

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 16th April, 2015

The House met at 2.30 p.m.

*[The Deputy Speaker (Hon.
(Dr.) Laboso in the Chair]*

PRAYERS

Hon. Deputy Speaker: Hon. Diriye had a petition. I do not see his request. We may continue if he is not in. He can do it on Tuesday.

PAPERS LAID

Hon. A.B. Duale: Hon. Deputy Speaker, I beg to lay the following Papers on the Table:-

The Protocol to the Constitutive Acts of the African Union relating to the Pan-African Parliament, pursuant to Section 8 of the Treaty Making and Ratification Act, 2012.

The Basic Education Regulations, 2015, to be referred to the Committee on Delegated Legislation.

The Ministry of Energy and Petroleum Performance Report for the period July to December, 2014, pursuant to Article 153(4)(b) of the Constitution.

The Report of the Auditor-General on the Financial Statements of the Kenya Medical Laboratory Technicians and Technologists Board for the year ended 30th June, 2014 and the certificate of the Auditor-General therein.

The Report of the Auditor-General on the Financial Statements of the Kenya Medical Supplies Authority for the year ended 30th June, 2014 and the certificate of the Auditor-General therein.

The Report of the Auditor-General on the Financial Statements of the Kenya Medical Research Institute for the year ended 30th June, 2014 and the certificate of the Auditor-General therein.

The Report of the Auditor-General on the Financial Statements of the Ministry of Mining for the year ended 30th June, 2014 and the certificate of the Auditor-General therein.

The Report of the Auditor-General on the Financial Statements of the LAPSSET, Lamu Port-South Sudan-Ethiopia Transport Corridor Development Authority for the year ended 30th June, 2014 and the certificate of the Auditor-General therein.

The Report of the Auditor-General on the Financial Statements of the Kenya School of Monetary Studies for the year ended 30th June, 2014 and the certificate of the Auditor-General therein.

The Report of the Auditor-General on the Financial Statements of the Insurance Regulation Authority for the year ended 30th June, 2014 and the certificate of the Auditor-General therein.

Hon. Musyimi: Hon. Deputy Speaker, I beg to lay the following Paper on the Table:-

The Report of the Budget and Appropriations Committee on the Message from the Senate on the Division of Revenue Bill, 2015.

Hon. Abongotum: Hon. Deputy Speaker, I beg to lay the following Paper on the Table:-

The Report of the Departmental Committee on Administration and National Security on the Petition by the residents of Bura Constituency seeking the removal of five commissioners of the National Police Service Commission.

NOTICES OF MOTIONS

Hon. Deputy Speaker: We have two Notices of Motions. One of them is by the Chairperson of the Budget and Appropriations Committee.

(Loud consultations)

Order, Members! Hon. Elmi, I cannot see the person about to speak.

ADOPTION OF REPORT ON SENATE AMENDMENTS TO THE DIVISION OF REVENUE BILL, 2015

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

THAT, this House adopts the Report of the Budget and Appropriations Committee on the Message from the Senate on the Division of Revenue Bill, 2015, laid on the Table of the House on Thursday, 16th April, 2015.

ADOPTION OF REPORT ON PETITION FOR REMOVAL OF NATIONAL POLICE SERVICE COMMISSIONERS

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

THAT, this House adopts the Report of the Committee on Administration and National Security on the Petition for the removal of five commissioners of the National Police Service Commission, laid on the Table of the House on Thursday, 16th April, 2015.

In accordance with the provisions of Article 251(3) of the Constitution and Standing Order No.230(5), this Committee finds that the Petition does not disclose sufficient grounds for the removal of the five Commissioners of the National Police Service Commission.

Hon. Deputy Speaker: Thank you. That brings us to the end of that Order. Next Order.

STATEMENTS

STATUS OF GOVERNMENT REGULATIONS

Hon. Deputy Speaker: We have two Statements. Can we start with the one by hon. Cheptumo, Chairman of the Committee on Delegated Legislation?

Hon. Cheptumo: Thank you, hon. Deputy Speaker. Yesterday, you directed that I report to the House on the status of the Basic Education Regulations, 2015, the National Police Service Commission (Recruitment and Appointment) Regulations, 2015 and the Equalisation Fund Regulations, 2015. I wish to update the House as follows:-

The Basic Education Regulations, 2015 were published on 8th April 2015. Under Section 11(1) of the Statutory Instruments Act, these Regulations should have been submitted to the Clerk for tabling within seven (7) sitting days from the date of publication. It is important for Members to know what Section 11(1) of that Act says. It states that:

“Every Cabinet Secretary responsible for a regulation-making authority shall, within seven (7) days after the publication of a statutory instrument, ensure that a copy of the statutory instrument is transmitted to the responsible Clerk for tabling before Parliament.”

There are two things here. There is the transmission and the tabling. Already, before I addressed the House, the Leader of the Majority Party tabled these Regulations a few minutes ago. Therefore, part of my answer here is already overtaken by events. But let me read it because yesterday, after you directed and being a responsible Chairman, I went to the Clerk’s Office and confirmed that they were transmitted to the Clerk’s Office yesterday, giving rise to the tabling now by the Leader of the Majority Party.

To answer the question by hon. Jamleck---

(Loud consultations)

Hon. Deputy Speaker: Order, Members! This was a matter that you were all interested in. Can we, please, give it the attention it requires, so that we do not ask questions that have already been addressed by the Chairman?

Hon. Cheptumo: Thank you, hon. Deputy Speaker.

The Committee on Delegated Legislation has not, therefore, considered these Regulations. Having been tabled in the House, we will now proceed and consider them as required by law.

On the National Police Service Commission (Recruitment and Appointment) Regulations, 2015, I have the following to report to the House: The Regulations were

transmitted to the Clerk's Office and subsequently laid before the House and referred to the Committee for consideration. The Committee has since considered and approved the Regulations and the resolution was conveyed to the National Police Service Commission (NPSC) by the Clerk of the National Assembly pursuant to Standing Order No. 210(4)(a).

The third and last one are the Equalisation Fund Regulations, 2015. The Regulations were transmitted to the Clerk's Office and subsequently laid before the House. Currently, the Committee is doing consideration of the same. We shall shortly file our findings and resolution as a Committee.

Thank you, hon. Deputy Speaker.

Hon. Deputy Speaker: Thank you. I believe the House is now sufficiently informed on the status of the three matters. So, we can wait for the Committee then we prosecute the matter as raised.

Yes, hon. Jamleck, you are the one who raised the matters. I will give you an opportunity.

Hon. Kamau: Thank you very much, hon. Deputy Speaker. I want to thank the Chairman for that quick response. However, this is an issue of very serious ramifications and national interest in this country. Given the fact that these Regulations are already gazetted and the fear that most Members, including me, believe that parts of these Regulations are unconstitutional, can the Chairman tell us exactly when he will bring the report to the House on the constitutionality, or otherwise, of those Regulations, so that this House can know what to do before it is too late? I think it is possible for the Chairman to bring this report before we break. Maybe if we allow seven days, that will be enough time, so that we can finalise on this issue once and for all in the interest of Kenyans and our teachers.

Hon. Deputy Speaker: Okay. I believe the Chairman is well aware of the seriousness with which Members who represent constituencies across this country - most of whom are parents - take this issue. I believe you will expedite it as much as you can, so that we get the report quickly for Members to interact with those Regulations.

Chairman, do you still want to respond to it?

Hon. Cheptumo: Hon. Deputy Speaker, I want to appreciate the concerns of---

*(Hon. Kipyegon shook hands with hon. A.B. Duale
while standing in the gangway)*

Hon. Deputy Speaker: Member for Emurua Dikirr, you are soon going to be out of the Chamber if you continue to stand between the Speaker and the person on the Floor.

Hon. Cheptumo: Hon. Deputy Speaker, I wish to inform this House and the nation that---

*(Hon. Sakaja shook hands with hon. A.B. Duale
while standing in the gangway)*

Hon. Deputy Speaker: Hon. Sakaja is doing the same.

