

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 26th March, 2014

The House met at 2.30 p.m.

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

PRAYERS

PAPERS LAID

Hon. Kamanda: Hon. Speaker, I beg to lay the following Paper on the Table of this House today Wednesday, 26th March, 2014:-

Report of the Departmental Committee on Transport, Public Works and Housing on Consideration of Bilateral Air Services between the Government of the Republic of Kenya and the Government of the Republic of Angola, the Government of the Republic of Mozambique, the Government of Canada and the State of Kuwait.

Hon. Speaker: Where is the Leader of Majority Party or his Deputy? For the first time, he is late or has he decided not to sit on Wednesdays in the afternoon? Where is his Deputy?

We move to the next Order.

NOTICE OF MOTION

ADOPTION OF REPORT ON BILATERAL AIR SERVICES

Hon. Kamanda: Hon. Speaker, I beg to give notice of the following Motion:-

THAT, pursuant to Section 8 of the Treaty making and Ratification Act, 2012, this House adopts the Report of the Departmental Committee on Transport, Public Works and Housing on Consideration of Bilateral Air Services between the Government of the Republic of Kenya and the Government of the Republic of Angola, the Government of the Republic of Mozambique, the Government of Canada and the State of Kuwait laid on the Table today Wednesday, 26th March, 2014.

Hon. Speaker: Next Order!

REQUESTS FOR STATEMENTS

NUMBER OF PUBLIC SERVANTS AGED 55 YEARS

Hon. Kemei: Hon. Speaker, pursuant to Standing Order No.44(2)(c), I wish to request a Statement from the Leader of Majority Party on the number of public servants aged 55 years and above as at 30th January, 2014.

Hon. Speaker, in the Statement, the Leader of the Majority Party should inquire into and report on:-

(i) the number of public servants aged 55 years and above serving in the national Government *vis-a-vis* the total number of public servants on Government employment;

(ii) the number of public servants aged 55 years and above employed in the 47 counties *vis-a-vis* the total number of public servants in the county government;

(iii) the number of public servants aged 55 years and above employed in parastatals, State corporations and other public enterprises *vis-a-vis* the total number of employees in parastatals, State corporations and other public enterprises; and

(iv) whether the Government has any policy or legislative intent on voluntary early retirement programme to bring down the retirement age amongst all public servants in order to increase the number of youths to be employed in Public Service as one way of addressing youth unemployment in the country.

Hon. Speaker: Leader of Majority Party.

Hon. A.B. Duale: Thank you, hon. Speaker. I do not know what happened this morning with my amendments. I also misplaced my card. But that is a long request. I need one week to find out how many have reached 55 years and how many have reached 60 years and the whole spectrum of employment.

Therefore, I will respond after one week.

Hon. Kemei: Hon. Speaker, I am comfortable with one week.

STATUS OF ROAD INFRASTRUCTURE DEVELOPMENT IN KENYA

Hon. ole Lemein: Thank you, hon. Speaker, for giving me this opportunity. Pursuant to Standing Order No.44 (2) (c), I wish to request for a Statement from the Chairperson of the Departmental Committee on Transport, Public Works and Housing on the development of road infrastructure network in the country.

Hon. Speaker, road infrastructure is critical for the economic development of the country. However, the development of roads in the country has been undertaken in a discriminative manner, which has seen most parts of the country left out.

In the Statement, the Chairperson should inquire into and report on:-

(i) the number of kilometres of all the classified roads in the country and state how many kilometres of the same are tarmacked;

(ii) provide a list of constituencies/counties with tarmacked roads as well as the ones for ongoing projects across the country; and

(iii) the plans the Government has to address inequality in the development of road infrastructure in the country.

Thank you.

Hon. Kamanda: Thank you, hon. Speaker. I think if I am given two weeks, I will be able to give a Statement. The Ministry is already undertaking this initiative. I think within two weeks, I will be able to report back to the House.

Hon. Speaker: Hon. ole Lemein, even as you welcome hon. Yusuf Hassan, what do you say?

Hon. ole Lemein: Hon. Speaker, two weeks are okay with me.

EVICTION OF HON. MEMBERS FROM
SAMBURU COUNTY

Hon. Nakuleu: Thank you, hon. Speaker, for giving me this opportunity. Pursuant to Standing Order No.44 (2)(c), I wish to request for a Statement from the Leader of Majority Party regarding the planned eviction and attack of three hon. Members of Parliament; the hon. Joseph Samal Lomwa of Isiolo North, the hon. Christopher Nakuleu and the hon. Protus Akujah, MP for Loima, from Samburu County on 30th November, 2013 by police officers.

Hon. Speaker, the County Commandant of Samburu and his officers visited the hotel where the hon. Members were residing and ordered them to move from the hotel and be escorted out of Samburu County at midnight.

In the Statement, the Leader of Majority Party should inquire into and report on:-

(i) reasons and intentions of attack and eviction of the three Members of Parliament from Maralal Town and out of Samburu County late in the night;

(ii) the identity of leaders who participated in the meeting at the Yale Restaurant in Maralal Town who were alleged to be the major perpetrators of violence between the Samburus and Turkana and, who planned that day's midnight eviction;

(iii) action taken by the Government on the alleged public incitement of Samburus against the Turkana community as witnessed in various forums;

(iv) the action taken by the Government to ensure that business people from Turkana Community and their businesses are protected; and

(v) measures taken by the Government to restore peace in Maralal Town following the deliberate and systematic targeting and killing of people from Turkana community, especially from Loikas, Suguta-Marmar as well as Baragoi.

Hon. Speaker, this Statement was sought in November last year and the response was not submitted. Therefore, I was forced to re-submit it.

Thank you.

Hon. Speaker: Hon. Nakuleu, the typed Statement in my possession and which I approved, purported to be directed to the Chairperson of the Departmental Committee on Administration and National Security. But when you have stood to read it out, you have addressed it to the Leader of Majority Party. It means that the one you have read is not the one that I approved and it is not the one in my possession.

Hon. Nakuleu: Hon. Speaker, even last time when I submitted the request, I did explain to you the circumstances under which the response was not supposed to come from the Chair of the Committee. Part of the leadership of this Committee should appear before the Chairperson and the Leader of Majority Party, where we are also supposed to

appear. Therefore, we feel that if we pass through the leadership of the Committee, we will not get justice.

Hon. Speaker: But hon. Nakuleu, let me, as usual, give you this guidance: If you have anything adverse that you may wish to raise regarding a fellow hon. Member, you do so by a substantive Motion. That is because the alternative will be that if you are already casting aspersions on some hon. Members of the Committee, it means that even when the response is given, you are likely to begin making accusations or allegations against some hon. Members; which you would have, perhaps, done much better if you had moved a substantive Motion to make the particular allegations that you may wish to make against a colleague. Of course, with the attendant consequences that, should anything go wrong, you will have yourself to blame, if you do not have sufficient facts to support whatever allegations you may have.

But, be that as it may, now that you want the Leader of Majority Party to deal with the matter, let us hear from him whether he is going to invite the entire Committee to a sitting in his office.

Hon. A.B. Duale: Hon. Speaker, I do not have the powers to summon hon. Members of Parliamentary Committees to appear before me. I am only one person and I do not have the secretariat. What I will do is to contact the Executive and the Executive will give me an answer. If I feel, in my opinion, that the answer meets the threshold to be presented to Parliament, I will do that.

But, if the hon. Member is saying that he has issues with the Committee, then I think it is fair that the Ministry of Interior and Co-ordination of National Government is told to answer his questions and then bring them to the House.

Further, if we feel that the Committee should investigate the matter, we will allow it. I think the membership of Committees of this House represent and work as per the Standing Orders. They do not represent their clans, counties and political party affiliations. They are members of Committees of the National Assembly and they work and deliver their mandate as per the Standing Orders.

Hon. Speaker: Therefore, you will give him a written response from the Cabinet Secretary?

Hon. A.B. Duale: Yes. Within the next seven days, I will bring an answer.

Hon. Nakuleu: Hon. Speaker, in as much as I accept the seven-day period as requested by the Leader of Majority Party, this question was asked last year. I thought the response was ready and it was a matter of submitting it to the House.

Hon. Speaker: Now that he does not have a response with him, how can he give it to you? If seven days are not even enough for you, then I do not think you appreciate the workings of Parliament. Whoever it is that you have to write to, he must be given a minimum of those seven days. Now that he is saying he can give a response in seven days, which should be the least that we can expect---

Hon. Nakuleu: Hon. Speaker, now that he does not have the response, I accept.

Hon. Speaker: He is not the Cabinet Secretary in charge of Interior and Coordination of National Government.

Hon. Nakuleu: I accept the seven days period, hon. Speaker.

Hon. Speaker: Very well.

An hon. Member: On a point of order, hon. Speaker.

Hon. Speaker: There is nothing out of order with regard to this. The hon. Daniel Epuyo Nanok, Member for Turkana West.

ESTABLISHMENT OF LOW COST SCHOOLS IN TURKANA

Hon. Nanok: Thank you, hon. Speaker. Pursuant to Standing Order No.44(2)(c), I wish to request for a Statement from the Chairperson of the Departmental Committee on Education, Research and Technology regarding the resolution of the District Education Board (DEB) of Turkana North to establish new low cost boarding primary schools in Turkana County.

Hon. Speaker, the Turkana North District Education Board in its sitting deliberated on the issue of access to affordable and quality basic education and resolved to request the Ministry of Education, Science and Technology to approve boarding status for some primary schools in order to attract and retain nomadic pastoralist children to remain in schools even while their parents roam the county in search of water, pasture and other life amenities. However, the Ministry of Education, Science and Technology has not taken any action in relation to the establishment of those schools. That is affecting enrolment levels in most of the primary schools in the county.

Hon. Speaker, in the Statement, the Chairperson should inquire into and report on the following:-

(i) the criteria used in approving low cost boarding primary schools in the country and how many such schools have been approved in Turkana West Constituency in particular;

(ii) whether the Ministry of Education, Science and Technology received the request of the DEB, Turkana North for the following schools to be approved as boarding schools: Kalobeyei Primary, Nanaam Primary, Letea Primary, Lopwarin, St. Marks Songot and Oropoi Primary; and

(iii) the current funding levels of the low cost boarding primary schools in Turkana West Constituency and the status of the Free Primary Education (FPE) funds disbursed so far in the constituency.

Thank you, hon. Speaker.

Hon. Speaker: The Chairperson of the Departmental Committee on Education, Research and Technology. The Member for Igembe North, I do not recall you being the Chairman of that Committee but remember my directive is that let the Chairs of Committees or their Deputies make commitments here. With hon. Members, there is no agreement that can be done. Any agreements that Committees make also--- This is important because, again, in keeping with your own Standing Orders, the spokesman of a Committee is the Chairperson and we must bear this in mind always because Members must not also assume roles which are not theirs. If you want to be a spokesperson of a committee, vie to become the Chair. If you are not, just assume your responsibility in peace. Do not assume that you are the spokesperson. You are not. Is the Vice-Chair of that Committee here? Both the Chair and the Vice-Chair are out? Hon. Nanok, you appear to be unfortunate.

Hon. Nanok: Hon. Speaker, I do not want to be unfortunate but I believe you can give some guidance on this one. If the Chair and the Vice-Chair of the Committee are not here---

Hon. Speaker: This is the direction given and because this is a straightforward matter, they can get the information from the Cabinet Secretary's Office. They do not need to even hold a sitting. The issues you are raising are straightforward. A board passed a resolution and forwarded it to the Ministry. Has it received it? If it has, how has it reacted? Depending on whatever course of action they have taken, what are the criteria used to approve low cost boarding primary schools? That does not require a committee to sit in order to get it. So, even the Committee should not sit. She should just go and get the information and then bring it to hon. Nanok here in two weeks.

Hon. Nanok: Even a week, hon. Speaker.

Hon. Speaker: Two weeks. That is the direction. You cannot just say a week because as you can see, the leadership of the Committee has decided to take leave of absence from parliamentary proceedings.

Hon. Nanok: I take your direction. That is okay.

Hon. Speaker: Hon. Nanok, but you must raise this matter. Make a follow up with the Office of the Clerk to make sure that this directive is implemented to get the response. The hon. Ibrahim Abdi Saney.

MEASURES TO REVAMP GOVERNMENT PRESS

Hon. Saney: Hon. Speaker, pursuant to Standing Order No.44(2)(c), I wish to request for a Statement from the Chair of the Departmental Committee on Administration and National Security regarding the operations of the Government Press.

Hon. Speaker, the mandate of the Government Press is to print and publish all official confidential and accountable Government documents, manufacture of official rubber stamps and advise the Government on all matters pertaining to printing. Over the years, there has been circulation of counterfeit Government documents and outsourcing of printing services which are within the mandate of the department.

Hon. Speaker, in the Statement, the Chairperson should inquire into and report on:-

(i) the quality control strategies put in place by the Government to detect or deter the use of counterfeit documents that pose a big threat to national security and revenue accountability;

(ii) the capacity of the department in terms of technology, human resource and finances;

(iii) the reasons for which Kenya Revenue Authority (KRA), Immigration Department, the Independent Electoral and Boundaries Commission (IEBC) and other Government Ministries or agencies are outsourcing the printing of revenue stamps, identity cards, ballot papers, passports et cetera, which is tantamount to exporting jobs badly needed by Kenyans;

(iv) measures put in place by the Government to revamp the department to improve its performance thus preventing outsourcing of services and improving income generation; and

(v) plans by the Government, if any, to consolidate all printing and publishing of official documents, including acquisition of specialised equipment scattered across all Ministries and Government agencies including printing budgets to enable the Government Press to deliver on its mandate.

Thank you, hon. Speaker.

Hon. Speaker: Hon. Kamama.

Hon. Abongotum: Thank you, hon. Speaker. We will give a comprehensive Statement on the issues raised by the hon. Member in two week's time.

Hon. Speaker: Hon. Saney, two weeks? Can you activate him?

Hon. Saney: Hon. Speaker, that will be fair enough.

Hon. Speaker: Very well. Next is hon. Sarah Korere.

INVASION OF CONSERVANCIES BY ARMED GRAZERS

Hon. (Ms.) Korere: Hon. Speaker, pursuant to Standing Order No.44(2)(c), I wish to request for a Statement from the Chairperson of the Departmental Committee on Administration and National Security regarding the invasion into community conservation areas by illegal grazers. In February 2014, some illegal grazers invaded Lekurruki and Kijabe conservancies in Laikipia North District and settled within those protected areas. Further, investigations were conducted and it was discovered that the illegal grazers were heavily armed and threatened the locals and security agencies in the area. On 28th February, 2014, security agencies attempted to evict the illegal grazers but were repulsed leading to a shoot-out between the two parties.

In the Statement, the Chairperson should inquire into and report on:-

- (i) the origin of the illegal grazers;
- (ii) why the security agencies were withdrawn within the conservation areas resulting to the closure of Tassia Lodge;
- (iii) the measures the Government has put in place to address resource-based conflict in Laikipia, Samburu and Isiolo counties; and
- (iv) the criteria used by the Government to issue police reservists with firearms and ensure that the same firearms do not get into the wrong hands.

Hon. Abongotum: Hon. Speaker, this being an urgent matter, we hope to give a Statement in ten days.

Hon. Speaker: Hon. (Ms.) Korere, is ten days okay?

Hon. (Ms.) Korere: Hon. Speaker, I hope the ten days will fall within---

Hon. Speaker: Do not hope!

Hon. (Ms.) Korere: Hon. Speaker, I wish to plead with the Chairman of the Departmental Committee in charge of security to do it within seven days because this matter is very serious. As we speak, Tassia Lodge has closed shop and it employs more than 120 local youths from the area. Lentile Lodge is on its way to closing shop. So, I would plead with him to use less than seven days.

Hon. Speaker: Hon. Abongotum, are you even able to sit in less than seven days?

Hon. Abongotum: Hon. Speaker, we can do it within seven days.

Hon. Speaker: Very well! Seven days and so it shall be.

Hon. Ms.) Korere: Thank you!

REPAIR OF ROADS IN SUBA CONSTITUENCY

Hon. Ng'ongo: Hon. Speaker, I want to share with you my joy that the Leader of Majority Party attempted this morning to give flags to some civil servants and he was defeated. I am very happy and excited that he was humiliated.

