forces (KDF) within the ambit of AMISOM dealt decisive blows that degraded the capability of the terror outfit, the terrorist group continues to pose a threat to our country's security. During the year under review, there was a sharp growth in radicalisation of youth and violent extremism. This threat was associated with some youth who returned from Somalia. During the same period, other international crimes like poaching, human trafficking, narcotic trafficking and cyber crimes continued to undermine our national security as shown on the annexes attached to this Report.

It is also noted that most of the international crimes are fed into the funding and resourcing of terrorism. It is, therefore, urgent, as witnessed in the increase of insecurity in some law and order sectors, particularly ethnic and inter-communal conflicts, sexual and gender-based violence and smuggling of contraband goods. It is also important to note that traffic-related

crimes declined, but more needs to be done to reduce road carnage and the threat associated with proliferation of small arms and light weapons.

To counter this trend, the Government has put in place a number of measures including establishment of an inter-agency coordination unit to enhance institutional synergy in the war against terrorism. There is also the enhancement of security vigilance within and around our key strategic installations including Parliament in terms of sustenance of ground, aerial and maritime surveillance, nurturing the goodwill of our communities through the *Nyumba Kumi* community policing strategy and the establishment of national counter radicalisation strategies. There is also the establishment of a financial reporting centre to analyse financial transactions and work with law enforcers on financial crimes and the enhancement of the capacity of our security agencies through hiring of additional personnel and provision of modern equipment. This has been witnessed in the last few financial years when the Government doubled the intake of security personnel during recruitments.

The Government sustains enforcement of legislation aimed at improving national security and public safety while administratively, it undertook some institutional reforms that continued throughout the year under review. At the same time, the Government continues to refine and implement its commitment to vulnerable groups. This has led to a marked improvement in security and service delivery. In order to enhance coordination and management of security, His Excellency the President gave Executive Order No.3 of 2014, delegating power and authority to the County Commissioners to direct and coordinate security as well as all other national Government functions in the counties. His Excellency the President urges everybody that security is a shared responsibility and, therefore, there is need for strong cooperation among all the stakeholders to ensure that we realise a safe and secure environment for socio-economic and political activities. The President also urges all actors, and in particular the citizens of this country, to support the Government in improving the state of security in Kenya.

Those are the highlights of the Report. I do not want to say much and the Members can highlight specific recommendations contained in the Report.

I wish to stop there and ask Hon. Baiya to second the Motion.

**Hon. Baiya:** Thank you, Hon. Temporary Deputy Speaker. I wish to second the Motion as moved by the Chief Whip of the Majority Party and I support the Report by the President on the state of national security.

As has been highlighted in summary, the President's Report captures the threat faced by the country at the time this Report was prepared. The President making this Report to the country is a manifestation of a new system under the new Constitution. It brings to the public the challenges faced and the actions taken by the Government. It is true this country has suffered the threat of terrorism. We appreciate the measures the Government has taken which have contributed enormously in controlling and reducing the threat.

During the state of the nation report, the President spoke about corruption and we can see the measures that have been taken since the report was tabled. We are quite aware that these are not problems, by their very nature, that are going to be contained within an interval of one year, but at least, we, as Parliament, can interrogate the measures the Government is taking and decisively join to support and complement the Government's efforts especially in terms of budgetary allocation to support the measures. The range of threats as has been covered is quite wide including cattle rustling, organised crimes and drug trafficking.



More importantly is the Government's approach to dealing with the challenges particularly the coordination of various Government initiatives, which the President's Report has captured, as the new methods of dealing with these challenges including the implementation of police reforms. The reforms recognise that the new security problems require a re-energised and reformed police force to deal and cope with the new threats, some of which are completely unprecedented in the region.

We are looking forward to seeing more of these reports to reflect the country's progress in dealing with insecurity. However, it is apparently clear that some of the achievements that have been made are traceable to the measures the Government is taking. Therefore, we will be urging the Government to recommit itself to taking the lessons of the experiences gained with a view to reinforce those measures or even do more counter-reinforcing measures to decisively deal with the threat to security in this country. It is clear there is no way the country can achieve all its development programmes, peace and stability without assuring the citizens of security, so that they can realise the development goals that we have set.