Hon. Cheptumo: Thank you, hon. Deputy Speaker.

I wanted to say that what hon. Jamleck has raised is critical. For the last three days, we have seen the concerns of various institutions like the Kenya National Union of Teachers (KNUT), Kenya Union of Post-Primary Education Teachers (KUPPET) and many other stakeholders on this issue. I would like to inform this House and the nation at large, that the law requires that these Regulations shall come into force only upon approval or otherwise by this House. So, there should be no cause for alarm. I want to assure my colleagues that, as a responsible Committee, we are going to move with speed and ensure that all concerns raised by Kenyans are taken into account. We will give due consideration to those concerns and report back to the House. So, I want to assure hon. Jamleck, and the entire House, that we will take it seriously, move with the speed required and ensure that all the stakeholders are given a chance to say what they want to say.

Thank you, hon. Deputy Speaker.

Hon. Deputy Speaker: Thank you. I see Hon. Pkosing on intervention.

Hon. Losiakou: Thank you, hon. Deputy Speaker. Allow me to thank you very much for that intervention yesterday. Because of that intervention, I was very happy. Should you need anything else that requires voting within and without, I will be the chief agent. Issues of equalisation are dynamite to some of us and about 80 Members of Parliament seated here.

Now that the Chairman has confirmed that he has the Regulations, I want him to further tell the House that he will involve the more than 80 Members of Parliament in terms of looking at those Regulations. Why I am saying that is because we shuttled a lot from Parliament to Treasury and nobody listened to us. This is the best opportunity that we have been given.

Secondly, it should be realised that the driving factor behind the Equalisation Fund is marginalization of some areas and communities. It must be bottom-up driven and not up-bottom driven. So, I want the Chairman, through you, to confirm that he is going to involve more than 80 Members in finalising the Regulations.

I thank you, hon. Deputy Speaker.

Hon. Deputy Speaker: You need a further clarification. Let us have the Chair of the Committee on Delegated Legislation.

Hon. Cheptumo: The mandate of the Committee on Delegated Legislation is clear to the extent that the 80 Members from the pastoral areas as mentioned by the Member are free to attend. I would like to say that this Committee sits and considers this on behalf of the House and any of the 80 Members will be at liberty to attend. The Hon. Member is the Chairman of that caucus. When we will be sitting I will invite him and tell him and his Members to appear before the Committee. This is because we want to listen. There are certain issues that we may not be able to deal with in terms of defining what the Fund should cover. He talked about moving to and from the National Treasury to Parliament, that is beyond my Committee. However, I want to assure him that we will listen, take his views into account and ensure that these regulations are going to be implemented in accordance with the law. There will be no cause for alarm; what we will be unable to address as a Committee by virtue of our mandate, we will share with them.

Thank you.

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

Hon. Deputy Speaker: Let us have hon. Sakaja. Are you are on a point of order?

Hon. Sakaja: I wanted to intervene in the issue and inform the House that we had also taken up this matter with the Committee on National Cohesion and Equal Opportunity. This is because, in as much as it is a matter of delegated legislation because it is regulations, the issue of equalisation of opportunities falls squarely within that Committee. We had planned to meet with the National Treasury and the Commission on Revenue Allocation (CRA). I had also informed the Chair, hon. Cheptumo on what we are doing. I would like to request that we do it jointly with the Joint Committee on National Cohesion and Equal Opportunity and the Committee on Delegated Legislation; this we will be able to get more views around specific issues relating to the Equalisation Fund.

Hon. Deputy Speaker: Okay; that may add value to those regulations. Let us have the Deputy Minority Whip. Is it on the same regulations?

Hon. Wakhungu: Thank you. I raised the issue of regulations particularly on police recruitment, which is supposed to take place next week. I listened to the Chairman, hon. Cheptumo. You indicated that unless the regulations have been here and have been approved they cannot take effect. You realise that this issue was of a big concern last time when the recruitment of police was done, particularly with regard to districts and constituencies. Some constituencies shared positions whereas others got many chances. It was an issue of equity.

We, therefore, want an assurance - the Chair of the Departmental Committee on Administration and National Security is here - that this House will be told that in the forthcoming police recruitment, which is next week, constituencies will be given slots as opposed to districts as was the case last time.

Thank you.

Hon. Deputy Speaker: Hon. (Dr.) Pukose, not all of them are in constituencies. Maybe the Chair of the Departmental Committee on Administration and National Security can shed some light on this.

Hon. Abongotum: Thank you. I want to confirm that recruitment will commence on Monday as stated, and most of you saw that advertisement in all the newspapers in this country. This time round we will not make mistakes. We have instructed the Cabinet Secretary (CS) and the Inspector General (IG) to ensure that equity is observed to the letter; the recruitment is going to be constituency-based. If you must have two recruitment centres, you will have to divide your quota. So all constituencies will be given their quota and nobody will benefit at the expense of others. We will be treated equally. That has been clarified. I note some vast areas like Laisamis and some parts of Turkana County have asked to have two recruitment centres; they share their own quota. So, everybody will be treated equally and there is going to be no unfairness at all.

Thank you.

Hon. Deputy Speaker: Is it equally or equitably?

Hon. Abongotum: Equitably. Other parameters will be considered like last time. The issue of population and demography will be factored in, but you will get a share that will be proportionate to the population of your constituency.

Thank you.

Hon. Deputy Speaker: Hon. Members, you know that this discussion could take us the whole afternoon. I think the Chairman has clarified.

Yes, hon. Maanzo.

Hon. Maanzo: Thank you. I would like to seek clarification from the Chairman of the Committee on Delegated Legislation on the Cabinet Secretary for Education and schools under him. These schools are all parastatals. You realise that monies have been going to primary schools; money for development and that seems to be a cause of friction when principals or head teachers are asked to account for it. That results into a lot of fire, because there seems to be no regulation.

Hon. Deputy Speaker: Order, hon. Maanzo! You are going into the details of what we have asked our Committee to bring to us. When they bring their report, you can bring up the issues that you are raising right now.

Hon. Maanzo: I stand guided.

Hon. Deputy Speaker: Hon. Members, allow us to move on. Let us not take any more time.

Hon. K.K., what is your---

Hon. K.K. Kinyanjui: Mine is very bothering because in my constituency I have got two districts and they are far from each other. I have spoken to the Police Service Commission Chair and he said they decided that there would be only one centre, yet I have got two districts which are very far from each other. I concur with the Chair of the Departmental Committee of Administration and National Security, that they change to ensure that at least in constituencies which have two districts, we share the slots equally and the recruitment centres should be two and not one.

Hon. Deputy Speaker: Hon. K.K, I believe that is what I heard the Chair of the Departmental Committee of Administration and National Security saying, that in vast constituencies there will be two recruitment points. The issue that has been the problem is not yours which has two districts within a constituency, but the constituencies that are not districts.

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

Hon. Deputy Speaker: Hon. Lelelit, what is your point of order? Hon. Members, I told you that we can take whole afternoon, if we start discussing the police recruitment. He will be the last one. We will continue with our business.

Hon. Lati: I thank you very much. I thought you should have recognised me earlier, because I am the father of everything about the Equilisation Fund. I have two issues.

First, on the recruitment by the police, I want to commend the regulations because they are good, they are going to recruit per constituency. Apart from considering the population, I know that some people will not like this, but I once said that some of our communities are gifted to be good policemen. They should consider pastoralists, because they provide better policemen. That factor should be considered.

In the recruitment of Assistant County Commissioners, the same constituency basis should be used, so that we do not get Assistant County Commissioners from one area of Kenya and the rest of Kenya does not get them.

The Equalisation Fund has been deposited with the Central Bank of Kenya (CBK) for all those years while our people suffer and inflation eats into the funds. We need to

speed up the enactment of the regulations, so that the communities that are suffering because of many years of marginalisation can, at least, get relief for the first time.

I thank you, hon. Deputy Speaker.

Hon. Deputy Speaker: Thank you, hon. Members. Your points have been made and have been taken by the Chair. Let us wait for the regulations to be brought to the Floor of the House and allocate them enough time for debate. You can then raise all the matters that you are raising.