Pursuant to Standing Order No.44(2)(c), I wish to request for a Statement from the Chairperson of the Departmental Committee on Transport, Public Works and Housing regarding the status of Mbita-Sindo-Magunga-Karungu Road, D210 and Koguta-Nyabera Road, E118. The two roads; D210 and E118, are the two major roads in Suba Constituency and are currently in deplorable conditions. In 2010, tenders were floated and subsequently opened for the improvement of D210 to bitumen standard but were never awarded. The Ministry communicated that, that road would be done in terms of a bilateral agreement between Kenya and Chinese governments. A commercial contract was signed awaiting a financial contract to be signed. However, those two roads, as we speak, despite their importance in terms of connectivity of the constituency to other parts of the country, are impassable. Due to the deplorable condition, it has proved difficult to access essential goods and services creating a lot of inconvenience. The Chairperson, who I must add is my friend, should, therefore, inquire into and report on:-

(i) the programme the Ministry has to tarmack D210 which is a major road in my constituency and Koguta-Nyabera section which links D210 and C20 which is currently under construction from Homa Bay to Mbita;

(ii) emergency measures to be put in place by the Ministry to repair and improve the roads, especially during rainy seasons to motorable conditions since some part of the road is currently cut off in some sections, like between Kiabuye and Magunga and also between Magunga and Kigua markets. That is just to mention a few sections of the road which are cut off. Road D210 has not been maintained for two years now. Why? This is because the Ministry advised KeRRA not to allocate---

Hon. Speaker: Hon. Ng'ongo, I thought like hon. Nyamweya, you would proudly say that you are doing your second term and, therefore, you know the rules. Why are you going beyond what you are bound by your own Statement? Do not give us---

Hon. Ng'ongo: Hon. Speaker, I was just about to conclude because I know the Chairperson has never visited that part of the country. That is the reason---

Hon. Speaker: Hon. Ng'ongo, you can invite hon. Kamanda to visit.

Hon. Ng'ongo: He is soon coming to my constituency; he promised me.

Hon. Speaker: He should delight in that!

Hon. Kamanda: Hon. Speaker, I think my visit to Suba is not as a result of being the Chair. That is between hon. Ng'ongo and I as friends and we shall do it. I want to say that my brother will agree on two weeks so that I can take the two questions and answer them together. You have realized that every week we have more than seven Statements. We have agreed as the Committee that we consolidate Statements weekly and get officers to answer as we also call hon. Members to our Committee.

Hon. Ng'ongo: Hon. Speaker, I understand where the Chair is coming from. But even as I indulge the Chair whom I recognize is my great friend - I can give him the two weeks. However, I would ask him to move and talk to the Ministry to take emergency measures because the road is cut off as we speak and yet, the rains have just began. So, if

some urgent measures could be taken--- He does not have to bring the answer before some action is taken on the road. That is what I would request that, some action be taken even as I wait for the formal response to this issue.

Hon. Kamanda: Hon. Speaker, I cannot confirm that to the hon. Member. He rightly said the other day that we are not Ministers. So, we will need to get the answer from them. I cannot confirm now that we will do it before the two weeks but, within two weeks they will start preparing. Even now we are going to talk to them.

Hon. Speaker: Very well!

STATUS OF CORRUPTION CASES AT IMMIGRATION DEPARTMENT

Hon. Wekesa: Hon. Speaker, pursuant to Standing Order No.44(2)(c), I wish to request for a Statement from the Chairperson of the Departmental Committee on Administration and National Security concerning alleged corruption cases in the Department of Immigration. In the recent past, there have been alleged cases of corruption at the Department of Immigration and, subsequently, investigations into the matter were undertaken by the national investigating agencies consequent to which a number of officers were suspended.

In the Statement, the Chairperson should inquire into and report on:-

- (i) the findings of the preliminary investigations on the allegations;
- (ii) details of the officers suspended, their designations and status of the suspension; and
- (iii) why the suspension was discriminatory against the officers at the low cadres.

Hon. Abongotum: Hon. Speaker, this being a detailed Statement, I also want to confirm to hon. Members that, as a Committee, we can confirm through reports, including the Westgate one, that there is a lot of corruption in the Department of Immigration. So, we want two weeks so that we can come up with a full Statement on this matter.

Hon. Wekesa: Hon. Speaker, I do not know whether the two weeks he says fall within the coming recess. But Kenya, as a country, has lost a lot because of massive corruption in that department. I would not mind waiting for even a month because I need a comprehensive Statement.

Hon. Speaker: You say you do not mind even waiting for a month?

Hon. Wekesa: Yes!

Hon. Speaker: Hon. Abongotum, hon. Wafula is comfortable with two weeks. Hon. Aburi.

KILLING OF ZAKAYO KATHIA

Hon. Aburi: Thank you, hon. Speaker. Pursuant to Standing Order No.44(2)(c), I wish to request for a Statement from the Chairperson of the Departmental Committee on Administration and National Security concerning the murder of Mr. Zakayo Kathia also popularly known as Musete at K.K. Market in Igembe Central. Two weeks ago, Mr. Zakayo Kathia was amongst several activists who entertained guests, including Deputy President hon. William Ruto, during a fundraising event at Maua Stadium. Two days

later, he was shot dead by a gang as he was entering his home in Lare. In his Statement, the Chairperson should inquire into and report on the following:-

(i) why no suspects have been arrested despite getting clues from the residents which could lead to the arrest of possible perpetrators; and

(ii) what measures the Government is taking to guarantee the locals their security.

Hon. Speaker: Hon. Abongotum.

Hon. Abongotum: Hon. Speaker, this matter is extremely urgent and we want to ask for one week so that we can respond to the satisfaction of the hon. Member.

Hon. Aburi: Hon. Speaker, I am very okay and comfortable.

Hon. Speaker: Very well, Leader of Majority Party.

BUSINESS FOR THE WEEK COMMENCING
1ST TO 3RD APRIL, 2014

Hon. A.B. Duale: Pursuant to Standing Order No.44(1)(2), on behalf of the House Business Committee, I rise to give the Statement regarding the business appearing before the House in the week beginning Tuesday 1st April, 2014.

Hon. Speaker, the House Business Committee met on Tuesday at the rise of the House to give priority to the business of the House. Next week, the House will debate the Presidential Address which will be delivered in a Special Sitting tomorrow, Thursday, 27th March 2014, by His Excellency the President, pursuant to Standing Order No. 24. The debate on this Motion shall not exceed four sitting days.

The House will also debate the Second Reading of the following Bills. They include:- The Protection Against Domestic Violence Bill, 2013; the Statute Law (Miscellaneous Amendments) (No.2) Bill of 2013; the Counsellors, Psychologist and Physiotherapists Bill, 2013 and the Fertilizers and Animal Foodstuffs Bill, 2013, among others.

The House will also consider the Committee of the whole House of the Public Procurement and Disposal (Amendment) Bill, 2013 and the Value Added Tax (Amendment) Bill, 2013. In this regard, may I take this opportunity, through you hon. Speaker, to remind Members to hand in their proposed amendments to the said Bills to the Office of the Clerk in good time as per the Standing Orders.

Further, in the event that the debate on the Report of the Joint Sitzings of the Departmental Committees on Administration and National Security and that of Defence and Foreign Relations on the terrorist attack at the Westgate Mall and other terror attacks in Mandera and Kilifi will not be concluded today, then it follows that it will also be put on the Order Paper for debate next week. The House will consider the Report of the Select Committee investigating matters relating to the production and trading of *Miraa* tabled on the House on 5th December 2013, and also the Report of the Departmental Committee on Health on devolution of health services tabled on 20th March, 2014. Through you hon. Speaker, I wish to urge Members to take keen interest and familiarize themselves with the contents of those reports to enable them to make informed debate.

Finally, the House Business Committee will meet on Tuesday, 1st April 2014 at the rise of the House to consider business for the rest of the week. I now wish to lay the Statement on the Table of the House. Thank you.

(Hon. A.B. Duale laid the document on the Table)

Hon. Speaker: Hon Members, I think it is also important that we familiarize ourselves with some of the issues that the Leader of Majority Party has just mentioned. More specifically, hon. Members, I want to discourage Members from rushing to the Speaker on the Chair to approve proposed amendments. That will be looked by me with a lot of disfavor. Remember my discretion to allow an amendment that has not been placed before the Clerk two hours before the Motion is read out, is only in exceptional circumstances. Just look at your Standing Order No.55, to just familiarize yourself. Once I sit here, do not even bother. You will have to persuade me that the circumstances are exceptional. But if you had a Motion that has been with you for three weeks, I do not believe that you can convince me that there could be something exceptional. If you have those kinds of problems, pray to your Maker that the Motion does not end so that the next day, you can then present your proposed amendments to the Clerk two hours before. I think it is only fair that we do it that way. Otherwise, also the Chairs of Committees or Members proposing Bills need time to consider the proposed amendments. That provision is made so that, at least, every side has ample opportunity to consider the proposed amendments and, perhaps, there may even be no opposition if everybody has had enough time to consider what it is that you are proposing to amend. Please, note that and the reports where you want to move amendments. Please, be guided accordingly.

COMMUNICATIONS FROM THE CHAIR

LAUNCH OF AK/OPENING OF AFROPAC OFFICES

Hon. Speaker: Hon. Members, let me take this opportunity to welcome to the House some local and international guests. In the Speaker's Row are international guests on a visit to Kenya during the official launch of Accountability Kenya and the official opening of the African Organization of Public Accounts Committees (AFROPAC) Offices in Nairobi. Shortly hereafter, I will invite hon. Ababu Namwamba, the Chairman of PAC to issue a statement in that regard.

In the Speaker's Row are:-

(i) KomKom Geng, MP - Chair of South Sudan National Assembly PAC and also the Chairperson of AFROPAC.

(ii) Hon. Edward Dagos, MP - Chair of Liberia National Assembly PAC, Chairperson of the West African Association of PAC and also the Deputy Chair of AFROPAC.

(iii) Hon. Ben Fofana, MP - Member of Parliament from the Republic of Liberia National Assembly.

(iv) Hon. Anderson Konsolu who is a consultant in the Liberian National Assembly.

Accompanying them are the following:-

(i) Mr. Philip Mwangi Mubea from the County Assembly of Kiambu representing the Central Cluster of PACs.

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(ii) Mr. David Chacha from the County Assembly of Migori representing the Nyanza Cluster.

(iii) Mr. Mustafa Ahmed from Garissa County representing the North Eastern and Coast Cluster.

(iv) Mr. Kitur from Trans Nzoia County Assembly representing the Rift Valley Cluster.

(v) Mr. Chris Nakitale, the Chairperson of PAC in Busia County Assembly representing the Western Cluster.

(vi) Jonathan Mutua from Makueni County representing the Eastern Cluster of PACs in the assemblies.

Accompanying them are also representatives from our Public Procurement Oversight Authority (PPOA), Institute of Certified Public Accountants, the Ethics and Anti-Corruption Commission (EACC), the Auditor-General's Office and the Director of Public Prosecutions (DPP). All are members of Accountability Kenya.

I invite them to the National Assembly of Kenya and welcome them. I hereafter invite hon. Ababu Namwamba to make a statement in that connection.

(Applause)

Hon. Ababu: Hon. Speaker, please, do accept the compliments of PAC for your indulgence.

Hon. Speaker and hon. colleagues, we are aware that the mandate of PAC in this House is the examination of the accounts showing the appropriations of the sums voted by this House to meet the public expenditure and of such other accounts laid before the House as the Committee may think fit.

In the execution of this critical oversight mandate, PAC does place a premium on the crucial role of networking at various levels nationally, regionally and globally. It is in this respect that the Committee wishes to update this House and the Kenyan public at large about three key accountability networking efforts that are headquartered right here at the Kenya National Assembly. This has been alluded to by the hon. Speaker. They are AFROPAC, the Eastern African Association of Public Accounts Committees and Accountability Kenya.

Hon. Speaker, before I proceed, let me just reiterate your recognition of the special delegation representing those networks. They are here to join us for the launch of Accountability Kenya tomorrow.

Hon. Speaker and hon. colleagues, AFROPAC is a Pan-African organization whose objectives are *inter alia* to enhance parliamentary oversight over financial accountability in Africa by enhancing networking and collaboration in capacity building for both PACs and supreme audit institutions across the continent in line with Lima and Mexico declarations.

AFROPAC was launched on 2nd September, 2013 at the Arusha International Conference Centre in Arusha, Tanzania by over 400 delegates in a ceremony graced by the Prime Minister of the United Republic of Tanzania, the Rt. Hon. Mizengo Peter Pinda and the Speaker of the Tanzania Parliament, hon. Anne Makinda. It was at the Arusha Conference that Kenya was elected to host the Secretariat of AFROPAC.

Subsequently, during a Governing Council Meeting of AFROPAC held on 18th September, 2013 in Juba, South Sudan, Kenya once again bid and won the right to host the organization's annual conference and general meeting due in September, 2014 here in Nairobi.

Hon. Speaker, in respect of AFROPAC, PAC wishes to reiterate that it is in our best national interest and of great strategic significance to the Kenya National Assembly for Kenya to be confirmed as a permanent host of the African Secretariat in this National Assembly. PAC wishes to record our unreserved appreciation to the parliamentary leadership and, especially, to yourself, Sir, for your overwhelming support.

Hon. Speaker, you supported both our bids and quite significantly, you have now facilitated allocation of office space and provision of equipment and staff for purposes of hosting the Secretariat of AFROPAC and other networks. We believe that you will fully support the September conference.

Thank you, hon. Speaker and the leadership of the National Assembly.

Hon. Speaker, the East African Association of PACs brings together financial accountability committees of parliaments and associates within the East African Community states with the objective of improving capacity and playing a similar role as AFROPAC. EAPAC was formed in 2005 and among the association's distinguished founder members is His Excellency President Uhuru Kenyatta when he served as the Chairman of PAC in this August House.

Kenya hosts the EAPAC Secretariat and also holds the position of Secretary-General of the Association. By virtue of that, PAC has actively and continues to actively participate in all activities of EAPAC across the region.

Hon. Speaker, finally, on Accountability Kenya, I wish to inform the House that Accountability Kenya is a national initiative of PAC jointly with the PACs of all the 47 county assemblies in the country. It was born in November, 2013 at a ceremony in Naivasha that was graced by yourself, hon. Speaker, and attended by 400 delegates from across Kenya and Africa. Accountability Kenya has since quickly evolved into a network of institutions and organizations responsible for ensuring enhanced financial accountability in the public sector in Kenya.

The membership of Accountability Kenya include four Committees of this House; namely, the Public Accounts Committee, the Public Investments Committee, the Budget and Appropriations Committee and the Finance, Planning and Trade Committee. Key State agencies with accountability mandate including the Auditor-General, the Controller of Budget, the Ethics and Anti-Corruption Commission, the Director of Public Prosecutions and the Public Procurement Oversight Authority. Accountability Kenya also includes the PACs of all the 47 county assemblies as well as the Institute of Certified Public Accountants of Kenya (ICPAK), representatives of the media and the civil society.

Tomorrow, Thursday, 28th March, 2014, over 350 delegates from across Kenya's 47 counties will be joined by our invited international guests and partners to witness the official unveiling of Accountability Kenya at the Safari Park Hotel in Nairobi. The ceremony will be graced by yourself, Mr. Speaker, and presided over by His Excellency the Deputy President of the Republic of Kenya, hon. William Samoei Ruto and will also be addressed by the Leader of the Opposition Coalition, CORD.

This is the first initiation of its kind anywhere in the world. Accountability Kenya provides a unique opportunity to join all the dots and lock all the links in the accountability chain. Thanks to Accountability Kenya, recommendations of this House should never be in vain ever again. We now have a channel to pass on the baton to specific players. For instance, to the Ethics and Anti-Corruption Commission for further investigations, to the DPP for prosecution and to the Controller of Budget to withhold funds for accounting officers and governors that breach fiscal regulations and accountability standards.

Indeed, Accountability Kenya provides a unique platform for the national Parliament to work closely with county assemblies to tighten the screws of oversight and accountability for county governments. So, even governors beware, wherever you are, in the expenditure of public resources. Let me also inform this august House that earlier today, 26th March, 2014, the hon. Speaker presided over a ceremony to officially commission and hand over to us the new Secretariat of African Organization of Public Accounts Committees (AFROPAC), the East African Public Accounts Committees (EAPAC) and Accountability Kenya and which will also co-ordinate activities of our PAC. This Secretariat, on the Tenth Floor of the Harambee Co-operative Plaza within this Parliament Square will henceforth be known as the Accountability Centre. Once again, the Committee wishes to appreciate the unwavering support it has received from the Parliamentary leadership that has enabled it to achieve those milestones.

In conclusion, please permit me to mention a couple of things directly related to the work of PAC. The first one has to do with forestalling audit queries through pre-emptive intervention. A great deal of issues that end up as audit queries can be prevented well in advance. Indeed, pre-emptive action and preventive intervention are quickly becoming universal norms as best practices in financial accountability and public audit in many jurisdictions worldwide. PAC is keen on encouraging this concept as a best practice in Kenya, as one way of forestalling preventable audit queries. In applying this concept, PAC plans to start holding round table discussions with accounting officers on red flag matters that could end up in the statutory audit reports of the Auditor-General. The Committee seeks the support of this House in the introduction of this new public audit concept in Kenya.