With those remarks, I support.

**The Temporary Deputy Speaker** (Hon. Cheboi): Very well.

*(Question proposed)*

As I had promised, we will start with Hon. Mwaura.

**Hon. Mwaura:** Thank you very much, Hon. Temporary Deputy Speaker. I rise to laud the Report of the President by the following four points.

First, the coordination of the security agencies has gone a long way in ensuring that there is coherent response to attacks. I congratulate Hon. Nkaisery because he has instilled confidence in the security system. Kenyans will agree with me that before, we were treated to a charade of mishaps and there was a confidence crisis in our security apparatus. That coordination is critical. We have not seen agencies responding differently or competing to respond to emergencies as if they get any political mileage out of it.

The second point that I want to note is that, of course, there is the element of AMISOM. Our greatest threat remains to be from Somalia. If you look at the history of our response to threats posed by *Al Shabaab*, the KDF was doing very well before they had to be merged with AMISOM. Those procedures seem to be providing bottlenecks that hinder effective response. Of course, it has to be noted that as I speak, huge swaths of the danger zones within Somalia are not under any form of protection. Even as we look at international treaties, there is need to ensure that we do not embrace so many rigid procedures and rules that in effect make it impossible for intervention. That is what we are seeing even in Burundi where even when Ban Ki-moon is there, we are still seeing attacks yet the international community cannot respond.

The other thing that I want to speak to is the issue of the Government of Somalia. As much as there is need to continue building capacity of the Federal Government of Somalia, there is need for political goodwill. Cooperation to deter *Al Shabaab* from attacking our country can only succeed if we have some form of reciprocity from the Government of Somalia. What is in public domain is that even when our KDF was attacked, there was some form of complacency because other people had left the camps and so, our soldiers were vulnerable. That kind of collaboration is not just a question of stability of Somalia, but of this entire region. That is a critical concern that needs to be looked into.

The final comment that I want to make with regard to this Report is the issue of corruption within our security apparatus. The challenge of corruption remains supreme. You can easily buy off security agents to do your bidding. A very good example, even if they are mere allegations, can be proved with the NYS saga, including the Banking Fraud Investigation Unit of the National Police Service. Going by such assertions, some officers were just on payroll of people who were doing the wrong things. This cartel-like behaviour has compromised our security.

Kenyans will agree with me that for them to get justice in police stations after they are attacked, they have to give out some money, more often than not. The response, therefore, becomes very minimal. Therefore, there is need to have that motivation. Otherwise, I want to note that of late, there has been increased security in our country. We are not being attacked as frequently as before. Even when there are attacks, we can see some response that we can be confident with.

It would also be important for our security agencies to ensure that they inform members of the public about some of the threats they have successfully thwarted, not necessarily to profile themselves, but as a way of ensuring that there is confidence building, so that people can feel secure to do their businesses and go around with their daily activities for the betterment and development of this great nation.

I support.

**The Temporary Deputy Chairman** (Hon. Cheboi): We will have three more Members quickly in a row. We will start with Hon. Moroto then I will give two other Members. Let us be brief.

Proceed, Hon. Moroto and be brief.

**Hon. Chumel:** Thank you, Hon. Temporary Deputy Speaker. I stand to support the Report tabled in the House. It is a good Report and it provides ways in which we can handle security in this country.

I want to congratulate the Government for the way they are now handling security issues. I have been in this House during the last two past Governments and this is the third one. The previous system used force to approach security matters. The current system is engaging people to see the realities of peace among themselves. I want to thank and congratulate the Turkana and Pokot communities for building peace along their borders, right from Hon. Kamama's constituency, my constituency and Kacheliba Constituency. There is a lot of peace and the people interact. In fact, we have started to open some markets where people are doing businesses to improve their economic status. This is just because of the relationships that the Government is instilling in the people as opposed to the harassment that was used during operations.