There is a second Statement to be made by the Leader of the Majority Party.

BUSINESS FOR THE WEEK COMMENCING 21ST TO 23RD APRIL 2015

Hon. A.B. Duale: Hon. Deputy Speaker, pursuant to Standing Order No. 42(2) (a), on behalf of the House Business Committee (HBC), I rise to give a Statement regarding the business scheduled for transaction by the House in the week beginning Tuesday 21st April, 2015.

As usual, the HBC met on Tuesday to give priority to business for transaction by the House. The HBC intends to give priority to Bills with constitutional timelines of May 27th, 2015. Next Tuesday, the House will consider the Senate amendments to the Division of Revenue Bill, 2015, and the Public Procurement and Asset Disposal Bill, 2014, in a Committee of the whole House.

(Loud consultations)

Hon. Deputy Speaker: Order, Members! The consultations are too loud.

Hon. A.B. Duale: Hon. Deputy Speaker, on the same day, the House will consider the Public Procurement and Asset Disposal Bill, 2014 in a Committee of the whole House. The Fair Administration Action Bill, 2015, will also be slotted for consideration by a Committee of the whole House next week. Also to be considered on the same day is the Report of the Fifth Ordinary Session of the Pan-African Parliament (PAP). It is necessary that the Report is considered by the House, ahead of His Excellency the President's Address to the PAP mid-May, 2015.

Next week, the House will consider the Senate's amendments to the Public Service (Values and Principles) Bill, 2014, and the Environmental Management and Co-ordination (Amendment) Bill, 2014. The Bills have constitutional timelines. The Senate amendments were received yesterday. It is, therefore, the hope of the HBC that the Departmental Committee on Administration and National Security, and the Committee on Environment and Natural Resources, will have concluded consideration of the amendments. The House should conclude the said Bills before we proceed for our long recess in May, 2015.

We hope that the amendments proposed by the Senate will not occasion a mediation process.

Hon. Deputy Speaker, regarding the Cabinet Secretaries scheduled to appear before the Departmental Committees on Tuesday, 21st April 2015, the schedule is as follows:

1. The Cabinet Secretary for Devolution and Planning will appear before the Committee on Administration and National Security at 11.30 a.m. to answer questions from hon. Zuleikha Juma MP, hon. Paul Koinange, MP, hon. John Nakara, MP; and hon. Rose Nyamunga, MP.

2. The Cabinet Secretary for Education, Science and Technology will appear before the Committee on Education, Research and Technology at 10.00 a.m. to answer questions from hon. Ferdinand Wanyonyi, MP; hon. Alice Muthoni Wahome, MP, and hon. Esther Murugi Mathenge, MP.

3. The Cabinet Secretary for Interior and Coordination of National Government will appear before the Committee on Administration and National Security at 10.00 a.m. to answer questions from hon. Hezron Awiti, MP; hon. Joseph Gitari, MP; hon. Ann Gathecha, MP, and hon. Sunjeev Birdi, MP.

The HBC will meet again on Tuesday, 21st April 2015 at the rise of the House.
Hon. Deputy Speaker, I hereby lay the Statement on the Table of the House.

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

Hon. Deputy Speaker: Hon. Members, as you are aware, we still have one Member who is a stranger in the House and we want to give him an opportunity to be either part of us or otherwise. Allow me to initiate the process.

REPRIMAND OF MEMBERS

Hon. Members, I will allow the two Members to get seated.

(The two hon. Members took their seats)

Can we now have the doors closed and the Bar drawn up?

(The doors were closed and the Bar drawn up)

Could hon. Ahmed Abass approach the Bar?

(Hon. Abass approached the Bar)

By the authority of the House and powers conferred on the Chair by adoption of the Report of the Committee on Privileges and the Speakers Rules contained in Sessional Paper No. 2 of 1966, I hereby reprimand you, Mr. Ahmed Abass, and inform you that this House expresses its displeasure in your conduct of bringing the integrity of the Public Accounts Committee (PAC) into disrepute by failing to substantiate allegations within the required period. This conduct constitutes a breach of privilege conferred upon you as a Member. Your conduct brought ridicule and disrepute to the House and its membership. I, therefore, reprimand and require you to tender an apology to the House forthwith.

Hon. Abass: Thank you, hon. Deputy Speaker, for giving me this opportunity. From the outset, I want to state, for avoidance of doubt, that I stand before you not

because the media has been reporting on corruption allegation against me but because they have raised serious issues against the former Chair of the PAC, hon. Ababu Namwamba. The issues were a bribery of Kshs5 million that was received by the former Chair from an official in the Office of the President regarding the 2012/2013 accounts, specifically on confidential expenditure. I believed in the utterances that I made before the PAC, which I repeated before the Powers and Privileges Committee. Up to this moment when I stand before you, I believe what I said then.

Secondly, the issues I raised against the former PAC Chair triggered a chain of events that shocked the nation, including His Excellency the President. They also woke up the Ethics and Anti-Corruption Commission (EACC) from their deep slumber. We all know that the issue led to the production of the famous list that the President gave to this House. Therefore, my expectation and belief were that this House, through you, would give me a gold medal for a job well done. I did not think that I would come to stand before you to tender an apology.

To my colleagues in CORD, this is what I need to say: You now have a perfect opportunity to nominate somebody to be the Chairperson of the PAC. You need to nominate somebody who is as white as snow and not as black as oil, as you did previously. I am saying that because I can see our whip here. Given that I am somebody who respects this House and its resolutions, and despite believing what I said then and what I am saying now, I tender my apology sincerely.

(Laughter)

Hon. Deputy Speaker: Order, Members! Your apology is accepted. Can the Bars be opened? He is now an hon. Member and can join the rest.

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

Hon. Deputy Speaker: Not on the same issue, please. Members we want to continue with our order of business.

Next Order, please.

BILLS

First Reading

THE WAREHOUSE RECEIPTS SYSTEMS BILL

(Order for First Reading read- Read the First Time and ordered to be referred to the relevant Departmental Committee)

Second Reading

THE FAIR ADMINISTRATIVE ACTION BILL

(Hon. Katoo on 15.4.2015)

(Resumption of debate interrupted on 15.4.2015)

Hon. Deputy Speaker: Order, Members! Those Members who are retreating, please, be seated. We need to put the Question.

(Question put and agreed to)

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

Next Order please!

MOTIONS

ADOPTION OF REPORT ON PUBLIC SECTOR OWNED/ CONTROLLED SUGAR COMPANIES

THAT, this House adopts the Report of the Departmental Committee on Finance, Planning and Trade on the Privatization of the Public Sector Owned/Controlled Sugar Companies (Nzoia Sugar Company, South Nyanza Sugar Company, Chemilil Sugar Company, Muhoroni Sugar Company and Miwani Sugar Company), laid on the Table of the House on Tuesday, December 2, 2014.

(Hon. Langat on 25.2.2015)

(Resumption of debate interrupted on 15.4.2015)

Hon. Deputy Speaker: Who was on the Floor? Hon. Wangamati was on the Floor. He had a balance of four minutes. You can exhaust your four minutes now.

Hon. Wangamati: Thank you, hon. Deputy Speaker for giving me this opportunity to contribute to this Motion.

As we witnessed recently, Mumias Sugar Company was given to eminent businessmen in this country. As a result, Mumias Sugar Company is now one of the most mismanaged sugar factories. It has collapsed. Privatisation of these factories must be done with a lot of care and after consultations. We must not take public properties and put them in the hands of a few people. The land on which the sugar factories are situated belongs to the Government. The land was acquired upon payment of very minimal amounts of money. Most of the factories, it is evident, are mismanaged. If we privatise these companies, we will be giving resources to corrupt people. I am sure they will sell the land and move away. They will desert those factories.

I want to propose that as we talk about privatisation, these sugar companies should be given to the county governments. This is during the period of transition. It is so that they are managed well. Let us hire those who can manage these factories well before we talk of privatising them.