The second issue is to ensure that we live within constitutional timelines for audited accounts. The Committee is acutely alive to requirements of Article 229 of the Constitution which provides a tight nine month period within which the public audit cycle must be concluded and public accounts approved by this House. The Committee is also cognizant of the implications of Article 203 of the Constitution which provides that division of revenue between the national Government and the county governments is based on the latest accounts approved by this House. The Committee is accordingly instituting drastic measures to ensure that accounts are up to date. This includes the following:-

(i) The Auditor-General will not be permitted to go beyond the three months ceiling in preparing the audited accounts and presenting them to this House. We, nonetheless, remain alive to the human resource and financial constraints in the Kenya National Audit Office and urge a significant rise in the budgetary allocation to the office of the Auditor-General in the Financial Year 2014/2015. Indeed, it is regrettable that the

Supplementary Budget that we passed recently did not sufficiently address this inadequacy.

(ii) PAC will work extra hours including during recess to clear any pending backlog of accounts. The Committee has also commenced a programme of budding together accounts for delayed fiscal cycles. This is one of the ways to deal with a heavy workload which also includes special audits which right now include our inquiry into the Judiciary and IEBC, among others. We thank this House for expediting debate and approval of the duo report that we tabled here earlier this month.

Finally, all accounting officers who delay to submit books of accounts or who submit half-baked responses to audit queries will be publicly named and serious sanctions recommended against them. No extension of time will be granted to any accounting officer in any circumstance. We insist that the same appetite, motivation and rigour exhibited when seeking budgetary allocations from the Treasury and the Budget and Appropriations Committee must similarly be exhibited when accounting before PAC and Auditor-General on how those funds have been spent.

I thank you.

SPECIAL SITTING OF PARLIAMENT

Hon. Speaker: Hon. Members, for some obvious reasons, I have a number of Communications to make. The first one relates to an announcement of the Special Sitting of Parliament.

As you all know, Article 93 of the Constitution of Kenya establishes a Parliament of Kenya which consists of the National Assembly and the Senate. Pursuant to Article 132(1)(b) of the Constitution, His Excellency the President has conveyed that he will address a Special Sitting of Parliament tomorrow. Consequently and in accordance with the provisions of Standing Order No.22(1), I wish to notify all the Members that a Special Sitting of Parliament will take place tomorrow, Thursday, 27th March, 2014, at 2.30 p.m. in the National Assembly Chambers for that purpose.

PROCEDURE FOR CONSIDERATION OF DELEGATED LEGISLATION

My second Communication relates to the procedure for consideration of Delegated Legislation. As you may be aware, there are currently several sets of Delegated Legislation pending before the House for consideration in accordance with statutory requirements. The House has not previously been engaged in the practice of considering statutory instruments on a wider scale as it is now being called upon to do owing to the recent changes in the law relating to statutory instruments. It has, therefore, become necessary for the Chair to clarify to the House the procedure to be followed by the House with respect to consideration of Delegated Legislation as outlined both in our Standing Orders and in the written law.

The consideration of statutory instruments by the House is governed by the Statutory Instruments Act, No.23 of 2013, and Standing Order No.210. Both Section 2 of the Act and the Standing Order No.210(6) define a statutory instrument to mean:-

“---any rule, order, regulation, direction, form, tariff of costs or fees, letter of patent, commission, warrant, proclamation, by-law, resolution, guideline or other statutory instruments issued, made or established in the execution of a power conferred by or under an Act of Parliament under which that statutory instrument or subsidiary legislation is expressly authorized to be issued”.

The Statutory Instruments Act, 2013, came into operation on 25th January, 2013. Before the coming into force of this Act, the laying of statutory instruments before the House was previously governed by Section 34 of the Interpretation and General Provisions Act, Chapter 2 of the Laws of Kenya, but this section was repealed by Section 27 of the Statutory Instruments Act, 2013. The new procedure for consideration of statutory instruments by the House is now as laid out in Part IV of the said Act.

Hon. Members, before I expound on the procedure for consideration of statutory instruments by the House as laid out in the Act, it should be noted that both the repealed Section 34 of the Interpretation and General Provisions Act, Cap.2, and Part IV of the Statutory Instruments Act, 2013, do not contemplate any process of approval of a statutory instrument by the House. It is presumed that the House, in delegating the power to make statutory instruments, has already signified its approval of that statutory instrument. It is for that reason that both the repealed Section 34 of the Interpretation and General Provisions Act and the existing Part IV of the Statutory Instruments Act, 2013 are cast in a language that contemplates the involvement of the House only in instances of annulment of the whole or part of the statutory instrument as opposed to approval of the whole or part of the statutory instrument. The said repealed Section 34 of the Interpretation and General Provisions Act, Cap.2, provided as follows:-

“All rules and regulations made under an Act, unless a contrary intention appears in the Act, be laid before the National Assembly without unreasonable delay, and if a resolution is passed by the Assembly within twenty days on which it next sits after the rule or regulation is laid before it, that the rule or regulation be annulled, it shall thenceforth be void but without prejudice to the validity of anything previously done thereunder, or to the making of any new rule or regulation.”

The same principle of involvement only in annulment is now espoused in Part IV of the Statutory Instruments Act, 2013.

Hon. Members, I will now expound on the procedure for consideration of statutory instruments by the House as sequentially set out in Part IV of the Statutory Instruments Act, 2013.

Under Section 11 of the said Act, every Cabinet Secretary responsible for a regulation-making authority shall, within seven sitting days after the publication of a statutory instrument, ensure that a copy of the statutory instrument is transmitted to the Clerk for tabling before the House, together with an explanatory memorandum, in the manner prescribed in the Schedule. Upon receipt of the statutory instrument and the memorandum, the Clerk enters those instruments into the register required to be maintained under the Act.

Hon. Members, I must observe with great regret that there has been little compliance by the Cabinet Secretaries with this provision. Therefore, I ask the Leader of Majority Party to follow up with the appropriate channels on this issue as lack of compliance with this requirement is fatal to the statutory instrument being sought to be

made. Under Section 11(4) of the Act, if a copy of a statutory instrument that is required to be laid before the House is not so laid within seven sitting days after its publication, the statutory instrument ceases to have effect immediately after the last day for it to be so laid.

Under Section 12 of the Act, every statutory instrument tabled stands referred to the Committee on Delegated Legislation. Section 13 of the Act sets out principles which the Committee should be guided by in carrying out the scrutiny of the statutory instruments. Section 16 requires the Committee, in so far as it is practically possible, to confer with the regulation-making authority for which the statutory instrument has been made before tabling the Report to the House for their information and modification where necessary. It is at this stage that the Committee shares with the regulation-making authority its desired modification to the regulations, if any.

Upon completion of the scrutiny, Section 15 of the Act requires the Committee to make a report to the House containing only a resolution that the statutory instruments that stand permanently referred to the Committee be revoked. Emphasis here is on “be revoked”. Under Section 17 of the Act, the Committee shall state in its Report the overall objectives of the statutory instrument, the identity of the portion of the statutory instrument in relation to which the report has been made, and an indication of the manner in which it offends the criteria set out in Section 10 of the Act and the recommendations thereof.

Under Section 18 of the Act, when a report on a statutory instrument has been tabled in the House, the statutory instrument shall be deemed to be annulled if the House passes a resolution to that effect. Under Section 19 of the Act, where the House has adopted a report or resolution that a statutory instrument be revoked, the instrument shall stand revoked and the regulation-making authority shall publish the revocation within 14 days.

Hon. Members, it is apparent that Part IV of the Statutory Instruments Act, 2013 does not contemplate the full involvement of the House in the regulation-making process. As such, the House is not required to approve or make any amendments to the statutory instrument. Rather, the House is only required to annul the whole or any part of the statutory instrument that the House is not happy with. In making the annulment of the whole or any part of the regulation, the House is required to give its reasons, which will guide the regulation-making authority in formulating new provisions to replace the ones annulled by the House.

Indeed, a reading of Sections 15, 18 and 19 of the Act clearly shows contemplation of annulling resolution by the House. There is no contemplation of amending or approving resolution. The committee report to the House must, therefore, comply with this statutory requirement. This is in consonance with Article 94, Clause 6, of our own Constitution, which requires Parliament, in delegating any legislative authority, to specify the purpose and objectives for which the authority is delegated, the limits of that authority, the nature and scope of the law to be made and the principles and standards applicable to the law made under the authority. Parliament does not, therefore, only come in to check the procedural existence of that power and not the exercise of the power itself.

Hon. Members, the provisions of the Statutory Instruments Act, 2013 have, in fact, been clearly expounded on by our own Standing Order No.210 as set out earlier. Although Part IV of the Statutory Instruments Act may be argued to comply with those statutory instruments that have been published in the Gazette, Standing Order No.210 applies the same procedure to those statutory instruments submitted to the House irrespective of whether publication has taken place or not. The procedure outlined in this Communication, therefore, applies to all statutory instruments that were submitted to the House prior to the publication and before publication.

Under Paragraph 2 of Standing Order No.210, “Whenever a statutory instrument is submitted to the Assembly pursuant to the Constitution, any law or these Standing Orders, the statutory instrument shall, unless a contrary intention appears in the relevant legislation, be laid before the Assembly by the Chair of the relevant Departmental Committee or any other Member, and shall thereafter stand referred to the Committee on Delegated Legislation.”

The Committee is then obliged to scrutinise the statutory instrument in accordance with the criteria set out in the Act and upon completion of its scrutiny, there is no contemplation of any Motion for approval of amendment on the statutory instrument, except for a Motion of annulment when the Committee has recommended so.

Hon. Members, of particular emphasis is Paragraph 4 of the Standing Order, which provide as follows:-

“210(4) If the Committee-

(a) resolves that the statutory instrument be acceded to, the Clerk shall convey that resolution to the relevant state department or the authority that published the statutory instrument;

(b) does not accede to the statutory instrument, the Committee may recommend to the House that the Assembly resolves that all or any part of the statutory instrument be annulled---”

The committee, therefore, only reports back to the House in the instances where it has desired to annul the whole or part of the statutory instrument. Where there is no desire to annul the whole or any part of the statutory instrument, that resolution is communicated to the Clerk, who then communicates to the relevant State department or the authority that published the statutory instrument.

Hon. Members, it is, therefore, my hope that the foregoing exposition will clarify to the House, and the Committee on Delegated Legislation, the procedure that should be adopted in the consideration of the statutory instruments that are pending before the House. Indeed, under Standing Order No.47(3) the Chair will not allow debate on any Motion or report that is contrary to the Constitution or Act of Parliament, without expressly proposing appropriate amendment to the Constitution or the Act of Parliament. The power to make regulation, once delegated under an Act of Parliament, should not be exercised by the House itself, unless the House amends that particular piece of legislation.

I, therefore, thank you.

(Applause)

(Some hon. Members walked into the Chamber)

Hon. Members the next communication is rather long; so, those who are walking in, perhaps, you should quickly do so and, please, take your seats.

THE MANDATE OF AUDIT COMMITTEES *VIS-A-VIS*
DEPARTMENTAL COMMITTEES

Hon. Members, this communication has been necessitated by requests or further requests, made by several of you regarding the mandate of Audit Committees *vis-a-vis* Departmental Committees. Hon. Members, as you may recall on Tuesday, 18th March, 2014 the Chairperson of the Departmental Committee on Energy, Communication and Information, hon. Jamleck Kamau, rose on a point of order seeking the guidance of the Speaker on the issue of the mandate of the Departmental Committees as compared to that of Public Investments Committee in respect of State corporations.

The leadership of the House, present in the House, at the time also spoke on the matter, including the Leader of Majority Party, the Deputy Leader of Minority Party, the Chairpersons of several committees, including Departmental Committee on Administration and National Security, The Departmental Committee on Transport, Public Works and Housing, The Departmental Committee on Health, Public Accounts Committee (PAC) and Public Investments Committee (PIC). They also canvassed very important views to the clarification sought by the Member for Kigumo. Other Members who spoke included the Member for Rarieda, hon. (Eng) Gumbo and the Member for Homabay, hon. Kaluma.

Having listened to them, I have deduced the following three matters as requiring my determination:-

(i) the extent to which PIC and Departmental Committees should engage with State corporations in the execution of their respective mandates;

(ii) whether the usage of the words “examination of” as compared to usage of the words “study, investigate and inquire into” all matters in Standing Orders Nos.206 and 216 respectively limit the work of PIC;

(iii) the interpretation of paragraph 8 of Standing Order No.206 in comparison with paragraph 5(a) and (e) of Standing Order No.216.

Hon. Members, allow me to begin by thanking the membership of this House for raising these very weighty matters. I have treated this as a rare opportunity to augment my communication of 5th December, 2013 on a related subject. As I stated in that communication, I will in time and again, when called upon so to do by this House, offer supplementary guidance on these matters on a case by case basis as any new information arises.

Before I make my findings known, let me admit that these issues have, indeed, exercised my mind severally. As I ponder and agonize on the finest ruling to make, I have asked myself a number of questions, which I wish to share with you this afternoon. I invite you individually to sincerely attempt to answer the following five questions:-

(i) What are the inherent reasons that have made these matters to keep recurring, more so in this Eleventh Parliament?

(ii) Is it that we have more committees than we ought to, or is it that our present committees tend to concentrate on similar matters that, probably, appear to be popular?

(iii) Is it possible, hon. Members, that by tending to focus on the familiar issues, committees may overlook other important matters falling within their mandate and lose the opportunity to be more innovative?

(iv) Is it optimal use of our time as a House, if more than one committee were to investigate the same matter and report to the House, whether separately or jointly?

(v) Who really gains when committees continually contend with overlap of mandates?

Hon. Members, it is my view that if we were to boldly answer these questions, we, probably, would not seek the guidance of anybody on the mandates of committees, let alone a ruling from the Speaker. If we were to be faithful to our Standing Orders and practices of this House as, indeed, urged by hon. Kaluma on 18th March, 2013, I have no doubt that I would rarely be asked to provide guidance on such matters as the interpretation of words used in the Standing Orders. However, since I have to adjudicate, I will not fail to rise to the occasion and on my part, I will be very bold.

The first question relates to the extent to which the PIC and Departmental Committees should engage with State corporations in the execution of their mandates. Hon. Members, as I have ruled before a State corporation established under the provisions of the State Corporations Act, Chapter 446 of the Laws of Kenya, or indeed, established by a specific Act of Parliament is not, and cannot be construed to be a department of a Ministry, within the meaning of Standing Order No.216. If that was to happen, then we would be assuming that there is no difference, for instance, between the Department of Finance in the Ministry of Transport and Infrastructure and a familiar and similar department at the Kenya Airports Authority.

That will not augur well as the organ that made the laws that separated such two institutions and described one as a body corporate--- Then we should not shy away from treating them as such when it comes to applying our Standing Orders Nos.206 and 216. Why would one be comfortable to acknowledge that a public body is a State corporation, when the usage of the term favours the intention but retreat to a different meaning when the term does not favour the intention?

In my last communication on 5th December, 2013, I mentioned the matter of audit of Ministries and State corporations under the Public Audit Act, No.12 of 2003. If, indeed, State corporations were to be mistaken for departments, then it would follow that they would be audited and reported on together with Ministries. This is not the case; each is treated separately and distinctly. That is why I encourage all of us to apply our minds in the consideration of these matters and remain consistently faithful to the law and our own Standing Orders.

Hon. Members, Article 125 of the Constitution empowers any committee of the House of Parliament to summon any person for purposes of giving evidence or providing information, but that is not the end. Here, I want to refer to Derek Lee, a former MP in the House of Commons of Canada; in his book titled: "The Power of Parliamentary Houses to Send for Persons, Papers and Records". That book recognizes that a Committee has no authority except that which the House has delegated to it. Invariably, the House exercises that delegation by way of Standing Orders and resolutions. It,

therefore, does not mean that a witness to one committee should appear before every committee on the same matter. The Standing Orders are supposed to guide us on who is supposed to appear and give evidence in what committee.

Hon. Members, I guided on 5th December, 2013 that if the PAC was to engage a State corporation then the principal witness should be the Accounting Officer of the parent Ministry. On the other hand, in executing their mandate under Standing Order No.216, if a Cabinet Secretary or a Principal Secretary is required to appear before a Departmental Committee; such a committee should look into all matters falling within the Ministry and all its departments. In the course of inquiring into the matters under the Ministry and its departments, the Ministry is not stopped from delving into matters of mandate, management, activities, administration, operations or estimates of State corporations under a Ministry as provided for under Standing Order No.216(5)(a).

However, the interpretation of that Standing Order limits the jurisdiction to the confines of Ministries and their departments. It, therefore, follows that the carrying out of that mandate must be tied to the context of that particular Ministry and its departments.