I want to acknowledge the facilitation that the Government is doing on these issues. Some of us have been branded as notorious people who encourage insecurity and cattle rustling. Now, you can even see what is happening. There are small areas between the Turkana and the Samburus where peace is still elusive, but as pastoralists, we will deal with that. Even as this is happening, there are some disgruntled security officers who are not serious to ensure that they behave according to the set standards. I can cite some areas between my region and Trans Nzoia, and I know that Members from Trans Nzoia are here, for example, Chepcheina Farm, which is a boiling pot. Security agents are causing a lot of problems in the area. The District Commissioner, the GSU and the APs are always competing in the fields with the people. They are also inciting the communities.

We have made appeals to high authorities to ensure that the few security officers should be held responsible and taken out of the system, so that good security agents can remain and work for the people. The people unite and work as Kenyans without any tribal barriers.

I do not want to say much because I am happy about what is happening. I want to congratulate the President and the Deputy President. I remember there was a time when they called all the pastoralists and we discussed security issues. They came down to our level and we moved together. So, I want to thank the President, the Deputy President and the others who are in charge.

**The Temporary Deputy Speaker** (Hon. Cheboi): I will give an opportunity to the Member for Samburu West, but let me start with Hon. Ombaka on this other side. We should be finalising. I note that Hon. Kamama feels that he has to contribute to this, but he has just arrived. You should have been here a little earlier. So, let us proceed, Hon. Ombaka.

**Hon. (Ms.) Ombaka:** Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity. I want to support this Report, but also highlight some few issues especially starting from the 2007 Post-Election Violence. Compensation is a key area that must be addressed. Many people who were affected during this particular violence are complaining. People from Nyanza are some of the victims who were highly affected and have never received any compensation. It is important that we address this issue.

Secondly, the area of sexual-based violence is still very high. There might be improvements in certain areas where there is insecurity, but when it comes to women and children, this has not improved. According to the Report, we have had 5,184 rape cases. Most of these cases are not well addressed. Even when they are reported, the police do not take action on those who are sexually violated. Evidence is never there and there is also corruption knowing very well that sexual violence is a sensitive area and many people would not wish to admit that they have been sexually violated.

We still see cases of domestic violence, but victims are not adequately addressed. Perpetrators still walk scot-free and there is no justice for those who are affected. This is an area that must be addressed in future because it affects men, women and children. Lastly, there is the section on poverty and unemployment. Young people in the rural areas are becoming a little wild because they have no money. They are not employed yet they are educated. They have gone to universities and colleges yet they are hanging around without employment.

I know the Government has tried its best by bringing funds such as the *Uwezo* Fund to improve the economy of young people in terms of starting businesses, but this money is not enough. It is still very little, I have been a participant in the *Uwezo* Fund distribution in my county, but the money is too little for the number of groups that wish to benefit from the Fund. There is the Women Enterprise Development Fund which is again a drop in the ocean. There is also the Youth Enterprise Development Fund, which is actually dogged by a lot of corruption. These are very volatile areas where violence comes in, but the Government has not addressed that area very well. Although I must appreciate that these initiatives are very well intended, the people who manage some of them are themselves corrupt.

Thank you and I support the Report.

**The Temporary Deputy Speaker** (Hon. Cheboi): Very well, let us have the Member for Samburu West.

**Hon. Lati:** Hon. Temporary Deputy Speaker, thank you very much for being fair. The last time I spoke in this House, I asked the substantive Speaker, whether it was fair for Hon. John

Mbadi to just walk into the House and be allowed to speak while some of us had spent hours sitting here. I knew that time that everything---

**The Temporary Deputy Speaker** (Hon. Cheboi): You are actually taking too much time on the preliminaries which are not necessary now.

**Hon. Lati:** No. I am just thanking you for being fair and refusing Hon. Kamama to speak ahead of us because he just walked in. He is my friend, but fairness works in this House.

**The Temporary Deputy Speaker** (Hon. Cheboi): He is actually not going to speak, so you do not have to bother. Proceed, Hon. Lati. You are taking unnecessarily too long. You should be finalising your contribution.

**Hon. Lati:** Hon. Temporary Deputy Speaker, Article 240 is one of the greatest provisions of our Constitution. The fact that the Head of State of this country is required to provide an update on the state of security in our country, at least, once a year, is probably one of the most important provisions in our Constitution. I thank the President for obeying the Constitution each year and updating us on the state of security in our nation, particularly this time when we are facing so many internal and external threats. The only useful thing that should be included in this Report is some sort of feedback such that the President tells us how far we have progressed from what he proposed last year, so that we can assess our security issues. These issues are very important to our economy and lives. Nothing is as important as the safety of our country.