The Government is losing a lot of money. Take the example of Kenya Railways. It was privatised and taken over by a company. The company sold land belonging to Kenya Railways. They left the corporation without solving any problem. The Government should get the right people in management before we can do privatisation.

I, therefore, support this privatisation because the Government does not want to remain in commercial enterprises. This Motion should be amended to say that the Government gets its---

Hon. Deputy Speaker: Order, Members! We have some two amendments. I would like to prosecute those amendments, so that we know what we are debating. We either allow or disallow them and then we can make progress. Who was moving the amendment on behalf of hon. Wamunyinyi? Is it hon. Wandayi?

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

THAT, the Motion be amended by deleting the full stop after the figure “2014” and inserting the words “subject to insertion of the following new recommendations after recommendation (ii) on Page 16.”

The first recommendation to be,

“(iii) That any ancestral land currently held by any of the sugar companies remains under the ownership of the local community.

(iv) That further consultations on the privatisation process be held between the Government, the sugar farmers and the key stakeholders, including the county governments before embarking on the implementation of the recommendations.

Briefly, the import of this amendment is that if we pass this Motion as it is currently, there will be a great danger of these sugar factories being taken over by sharks and economic vultures who have over the years controlled the economy of this country.

(Loud consultations)

Hon. Deputy Speaker: Order, Members! Stephen and Gladys, you are consulting too loudly.

Hon. Wandayi: Hon. Deputy Speaker, I am raising a very serious point that they need to listen to.

If we pass this Motion as it is, we shall have disadvantaged farmers who have made it possible for these factories to survive up to this moment.

Hon. Deputy Speaker: Hon. Wandayi, please, move the amendment. We need to know what is being amended.

Hon. Wandayi: Hon. Deputy Speaker, I have done that.

Hon. Deputy Speaker: Are you now continuing to debate or what are you doing?

Hon. Wandayi: Hon. Deputy Speaker, I am now canvassing on the amendment.

Hon. Deputy Speaker: You need to prosecute the amendment first until we have agreed that we are going for it. Then we come back to the debate. We are not going to allow you to debate.

Hon. Wandayi: Hon. Deputy Speaker, I do move the amendment.

Hon. Deputy Speaker: Are you speaking to the amendment?

Hon. Wandayi: Yes.

Hon. Deputy Speaker: Not really. Not from what I have heard you say.

Hon. Wandayi: Hon. Deputy Speaker, my amendment, therefore, seeks to cure the anomaly that would ensue if we allowed these factories to be bought by brokers, or people who have been hovering all over for many years wanting to take over these factories.

The land, which is the single biggest asset that is owned by these factories, was initially acquired compulsorily by the Government from the owners. That land now needs to revert to the original owners even as the matter of privatisation is prosecuted. This is in line with Article 63 of the Constitution. Once it reverts to the owners, it becomes community land, which should be managed by the county government.

Further, before any privatisation takes place, there should be adequate consultations and dialogue between the Government and various stakeholders. These are the sugar farmers themselves, the owners of the land on which the factories sit, the county governments which host these factories and any other stakeholder. This process should be as inclusive as possible. This is the surest way of protecting the interests of Kenyans. Any other process is going to be against the interests of the poor Kenyans, who have a stake in these factories.

I, therefore, move and ask hon. Wamunyinyi to second.

Hon. Deputy Speaker: Do we have the Chair or the Vice-Chair of the Committee? We have the Vice-Chair. I need you to listen keenly, so that you can also give us a comment on what the Committee feels about the amendment, or whether the Member has shared it with the Committee.

Yes, hon. Gichigi.

Hon. Gichigi: On a point of order, hon. Deputy Speaker. There were a lot of consultations and then the Mover delved into the details of the amendment before clearly indicating the contents and the wording of the amendment. We need to get it, so that we can speak to it rather than his contributions.

Hon. Deputy Speaker: I felt the same way. You heard me say that the core of his amendment did not quite come out clearly. Maybe, his Secunder can give us further clarification.

Hon. Wamunyinyi: Thank you, hon. Deputy Speaker for the opportunity to second this important amendment. I want to thank hon. Wandayi for moving the amendment that any ancestral land currently held by any of the sugar companies remains under the ownership of the local community. Secondly, that further consultations on the privatisation process should be held between the Government, the sugar farmers and key stakeholders including the county governments, before embarking on the implementation of the proposed recommendations.

This is what you may have missed. I remember hon. Wandayi went through it, but there were loud consultations that did not allow you to hear what he was saying.

I take this opportunity to second this amendment and stress the fact that we represent cane farmers, and know the challenges that sugar factories have experienced. A case in point is Nzoia Sugar Company, which is in my constituency. The land on which Nzoia Sugar Factory sits originally belonged to the former Bungoma County Council, and was only leased to the Nzoia Sugar Factory. It was not sold. It is still the property of

the people of Bungoma. Any privitisation must take that into account. This is the import of this amendment. I am sure the Members who represent cane farmers, and who have interest in land issues can attest to this.

The other one is the aspect of consultations. The Chair of the Committee indicated that there had been consultations in the past, but circumstances have changed. The governance arrangement in the country has changed. We now have the central Government and 47 county governments. I have spoken to my farmers and they think that things are not being done right. Even if there were consultations in the past, there is need for further consultations to ensure that everybody is brought on board. You cannot just push this privitisation because some people somewhere have an interest. We all have been around for long and we understand that when there is land somewhere, people even introduce new names like “Haban Singh” and others. We are not going to take chances on this. It is for that reason that we have brought this amendment.

With those few remarks, I beg to second.

(Question, that the words to be added be added, proposed)

Hon. Deputy Speaker: Can we have the Vice-Chair of the Departmental Committee on Finance, Planning and Trade?

Hon. Gaichuhie: Thank you, hon. Deputy Speaker. I first want to talk about the amendment because it does not need consultations. I would like the Mover to tell us what ancestral land is. I am the Vice-Chair of this Committee, I have been in the Committee for the last seven years and we have been discussing the privitisation of the sugar factories. I think the Mover is moving the amendment on behalf of somebody else. Somebody came and said that, that is ancestral land, but we heard from the Privatisation Commission that the land they are claiming to be ancestral has a title deed that was issued in 1923.

It has further changed hands to another owner and another owner. I thought that we did not have ancestral land that has a title deed. All land is just leased to somebody. You are given a 99-year lease. So even if it was owned by ancestors, they were given a 99 year lease. Therefore, I want to confirm that the land they are talking about has a title deed. Maybe they consulted several years ago. There could have been changes.

About consultations, I want to confirm that meetings were held. All the stakeholders were called to Tom Mboya Hall in Kisumu. There was consultation. I am happy that the Secunder is not refuting that claim. He is only saying that maybe things have changed. About the land, I want to confirm that it has a title deed. When we talk of land changing hands, the sugar companies are being sold as going concern and everybody, including the Mover, has a right to buy them at a price that will be determined by a Government valuer. There is nothing like we are only selling the machines and not the land. Everything is going to be valued and sold at Government value. Therefore, I oppose that amendment because we have consulted and we know everything.

The Mover of that amendment should prove that this land is owned by his ancestors. He is just purporting that it is owned by their ancestors. Therefore, I oppose the amendment. I confirm that I have consulted and we have been in this privatisation issue for long. I am not interested, but I tell this House that it has been long. All the semantics

are about politics. If we want to help our sugar farmers, it is high time we privatised these sugar companies at Government valuation, and not at a throw away price.

(Loud consultations)

Hon. Deputy Speaker: Order! Order, hon. Members! Order, hon. Wandayi! I believe that the hon. Member is a Vice-Chair of a Committee of the House. Listen, hon. Members. As a House, we rely on the Committees who have gone and done work which we cannot all do on the Floor of the House. We are debating a Committee Report. It is not a mere document. We are not going to privatise land in the Chamber of the House. It is not going to happen. So, hon. Members, can we do our work, which is to legislate and debate what the Committee has done?