Hon. Members, let me now turn to the second question relating to the usage of the words “examination of” as compared to the words “investigate, inquire into all matters” and the word “study” as used in Standing Order Nos.206 and 216 respectively. The Oxford Dictionary defines the word “examine” as follows: “to look at; inspect or scrutinize carefully or in detail; to investigate.” On the other hand, the word “investigate” is defined as: “to inquire into a situation or a problem thoroughly in order to discover facts”. The word “study” is defined thus: “to apply the mind to learning or understanding of a subject”.

In Standing Order No.206, which provides for the mandate of the PIC, the words “examination of” are used consistently in all paragraphs. According to the Oxford Dictionary, the word “examination” can be used interchangeably with the word “investigate” which also means “to inquire into a situation or a problem thoroughly in order to discover facts.”

Without proceeding further with the usages of these words, it is worth noting that assigning meaning to words is not as crucial as determining their application. In this regard, there is no doubt that by the application of the usage of these words in the Standing Orders and the operation of the State Corporations Act, and the Public Audit Act the PIC has limited mandate. Not only is the mandate limited to oversight of workings of public investments, but the exercise of that mandate is mainly limited to State corporations as corporate entities embodying public investments. Since examination is a process of finding out and not a result; the mandate is further limited to the availability of a report either by the Auditor-General or other competent authority. Where a report is not available, the Committee can only report to the House after a special report by the Auditor-General is prepared.

On the other hand, the mandates of the Departmental Committees are, indeed, very wide. To no other group of committees has the House delegated the functions of investigating, inquiring into all matters and even studying. However, committees tend to concentrate on the traditional and seemingly populist matters and overlook others. If all committees chose to go for the lesser mandate, then who will do the wider business that the House has delegated to the Committees? Who will study, assess, or analyse the

relative successes of Ministries and their departments? Who will study policy objectives of Ministries and report on their effectiveness? These are very distinct and unfettered mandates given to Departmental Committees, but which have remained largely unattended to. This is where innovativeness comes in.

In their book titled: “How Parliament Works, 6th Edition”, Robert Rodgers and Rodney Walters state: “Whatever a committee does, its effectiveness depends, above all, on its members.” Citing a Report of the Liaison Committee of the House of Commons the authors noted the following: “No pain, no gain. There is no easy route to success in committee work. A determined and hard working committee in which members are prepared to devote substantial effort and put the interest of the citizen and the taxpayer first can be extraordinarily effective.”

I have no doubt that there are committees which by the end of the term of this Eleventh Parliament will be rated by yourselves as having been extraordinarily effective.

Hon. Members, the last question raised the interpretation of Standing Order No.206(8) in comparison with Standing Order No.216(5)(a) and Standing Order No.216(5)(c). There appears to be no question as to which committee should oversee which particular Ministry. The plain reading of Standing Order No.206 and Standing Order No.216 indicates as follows: It will be out of order for the PIC to examine policy matters such as those of mandate, management, administration, or estimates of a Ministry, or its department, or a State corporation. It will also be out of order for the PIC to examine matters that are not of business or a commercial function of a State corporation such as the processes of appointing board members, hiring of chief executives, the execution of regulatory functions of State corporations or the implementation of objectives of State corporations.

These are matters falling within the mandate of the Departmental Committees as they engage in matters of Ministries and departments under which the respective State corporations fall. It will be out of order for a Departmental Committee to attempt to inquire into matters of business or a commercial function of a State corporation except the policies that inform such business or commercial undertakings (I put emphasis on the word “policies”). Such matters include investments made by State corporations, the management of investments made by the national Government in a State corporation and related matters.

The Oxford Business Dictionary defines a business function of an enterprise to include the functions of sale, procurement or purchase of goods and services, trading in services, commodities, shares or futures, the granting or undertaking of loans, commercial liabilities, debts or commercial agreements. It, therefore, follows that the substantial function of oversight of these items of public investments, whether they are being managed in accordance to serve financial or business principles and prudent commercial practices as made by the national Government in any corporation is an exclusive function of the PIC.

Hon. Members, as you may be aware, the Speaker has no jurisdiction over matters active before committees unless in exceptional circumstances where those matters are brought to the attention of the Speaker. In this regard, the Member for Rarieda, in canvassing his views, correctly observed that the subjects under the Departmental Committee on Energy, Communications and Information, to which he is a member,

include fossil fuel exploration, development, production, maintenance and regulation of energy.

The question that the hon. Member did not ask himself is what the connection is between this subject, as contained in the Second Schedule of the Standing Orders and the provision of Standing Order 216(5). What should the Committee do, for example, with the mandate of fossil fuel exploration? We must interpret the limit in the context of the broad context of the mandate, management activities, administration, operations or Estimates of the particular Ministry dealing with that subject matter and in departments, its programmes and policy objectives.

In the course of inquiry, if a State corporation under the Ministry becomes a subject then it follows that the inquiry is wide to that extent. But certain inquiries will not go into the functions of sale, purchase of goods and services, trading in service, commodities or shares or futures; the granting or undertaking of loans, commercial liabilities, debts or commercial agreements related to that subject in a State corporation, unless policies made by the Government in respect to those functions have not been adhered to. This is because such are matters of business, or commercial function of a corporation. This is the opportunity for the interface that the hon. Member for Homa Bay Town asked the Committee to seize as opposed to seeing it as a conflict. One committee with a wide mandate would limit itself to non-business and commercial aspects while the other will take over from there.

However, if there was to be a report of the Auditor-General, touching on the said subject as alluded to by the hon. Member for Eldas, it would then be completely out of order for any other committee to examine the audit matters, since that mandate is exclusively vested in the Public Investments Committee. Where the report of the Auditor-General or other reports from a competent authority are not available on matters relating to business or commercial functions of a public investment, the calling of witnesses by the PIC on such matters can only be for the purposes of occasioning a special report, which the Auditor-General will then be asked by the Committee to investigate and give a report from a professional point of view.

As I mentioned in my previous communication, that Committee may also be assisted by other organs such as the Inspectorate of State Corporations and the State Corporations' Advisory Committee in addition to the Auditor-General.

Hon. Members, as I uphold my previous communication of 5th December, 2013 allow me to revisit the very last question that I posed at the beginning: Who actually stands to gain when committees continuously allege overlap of mandates? If the questions before me were those of the celebrated tussles between the Executive and the investigative committees, I would probably be very fervent to deliver such a ruling on the spot, because the Constitution, many statutes, traditions, practices and conventions, and almost every authority that exists will expressly defend our position on who should offer oversight. But when that question is to determine which of the committees of the National Assembly should assist the House in the exercise of its oversight roles as provided for in Article 95 of the Constitution, the only loser would be this House. We risk losing faith whenever these questions are subjected to the court of public opinion. Let us exercise the mandate of committees with temperance and sobriety. Those of you

who may have visited other jurisdictions will know that these two values are held very highly in committee work.

Hon. Members, committees are not an end by themselves. They operate on delegated authority, and as such their findings are not final. When all is done, the entire House eventually has the opportunity to consider matters examined by a Committee. Sometimes, as you have done before, the House may even disagree with a committee. As the Leader of Majority Party rightly affirmed, a committee has no power to suspend or stop the execution of a function of the Executive or any other arm of the Government; that is the exclusive mandate of this House sitting in plenary.

Hon. Members, it is said that when you realize that you are heading in the wrong direction, it is wise to retrace your steps than to continue in the wrong direction. It is possible that mistakes have been made in the past. It is possible also that PIC may have examined matters of day-to-day running of State corporations even when the Standing Orders prohibit that. It is also possible that the PIC would do a report to the House even when it is not accompanied by the report of the Auditor-General, or a special audit report, or, indeed, any other report, as provided for in the Standing Orders, from a competent authority. It is also possible that a departmental committee would examine anything, including financial audits and business or commercial functions of State corporations, even where the Auditor-General has made a report on such matters; all that might have happened. The time for corrective action should start now, if it has not already started. Let us now look ahead boldly and remain faithful to the law of the land under our own Standing Orders.

Finally, hon. Members, it is my sincere hope that this communication, read together with the previous one, settles these matters as to mandates. I expect committees, individual hon. Members, or, indeed, the management of the National Assembly as a whole to adhere to these two communications. Should there be need, I will not hesitate to offer further communication on these issues.

Thank you.

Hon. A.B. Duale: Thank you, hon. Speaker. I want to thank you for that. In the last Parliament, they used to call it “solomonic communication or ruling”.

I want to thank you particularly on the first communication because you have pronounced yourself and you have brought clarity to the issue of how to deal with delegated legislation.

(Loud consultations)

Hon. Chair, there is too much consultation, and the matter I am raising is very important.

Hon. Speaker: What is the matter, hon. Members?

Hon. A.B. Duale: Hon. Chair, you have pronounced yourself and you have brought forward serious clarity on how this House should deal with delegated legislation.

Hon. Speaker, if you allow me to say it, after I read your communication on the first part, perhaps, we are the only country in the world that has subjected delegated legislation to a Committee of the whole House. We are the only country to have done so, particularly when the regulations have already been delegated to another authority.

Therefore, number one, I think this communication will create some time for the House to deal with that. More fundamentally, Section 11(4) again puts the Executive to task; if they do not submit their gazetted regulations to the Clerk of the National Assembly for tabling, then those regulations are a nullity. More fundamentally, from the two communications made, this House must be very conscious of its rules and procedures. Where a matter is delegated, then we must leave it to the delegatee.

Finally, I think you have, for the second time, made a fundamental communication on how Departmental Committees and audit committees should carry out their mandate. Parliament has been taken to a number of training sessions. I would urge that the clerks who are assigned to the various Committees, the Clerk's office and our Director of Committees should advise the committees and Chair, so that we do not come up with these issues every now and then. The Clerk's office and the Legal Department must also advise on border lines and how it should be done.

I want to thank you more sincerely for your first communication on delegated legislation.

Hon. Speaker: Very well. Next Order.

BILLS

First Readings

THE SCRAP METAL BILL

THE PROHIBITION OF ANTI-PERSONNEL MINES BILL

(Orders for First Readings read – read the First Time and ordered to be referred to the relevant Departmental Committees)

MOTION

ADOPTION OF REPORT ON TERRORIST ATTACKS IN KENYA

THAT, this House adopts the Report of the Joint Sitzings of the Departmental Committees on Administration and National Security and Defence and Foreign Relations on the Inquiry into the Terrorist Attacks at the Westgate Mall, and other Terror Attacks in Mandera and Kilifi, laid on the Table of the House on Thursday, 5th December, 2013.

(Hon. Abongotum on 25.3.2014)

(Resumption of Debate interrupted on 25.3. 2014)

Hon. Speaker: Who was on the Floor? Hon. Members, I think granted that we appreciate our size, it is fair that when a debate goes beyond a day, maybe it is good to get to know the persons who have already contributed, so that they do not get

inadvertently an unfair advantage over others. So, I want to know who has contributed to this, so that we commence. I can see we have 22 requests. Very few have contributed.

The following Members have contributed to this Motion: the Mover, the hon. Asman Kamama, the Seconder, the hon. Ndungu Gethenji, the hon. Isaac Mwaura, hon. Abdulswamad Nassir and the hon. Joseph M'eruaki who has done seven minutes and has a balance of three minutes. So, the hon. Member for Igembe North, you have three minutes. Make the best out of them.

Hon. M'uthari: I will make the best of them. Thank you, hon. Speaker. Let me continue with my presentation on this. Given the importance of this Report and the importance of security as far as national development is concerned, this Report should be a serious reflection of the country and us here.

When you look at this Report, when the Westgate terror attack happened information had been shared earlier and it indicates clearly that there was laxity by certain security agents like the police. Even as we give the recommendations, I think it is important that when people commit mistakes, they take responsibility for them. If people do not do that, by the end of the day so many citizens are at risk and that is not good.

At the moment, we are still faced with this problem of insecurity in the country. Just recently we had the Likoni church incident. The same laxity was still there. There are lapses by the security agents. They do not respond to terror attacks. I think it is high time the Committee followed up the recommendations in this Report. We need to have different security agents coming together like the National Intelligence Service (NIS), the police and the other agents.

Hon. Speaker, it is important that there is harmony. The other day we saw the Inspector-General (IG) effecting transfers of senior police officers, which were followed by contradiction by the Chairman of the National Police Service Commission. We need serious co-ordination; it appears that, that same lack of co-ordination by the various security agents is putting our country at risk, and that makes it very difficult for their operations and also for investment. It also makes people's lives difficult.

Hon. Speaker, I think it is high time, as a House, we made recommendations that people who commit mistakes are made to account and take responsibility for the lapses which we experience in the security sector. As I said, we also need to look at the other local incidents. In the past we have seen instances where we were not secure in our homes and the estates where we live; all this is because of disharmony in the disciplined forces. So, it is important that as a country we reflect and then ask: "Where do we put our resources?" If we put our resources in security, will the recommendations given here be implemented? How long do they take to be looked at? This is so that by the end of the day we have sanity, proper co-ordination and secure living wherever we are.

Hon. Speaker, with these few remarks, I support this Report.

Hon. Speaker: The Member for Kiminini.

Hon. Wakhungu: Thank you, hon. Speaker. I rise to support this Report. When committees work on issues, their reports must be decisive. It should not be a public relations exercise. If you read the Report keenly you will realise that from the observations you come to conclusions and then you come to recommendations.

Hon. Speaker, unfortunately there are some inconsistencies. For instance, it is said that there was intelligence information which was given on Westgate and it was timely.

Now, you wonder who was supposed to respond to this intelligence information on Westgate. We know that if at all the information was given, it was the police who were supposed to have acted on it.

Hon. Speaker, when you come to the recommendations there is nothing that touches on the issue of the police. Many Kenyans lost their lives. My family was also caught in that Westgate terror attack, and it is high time that this Report became decisive. If the police slept on the job they must take responsibility. Unfortunately the Report is silent about that.

Hon. Speaker, this country is now insecure. Look at what happened in Likoni. Churches and mosques are becoming insecure. Now, we do not know where we are going to be safe. It is high time security agencies acted. We must have a radical surgery of security agencies. I went to Kenyatta National Hospital (KNH) to visit some of the Likoni victims. I met this one-and-a-half-year old boy in whose head a bullet is lodged. It is an ugly incident. The mother, who was shielding him, died. The bullet killed his mother and got into the baby's head. It is high time the security agencies, especially, the police took action.

Hon. Speaker, much as this Report is above average, when you look at the recommendations they are not actionable, and it is high time reports were decisive when they come on the Floor of the House; measures must be put in place, so that action can be taken.

Hon. Speaker, we condemn terrorism in the strongest terms.

Hon. Abongotum: But you support the Report.

Hon. Wakhungu: Yes; even if I support it we have issues of gaps in the Report which I am trying to put across, so that we improve in future. This is because in any report, there must be consistency and logical flow. When you look at the observations, if at all the NIS came out clearly and said they warned that this was going to happen, then that means the police slept on the job. So, it goes without saying when it comes to recommendations that there must be actions that the police are supposed to take, so that the same incident does not happen again. That consistency is lacking.

What action are we taking against the element of looting, especially in relation to the head of the military? We had cases of uncoordinated response when it came to the security matter. We know it very well. We were told that there was a woman among the terrorists, but up to now we do not know whether there was a woman. We were told that the terrorists were killed. Where are the bodies? The issue here is that while the Report is out, it has not passed the test of time. It is important that the next time we have such reports, they be decisive for purposes of action.

I was talking about the Likoni incident; it is a big problem in this country; it is high time the Government put measures in place to contain the aspect of terrorism. When it comes to the Department of Immigration, this is where corruption is. We need a radical surgery. It reminds me of sometime when the head of immigration was going to the Ethics and Anti-Corruption Commission (EACC) where we were told she collapsed at the entrance. Why she collapsed I do not know. Maybe she was a victim, I do not understand that, but it is high time we went into the Department of Immigration and did a radical surgery, because this is where people are getting passports using crooked means. People are getting IDs using crooked means.

In the Report it is said that the planning of the Westgate attack was done at Kakuma Refugee Camp. The question is this: How did those people enter this country? Where did they get passports from? Some of them had work permits. All this is done at the Department of Immigration. It is high time this House debated this objectively, so that a radical action is taken.

We want to thank His Excellency the President and the Leader of CORD. At the time of the Westgate attack, we saw the leadership of both Jubilee and CORD come out. They went there and we want to move together as a team. This is not an issue to do with whatever coalition you belong to; we are talking about the security of this country. We need to know these terrorists. We do not know the number and Kenyans are asking questions. Many people doubted this Committee but it had able Chairmen. It is high time we are told who the terrorists were. Did they die? How many were they? Where are their bodies? Those are basic questions we expected this Committee to have answered; unfortunately when we go through this Report, nothing comes out. We have a vague report, which has generalized issues; it is difficult in terms of implementation. We ask ourselves: Where is Kenya going? This is the time we concentrated on the aspect of security. When it comes to the Budget, we give a lot of money to the security agencies. In the Supplementary Budget, they wanted more money. We have seen many hon. Members facing insecurity even in Karen; it is unsafe there. Where are we heading to in this country as far as security matters are concerned? This is the time we should come together, put our heads together, speak without fear or any intimidation, so that we can have measures in place to control the aspect of security.