I want to thank the people in our security apparatus, particularly the Cabinet Secretary of Defence. It seems that something is now happening in our country that makes us more confident. This makes us feel safe. The establishment of the Counter-Terrorism Centre is a very important step in the right direction.

I want to speak on the issue of cattle rustling, which is part of our internal security problem. For some of us, cattle is everything. Every day, we have problems of cattle rustling. We have lost people, livelihoods and assets. Looking at this Report carefully, it is right in some areas, but tends to go off completely in other areas. The fact that we have many firearms in the wrong hands in northern Kenya is one of the things that cause cattle rustling. Our cultural attachment to cattle is also a problem. Poor infrastructure is another problem. The biggest problem in our areas is poor infrastructure. It is completely wrong that looking at the Budget of Kenya today, knowing that the cause of cattle rustling is partly poor infrastructure, very little money goes into roads in these areas. I ask the President to follow his Report and make sure that enough funds for infrastructure are provided.

One thing that amazes me in this cattle rustling issue is the statement that lack of alternative livelihood is another cause of cattle rustling. I do not believe that just because the people of Nyanza fish, the people of Central Kenya grow coffee and the people of Kericho grow tea there is one livelihood in terms of what they do and that they go and steal other people's coffee or fish. Some things are misplaced.

Before I sit, if you consider the kind of threats we face from Somalia and the internal threats that we face from cattle rustling, this Report should only cover those issues, so that we do not spread ourselves too thin. There should be another report for issues like sexual violence. Including sexual violence in this Report makes it very broad and spreads us too thin. We end up not concentrating on the things that threaten our lives. I am not saying that sexual violence is not a big threat. It is a terrible thing, but it should not be in the same report as cattle rustling or the threat of terrorism that we face from Somalia.

I salute our soldiers, men and women in uniform, who are serving our country. We honour them and their lives in the service of our nation.

**The Temporary Deputy Speaker** (Hon. Cheboi): I will give the last chance to the Chair of the Committee. Much as we pass a Motion, if Chairpersons of Committees walk in halfway through the debate, they will not have an opportunity to contribute. I will let you say one word and that will be it. The rest of the Members will speak in the next Motion.

**Hon. Abongotum:** I apologise, Hon. Temporary Deputy Speaker. I thought we would not even have time to discuss this Report.

I support the Report and take note of the President's Report on state of national security. From the outset, I want to thank His Excellency the President, the Deputy President, the Cabinet Secretary, the Inspector-General of Police and the service commanders for a job well-done. There are two or three major threats in this country and one is terrorism perpetrated by *Al Shabaab*. This has been evident from the time we had problems in Mandera, the Mombasa Republican Council (MRC) at the coast and terrorist issues in Mpeketoni. We have neutralised those issues. We have serious patrols along the Kiunga-Garsen-Malindi Road by serious military officers. We have had complaints from the public that these people are tough and are securing that area.

Secondly, on cattle rustling, Members of Parliament from those areas must be commended because they formed a peace caravan and have managed to reduce cattle rustling cases by about 98 per cent. We only have a small problem in Isiolo and some parts of Samburu North and we are going to tackle that problem as from next week.

There is also the issue of urban crime and the police are on top of this. We want them to work harder than they are doing. Alcoholism has killed so many people than terrorism. Those are the threats we have especially in Central Province.

I would like to thank those that I have mentioned, namely, my Committee Members and the Members of the Departmental Committee on Defence and Foreign Relations which provided us with legislative guidance to ensure that we have better laws to manage security in this country. We had a big problem in El Adde and it is being handled by the AMISOM and the African Union (AU). In future, we may not face those kinds of threats.

With those remarks, thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Cheboi): Hon. Katoo.

**Hon. Katoo:** Hon. Temporary Deputy Speaker, in replying I want to appreciate the Members' contributions especially in applauding our security agencies starting from their Commander-In-Chief for a job well done in the execution of their functions and mandate.