It is important that before an amendment of this nature comes up, the Mover shares it with the Committee. He could even have participated in the deliberations of the Committee. We are particularly trying to avoid last minute amendments, or on-the-Floor amendments, which sometimes may even negate a whole report. That is not the import of what we come to do here. The Committee cannot spend all the finances to do a report and then one amendment is sneaked into the report.

(Loud consultations)

Order, hon. Members! I am not saying this is the case. Understand me, hon. Members. I am not engaging in debate. Order, hon. Wamunyinyi! I have given you the opportunity.

Order, hon. Members! Let us hear hon. Wandayi. What was your point of order? Please prosecute your point of order.

Hon. Wandayi: Hon. Deputy Speaker, it needs to go on record that this amendment is in good faith. It cannot have been sneaked in. That is the first issue. Secondly, hon. Gaichuhie cannot purport to say that I am moving this amendment on behalf of somebody. I have equal rights and mandate to move an amendment on the Floor of this House.

Hon. Deputy Speaker: That you do. You were given that mandate.

Hon. Wandayi: Thirdly and most importantly, ancestral land refers to land which was owned by people who were dispossessed of the land by the colonial government, the Kenyatta Government and subsequent governments. The ownership of this land must revert to the owners, who owned it before it was acquired illegally from them. That is the import of this amendment.

Thank you.

Hon. Deputy Speaker: Order, hon. Members! You will get an opportunity.

Hon. Jared, what is your point of order? Is it a point of order?

Hon. Opiyo: Hon. Deputy Speaker, I read a lot of dishonesty in the debate that is going on here. Last time, when this debate was going on, we indicated that we intended to move amendments on the Floor of the House. The Vice-Chair himself requested that we withdraw the amendments and then have a discussion, which we, indeed, had. At that particular time, we were not able to come to an agreement on some of the issues that were

being raised in the amendments. It is, therefore, wrong for the Vice-Chair to insinuate that we tried to sneak these amendments. We shared them in the presence of the members of the Privatisation Commission. These are matters that are very dear to some hon. Members of this House. We need to be heard. Let us debate on the merits and demerits of these amendments instead of just listening to the Vice-Chair, and just saying that we must listen to the Chairpersons of Committees. There are pertinent issues regarding privatisation of these companies and the hon. Members need to really speak out.

Thank you, hon. Deputy Speaker.

Hon. Deputy Speaker: Yes, hon. Dalmas Otieno.

Hon. Anyango: Hon. Deputy Speaker, this is a very sensitive issue and you should not expect rational arguments. The truth is that the land, including the factory itself, and not just the nucleus estate, was compulsorily acquired under Cap. 295 for the purposes of the factory. Even if the individuals already had titles, I am aware of this in the case of SONY Sugar Company, the land was acquired from them, including the land on which the factory stands. I know the elders who gave the actual factory site itself. The issue that is arising now is that the national Government did it at that time and gave it to the factory, which was government-owned. The national Government gave the land over to the factory which was a government factory. Now that privatisation has come, the fear is that these factories can now be bought by foreigners, together with the land that was taken from the people. The matter is not that they were community lands or public land. They were taken from land owners, where land had already been consolidated and title deeds issued. The true amendment which this House should decide on is that the national Government should not do any privatisation. The factories belonged to the communities when the national Government established them. Now that the communities have their own county governments, give them back to the county governments as they are, and let the county governments decide how to restructure, manage and place them in private hands. Knowing very well that the locals may not be able to raise capital, there should never be any opportunity for the nucleus estate lands to go to foreigners or other non-community locals. These communities are going to be so hostile that factories that were established by the national Government in their territory for their benefit, and land which was acquired from them to establish the factories for their benefit, can now be exposed to acquisition by foreigners through privatisation.

That is the real problem. To go round it and say “give us the nucleus estate and the little factory’s site can be sold to whoever you like,” is to cripple the privatisation process. This thing should be taken back to the national Government and the logical decision in my opinion is to hand all these factories to the county governments now that they exist, and then assist those governments to restructure and establish better managements for the factories, but they must remain for the benefit of the counties where they were established in. That is my opinion.

(Applause)

Hon. Deputy Speaker: Thank you, hon. Dalmas Otieno. Members, can we then put the Question on this matter so that we proceed? This is because we will do what we need to do at the end of the day.

(Question, that the words to be added be added, put and agreed to)

(Applause)

(Question of the Motion as amended proposed)

Hon. Deputy Speaker: Now we have a further amendment by Hon. Wanyonyi. Can we finish with that amendment as well then we know what we are debating?

Hon. Members: We do not need your amendment.

Hon. F. K. Wanyonyi: No. It is okay.

(Loud consultations)

With all due respect to the hon. Members, I see the excitement on this side but I want to move my amendment.

Hon. Deputy Speaker: Yes. It is a matter that affects certain communities and they have to be excited.

Hon. F. K. Wanyonyi: I want to move my further amendment.

Hon. Deputy Speaker: Please explain the import of your amendment, so that we do this one faster.

Hon. F. K. Wanyonyi: Hon. Deputy Speaker, I beg to move:-

THAT, the Motion be further amended by deleting the full stop immediately after the figure “2014” and inserting the words, “subject to the insertion of the following new recommendation after recommendation (iv) on page 16:

“(v) The Government should competitively hire qualified management consultants to take over the management of the companies to restructure and prepare them for competitive privatisation, taking cognisance of the fact that related land (nucleus estates), being public land compulsorily acquired from respective communities at the inception of the factories, ought to remain community land under the respective county governments.”

Hon. Deputy Speaker, my amendment is slightly different from what hon. Wandayi moved, if you read the wording. Mine will be the fifth recommendation.

My amendment to these recommendations is that we need to have a competitive hiring of management. In the past we have had people hired irregularly, and that is why some factories have had problems. We know that some of the managements were handpicked. Therefore, it is important we get a competitive hiring of qualified managements and consultants to take over. This is because we have cases where some of them have gone to court. We have had problems in some of these factories, because we have had people hiring their cronies. In my amendment, I am saying that this should be done competitively.

Hon. (Eng.) Gumbo: On a point of order, hon. Deputy Speaker.

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

Hon. (Eng.) Gumbo: Hon. Deputy Speaker, it is not my intention to interrupt my good friend, hon. Ferdinand Wanyonyi. However, will I be in order to suggest that what he is proposing is good but it will be taken care of by the consultations with the county governments? This is because if you look at the amendments that hon. Wandayi proposed, honestly, and with all due respect to him, those consultations will take care of what he is trying to propose. So, will I be in order to request him to drop this amendment, so that we continue debating the Motion? We will be able to accommodate what he is talking about once we hold consultations with the county governments.

*(Hon. Deputy Speaker (Hon. (Dr.) Laboso)
spoke off the record)*

Hon. F. K. Wanyonyi: I am not hearing you, hon. Deputy Speaker. You are off the record.

Hon. Deputy Speaker: I am asking, can you agree to the suggestion by hon. (Eng.) Gumbo, that this has been handled by the amendment that was moved by hon. Wandayi?

Hon. F. K. Wanyonyi: Hon. Deputy Speaker, given that hon. Dalmas Otieno and hon. (Eng.) Gumbo have talked to the same and we did not consult with on. Wamunyinyi, I think that we are working at cross purposes; I take counsel. My fear is that it is more or less the same thing.

Hon. Deputy Speaker: That is okay. If you think that it has the same effect, then let us debate the Motion. Give us time to debate the Motion as amended.

Do you withdraw your amendment?

Hon. F. K. Wanyonyi: Yes.

(Proposed amendment by hon. F.K. Wanyonyi withdrawn)

Hon. Deputy Speaker: So, we will now resume debating the Motion as amended by hon. Wandayi.

(Resumption of debate on amended Motion)

Can we begin with hon. George Ogalo?

Hon. Ogalo: Thank you very much, hon. Deputy Speaker. I stand to support the Motion as amended. I would like to say that before the amendment, I was not comfortable supporting this Motion, but if the ancestral lands acquired compulsorily for purposes of setting up these factories are protected, I will be very much willing to support the Motion to privatise the factories. That means that whoever comes in to own the factories will keep them running for the purpose of assisting the farmers who grow sugar-cane in those areas.