Hon. Speaker, on the issue of refugees, one of the recommendations is that we must close all the refugee camps. Every decision has a risk. There is no decision which is 100 per cent perfect. If at all the refugees are the people who come to terrorize this country, we support that the refugee camps be closed. We must do a cost benefit analysis. Kenya has been humanitarian enough. We are keeping a lot of refugees in this country; if they are coming to this country to cause terrorism everywhere, and terrorize everybody including churches--- Now you cannot even go to church. We are requesting the Government to provide security in churches. Some of us who are churchgoers are worried. Even the Muslims are worried. So, what are we going to do as far as worshipping is concerned? It is high time the Government provided security. Even the Government is not in safe hands.

As I conclude, I want to thank my Chair; I know they did a good job but they should do a bit of improvement. When I say this, it is to provide room for improvement. There is continuous improvement. There needs to be consistency in the Report.

I want to thank the National Intelligence Service (NIS); the report and the evidence that was given showed that the NIS is on top of things. We saw the evidence they provided. They had actually warned the security agencies in Nairobi that we were going to have attacks in shopping malls, especially the ones owned by Israel. The evidence was there! As a Member of the Committee, we saw it. I want to congratulate the NIS for the good work. But we also need to have proper co-ordination when we have a disaster; we were told that there was a commandoes department which had tried to control the situation but when the military got in, there was problem.

I reluctantly support the Report.

(Several hon. Members stood up in their places)

Hon. Speaker: Hon. Members, if you are a chairman of a committee, the best thing is not even to interrupt contributors, because you will have an opportunity to reply. So, it is better to allow everybody to say what they must say because it is fair. Nobody should be gagged. Hon. Wamalwa, there is no gagging in this House. I can only give direction based on our own Standing Orders and rules.

Hon. Shill: Hon. Speaker, two minutes of my time is already gone. It is exactly six months and five days ago since these terrorists attacked the Westgate mall. I wish to once again send my sincere and heartfelt condolences to the families and friends who lost their loved ones during the attack. I also wish quick recovery to those who were physically and mentally injured.

I condemn this cowardly act, not only at the Westgate but also where it happened in Eastleigh, Garissa, Wajir, Mandera, Mombasa, Kwale and Kilifi. I salute those Kenyans who bravely assisted those who were attacked, especially the Kenya Red Cross led by Mr. Abbas Gullet, and also those individuals who risked their lives like Abdul Haji and the rest. I also salute our Kenyan Police. I salute the NIS. I salute the Kenya Defence Forces (KDF) and I salute all other friendly nations which took part in saving lives.

I want to concentrate on the first recommendation that the Government should declare war on *Al Shabaab*. The *Al Shabaab* is the enemy of Kenya and the enemy of the world. This is a group that was formed in 2006 as the military wing of the Islamic Courts Union in Mogadishu when they took over Somalia. In 2008, they were declared a terrorist group. The USA Government, under an Executive Order has designated it a terrorist group. Four years later, these people became an affiliate of *Al Qaeda*. What is worrying is that its leader, Ahmed Abdi Mohamed, known as Godhane or Sheikh Zubair has US\$7million on his head; what is worrying most is the Kenyan by the name Abdikadir Mohamed Abdikadir Ekrima who was born in Mombasa, brought up in Eastleigh and who masterminded the terror attack in Westgate and is continuously doing it. He is in charge of the intelligence section. It is worrying when you have a Kenyan who is on the other side fighting this nation. He is in charge of intelligence. These days the *Al Shabaab* is not about Somalia or Arab, it is in all nations, including Kenya here. You will see Ochieng, Maina and everyone else. Our youth have been radicalized and it is very worrying. When your youth are radicalized, as we see in Mombasa, where an *Al Shabaab* flag is hoisted on a mosque and nothing is being done, it is worrying. It is worrying when you see somebody like Makaburi going to a television station and saying that he salutes people who have killed other people in Westgate. The people who were recording it were Kenyans. It was shown on NTV. He was saying that he adores the person who masterminded the 1998 bombings of the US Embassy where 250 people perished. He continued to say that we should kill all Christians. This is really worrying, yet no action is being taken. You will see the police arresting youths who are going about their businesses and fining them Kshs.1,000. It is really worrying.

The reason the *Al Shabaab* gave for hitting us was just because we went to secure Somalia. We went to Somalia for our own interests. Tourism was attacked, and that is where we earn a lot of money for our own GDP. When Kenyan borders are attacked; when people come all the way to refugee camps in Dadaab, and take away NGO workers

who are doing humanitarian work, Kenya had to act and it acted rightly. It had to take the war to the doorstep of the terrorists. We have no apology to make.

We have a neighbouring country called Somalia, which has disintegrated. *Al Shabaab* is a terrorist group that has not even spared the Somalis in Somalia. They have maimed and killed children. They even attempted to capture and kill the President of Somalia recently. During the 2010 drought, they prevented volunteer workers from going to help the Somali citizens. They do not allow the youth even to watch TV; not even football matches. Somalia has been under siege and today, they are coming for Kenya. This is an ideology problem. I think we should stop the blame game. The enemy is real. We must declare proper war on *Al Shabaab*. If you look at our security threats, according to our security agencies, out of eight insecurity incidents, seven are related to Somalia. Around 2004, Kenya was so good. We called all Somalis here at a place called Mbagathi and created the first Government of Somalia, which routed out the *Al Shabaab* from Mogadishu. I think we did a good job. We must continue supporting Somalia because, if we leave Somalia the way it is, we are going to be eaten up.

If you look at money laundering, improvised explosive devices, proliferation of arms, refugee problems and counterfeit goods, all of them come from Somalia. So, we must try to stop that. I think it is good to take more troops there.

Finally, instead of blaming our security organs, we must strengthen them. We want to have many intelligence people going to Somalia and praying with the *Al Shabaab*, and even be with them in the mosques. That is because those are the enemies of the people of Kenya and the world. It is not business as usual. We must change our policy; we must have secrets. There are over 3,000 intelligence staff of *Al Shabaab* called 'amniat' in this country, yet we are doing nothing about them. They are living among us. We must have a central co-ordination mechanism so that our agencies, instead of engaging in blame games, can share information. I know they are doing a good job but, at the same time, they are overwhelmed. We have to give them a lot of money, so that they can prepare properly.

Finally, I want to say that we want, as a Parliament, to resolve that anybody who is really fueling sectarian or religious war, must be arrested immediately. He or she must be silenced. There is no other way about it.

Hon. Speaker: Hon. Neto

Hon. Oyugi: Thank you very much hon. Speaker, for giving me this chance to speak. Before I speak, first of all, allow me to thank you for nominating me and hon. (Ms.) Mitaru, the Embu CWR, to represent the National Assembly at the Commonwealth Parliamentary Session on Human Rights Forum. It was a good learning session in protecting and promoting human rights. I do thank you for that.

Having made those preliminary remarks, I would like to say that I oppose the adoption of this Report in its current form. Looking at this Report, it is a report that lacks in content and the recommendations are at variance with the observations. Of course, hon. Abongotum knows that and he is my very good friend. I respect him but in terms of documentary work and this Report, I really think that he failed.

The mandate of this particular Committee was very specific. The Committee was constituted with a view to establishing the circumstances leading to the terror attack at the mall, and whether there were any acts of omission and commission on the part of our

intelligence and security organs in the country. Of course, the Committee was free to expand its mandate as it did; they did undertake more trips to Kilifi, Garissa and other places that had been the subject of terrorist attacks.

I would like to put my objection to this Report in two parts. First, I would like to speak to recommendations and, if time allows me, then I will look at the observations and juxtapose them with what was supposed to be their terms or mandate. Recommendation No.4 reads as follows:-

“The refugees Act, 2006 should be repealed.” If you look at the current Refugees Act 2006, in my opinion and observation--- I have spent time reading the Refugees Act. There is no document as comprehensive as the Refugees Act, which can actually help Kenya deal with the menace of the refugees in Kenya. To talk about repealing the refugees Act--- Section 4 of that particular Act speaks very well in terms of when someone, for example, would lose the status of being a refugee. You have particular elements in the refugee camps who have an issue, are terrorists, or are people you suspect of terrorist acts, the refugees Act actually provides for how you can deal with such fellows.

The same Act in Section 5 deals with when a particular refugee ceases to be a refugee. What is most exciting and interesting in this Report is Recommendation No. 5, which speaks about closing down refugee camps. Of course, I have listened to Members of the Committee; some of them speaking to this particular principle and thinking that it is the best way to go. Article 25 of the Constitution says that general rules of International Law shall be part of laws of Kenya. Section 18 of the Refugees Act, which they want repealed, speaks to the spirit of the principle called the “non-expulsion principle”. You cannot send a refugee back to his home or other places until such a time that the refugee or that particular person wants to go.

That is what the principle in Section 18 of that particular Act entails. That is the spirit of Article 14 of the United Nations Declaration on Human Rights, to which Kenya is a party, and in which is embodied Article 25 of the Constitution. So, to really, without a proper reason, say that we should close the refugee camps--- I think it would be going against the spirit of international principles. Kenya is a member of United Nations. I really think no one in the world ever wants to be a refugee.

You remember for a fact that in 2007/2008, during those very infamous acts of the post-election violence, a couple of Kenyans ended up being refugees in neighbouring countries. No one in the world knows at what point they can be refugees. To really say that we should close all refugee camps, would be an act that is not well thought through.

The second recommendation that this particular Committee speaks to is the need to establish a National Intelligence Co-ordination Centre. Of what use will such a centre be? What value will it be adding to the NIS which, of course, has been lauded for doing a very good job? The NIS, if you look at this particular Report, did give intelligence reports which were not acted upon. So, what value will such an agency be adding to what the NIS, which is well funded and is doing a very good job, does?

Hon. Speaker, the Report says under the first recommendation that the war against terrorism should be intensified within and outside the country. That is really as opaque as it could get. How do you propose to do that? Of course, terrorism is an international issue and no one knows what terrorists are. How do you then propose this in this Report? I am

reading these recommendations in juxtaposition to what was the Committee's mandate, which had a specific reference to the Westgate Mall attack. How did you make a recommendation that the war against terrorism should be intensified within and outside the country? How does that relate to the issues of Westgate Mall attack?

Hon. Speaker, it is possible to go on and on. The third recommendation says that there should be radical surgery at the Department of Immigration. That is really blanket because no observations point at why you want to do a radical surgery at that Department. The officials there could be corrupt, but none of the observations point to an activity that would make you want to have a radical surgery at the Department of Immigration.

Hon. Speaker, permit me, because I might be running out of time, to now look at what were really cogent Committee's observations. With regard to the Committee's mandate, we were hoping that someone sitting in the Committee - the co-Chair, hon. Kamama, is a very good friend of mine - would have given recommendations on these observations.

The first one was that there was general information on the impending terror attack at the Mall and other places in Nairobi. This means that someone did his job and gave intelligence reports to someone else who did not act on those reports. My understanding is that a recommendation would have been targeting that person who did not act on the intelligence report because it was availed. Someone is doing his job but someone else is sleeping on the job.

(Applause)

That particular recommendation is not in this Report. The co-Chairs take us on a mumbo-jumbo trip on which radical surgery should be done without pointing fingers at where this surgery ought to be done; someone should take responsibility. Who did not act on the intelligence report and why? That is a recommendation that I was hoping that this hon. Chair, after spending taxpayers' money---

Hon. Speaker, in your ruling this afternoon, you said very well that the Committee's output will only be as good as the Members of that particular Committee. Committees ought to be responsible to the citizens of this country. If this Committee is responsible to the citizens of this country, we need someone to take responsibility for not acting on the intelligence that they were given prior to the attack at the Westgate Mall.

The second observation, which is very good, is that there was general laxity among the police over terror alert within Nairobi County. Police is relaxed yet we pay them using taxpayers' money. Kenyans, including families that went to have coffee or people who went to have fun on a Saturday afternoon, died. There was laxity and then there is no recommendation towards that direction. What kind of Report is this?

Because my time is running out, let me speak on the last recommendation. It says that the Recce Company of the GSU had contained all the terrorists in one corner. There was, however, poor co-ordination during the handover. Who ordered the handover? If Recce Company was doing a good job--- Why do you not let somebody who is doing a good job finish doing it? Someone, for whatever reasons, wanted a handover; there was an attack and no one is held responsible.

Because my time is running out, I really think that this Report should not be adopted in its current form. The Committee owes us an explanation.

Thank you, hon. Speaker.

Hon. Abdi: Thank you, hon. Speaker. I would like to contribute to the Report. I am happy to support it, if some of the omissions that I will mention here are taken into consideration.

My first bone of contention with the Report is that it completely ignores the multiple terrorist atrocities that have happened in Nairobi, especially in my constituency which bore the brunt of those deadly attacks. I have looked at the Report, unfortunately, although I am a Member of the Committee, I was out of the country for medical reasons when some of the most important sittings of this Committee were held. I do not know whether I should be happy about it given the fact that some sections of my constituency such as Eastleigh and Majengo are not mentioned. I know that I should be thankful for this serious omission or silence because the two areas have been profiled, attacked and stigmatized.

I would like to mention the number of attacks that have taken place in one of which, as a Member of Parliament, I was a victim. Therefore, as a victim I would like to express my solidarity with all those people who have faced terrorist attacks in our country, including those of Westgate Mall and the recent attack in Likoni, which was in a house of worship. I would like to say that there is really no tolerance in our country for acts of extreme violence as those that have been visited upon victims.

I would like to say that on 30th March, 2012, Machakos Country Bus Station was attacked, nine people were killed and 66 were injured. On 3rd August, 2012, Eastleigh Air Force Base entrance was attacked and one person was killed and six injured. On 7th November, 2012, an attack happened outside Biafra Estate in which three people were injured. On 18th November, 2012, *Matatu* No.28 passing through Eastleigh Section One was attacked. Ten people were killed and 25 were injured. On 5th December, 2012 one person was killed and nine were injured in Eastleigh. On 7th December, 2012, outside Al-Hidaya Mosque in Eastleigh six people were killed and 24 were injured, among them was myself. On 16th December, 2012 one person was injured.

Again, in December, 2013, outside Pangani Police Station, six people were killed in a *matatu* attack and 30 others were injured. In total 31 Kenyans have been killed and 156 injured in terrorist attacks in and around my neighbourhood, and none of that appears in this Report although they met in Nairobi and visited the place to inquire or talk to people who were victimized by the attacks that took place in those neighbourhoods. Therefore, I would like the Joint Committee to take note of that and improve their Report by inclusion of some of the important facts that are missing.

Hon. Speaker, I would also like to say that protection of lives and property, safety and security of *mwananchi* and any other person in our country is, first and foremost the responsibility of the State delegated to its various security apparatuses. This Report is based mainly on what I consider to be unsubstantiated and subjective information which must be corrected, if it has to be taken seriously.

This Report fails to touch on the critical factors that led to one of the worst terrorist attacks in the history of our country. I think we want this Report to tell the Government and the public to carry out necessary investigations, because none of these

cases that I have mentioned in my constituency have been followed up and investigated. None of the perpetrators, including the people who attacked me, have ever been arrested and brought to book.

I fully support recommendation No.2 to the effect that we need inter-agency co-ordination because that is lacking. There is a lot of information from the intelligence services that does not pass on to where it is required, and is not acted upon by the security forces on the ground.

I must say that I am a little bit concerned about recommendation No.4, that the Refugee Act, 2006 should be repealed. I have read that Act and it really covers a lot as far as refugees are concerned. I will be happy if we improve on it through a new Bill, but we cannot be without law on refugees in this country. You cannot have large numbers of refugees without legislation governing them, because that will be anarchy. Therefore, I do not see the benefit of repealing a law without replacing it with another one.

I would like to touch on the closure of the camps.

The Committee is a little bit late because I have already heard the Cabinet Secretary for Interior and Co-ordination of National Government saying that the two camps have been closed. I thought they did not exist anymore. If the Cabinet Secretary concerned has already told us that those camps are closed, I assume that they were closed; the reality is that there are 500,000 in those refugee camps. Where will they go? Somalia is at war and they are victims of the *Al Shabaab* themselves. We are signatories, as some of the Members have mentioned, to international laws governing refugees; to a certain extent, I do not see anywhere in this Report a justification that the refugees whom we have been hosting for 22 years can be entirely blamed for terrorist attacks that are taking place in our streets.