I beg to reply.

**The Temporary Deputy Speaker** (Hon. Cheboi): Hon. Members, we will move to the next Order because we will not put the Question for the obvious reason. We have 20 minutes to close of business today.

#### REPORT ON FULFILMENT OF INTERNATIONAL OBLIGATION

**Hon. Katoo:** Hon. Temporary Deputy Speaker, I beg to move the following Motion:-

THAT, pursuant to Article 132 (1)(c)(iii) of the Constitution, this House notes the Report on Progress made in fulfillment of the International Obligations

of the Republic submitted by His Excellency the President on Thursday, March 26, 2015, laid on the Table of the House on Tuesday, March 31, 2015.

The Report of His Excellency the President is on the progress made in the fulfillment of international obligations of the Republic as it is required by Article 132(1) of the Constitution of Kenya. It was released by His Excellency the President against the backdrop of the launched Kenya Foreign Policy in January, 2015, purposely for our common desire for a peaceful, united and a prosperous nation as embodied in the Constitution of Kenya 2010, our National Anthem, the Kenya Vision 2030 and other Government documents including manifestos of political parties and in particular the Jubilee agenda for Kenya 2013-2015.

Kenya is committed to her international obligation as expressed in various international treaties, conventions, soft law instruments and inter-governmental institution arrangements among others. It is worth noting that since Kenya joined the United Nations (UN) in December, 1963, as a member of the international community, it has ratified and acceded to various conventions and treaties which we have derived a lot of benefits from for the good of the Republic and in the process assuming various international obligations. These treaties promote peaceful coexistence as the main function of multilateral and bilateral relations with other countries purposely for the common principles and values that bind the world.

Globalisation has intensified the world's interdependence in areas such as technological innovation, international trade, development as well as trans-nationalism and security challenges. Therefore, Kenya, as a member of several international organisations and institutions in the international system, continues to pursue her national interests in the international arena which comes with favourable international profile. Just to mention a few, Kenya's effort has resulted in Kenya becoming an attractive investment destination. For instance, the African Institute for Remittances (AIR) is now operational and has its headquarters in Nairobi while the United Nations Environment Programme (UNEP) has been upgraded and now has a universal charter with increased membership from the previous 54 to the entire membership of the UN of 193 members.

Hon. Temporary Deputy Speaker, Kenya's profile in the international scene has continued rising especially with the hosting of the United Nations Environmental Assembly (UNEA) in June, 2014 and the Tenth World Trade Organisation Ministerial Conference held in December, 2015.

In 2014, Kenya ratified the protocol and the establishment of the East African Community Monetary Union, the African Maritime Transport Charter, the International Maritime Labour Convention, 2006, the African Youth Charter, the NAGOYA Protocol on access to Genetic Resources and the fair and equitable sharing of benefits arising from their utilisation.

The agreements on Privileges and Immunities of the Organisation for Prohibition of Chemical Weapons, the Doha Amendment to the Kyoto Protocol, the Beijing Amendment to the Montreal Protocol on Substance that Deplete the Ozone Layer and the International Telecommunication Regulation, Dubai, 2012 are all these are outlined in the Report.

Therefore, I would like to say that tremendous progress, over the years, both in making international commitments and carrying our obligation on transfer of wide range of topics and fields is detailed in the Report.

More importantly, special interests and emphasis have been put in place at the regional level, namely, Africa, and sub-regional level, namely, East Africa, in tandem with Pan-

Africanism and regional integration. Finally, His Excellency the President, has recommended that the Office of Registrar of Treaties be set up as soon as possible in order to discharge its statutory mandate as provided in the Treaty Making and Ratification Act.

With those few remarks, I would like to request the Member for Kibra, Hon. Ken. Odhiambo to second.

**The Temporary Deputy Speaker** (Hon. Cheboi): Move fast. You have not moved.

**Hon. Okoth:** Thank you, Hon. Temporary Deputy Speaker, I am Odhiambo Okoth. I will move fast.

I rise to second the Report that has been ably moved by Hon. Katoo. I will highlight a couple of key things in the Report. It highlights the role of Parliament in overseeing our international obligations. So far, consultation and exercise of Parliament's prerogatives in this field has not been fully used as required under the Treaty Making and Ratification Act. The domestication of international treaties and agreements that are being signed through laws, regulation and policies within Kenya must go through Parliament. This is the point that is being emphasised even in the Report on Page 3 and the policy and the law in first section of the Report.