The sugar industry has been bedeviled by a lot of problems. Some of the problems facing the sugar industry are actually administrative or systemic political problems. We know of the dumping of sugar in this country. We know the problem of illegal sugar

coming from our borders with Somalia; we know of the illegal sugar being dumped into our market from COMESA region. I would like to make it known that the Government must step in and help farmers who grow sugar-cane in this country.

Public factories which manufacture sugar are suffering from huge debts, and I will very much oppose any process to hand over these factories the way they are to the counties, as proposed by my brother hon. Dalmas Otieno. This is because the balance sheets of these factories are so bad that the debts the counties will inherit, if the factories are transferred to them, will be too big to deal with.

With hon. Wandayi's, I support the Motion to privatise the companies.

Hon. Wakhungu: Thank you, hon. Deputy Speaker. I rise to support this Motion as amended. The land issue is something that is very volatile and as the amendment reads, in this issue of privatisation, consultation was not done fully. You realize that it dates back before the new Constitution and as time goes by, circumstances have changed. When you look at that Report, there is a debt of about Kshs59 billion. When I had a discussion with the respective Departmental Committee, we discussed many issues and the Government was going to write it off. But we asked ourselves questions: If the Government could not modernize the technology, how sure are we that this particular strategic investor is going to modernize? We know very well that the protection under the Common Market for Eastern and Southern Africa (COMESA) is gone. We are going to have competition and of course we are already getting cheap sugar coming into this country.

(Hon. Deputy Speaker left the Chair)

*(The Temporary Deputy Speaker
(Hon. Kajwang') took the Chair)*

Hon. Temporary Deputy Speaker, looking at the valuations, you realize that land always appreciates but machines always depreciate. These machines are outdated. They do not have any meaningful value as such. When you look at the issue of privatisation, the major interest here is this land. This land was community land where the forefathers who owned this land were forced out of those particular regions to move to other regions. This is part of the historical injustices. It is, indeed, important that we must differentiate when it comes to the value of the machines and the value of the land. Indeed, this good recommendation has been there so we should go for further consultations.

In this House, we have a caucus of Members of Parliament from the sugar growing regions under the chairmanship of hon. Opiyo. So, it will be important that those hon. Members of Parliament who represent the sugar growing regions be involved in further consultations so that whatever decisions they come up with, they should own because they are the ones who represent the respective farmers. It is important that this issue is put to a halt until further consultations are done and hon. Members who represent those regions can buy in.

When it comes to the issue of community land, it is something which is very critical. It is important that attention must be paid to it. Before any further consultations are done, it will be important to get a valuer to value that land. Land always appreciates

but machines have depreciated; they have no value. In the real sense, we are privatising this community land. It is key that before further consultations are done, we must have a valuer to tell us the value of this community land and what the value of those outdated machines is. If we get a strategic investor, obviously one of the critical things he has to do is to modernize the equipment because they are outdated. This is again a challenge to the national Government. What they should have done is to modernize the equipment and bring in new technology so that as you privatise, it can attract a higher value. How do you privatise something when the equipment is outdated and obsolete? So, in this case, that is why hon. Members from the sugar growing regions are saying that the motivation is particularly on land but not on those machines that are outdated and have no value.

I support the amendment and I am humbly requesting other hon. Members to come up and support this so that further consultations can be done in line with our Constitution.

Thank you. I beg to support.

The Temporary Deputy Speaker (Hon. Kajwang'): Thank you. My request list suggests Member for Vihiga. Where are you?

Hon. Chanzu: Thank you, hon. Temporary Deputy Speaker. I want to support this Motion as amended. The fact of the matter is that privatisation of the public sector owned/controlled sugar companies, that is Mumias Sugar Company *et cetera* is an important thing that should have happened quite a number of years back. The Government is not in business to do business; the Government is in business to provide a conducive and enabling environment for private businesses to prosper or operate. This should have happened so that these companies would have been managed in a way that they would be making profits rather than the losses they have been making.

There are many advantages in privatising because you cut down on a number of costs like overhead costs, the way public institutions work. It is very important that, that it is taken into account. The fact that the land which happens to be ancestral land has been alluded to by my colleagues here is important because when these sugar factories were set up, the land belonged to the locals and it was compulsorily acquired. So it is important that it reverts to them but with Government also having a say in what goes on because Kenya is not a federal State; it is a unitary State. That is why it is necessary to have a lot of consultations. It is not only going to be consultation at county level alone because even the counties end up being funded by the national Government in this country. It is important that all these factors are taken into account and adequate consultation is made before recommendations that are being made are implemented.

The western part of Kenya is the whole area from Nyanza to Western Province. They are areas which have weather conditions which are suitable for sugarcane. You find that in western, these were the only factories that were set up after Independence because no other successive Government has set up any other factory in western. We had Webuye Paper Mills which also collapsed and I understand it is being sold at a throwaway price. Now we have the sugar factories at Nzoia and Mumias which are also being mismanaged because of interference from the public sector. It is important that all these factors are discussed and taken into account when the privatisation process takes place. Once it goes into private hands, we shall also avoid the business of Kenyans going in for cheap sugar

to dump into the market and kill the industry. The most important thing is for us to revive the industry and it is going to be for the overall good of the whole economy.

With those remarks, I support.

The Temporary Deputy Speaker (Hon. Kajwang’): Hon. Member for Kipipiri.

Hon. Gichigi: Thank you, hon. Temporary Deputy Speaker---

The Temporary Deputy Speaker (Hon. Kajwang’): Just as you are rising, Member for Sirisia, you are on intervention. What is out of order?

Hon. Koyi: Thank you, hon. Temporary Deputy Speaker, for giving this chance--

The Temporary Deputy Speaker (Hon. Kajwang’): No, I have not given you any chance. You are on intervention. What is out of order?

Hon. Koyi: Maybe at that time, not now. Can I contribute?

The Temporary Deputy Speaker (Hon. Kajwang’): You may resume your seat. Member for Kipipiri.

Hon. Gichigi: Thank you, hon. Temporary Deputy Speaker. I am in some sort of quandary on how to deal with this particular report after the proposed amendment. I had prepared myself to support the report as it was originally moved but due to the effect of the proposed amendment, I have no alternative but to oppose this report as amended. The reason is that the intention of privatisation is to remove the Government from commercial activities but once we say that the main asset of the companies be given to the community to become shareholders, we have returned the same problem that we were trying to remove the factories from.

If my colleague, Hon. Wandayi had said that farmers and the locals be given priority to own these particular shares before they are offered to any other person, I would have no challenges but when you say the community be given the land, it is not going to work. If it is what we did with, say Safaricom, where people were acquiring shares and there is priority given to a certain sector, I would have no problem with that but the idea is to remove the Government. You are converting this into another cooperative society which is going to be mismanaged because majority of the shareholders are going to be people who own the land. I have no problem with the locals owning the land.

Two, I listened to my senior and respected Member, hon. Otieno Dalmas, he said that this land was compulsorily acquired. For compulsory acquisition to be carried out, land is valued at the then market value and a compensation is given to the people who surrender the titles to the Government. That is what happens. So, this business that this land was taken from the ancestors and that it should be returned to them yet the Government paid for that particular land, I do not understand it. I am having problems with that.

Three, I was attempting to raise a point of order. You cannot come and say that the property that is owned by the Government, by the taxpayers of Kenya, should now go to private individuals at no cost. That obviously converts that particular amendment into a money Bill and you are not supposed to handle public property that way without a costing being done or a report taken to the Budget and Appropriations Committee which then brings the report here so that we understand the monetary implication. What have we just done by that particular amendment? Even if I am not speaking to the amendment,

the report as amended is obviously not right. While the second bit on consultation is okay but if we are going to read this report as it is, it has challenges. It is removing the privatisation bit of it and simply saying “hand over these assets to the locals”. I have no problem with that if that is the intention but it is no longer privatisation. At the end of the day, what are we going to do? We are going to return these factories to decades of mismanagement and embezzlement because we are going to appoint committees to run them as if they are cooperative societies.