The law clearly provides that if a refugee is a criminal, they should be taken to court. If a refugee is identified as a terrorist, he or she should be taken to court. Therefore, this is like throwing the baby with the bath water, in the sense that refugees are themselves victims. They are women and children. We have given them humanitarian sanctuary here in our country, and we work with other international organizations to assist them. There is no purpose that would be served by closing refugee camps today or tomorrow unless there is peace in their country. We can put a lot of emphasis on working together with the people of Somalia, the African Union and the international community to ensure that refugees go back to a sustainable environment and live in peace.

At the moment, the idea of closing two major camps is unrealistic. We should not deceive our population because those people will just melt into the general population in northern Kenya and other parts of our country without leaving behind any documentation for reference. If there are criminal elements, they should be dealt with according to our laws.

I must say that I like the fact that the Report touches on radicalization, although it does not emphasize it. First, I want to tell you that we are facing very serious radicalization in our country. The Report says that Kenyan Muslims are increasingly being radicalized. It also says that more than 500 Kenyans have been trained by *Al Shabaab* and have returned home. Now we have a very serious problem here. We are saying that in the next few months or years, we are not going to look for enemies from outside our country; we will have homegrown radical youth who will attack us. This is

why we want to try and win back our youth, so that they stop being radicalized and we give them employment, training and hope in the future of this country.

Thank you and I support this Report subject to the changes and additions that I have proposed; do something about some of the missing facts.

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

[The Deputy Speaker (Dr. Laboso) took the Chair]

Hon. Waiganjo: Thank you, hon. Deputy Speaker for giving me an opportunity to ventilate on the Report of the two Committees. I will support this Report simply because it has come at the right time. Even if this Report did not come, we would still adjourn to debate the state of insecurity in our country. This Report has come shortly after the Likoni incident and many other incidents that have happened around the country. It is evident, therefore, that *Al Shabaab*, or *Al Qaeda*, or whatever these groups are, could be signaling the coming of a wider offence in Kenya. This is quite true. That is why it is a little worrying when two Committees sit for a lengthy period, invite witnesses who testify and appear not to have a grip on the seriousness of what is happening within our country.

It has been said before - and there have been recommendations before - that the country should upgrade its security surveillance, communication command and control system. There was an attempt by the former President, Hon. Mwai Kibaki, in 2006 to form a steering committee to look into this. The two Committees did not even go back in time to see whether there were efforts made to control insecurity, particularly terrorism. This was not done. There was also a recommendation that we should also reform our intelligence gathering system to embrace human intelligence. The best we have seen is *Nyumba Kumi* Initiative; honestly, is it *Nyumba Kumi* terrorism?

In my view, there is need to relook into Organized Crimes Act, Money Laundering Act and other anti-terrorism laws that we recently brought before this House. Unless and until we look into those laws and see how we can tighten them, we are losing this fight to terrorists.

Corruption, as has been mentioned by these Committees, is a serious issue. In fact, corruption at the Immigration Department is one of our weaknesses. It is tied to our fate. Everybody who goes there gets their travel documents from this department. This department should be looked into deeply. There is need to ensure that the people who are in charge of people who come into this country are vetted by even by the National Intelligence Service (NIS). Foreigners come here, go back and come again.

This brings to mind the escape of the British terrorist woman, who is well known, namely Samatha Lewthwaite in Shanzu two years ago. She had been arrested by our police officers with a lot of cash and laptops, and she was let loose. This is because she left the cash and went with the laptops. She fled the country, went and planned other attacks and is a suspect in the planning of the Westgate terrorist attack. Nobody investigated the officers who were said to have held this woman to establish how she escaped from their grip. These are some of the things that we need to seriously look into

even as we, as a country, grapple with terrorism. We must remember that most of the terrorists are also our partners in the West. Nobody is safe.

I thought that these two Committees should also have looked at the matters pending before courts. They should have looked at how many matters are pending before our courts, how many cases are under investigation and how many people have skipped bail. You arrest terrorists, take them before our courts and because our Constitution is very magnanimous, particularly on the issue of human rights---

Hon. Deputy Speaker: Hon. Waiganjo, there is a point of order by hon. Alice Ng'ang'a. Allow her to raise it

Hon. (Ms.) A.W. Ng'ang'a: On a point of order, hon. Deputy Speaker. This matter is very important and I was asking whether we can reduce the time taken by each Member, so that many of us can speak; we have something to contribute to this Report.

Hon. Deputy Speaker: Is it the feeling of Members that we reduce the time each Member takes to speak?

(Question, that speaking time be reduced, put and agreed to)

Members have been taking ten minutes. So, can we reduce that time by a half? Hon. Members, five minutes it shall be and you should now be proceeding to conclude, hon. Waiganjo, so that we move on.

Hon. Waiganjo: Thank you, hon. Deputy Speaker, a few minutes of my time have been taken.

I was going to say that there is pending before court a matter, namely Republic versus Jermaine Grant. Jermaine Grant was charged together with Fuad Abubakar. Fuada Abubakar was granted bail. He skipped bail, ran out of this country and nobody knows where he is. No information was taken back to court to indicate whether he has been arrested or not; these are the same people who are coming back to hit us.

Judicial officers should exercise restraint, particularly when they are dealing with Article 49(h) in our Bill of Rights, so that compelling reasons to grant bail become compelling reasons. Perhaps, one of the compelling reasons should be when you are charged with a terrorism-related matter; that alone is a compelling reason; it should keep you in remand until the matter is finalized. Perhaps one of the compelling reasons should be when you are charged with a terrorism-related matter. That should be a compelling reason that should keep you in remand until the matter is finalised. This is because we release them every day, and then they come back to hit at us.

Hon. Deputy Speaker, let me say that the National Intelligence Service (NIS) did a good job but the other security agencies that were handed over those reports slept on the job. Therefore, some heads must role. The President must do something. Some people must go home. There is no culture of resignation in this country. So, if we are serious with what we want to do, heads must role. There are no two ways about it, if we want to be safe as a country.

On 21st September, 2012 there was an intelligence brief which indicated that an Israeli-owned mall would be attacked, and a year later it was attacked. We know that there were people who took tenancy within that mall a year before, so that they could

study the operations of the facility before launching the attack. Why was there no counter-intelligence? Those people would have been arrested.

Hon. Deputy Speaker, in February, 2013, there was intelligence brief, according to this Report, which indicated that there would be an attack by people armed with grenades and guns. It subsequently happened. Where were the security agencies? All the intelligence reports were relayed to the security organs. What did they do? Did they sit on it? Of course, during the attack there were annoying security lapses, which led to the death of a police commander from friendly fire. Therefore, there is need for us to rein in on our security agencies, so that we can be safe wherever we are.

I would like to conclude by saying that there are people in this country who are accused of acts of terrorism. They have cases pending at our courts of law. I hope that this Report will not just gather dust in some shelf. I hope that the Executive will clean it up and add a little on it. Probably, the two Committees should see how they can give us something better than what they have brought to this House.

With those remarks, I very reluctantly support the Report.

Hon. Deputy Speaker: Yes, hon. Samuel Gichigi, the Member for Kipipiri.

Hon. Gichigi: Hon. Deputy Speaker, like my immediate colleague who has spoken on this Report, I half-heartedly support it.

Let me begin by sending my condolences to the victims of the Likoni church attack. We feel with them. A few months ago, I lost three of my constituents in a criminal attack at a petrol station in Naivasha. They were just butchered because they were there when the thugs attacked. So, I know how it feels.

We can see that the Committee visited very many places. They received information and evidence from very many people but when it came to making recommendations, I do not know what happened. I think they were very tired by the time they were making the recommendations. They have not given us what ought to have followed these particular activities.

All along, Kenyans have been asking questions about what happened at the West Gate Shopping Mall. We expected this Committee to give us the answers in terms of what happened before, during and after the attack. The cloud that surrounds the whole issue is still there even after the Committee went through this. We have what we call a “state” because people want to be provided with security, so that we do not live under the law of the jungle. If the state cannot offer security to its people, then it ceases to be relevant. Therefore, it is important that the relevant Government departments take this issue very seriously.

I have seen in the budgets that we have been allocating a lot of money to the security agencies. Recently, we were told that a vehicle laden with about 170 kilogrammes of explosives was packed at a police station where it stayed until a foreigner who was passing by discovered that the vehicle contained explosives. Where does the money that we allocate to our security agencies go to? Of course, if you ask the security agencies to explain how they spend their budgets, they will say that it is confidential. I hope that the money is not just being misused at the expense of not getting the gadgets necessary for dealing with such security issues.

I am happy that the Report has mentioned the concern of radicalisation of our youths. You know, you look at something and you think that you are watching a movie.

Somebody just moves around and says: “Yes, you did well by killing. Kill again.” That person is still out there. You wonder what our security agencies are doing. We need explanations on some of these things.

We will be lying to ourselves if we think that employing more security officers and importing more security gadgets will eradicate insecurity. We must deal with the unemployment in this country. That is basically the biggest problem that we have. If we do not give our youth an opportunity to earn a living, insecurity will continue to be there in this country even if it is not terrorism.

Finally, on the issue of the Immigration Department, some time back, I went to Mombasa and bought something. The person I was buying the item from told me that he was Rwandese but he had a Kenyan identity card. I asked him: “How did you get the Kenyan identity card?” He told me: “In Kenya, if you have Kshs.10, 000, you will get an identity card.” I felt very sad about it.

With those remarks, I beg to support.

Hon. Deputy Speaker: Yes, hon. Opiyo Wandayi.

Hon. Wandayi: Thank you, hon. Deputy Speaker. I will go straight to the point. I cannot support this Report in its current form. Indeed, I have a lot of respect for the Chairperson of the Committee on Administration and National Security. I do not have much to say about the Chairperson of the other Committee.

Hon. Deputy Speaker, it is important that we put into context the matter surrounding the West Gate Shopping Mall terrorist attack. The very reason as to why these two Committees swung into action---

Hon. Deputy Speaker: Hon. Wandayi, I would like you to rephrase what you said earlier. Did you make a comment on a Chair of a Committee?

Hon. Wandayi: Hon. Deputy Speaker, I did not. I just made reference to the fact that I know hon. Kamama better than the other Chair. Is that really a problem?

Hon. Deputy Speaker: No, no, no!

Hon. Wandayi: Hon. Deputy Speaker, that is what I said.

Hon. Deputy Speaker: I do not think that is what you said. Did you say that you have no comment?

Hon. Wandayi: Yes, about the other Chair, because I do not know him much, hon. Deputy Speaker.

Hon. Deputy Speaker: But you did not indicate that you do not know him much. You have just said that it was a question of not knowing him much.

Hon. Wandayi: Hon. Deputy Speaker, I withdraw it, so that I can proceed.

Hon. Deputy Speaker: Thank you, you may continue.

Hon. Wandayi: Hon. Deputy Speaker, the very reason as to why these two Committees swung into action was to provide Kenyans with specific answers to questions that they had. Going through this Report, you are left with more questions than answers. The very fact that terrorists could strike at the heart of Nairobi in broad daylight is a pointer to a serious security lapse. We know very well that the ownership of the shopping mall had Israeli connections. That is the first point. We all know that all properties with connection to Israelis or Israel are under serious security guard round the clock, including the Israeli Embassy. Why is it that this building was left unmanned, but more importantly, we are aware that the intelligence information was conveyed to the relevant

people, who slept on the job. That is the question that this Committee needed to have answered. Who slept on the job, between the Director General of National Security Intelligence Service, the Inspector General of Police, the Chief of the Kenya Defence Forces (KDF) and the President of the Republic of Kenya?

It is important that the Jubilee Government gets to know that Kenyans have got a right to information. This Government took Kenyans on a merry go round. The aftermath of the Westgate attack is something that needs to be condemned in very strong terms. We were told that terrorists had been killed and the following day we were told they did not know how many had been killed. We were told there was strange fire---

Hon. Deputy Speaker: Hon. Wandayi, there is a point of order from hon. Surjeev. What is out of order?

Hon. (Ms.) Sunjeev: On a point of order, hon. Deputy Speaker. To the very respectable Member of Parliament, I would like to ask him, how can he say that the President was sleeping on his job when he very well knows that his own niece and nephew perished in that attack? I do not think the President was sleeping on his job.

Hon. Wandayi: Hon. Deputy Speaker, I will not dwell very much on that. The fact is that, it is on record that the President himself made a commitment to institute a judicial commission of inquiry. As we speak, there is no word about that judicial commission of inquiry and what we are being treated to here is a challenge, because there are no answers coming from this Report.

You will go further and see in the Report an attempt to divert. The Director General of NSIS is reported to have said that they would take some unspecified action against the person who aired the *Jicho Pevu* programme on Kenya Television Network (KTN). That is obviously against the law. Under what law would he take action against *Jicho Pevu* programme producers? Again, you find the Committee falling for that gimmick. In their recommendation, they are saying that the Government should formulate policies to regulate live streaming of events. Under what law would the Government do that? We already have laws that govern media activities and conduct in this country and therefore this Report is not answering the questions that it needed to have answered.

Hon. Deputy Speaker: Yes, your time is up. Well, we all agreed here that it is five minutes each. Hon. David Gikaria.

Hon. Gikaria: Thank you, hon. Temporary Deputy Speaker, from the outset, I support the Report, the observations and the recommendations that have been given. The only problem is that as Members of the Committee, and this is from observation, whenever we visit those areas with security issues, we see a lot of laxity from policemen. Even at the banks, they just wait for people to come out and give them money. They just sit there without really taking anything into consideration. That is why in the first place, when they were attacked, they were caught napping. They were not able to take action against the terrorists. As the Report has said, some prior information had been given, but it was general and not particularly on Westgate Shopping Mall. Of course, we cannot really blame the security personnel for failing to take action on the specified areas. When we were doing the Report, there were some policemen who stood out for rescuing the people who were trapped in there. As part of the recommendations, besides recommending that some people be sacked or be asked to resign, we thought of those few

individual policemen who did exemplary work. We recommended that they be promoted. This is something we really need to work on.

The other bit we dealt with in our Committee is of the terrorists having the plan of the entire area beforehand. They knew where they would make an entry and exit. The laxity we found here is that most of these Government agencies do not have plans of buildings. Even here in Parliament, if you asked the entry and exit points, people would not know because they do not have a plan. That is one of the issues that we had recommended; that Government agencies should have plans of buildings so that in the event of such an attack, they would know where to start.

We also noticed that there was a reservist, a young man who helped during the attack. After talking to him, the Committee recommended that it was important to have an inter-agency coordinating team. That young man told us that he came from the top and by time they were on the ground floor, they had already cornered the terrorists in one area. We were surprised because after a day or two, we were told that the terrorists were on the first floor and we really did not understand what was happening.

The recommendations and observations which have been made will go a long way in trying to improve the security situation in the country. Of course, it is out of these few recommendations that the police were recently able to handle the issue of the vehicle that was in Mombasa and the closure of the two camps---

Hon. Deputy Speaker: Your time is up.

Hon. Gikaria: Let me finish, hon. Deputy Speaker.

Hon. Deputy Speaker: Just finish your sentence.

Hon. Gikaria: When we were looking at the law that governs refugee camps, even policemen cannot walk into a camp and arrest anybody because there are regulations.

Hon. Deputy Speaker: Hon. Christine Ombaka, we have too many of one gender. What is happening to your microphone?

Hon. (Ms.) Ombaka: Thank you, hon. Deputy Speaker, for giving me this opportunity. I do not know whether to support the Report or not but I am in-between. When you look at this Report, it gives you first, the historical background of various terror attacks which have taken place in this country from 1975. It goes through all the way up to the time of the Westgate Shopping Mall attack. I counted what is listed here and the terrorist attacks came to 36. Quite a number have been left out. With so many attacks that we have had in this county, what have we learnt from them?

We seem to be playing the same game over and over again; the security forces are lax; there is corruption and I do-not-care attitude. Somehow nothing is going on despite the very many times that terror attacks have taken place in this country. It means that there is no future for this country. Nobody is putting a plan of action, so that we can move forward and eradicate terror attacks. Something is wrong and that is worrying me because this particular history is enough to give us reasons to act. We should not be talking about the police, the security personnel being corrupt and so on. We should have woken up and therefore the question that has been asked by many of us, of who is sleeping on the job, should not arise. Interestingly, as you read the Report, you learn a lot about what can lead us to where the terrorists are. The Report indicates that the terrorists

used AK47 rifles. That can lead us to where they came from because they have codes or are numbered. Why can this not lead us to where other terrorists are?

A Mitsubishi vehicle, KAS 575 was also found in the site. It had been used by the terrorists. Where was this vehicle registered? Can we not follow up on that? The third thing is that a Safaricom SIM card was also found in the place. This can tell us where terrorists are, only if we are serious. Something has gone wrong.