I want to make sure that Parliament plays a bigger role in using the Treaty Making and Ratification Act and following its oversight role in, first of all, making sure that we ratify treaties legally, enforce and domesticate them as part of our laws with proper local laws, but also monitor their implementation every year whether through the Budget and other oversight mechanisms that this Parliament has.

The second one is an issue of great interest to me. This is on the issue of Article 43 of the Constitution. One of the major treaties Kenya is a part of that is referred to here is the International Covenant on Economic, Social and Cultural Rights. That treaty is referred to on Page 20 of the Report. This treaty is clearly reflected in Article 43 of the Constitution addressing the rights of women, consumers, children, persons with disability, youth and older persons. These are economic and social rights in issues such as access to clean water in adequate quantities, housing of decent standards and health care of the highest possible standards including reproductive health care.

Kenya has taken a bold radical step in our Constitution in domesticating these treaties and also in reflecting, for instance, this very important treaty, namely, the International Covenant on Economic, Social and Cultural Rights in Article 43 of our Constitution. It is now upon us, as Parliamentarians, to make sure that every Budget that we pass leads to the progressive realisation of those treaties. I will skip one of the points there because I mentioned it in the beginning. Some treaties have been ratified since 2013. I will give an example of the Bali Package on the World Trade Organisation (WTO). Even the last WTO Ministerial Conference at the Kenyatta International Convention Centre, we saw very little formal engagement of Parliament. If we really want to make sure that we are a country that leads properly on our international obligations, this House must do its part. We must engage with the Government and require that they bring these issues to the Committee.

I see time is not on our side. So, let me rush. I wanted to quickly comment on two last things.

**The Temporary Deputy Speaker** (Hon. Cheboi): Just comment on one. In fact, you should be seconding.

**Hon. Okoth:** Hon. Temporary Deputy Speaker, outer space treaties is a very important section that has potential for Kenya. The framework for the law under the policy has been

delayed for too long. This is in the President's Report. I just wanted to highlight that. The San Marco Space Station in Malindi is generating a lot of revenue for the European Space Project and very little for Kenyans. The Ministry of Defence and the Ministry of Education, Science and Technology need to come together and see how our proper control and agreements for the San Marco Space Station can give us revenues to also fund our own space programme and education.

With those few remarks, I beg to second.

*(Question proposed)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Cheboi): The first chance goes to Hon. Rotino.

**Hon. Rotino:** Thank you very much, Hon. Temporary Deputy Speaker, for giving me the opportunity to contribute to this very important Motion. I support it. I want to mention two points. First, it takes a lot of time for this Government to domesticate most of the treaties that we sign. We have signed many treaties. This office should help us, as a country, to domesticate the treaties as fast as we can, so that we are seen globally as cooperating and working with other nations. So, I congratulate the President for ensuring that this office is created very soon, so that it implements these requirements and domesticates these treaties.

With those few remarks, I support.

**The Temporary Deputy Speaker** (Hon. Cheboi): That was good. Member for Jomvu, be brief, also.

**Hon. Bady:** Asante sana, Mhe. Naibu Spika wa Muda kwa kunipatia fursa hii tena kuchangia Ripoti hii. Kusema kweli, katika nchi yetu ya Kenya, kuna mambo mengi ambayo tumefanya ya kimataifa, jambo moja likiwa ni lile Kongamano la Biashara ambalo lilifanyika katika ukumbi wetu wa Kenyatta International Conference Centre (KICC), Nairobi. Pia, ni muhimu sana kuona kuwa katika yale mambo ya kimataifa ambayo tunajihusisha nayo, tunapaswa tuhusike sana kama vile ndugu yetu, Mhe. Katoo, ameezele kuhusu mambo ya Afrika Mashariki. Tunafaa kuangalia yale ambayo yanaendelea katika Afrika Mashariki. Tukiwa nchi ambayo imekoma, tunaona kuwa kuna shida nchini Burundi na tunafaa kujiuliza nchi yetu inafanya nini katika mambo ya Afrika Mashariki ili watu wasiwe na matatizo na tuweze kuishi sote kama kitu kimoja.