The other issue I have a problem with is the idea of simply bailing out these factories yet the people who have been stealing from them, the thieves who have conducted embezzlement for decades, are out there doing serious *harambees*. Some of them are in serious positions in this Government; both the national Government as well the county governments. I was hoping that there will be a mention that even as we privatise, let these people be taken to court and be prosecuted. They should be rotting in jail instead of driving and living largely in this country.

Finally, hon. Temporary Deputy Speaker, I hope this report fails and another one that is viable, efficient and feasible comes. This amended report has changed the foundation, nature and direction of the report such that it is a completely new report. It should fail and let them bring another report.

I oppose, hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Kajwang’): Member for Emurua Dikirr.

Hon. Kipyegon: Thank you, hon. Temporary Deputy Speaker. I wish to state, at the outset, that for a long time we have been having companies, parastatals and bodies owned by the Government. We also have rules, regulations and laws that govern these particular bodies on management, the use of public funds and procedures to be followed when dealing with public funds.

Hon. Temporary Deputy Speaker, this country started off by creating several parastatals and authorities which were dealing with matters affecting farmers. We have had several parastatals which were meant to save farmers. We had the Agricultural Development Corporation (ADC) which was supposed to look at matters affecting farmers, making the best seeds and helping farmers identify the right breed of cows. For a long time these parastatals have become milking cows for our people. We also created other parastatals. The Agricultural Finance Corporation (AFC) was created to help farmers acquire loans but it collapsed. Several other parastatals which were meant to help farmers achieve their goals have since long collapsed or have become moribund or no longer serve the very goal which was meant to be served.

Hon. Temporary Deputy Speaker, for some time, maize and dairy farmers lost all that they had. The only sector that existed and was earning farmers a lot of money was the sugar and tea industry. But as we speak, the tea industry has collapsed; it is gone. Today sugar farmers are facing imminent losses because that sector has failed to help them. The only reason was because the factories and industries serving these farmers were being looted left, right and centre. The only reason is because nobody cares. People are not patriotic and people do not care whether the money they are looting belongs to the people. What they want is to enrich themselves.

When an idea came and that was at a time when they wanted to privatise the Kenya Cooperative Creameries (KCC) - I do not know what happened because KCC kept

on changing names. It became New KCC, then KCC and then I do not know which kind of KCC. As we speak, we do not understand which KCC is serving the interests of farmers. People have lost hope. Nobody keeps dairy cows anymore because there is nowhere you can take your milk.

Hon. Temporary Deputy Speaker, I think it is a good idea to change the way the sugar industry is managed. I think it is a good idea and especially when it comes from the very farmers; the people who feel, understand and are affected by that particular sector. Since Kenyans have failed to become patriots and since they have failed to understand why we have industries, the best way to go is to privatise these particular sectors so that people who have goodwill, people who want to help farmers get places where they can sell their produce.

Hon. Temporary Deputy Speaker, I support the idea of privatisation of this industry because the only way Kenyans can seriously work is when they know that this firm is private and that the employer or the owner of the firm is serious. The Chief Executive Officer or the members of the Board will be in their positions knowing very well that there are strict rules and regulations governing them. They will be aware that if they steal then they will be fired or arrested. Public companies are being looted because nobody cares. A person ruins a company and the next day he or she buys his way to another senior position. When we talk about Mumias Sugar Company and other companies, people have looted them and those people have risen to senior ranks presently. Nobody dares to go close to them. I believe that if these companies were privately owned we would have them giving us good results. The Government could own a few shares in them. If we do that we will be able to assist farmers to get where they can sell their produce.

With regard to *Mheshimiwa* Wamunyinyi's question on land, we all know that most of the natives of this country had their native land. When we talk about tea plantations in Kericho being owned by white settlers the truth is that those farms used to be people's homes. As we speak, nobody cares to know where those who lived on that land went to. I am happy that some of the governors have initiated motions where they want those people who were evicted from those pieces of land compensated. As the person who is farming there enjoys the fruits of that land, the person who lived there must also enjoy the sweat of his work and his occupation of that land. Wherever they are, they must be compensated. I support the fact that even the land which is owned by these sugar companies belonged to natives before sugar factories were set up. Those natives must be considered. They must be consulted. Kenya is a sovereign State. The Constitution states that sovereignty lies with the people. Those are the people who must be consulted while dealing with those parcels of land. The moment we privatise these sugar companies--- We cannot always privatise land which belongs to the natives. We need to consult them so that we can understand how they want it to be done.

So, I support this seriously. We should not look at this particular sector alone. We must look at other sectors. We must understand the background that is making these sectors collapse. We must ensure that we seriously re-look at how we can salvage the situation. Farming is the backbone of our economy. People from western Kenya who are employed here in Nairobi are very few. People who are earning from outside farming are very few. Three-quarters of those people earn their living from farming. When you go to

Rift Valley, almost 95 per cent of our people's livelihood is farming. However, farming nowadays does not even give us food. Farming does not help us educate our children or help us do business. Unless we seriously look at how we can salvage the backbone of the economy of this country, those industries will collapse.

Hon. Lati: Hon. Temporary Deputy Speaker, I rise to also support this Report because the situation in our country's sugar factories at the moment is deplorable. All these companies are in the junk status in terms of corporate stock. So, the only way to go is the privatisation way. Because these companies tend to touch the lives of so many people, especially those living in the sugar belt of our country, we must make sure that thorough consultations are done. Every step we take should be a step acceptable by the people. As my friend, hon. Ngeno said here, there is nothing more supreme in this country than the people of Kenya. In fact, the first article in the Constitution of Kenya declares the supremacy of the people of Kenya. Even before the Constitution declares itself supreme, it declares the people of Kenya supreme.

The Temporary Deputy Speaker (Hon. Kajwang'): Order, Member for Samburu West! Had you spoken to this subject before?

Hon. Lati: I am not sure.

The Temporary Deputy Speaker (Hon. Kajwang'): Are you not sure or you actually spoke before on this subject?

Hon. Lati: Honestly, I am not sure. I do not know. I lost count somewhere. I do not think I did.

The Temporary Deputy Speaker (Hon. Kajwang'): That cannot be an honest response that I can get from a Member of the National Assembly. Did you speak to it or not?

Hon. Lati: Seriously, I have no idea.

The Temporary Deputy Speaker (Hon. Kajwang'): It is important to know if you are deliberately speaking twice.

Hon. Lati: If I spoke, I am sorry. I will stop. If I did not, allow me to continue.

The Temporary Deputy Speaker (Hon. Kajwang'): Resume your seat. Let me keep it this simple. If I look at the HANSARD and find that you deliberately spoke twice, it is an issue for which I can issue a sanction. It is out of order to speak twice to a Bill because Members are waiting to speak. If we will have a second bite on the cherry before others are able to speak, you are not only unfair to them, but you also breach the rule of fair debate.

Let me inform you that according to my records, you spoke to this subject yesterday at 6.34 p.m. If it is not true, check with the HANSARD. You were the second person to have spoken on this subject on 26th February, 2015. Read your Standing Orders, whether as amended or not, you do not speak twice to a Motion. That reminds me that there are a lot of you that I am seeing on the request list who have already spoken. Because you spoke on 26th February, 2015, I will have my Clerk check out some of you who may have spoken before and release them from the request list. As I am doing that, there is a Member for Muhoroni who has the consistent habit of forgetting his card. It becomes very difficult because the Standing Orders do not allow you to speak without a card. So, can this be the last time you are doing this so that we make our work easier?

Allow him to speak from that console, but not from the Dispatch Box. Order, Member for Muhoroni! A microphone will be given to you where you are standing.

Hon. Oyoo: Thank you, hon. Temporary Deputy Speaker. I want to be very sincere and say that I spoke to the Motion on 24th February, 2015. However, I intended to contribute in view of the new amendment, which I felt was very exhilarating given the fact that I represent the biggest chunk of the---

The Temporary Deputy Speaker (Hon. Kajwang'): All right. Thank you. Just leave it there. Please, sit down.