The recommendations are very interesting. One of the recommendations states that we need to declare war against the *Al Shabaab* wherever they are. That is good. We need to do that, but how can we do it successfully when our security forces are lax, corrupt and sleeping on the job? How do we do it successfully? These are things that worry me. Yesterday when I was watching television news about the Mombasa attack, I heard one of the police commissioners say that the police should shoot to kill. Then a question was raised to the public to answer “yes” or “no”. The answer was, “yes, let us shoot to kill.” I am worried about that because we are going to kill innocent people. How do you know that, that person is a terrorist or a thief that you need to shoot? We know of cases where police have shot innocent people. We need to take care of that bit.

Hon. Deputy Speaker, we are in a culture where terrorism will prevail constantly. Every single day there is going to be terrorism if we do not discipline our own security forces. Thank you.

Hon. ole Kenta: Thank you, hon. Deputy Speaker. I would also like to add my voice to what my colleagues have said. This country is still bleeding from the terrorist attacks that we have faced over the years. Personally, I believe that this is not the time to point fingers at one another; rather it is the time to look for solutions. Even though it is being said that some people did not do their work--- It is true that they did not do their work. Corruption is so rampant in this country that you had rather sacrifice this country to get a shilling.

The Committee ought to have gone to the extent of saying that whoever was responsible should go home, whether he or she is in the security forces or the Immigration Department. It is high time we had confidence in these institutions. When you look at what happened in Likoni yesterday, you will realize that somebody is trying to create a situation whereby Christians and Muslims are not together. On the contrary, this is not the truth. This is because a terrorist is not an adherent of any religion. A terrorist is a child of the devil. The more we see that as a fact, the more Kenyans will realize that we need one another to fight this menace.

Hon. Deputy Speaker, the Immigration Department should be the first point of call. I believe that the President of this country – he has said that he does not condone corruption – will first of all remove the Director of Immigration or the person in charge of migration. When somebody decided to give aliens Kenyan passports then that was the beginning of our problems. I also believe that the way the terrorists were confronted at the mall was wrong. That thing should have been terminated within a day. However, because of the turf wars--- When you look at the turf wars, for example, the issue of the Inspector-General and other people who are fighting for superiority, it tells it all. We need to see how best the security docket can be governed. Conflict between officials is

causing problems. Let us look at this matter in a sober man and create positions that are only answerable to one point of authority.

Kenya should stick together. Kenya should come together and fight this menace as one nation. We are not supposed to be divided, otherwise we are going to perish.

Hon. Iringo: Thank you, hon. Deputy Speaker for this opportunity. First of all, I would like to send my condolences to the victims of these brutal acts and especially the recent one that happened in Likoni. I wish the young boy quick recovery from the bullet which is lodged in his head.

I do not know if I should support it or oppose it, but this is a Report which has been brought to us. I really do not see a solution in it. The Committee did a good job in investigating and calling a lot of people who came before them. The Committee heard from Witness No.001, Witness No.002 and others. If the information given by these two characters was taken seriously, we would have saved a lot of lives. The informants even made a point of coming back to inquire whether anything had been done or not. Unfortunately, the officers did not do anything. If this is how we are going to handle issues in Kenya, we are headed to darker days.

We are talking about security officers being demoralized. However, they should, at least, be doing the least, for example, taking information given to them seriously. Somebody reported that there were foreigners. They are taken to the cells and the DCIO behaves as if nothing has happened. We cannot prevent anything.

With regard to the Registrar of Persons, in the rural areas to get an ID is a tall order because people there do not have money. However, a foreigner will come to Kenya and get an ID because he has brought in money. Corruption is eating our society. We will end up having so many disasters of this kind just because of corruption in our security forces.

Hon. Deputy Speaker, we have so many police officers. When I drive in town here, I see so many of them manning traffic lights which the Government has invested a lot of money in. We need to enforce the traffic rules so that drivers make use of the traffic lights and the police are deployed to patrol the vulnerable areas in our communities, for example, Eastleigh, the malls and so on. The Committee has brought a report to us and we are here to adopt it. I do not know if we are adopting it to go and file it somewhere and forget it. We are not seeing the way forward. Let the Committee go back to the drawing board and give us the way forward on this matter. The Kenya Defence Forces and the police should tell us what they are going to do about this. There should be co-ordination. Imagine a whole battalion of trained people going to shoot their brothers instead of shooting the enemy. Where were they trained? They, in fact, even walked out with water in paper bags.

Hon. Deputy Speaker: What is your point of order, hon. Ng'eno?

Hon. Kipyegon: Hon. Deputy Speaker, I personally have gone through this Report and I want to seek your guidance if we should really discuss this useless Report.

(Laughter)

When you look at this Report you will realize that so many things happened. People appeared before the Committee and delivered information. I know the pain these

people were going through. You look at the recommendations and you see nothing. These people spent a lot of money. They went to Mandera and other places only to come back with a Report that does not even give a single recommendation. We are again sitting here spending taxpayers' money to discuss a useless Report. The Committee should be asked to go back and give recommendations on what should be done.

(Applause)

Hon. Deputy Speaker: Hon. Members, you all know that this Report is the property of the House. It is no longer the Committee's and you know what to do with it. You either pass it or you reject it. The debate must continue because we have already started it. Therefore, hon. Ng'eno, you are out of order.

Let us hear from hon. Shill on a point of information.

Hon. Shill: On a point of order, hon. Deputy Speaker. Is it really in order for hon. Ng'eno to call what hon. Members of Parliament have done useless?

An hon. Member: Yes, he called it useless!

Hon. Shill: Listen! He has a right to vote for it or against it.

Hon. Deputy Speaker: Order, hon. Members! This is not a market place, hon. Members. You know how we conduct ourselves in the House. This debate has started and hon. Members are making their contributions. Hon. Members have already said that you are out of order to call this Report useless. It may be your feeling, but this work has been done by our representatives whom we elected to join the two committees in this House. Therefore, hon. Members, let us behave with decorum; let us not reduce this place into a market place. You know we will give you chance to contribute; there is a long list of hon. Members who want to contribute. You know that finally you will make the decision in this House. Hon. Members, let us have some order. Allow the hon. Member to complete his contribution.

Hon. Iringo: Thank you, hon. Deputy Speaker. I hope that my remaining two minutes will not be interrupted by points of order.

I still insist that time was taken and money was spent on this Report. People sat down but they have not come up with something that can save this nation. I am afraid if they were also compromised.

(Applause)

We read in the newspapers and paper bags were shown on television ferrying things out of the mall. Were they not carrying anything? Whereas we saw it on television and we saw---

Hon. Deputy Speaker: Order! The Chairperson clarified that point when he was moving the Report. Let us not go back to it.

Hon. Iringo: Therefore, I strongly oppose this Report. You may put the Question so that we can move forward and then they go back to the drawing board.

Hon. Aden: Thank you, hon. Deputy Speaker. Let me, first of all, take this opportunity to also send my condolence following the very unfortunate and horrible

attack on innocent worshipers in a church in Likoni last Sunday. This again was an ugly face of terrorism which must be condemned with the strongest terms possible.

My prayers also go to the family of the young child whom we all have seen on television and newspapers. However strong men are said to be, the sight of that child, with the bullet lodged in his head, brought tears into my eyes, and I believe it did the same to all other Kenyans. I, therefore, send my prayers and condolences to the families and the people who were affected on that day.

Hon. Deputy Speaker, I rise to very strongly oppose this Report. Indeed, this Report is nothing more than a bunch of papers which does not give any direction on the very unfortunate incident that happened at the Westgate Mall. As I have said before, Westgate was a very unfortunate attack on our sovereignty, economy and our peace. That was definitely failure on people who did not do their job well.

What I expected this Report to show was to recommend certain actions on failure of the systems and on our people who have the mandate to protect Kenyans. Unfortunately, our country is not prepared---

Hon. Korir: On a point of order, hon. Deputy Speaker.

Hon. Deputy Speaker: What is your point of order, hon. Korir?

Hon. Korir: Hon. Deputy Speaker, I am standing on a point of order. Judging the mood of the House, I think you should put the Question so that we can end this discussion because we are repeating ourselves.

(Loud consultations)

Hon. Deputy Speaker: Order! Order, hon. Members! You have proposed and you have heard the response. Your colleagues are saying no. I have 48 requests on my list. Therefore, let us give a few hon. Members opportunity to contribute.

Let hon. Aden Omari complete his contribution.

Hon. Aden: Thank you, hon. Deputy Speaker. This particular incident at Westgate showed how unprepared Kenya is on management of terrorism disasters. We have been living with terror attacks since 1998. It is very unfortunate that we have not yet built the capacity to save ourselves from this kind of terror. Lack of equipment and training of our personnel who are supposed to keep vigil and provide security is one of the things that contributed to this unfortunate incident. We need to equip our security agencies. We need to ensure that there is security, particularly for those of us who come from counties that border very dangerous areas like Somalia. Our county security should be equipped because they do not have the equipment like vehicles and skilled personnel to effectively counter terrorism activities. I really want to insist that we need the Government to invest and make sure that those kinds of things do not happen.

The other thing is about our youth who are unemployed. They are becoming vulnerable to terrorism. This is an issue that needs to be addressed as well.

As I conclude, I want to say that those who attacked the church in Mombasa; and in the previous weeks have been killing people almost on weekly basis---The killing of a scholar or Islamic preacher was an attempt, as my colleague on the other side said earlier, to cause conflict. I really want to commend Kenyans for the strong spirit they have. They

should not be shaken and start civil war on grounds of religion. Kenyans must continue to realize that terrorism is an act of war that affects all Kenyans of all faith.

Finally, I would want to join my colleagues in saying that the Report was not well done. This Committee needs to go back and do a good job, otherwise what they have shown us here is nothing more than what we saw on television.

Hon. Deputy Speaker: Thank you. Your time is up. Hon. Leshoomo, Member for Samburu County.

Hon. Leshoomo: Asante sana, Naibu Spika. Ninaunga mkono wenzangu kuhusu hii Ripoti. Tungezungumzia kitu ambacho kinaweza kuwasaidia Wakenya kuliko kuongea kuhusu kitu ambacho hakiwezi kusaidia Mkenya.

Naibu Spika, ningezungumza kuhusu usalama ambalo ni jambo tunaweza kulitafuta katika Kenya yetu kwa njia yoyote ile. Hii ni kwa sababu tumepoteza wananchi katika kila pembe ya nchi. Kile kinachonishangaza mimi Leshoomo ni mambo ya *Al Shabaab*. Ni nani anitwa *Al Shabaab* na ana sura gani? Ninauliza swali hili kwa sababu *Al Shabaab* hajulikani.

Kama kuna wale wanafahamu *Al Shabaab*, ni vizuri wajitokeze watuambie sura ya *Al Shabaab* ni hii ili Wakenya wajue. Mtu yeyote akibeba bunduki, anaitwa *Al Shabaab*. Ninasema hivyo kwa sababu nilikuwa katika kamati ya usalama katika Bunge la Kumi, watoto wetu walichukuliwa na kwenda kufunzwa--- Tulioka hapa tukaelekea Voi na tukapata watoto zaidi ya 600 wanafunzwa pale. Siku hiyo walitoka watoto kama---

(Loud consultations)

Tafadhali nipe nafasi. Naibu Spika, nisaidie. Nafikiri ninaongea jambo muhimu na tuelewe ni kitu gani kinasumbua Kenya yetu. Tulienda na tukatoa watoto karibu 300 na wote ni Wakenya. Wote wako na vitambulisho vya Kenya na walikuwa wanafunzwa huko Voi. Kama ni hao ndio wamekuja kuwa *Al Shabaab*, ni muhimu tutafute njia ya kumaliza shida hii.

Naibu Spika, kuhusu mambo ya Westgate ninashukuru hao watu waliofanya upelelezi. Walipeana Ripoti yao. Zaidi ya hayo, kila mtu hapa ni mupelelezi. Hata huyo ambaye anatembea bila viatu kwa barabara ana umuhimu. Wale watu ambao wanaitwa majasusi hawapati maneno kutoka mbinguni ama chini. Wanapata maneno kutoka wale masikini ambao wanatembea kwa barabara. Ni hao ndio wanapeana hizo ripoti. Tugesema kama viongozi kwamba tutachukua njia gani ndio hii ripoti ijulikane na ifanyike kwa njia inayotakikana?

Nilisema mambo ya kaunti yangu ya Baragoi hapa. Watu arobaini walikufa. Waliuawa na *Al Shabaab*? Kwa hivyo nasema tutafute njia ya kumaliza usalama katika Kenya yetu. Tukiongea mambo ya usalama tusiweke kama mashindano. Tujue tutamaliza namna gani hii mambo ya usalama ili tusipoteze Mkenya tena kwa sababu ya mtu mungine.

Naibu Spika, yangu ni hayo na ningesema sisi viongozi tusiweke mambo ya usalama katika Kenya kama mashindano, siasa ama kichama. Tushikane tujue tutaimaliza namna gani kwa sababu tunaumia. Tusipendeze fulani lakini tutajaribu tuweke njia ya kusaidia Mkenya.

Naunga mkono hii Ripoti na Kamati warudi waitengeneze.

Hon. Deputy Speaker: Hon. Sakaja. Are you there?

Hon. Sakaja: I am here, hon. Deputy Speaker. Thank you. When the incidences that happened at Westgate took place, I remember very well I had just come into the country and there was a lot of confusion. However, immediately after that Kenyans came together. We saw Members of Parliament coming together to donate money. I remember donating blood and many other Kenyans doing so and there was a lot of hope in the air. Kenyans for once said they are one.

Hon. Deputy Speaker, we saw even in the President's speech at that point him saying just like the lions in the coat of arms in our country we are invisible as a nation and we expected and we knew that would be the last time that such an incident would happen. Looking at this Report we see that even after the Westgate incident there have been so many numerous terrorist attacks in this country and really something must be done.

Hon. Deputy Speaker, that is why as I stand here, I would like to say that I cannot support this Report in the manner in which it is. First of all, this is not a political matter and that is one thing we must be very clear on. We cannot play politics with the lives of Kenyans. We cannot sacrifice at the altar of political expediency. Millions of lives are entrusted in our hands as leaders and are also entrusted in the security apparatus.

Hon. Deputy Speaker, if this Report was serious and if we were to be serious as a House, we would have something more than what looks and seems to me to be a research paper. We need action. Real heads must roll. When we tell Kenyans that indeed there was a problem with co-ordination between the Kenya Defence Forces (KDF) and the Recce squad then that is serious. I remember I lost a friend who was a member of the General Service Unit (GSU) in that incident. I remember the President lost his nephew Mbugua and his fiancée Rosemary who were also my friends. If we lost so many people then it is very painful that we can come again as a House and sit here and just pass a document that really to me looks like a public relations exercise.

Hon. Deputy Speaker, when you look at that boy who was shot at Likoni and has a bullet in his head, those of us who are parents can our own conscience allow us as a House not take any serious action? Is it possible for us to just sweep this under the rug? I would like to humbly ask, and I know the two Chairmen, that of the Departmental Committee on Defence and Foreign Relations and that of the Departmental Committee on Administration and National Security are my good friends and they are members of our coalition, that they should redo this Report. I think they need time to actually put some measures in the recommendations of this Report that one day in future we will be told and when we are asked as Members who sat in the Eleventh Parliament what we did with respect to terrorism, we can actually stand proud and say that we actually did something that put an end to it.

Hon. Deputy Speaker, when I look at this Report, I see that there are issues with respect to immigration services. I know that there have been issues for a long of time. I have a lot of confidence in the new Director of Immigration, Mrs. Jane Waikenda and what she has done because the problems that have been there are systemic. However, let us have a real report that actually looks at the root cause of this problem and the root cause of radicalisation is youth unemployment and youth disengagement. Youth unemployment is the biggest threat to our security. That is why there are idle young

people at the Coast and let us not use religion as an excuse. It is not a religious matter. That is why idle young people at the Coast and in Nairobi will be lured into mosques, churches or wherever it is and be told that you need to fight for your rights of whatever it is. Let us address the real issues.

Hon. Deputy Speaker, with that I would like to urge that we take time. We do not vote on this Report today. We actually take time and make sure that it is a report that actually will serve Kenyans and will make us proud as a country that indeed we shall have taken steps to fight terrorism.

Hon. Deputy Speaker: Sakaja, but how does taking time to vote help the Report? That is what you said.

Hon. Sakaja: Hon. Deputy Speaker, what I am saying is this: Let us not be in a rush to pass a report for the sake of passing a report. Let us have a report that actually takes action and if we cannot do that then let us defeat this Report.

Hon. Deputy Speaker: Thank you. The hon. Manson Nyamweya.

Hon. Nyamweya: Hon. Deputy Speaker, thank you for giving me a chance to contribute to this Report. First of all, I welcome you back from your long trip; we have missed you in the House.

From the outset, I want to say that I am opposing the Report but before I say that, we have a gym down here. It is supposed to make us fit and when we go there, we are given instructions that when you start you will feel pain. They say there is no gain without pain. If you do not follow, what happens is that you will go for three days, miss another day and another. Then what happens is that you add weight and then go to hospital.