Vilevile, katika nchi tofauti ambazo tumeenda kama Kamati, tunaleta mengi kama Ripoti ambazo tunaandika. Ni muhimu sana kama nchi kuiga yale ambayo ni ya manufaa ili tuweze kuendelea mbele kama vile nchi nyingine. Ninasema hivi kwa sababu juzi, Kamati ya Uwiano na Mshikamamo wa Kitaifa, ambayo mimi ni Mwanakamati, tulikuwa Abuja, Nigeria. Jambo kubwa ambalo tulisoma pale ni kuwa kuna hali za kuthibiti matatizo ya mwanzo mwanzo ambayo kwa Kiingereza yanaitwa *early warning signs*. Wamezitumia sana katika muungano wa Economic Community of West African States (ECOWAS) kuthibiti mambo mengi ya kupigana na kama vile *Boko Haram* na mambo mengine zaidi. Sisi pia tuna matatizo kama haya ya *Al Shabaab* katika nchi yetu ijapokuwa katika Ripoti ya Rais, ambayo imepita ambayo ningependa sana kuchangia, ametuonyesha vile ambavyo nchi yetu inaweza kuthibiti matatizo haya ya usalama. Kwa hivyo, kama tungeweza kuyaiga hayo, ingekuwa vizuri sana. Tukifanya jinsi ECOWAS inavyofanya, sisi pia, kama Jumuiya ya Afrika Mashariki na Kati, tutaweza kuishi kwa njia ya kisasa.



Mhe. Naibu wa Spika wa Muda, singependa kutumia muda mrefu. Ninaona zimebaki dakika tano peke yake.

Kwa hayo machache, ninaunga mkono.

**The Temporary Deputy Speaker** (Hon. Cheboi): This is an opportunity for the Mover to respond.

Hon. Wamalwa, I must be very clear that in future, anybody who walks in halfway through a debate will not get an opportunity to contribute because that would be a recipe for Members to repeat what other Members have already said. I am going to give you just one minute to see what you have that is new.

**Hon. Wakhungu:** Thank you, Hon. Temporary Deputy Speaker. I was listening to the debate.

The current Sustainable Development Goal No.7 talks about global partnership. A State cannot be in global partnership without looking at the issue of international obligation. It is very important. It helps in coexistence. Issues of climate change and terrorism should be incorporated in the treaties for purposes of peaceful co-existence.

Sustainable Development Goal No.16 is on access to justice. This is reference, for instance, to the Rome Statute, which brought about the International Criminal Court (ICC) case. It has helped so much in this country as far as the issue of deterrence is concerned. It is important for African countries to re-look at the Rome Statute. We should not withdraw from the Rome Statute because the situation in Africa can become chaotic. The trend of African leaders, like the ones in our neighbourhood, namely Uganda and Rwanda, is to cling to power. We should continue being signatories to the Rome Statute in order to deter violence and ensure peaceful existence of the people in the world.

With those few remarks, I support.

**The Temporary Deputy Speaker** (Hon. Cheboi): Very well. Let us have the Mover to reply.

**Hon. Katoo:** Hon. Temporary Deputy Speaker, this is departure from past practice. We are now reaping the fruits of the Constitution of Kenya 2010, which mandates Parliament to engage in determining the cause of action on ratification of treaties and international obligations. I have heard a Member saying that there was no much participation by Parliament. I want to inform the Members that Parliament participates through the respective Departmental Committees, which scrutinise treaties, prepare reports and recommendations to the House for decision making. I am sure all these treaties have gone through the participatory process through the respective Departmental Committees. The reports of those committees were adopted by the House.

Therefore, I beg to reply.

## ADJOURNMENT

**The Temporary Deputy Speaker** (Hon. Cheboi): Hon. Members, the time being 6.30 p.m., the House stands adjourned until Wednesday, 24<sup>th</sup> February 2016 at 9.30 am.

The House rose at 6.30 p.m.