On the security report that we have here, the Speaker had given a good ruling. He gave the meaning of "investigation". I want to be very specific; going through the Report I see what the Committee has come up with. It was supposed to investigate, inquire into and report with facts; with accurate information on what had happened. What have they come up with? It is something very generalized. There is nothing specific; so, how do we adopt this? They took time. These are very intelligent people. They took time. They used Parliamentary resources to do this Report yet they come up with this. Kenyans will wonder what has happened to Parliament.

The first point they are making is that information came out. Yes, information was received but nobody acted on it. These people should be named. We should not spare individuals and give some people jobs and kill this country. There are no two ways about it. We will help some guys to retain their jobs and kill this country. What happened in Mombasa the other day?

Hon. (Ms.) Ng'ang'a: On a point of order, hon. Deputy Speaker. I stand on a point of order and humbly request you, now that we said five minutes--- It looks as if we want to contribute; so, let us reduce the time again, because five minutes per person is too much. Three minutes is enough, so that most of us can talk. This will enable all of us to have a chance to contribute.

Hon. Deputy Speaker: Even with the three minutes, there are still 42 of you, and so not everybody will get a chance. But three minutes, it shall be from now; so, just give your concluding remarks. You have already had five minutes.

Hon. Nyamweya: Yes, I have five minutes!

Hon. Deputy Speaker: Not starting now; you are finishing.

Hon. Nyamweya: Hon. Deputy Speaker, what I wanted to say is that they did a good research from 1975 when we started getting terrorist attacks, but the intensity of the attacks has gone a notch higher from 2012 through 2013 and 2014. There was one in Mombasa when the President was there. We do not know what would have happened. He was there the previous day. There is no difference. He was there when those people were planning. The point here is that, as a nation and as Members of Parliament, we have a responsibility to provide security for this country and help the Government achieve it. It would be easier for the President to work if the hon. Members who investigated this came up with the names of the people who were responsible. It takes the President's--- He is the one now trying to sack people from the Department of Immigration. The other day he was giving a notice that people must work. As a Committee, you have been given a chance to provide information and details. You talk about corruption in the Report but you do not name anybody.

With those few remarks, I beg to oppose and urge my colleagues to oppose it.

Hon. (Ms.) Shebesh: Hon. Deputy Speaker, I want to oppose this Report. I am a women representative in Nairobi. Up to today, I have people who ask questions I cannot answer. This Report does not give me the answers that I expected. We have a problem of lack of co-ordination within our agencies. Everybody knows it and we should call it as it is. There must be heads that will roll. If we want to be taken seriously as a House and a Committee that had joint membership of over 90 hon. Members, there must be somebody taking the fall in this issue.

We have tenure of office for the sitting heads of our security agencies, hence the tying of the President's hand to deal with this issue. I think this Committee should go and look at the issue of tenure of the three agencies that I feel let us down. The President should be able to change, or see how his security agencies work. If he cannot do that, then the buck stops right at his door. We cannot continue ignoring the obvious. That is why we were elected by the public. We were not elected to sugarcoat things. We were elected to say it as it is. Let us say it as it is. Those with tenure of office, and who continue to hold this country hostage in matters of security; we are not able to look at things differently; please give us a break. We will give you a good golden handshake, but please give us and the President a break.

I oppose this Report.

Hon. Chanzu: Hon. Deputy Speaker, I also stand to oppose the Report because you can see that hon. Members of the Committee took a lot of time, but there is no tangible recommendation in terms of what should be done. What we saw on television, the caption, is totally the opposite of what we are getting from the time it took for this Report to come out.

However, I send my condolences to those who perished in the Likoni terrorist attack, and particularly baby Satrine, who is now at the Kenyatta National Hospital (KNH). I notice that there are some Members of the Senate, from some messages that I received, who are trying to take the opportunity now to politicize the issue of this baby. The most important thing they should have done is to find a way of raising funds towards operation rather than trying to make some political gain out of this situation. I would like to advise my colleague that the best thing we can do about this baby at the KNH is to find

a way of fundraising, so that we can pay for the operation to remove the bullet lodged in his head.

The Leader of Majority Party is spending a lot of time---

Hon. Deputy Speaker: Order, hon. Chanzu! Finish your contribution. Why are you worried about the Leader of Majority Party?

Hon. Kimaru: On a point of order, hon. Deputy Speaker. I rise under Standing Order No.26. Going by the mood that we have here, it looks like---

Hon. Members: No!

Hon. Kimaru: Allow me to speak and then you can have your way. I am moving that this particular debate be adjourned because---

Hon. Members: No!

Hon. Kimaru: This is because the Report is not satisfactory. I believe the Committee can go back and do a better report.

Hon. Members: No!

Hon. Deputy Speaker: Hon. Members are not in agreement with you. We will allow a few more hon. Members to speak.

(Several hon. Members stood up in their places)

Order, hon. Members! We still have 42 of you; so, we will not get to everybody.

(Hon. Onyura stood up in his place)

Are you on a point of order or are you contributing?

Hon. Kimaru: Hon. Deputy Speaker, it is a little frustrating because hon. Members are hoping to make a contribution on this Motion, which is of national interest, but the way things are going, it looks like the position is--- My point of order is that you put the Question.

Hon. Members: No!

Hon. Deputy Speaker: That is your view!

Hon. Onyura: Hon. Deputy Speaker, I have read through this Report, and I must say that I am not any wiser, or better informed, than when I had read newspapers, magazines and listened to talk shows. This appears more of an academic exercise than a serious investigative exercise that we had expected to get from this Committee. This Committee had set out to investigate and establish whether there were commissions or omissions that caused what happened at Westgate and other terrorist attacks.

Indeed, they admit that there were errors of commission and omission, but there is nobody who is mentioned to take responsibility for a grave matter like that one. It is a fairly generalized Report; we cannot adopt it in the form in which it is.

Hon. Deputy Speaker, may I end my contribution by also expressing my sympathy and condolences to the victims of the terrorist attack in Likoni. My prayers are also for baby Satrin, who has a bullet in the head. I have since learnt that the family is from Busia, which is my county. We pray for them and we should look for every way to support them.

Otherwise, I oppose this Report.

Hon. (Eng.) Gumbo: Hon. Deputy Speaker, I want to say that this Report is very unfortunate because, in my view, it is a report on missed opportunities. The Joint Committee had an opportunity that fate threw in their path, an opportunity to prove that Parliament can serve this country in an objective manner, and that Parliament can serve this country in a non-partisan manner. That opportunity has been lost.

I do not want to go into the issues that have been raised but it is very surprising that when the attack on Westgate happened, we saw the performance or lack of it, by our Cabinet Secretaries. I thought this Report was an opportunity for this House to audit the performance of the people we approve to hold exalted positions. That opportunity has been missed.

Hon. Deputy Speaker, I ask my colleagues in this House that we reject this Report, so that a Judicial Commission of Inquiry can be formed, so that we get to know what happened. This is because security is paramount. The President lost relatives in Westgate Mall attack. The President's aunt was carjacked only the other day. We are joking around with a matter that will affect everybody.

I request my colleagues that we reject this Report. This Report is not the quality that we expected; it is not worth the reputation of this House. We must reject it, so that we take another route to bring those who made Kenya suffer this way to book. Time has come when we must stop scratching the surface, and call a spade a spade and not a big spoon. Somebody let down Kenya. Who is this somebody? Why are we not mentioning them in this Report?

Hon. Deputy Speaker, I oppose this Report and ask my colleagues to rise up, so that we reject it and form a Judicial Commission of Inquiry, so that we can truly know what is ailing this country in matters of security.

Hon. Deputy Speaker: Yes, the Majority Leader.

Hon. Members: Yes, Wanyonyi!

Hon. A.B. Duale: Hon. Deputy Speaker, I have never been Wanyonyi. I come from northern Kenya and I do not come from Trans Nzoia. So, Wanyonyi has never been a member of my clan. No member of my clan is called "Wanyonyi".

Hon. Deputy Speaker: Order! I have called the "Leader of Majority" and not "Wanyonyi".

Hon. A.B. Duale: Hon. Deputy Speaker, I want to confirm that this is a Report of the Eleventh Parliament and not a Report of the Government, neither is it a Report of an individual.

For the first time I have a lot of respect for the two Chairs and the 58 Members of the Committee. The product that has come out of that Committee--- I want to raise issues with recommendation No.5, which says that the Refugee Act should be repealed. Kenya is a signatory to the Vienna Convention and we are under obligation to host those refugees.

Recommendation No.6 says that Dadaab (Daghale, Ifo, Hagdera, Kambios) and Kakuma refugee camps should be closed. It is not like a birthday party. You cannot close them down. Kenya has signed international agreements. As long as we are signatory to the Vienna Convention, you do not wake up one morning and close those camps.

Hon. Deputy Speaker, recommendation No.4 says that officers at the Department of Immigration should be sacked. This has already been done. Recommendation No.1 is

vague. The Government should declare war on *Al-Shabaab*. Everybody in the world has declared war on *Al-Shabaab*.

(Laughter)

Even my son, who is four years old, has declared war on *Al-Shabaab*. It is not for this House to declare war on *Al-Shabaab*. That is not a recommendation.

The Government should establish well-trained and special response commandoes. We have them at the GSU. The most trained paramilitary, who guarded the former Prime Minister, and who will very soon guard the Leader of Majority--- They already exist.

(Laughter)

That is not a recommendation.

Hon. Deputy Speaker, I want the Chair to listen to me.

Hon. Abongotum: On a point of order, hon. Deputy Speaker. I just want to confirm to the Majority Leader here, and he needs to listen to me, watch and read my lips, that the refugee camp in Dadaab is a kindergarten for terrorists; it has to be closed down even if it is in his county.

(Applause)

Even if it is in his county, I want to put it to him that, that is where we have many problems.

Secondly, and the Majority Leader needs to listen, is that the Recce Commandoes that we have are not fully trained. We need special commandoes like the ones that dealt with the problem in India when there was a terrorist attack at Taj Mahal. So, do not really rubbish this Report because we tried to do it as professionally as possible. However, if you want to reject it, it is up to you. But we want you to adopt it.

Hon. A.B. Duale: Hon. Deputy Speaker, as the Member for Garissa Township, I have read this Report and I am going through the recommendations one by one. I will continue.

As we sit here today - I hope that the Cabinet Secretary for Foreign Affairs, Amina, is watching me--- If you close Dadaab one morning, why have you formed a tripartite between the United Nations High Commissioner for Refugees (UNHCR), the Somali Government and the Kenya Government? You cannot walk from your house and close down Dadaab Camp. This is about international law.

Recommendation No.13 says that Kenyan Embassy in Somalia should immediately be relocated. How is that related to the Westgate massacre? Nearly 90 per cent of the embassies that have representation for Somalia operate from Nairobi. This includes the US Embassy. So, why should we bother?

The most outrageous recommendation is this.

I had the privilege to serve in the last Parliament with hon. (Eng.) Rege, who was the Chairman of the Energy Committee and hon. (Eng.) Gumbo, and we passed the communications law.

This Committee under Recommendation 15 is recommending mobile phone service providers to comply with the law. The law is there. They are the ones who have provided the SIM cards and the numbers of the terrorists of the Westgate. That is why the suspects are in court. I said earlier that I have a lot of respect. It is not the respect to die on the Floor of this House. We killed the report of the Committee on Education, Research and Technology because somebody somewhere did money business in the interview. There will be more reports that will be killed and opposed. That is why the Speaker today in his communication to committees said that you cannot gauge the Executive until a resolution is passed in the plenary.

With a lot of respect, and with a heavy heart, I say that even the language of this Report casts aspersions on the Clerk of that Committee. I raised this in the House Business Committee. The Members of the House Business Committee will agree with me on this; I am on record that I raised the fact that the language of this Report is wrong. Hon. Wamunyinyi will agree with me on this. It is nothing personal. The Report is not good. For once, let us reject this Report. It is a Parliamentary Report that we can re-evaluate.

Hon. Deputy Speaker: Hon. Kimaru, what is your point of order? Do not bring back the mood of the House. We have already dealt with that.

Hon. Kimaru: On a point of order, hon. Deputy Speaker. The Report that is before this House is a dead horse, and we cannot continue whipping a dead horse. Let us put the Question.

Hon. Deputy Speaker: Order, Members! We must have order in the House. I want to give the last chance to hon. Alice Ng'ang'a.

(Loud consultations)

Hon. (Ms.) A.W. Ng'ang'a: Thank you very much, hon. Deputy Speaker. Protect me now. I need to contribute.

Hon. Deputy Speaker: Order, Members! You need to be protected. You have tried. You have moved from five minutes, three minutes and now we are closing the debate.

Hon. (Ms.) A.W. Ng'ang'a: Thank you very much, hon. Deputy Speaker. I rise to oppose this Report. Terrorist attacks started in Kenya, and they are now becoming more persistent than before. What is interesting in this Report is that, at least, they had time to sit down, scrutinize the matter and come up with a solution. In this Report, I have not seen a recommendation in terms of who should take responsibility, go home or be fired because of what is happening in this country. If security agencies have failed, who has failed? Is it the NIS? Are they the ones who are not giving proper information? Is it the policemen who are not doing their work? Is it the Kenya Defence Forces who are not doing their work? At the end of this Report, at least, somebody should have been fired, so that we can have the way forward and take this matter seriously.

Last Sunday, we saw what happened in Likoni. You should look at that young child with a bullet in his head, yet nobody is coming out to tell us what happened. Do you want to tell me that in Coast Province, especially Likoni where it happened, nobody had an idea that an attack was going to happen? We represent constituencies and right now, as

I speak, if something small is happening in my constituency, in one way or another - even though I do not work for the NSIS - I will know about it.

On Sunday, three men went to a church, two were left outside, one entered the church and started spraying bullets on the members of the congregation. They were to finish with that church and head to another church. You want to tell me that nobody knew about this? Then we say we are safe! We should be talking about who is going home. We should even be telling the Executive to fire somebody. Some people should even be headed to jail, because it happened at the Westgate, and the two Committees sat down and interviewed so many people who gave evidence. You want to tell me that they found none of them had slept on their jobs? That is the recommendation we were waiting for. We are not saying that because---

Hon. Deputy Speaker: Your time is up, hon. Ng'ang'a. Can I call upon the Mover to respond?

Hon. Abongotum: Hon. Deputy Speaker, before I reply, let me give one minute to my co-Chair to just say something and then I wrap it up.

Hon. Deputy Speaker: Yes, co-Chair.

Hon. Gethenji: Thank you hon. Deputy Speaker. I wish to thank all the Members who have contributed to this Motion. I just wish many more Members had taken time to read the specific recommendations in this Report, and that they had taken more time to read the details of this Report. Fifty-six Members could not have sat down and produced total rubbish.

One of the key issues that we grappled with in the Committee hearings was the generality of the intelligence that was provided; we had much debate about whether this information or intelligence, was specific and actionable, as all intelligence information must be.

Hon. Deputy Speaker, the issue of refugee camps certainly came out very clearly from the NIS and the CID reports; Kakuma was the epicenter of the planning and organization of the Westgate Shopping Mall attack. So, the issue of the refugees must be in the mind of this country. Repatriation is a priority. It must happen. We must proceed with closing down those refugee camps; they are just hospitality that Kenya has extended to refugees. It is not a guaranteed right for refugee to have a place to stay in Kenya.

What we also sought to do was to protect the integrity of the security forces. Ultimately, we cannot do what the terrorist failed to do. That is why we recommended the creation of the Directorate of National Security so that, under its umbrella, we may be able to analyze situations and make changes in the security forces as is found necessary; we have to have a cover from the top.

With those remarks, I beg to support.

Hon. Abongotum: Hon. Deputy Speaker I just want to call upon Members to adopt this Report. I am alive to the fact that hon. Members are at liberty to do what they have been elected to do in this House – either reject or adopt a proposal – but I am pleading that they adopt this Report, because according to our findings, there was no specific and actionable intelligence to pin anybody down. That one I have to tell this House. We know what “general intelligence” is and what is “specific and actionable intelligence”.

Hon. Deputy Speaker, we cannot negotiate on the issue of closing down refugee camps. Those refugee camps must be closed. The Cabinet Secretary had given such order. So, we recommend that they be closed down as a matter of urgency. The issue of radicalization of our youth is something that must be confronted by us all, as a people and as Government. This is an issue that needs to be addressed, and hon. Members need to assist us in de-radicalizing our youth.

Lastly, I would like to say that we need to have a standby unit of special commandoes to deal with situations in the manner we have recommended.

With those few remarks, I beg to reply.

(Question put and negatived)

ADJOURNMENT

Hon. Deputy Speaker: Hon. Members, it is now time to interrupt our business. Therefore, the House stands adjourned until tomorrow, Thursday, 27th March, 2014, at 2.30 p.m.

The House rose at 6.30 p.m.