(Laughter)

However, because you were honest about it, I will allow you to sit down without any sanctions. Just sit down. If you are on my request list and you have spoken to this, please, release yourself from my request list, so that I do not give you a punitive action. Member for Sirisia, are you sure you have not spoken to this? I have the HANSARD.

Hon. Koyi: Hon. Temporary Deputy Speaker, I do not think so.

The Temporary Deputy Speaker (Hon. Kajwang'): All right. You can go on.

Hon. Koyi: Thank you, hon. Temporary Deputy Speaker for giving me this chance to contribute---

*(Hon. Wangamati crossed the Floor
without bowing to the Chair)*

The Temporary Deputy Speaker (Hon. Kajwang'): Nominated Member, you are too senior for me to sanction, but you are forcing me to do so. So, do what you must and then come and sit down. You cannot just cross the Floor like that.

(Hon. Wangamati bowed to the Chair)

Hon. Koyi: Hon. Temporary Deputy Speaker, no proper valuation was done on this privatisation. To echo or support the sentiments of my colleagues who have contributed, I wish to suggest that the land be reverted to the county government. The community should be given first priority. We represent the community and these factories should be given to the county governments to take care of the interests of the people from these counties.

The factories were built in the 80s. For instance, the Nzoia Sugar Company was put up in 1978. The factory is obsolete. The most important aspect of this is the land, which belongs to the people. This should be reverted back to the county government.

The second point is that the Government must offset the huge debt of Kshs58 billion on these factories. With good managers, these companies can do well. There are cartels in this country of people who pretend and take factories like these ones and later sell them at higher prices or allocate them to themselves. For example, the Mumias Sugar Company was privatised, but now the Government is giving it money to operate and produce sugar at the expense of the public.

I remember the Kenya Airways was also privatised. We heard in the media that the Kenya Airways has a huge debt of about 72 billion, which is a lot of money. Sometimes the meaning of “privatisation” does not hold in this country. All the factories or industries that were privatised like the oil refineries and the Kenya Posts and Telecommunications Corporation are down. The Government needs to look for the chairpersons of these factories in the agricultural sector before they can bring such Motions or amendments to the Floor of the House.

As a Member of Parliament for Sirisia in Bungoma County where sugarcane farms are, I support the Motion.

The Temporary Deputy Speaker (Hon. Kajwang'): Nominated Member, Oburu Odinga. Members, remember that you have spoken to this subject now; you have flogged the horse dead. I can hear a lot of repetition. So, be prepared that I will hold you to account when I hear you repeat what has been said. Try as much as possible to say new things that nobody has said. Nominated Member, hon. Oburu Odinga.

Hon. (Dr.) Oginga: Thank you, hon. Temporary Deputy Speaker for giving me an opportunity to contribute to this important Motion.

The history of the sugar industry dates back to the Independence days in the early 19th Century. The various sugar factories in this country have different histories. They are not the same. Even the history of acquisition of land in respect to these factories is not the same.

When hon. Dalmas spoke about acquiring land for the factories where people had already got title deeds and the people were quiet for purposes of the sugar industries, that was in respect of the SONY Sugar Factory and may be one or two others.

If you look at the history of Miwani Sugar Company, it was acquired in the early 1920s. When it was acquired, the ownership of the land belonged to the communities, but there were no title deeds in those years. The Government did an alienation of the land, which was then given to private developers to develop a sugar factory. When the Sugar Company was in the hands of these private developers, it did very well. There were out-grower farmers. However, the factory acquired a huge nuclear estate of about 10,000 acres.

When the factory was being run by a private developer; a Kenyan of Indian origin, it was run very efficiently and the farmers used to gain and benefit from the factory. Payments to the farmers were very prompt. By the 15th of every month, farmers were paid. However, when the Asian, who had invested in the company migrated to Canada, the factory reverted to some crooks who invited the Government to join and invest with malicious intentions.

The invitation of the Government to buy shares in this factory was meant to milk money from the Government. From those years, the Government has been forced to pay money, either through the Kenya Sugar Board or through foregoing collection of taxes due to the Government like the Value Added Tax (VAT). That has accumulated into billions of debt. The amendment, which we have just passed, raises questions which I do not know how we are going to resolve.

When you say the land will revert back, what method are you going to use to revert this land back to the communities? Land can only revert back either if the lease has expired and the Government is, therefore, free to reallocate it to somebody else or the

Government can use compulsory acquisition provisions in the law to acquire the land. As long as the land does not require change of user and it is going to continue to be used for the same purpose, even if it is in private hands, there is no way we can pass a resolution, without amending the law, that this land is going to revert back to the communities when the land is privatised.

The question of privatisation of these factories has been a very long process. In fact, in the previous Parliament, we used to have a caucus of Members of Parliament from the sugar-growing areas. This caucus was pushing for privatisation because we knew that very soon there were going to be COMESA rules which would allow importation of cheap sugar from the COMESA countries without payment of duty. The Kenya Government has appealed on very many occasions for this privilege to be extended so that COMESA sugar does not come here. However, now we have almost come to a dead end when extensions cannot be given anymore. If we do not agree with privatisation immediately, the sugar industry is in a very difficult situation. I am a member of the Departmental Committee on Finance, Planning and Trade. Consultations between stakeholders have been there previously and many meetings have been held. I remember there is one which was held at Tom Mboya Labour College in Kisumu where all stakeholders, including Members of Parliament, farmers and representatives from investors attended. Recommendations were made for the privatisation of these factories.

I believe these factories should be privatised with the participation of the farmers. Farmers can participate through their cooperatives or as individuals. The counties should also be involved in investing in these sugar factories. We also need strategic investors who can pump in sufficient funds to revive these factories so that they can generate benefits to the people. As it is, with invasion of cheap sugar from the COMESA countries like Kenana Factory in South Sudan, our sugar factories, with the present inefficiencies, are not going to compete with those. They have to collapse. When sugar factories collapse, it is a very big tragedy because thuggery, theft and murders increase in those areas. It is, therefore, a very serious thing for our people to have these factories running efficiently once again.

We have many examples of countries that produce sugar. However, sugar is more of a by-product than the main product of these factories. It was suggested many years ago, I do not whether hon. Dalmas was the Minister for Industry, that a law be introduced for power alcohol. The proposal was that sugar be used to produce power alcohol which was going to blend fuel which is imported very expensively from other countries. This was going to save Kenya a great deal in foreign exchange. Because of politics, it has not been possible to introduce that law. Many countries blend their fuel up to 30 per cent using a local product, which greatly saves foreign exchange.

Sugar factories can also be used for generation of coal power and sell it to the national grid. Sugar---

The Temporary Deputy Speaker (Hon. Kajwang'): Okay. Member for Malava.

Hon. Injendi: Thank you, hon. Temporary Deputy Speaker, for this chance.

Hon. (Ms.) Shebesh: On a point of order, hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Kajwang'): As you are rising, I can see the Member for Nairobi is on intervention. Member for Nairobi, what is it?

Hon. (Ms.) Shebesh: Hon. Temporary Deputy Speaker, I rise on Standing Order No. 95. Listening to the contributions being made, we have probably reached a point where we are being repetitive. I would request that the Mover be asked to reply.

The Temporary Deputy Speaker (Hon. Kajwang’): Was that Standing Order No. 35 or 95? You must be talking about Standing Order No. 95, is it?

Hon. (Ms.) Shebesh: Yes, Standing Order No. 95. I request the Mover to be asked to reply, hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Kajwang’): All right. I hear you. Before I rule on that, there are one or two Members who have been here for quite a long time.

Member for Malava, just finish what you were saying.

Hon. Injendi: Thank you, hon. Temporary Deputy Speaker. I also come from an area where we grow sugar. I have an experience of private factories in my constituency. The experience I have is not very good when it comes to full privatisation. What happens in most cases--- Well, privatisation improves efficiency in production. However, in most cases what we usually realise is exploitation. The experience I have with two factories is that they are exploiting farmers. Sometimes they make decisions that affect farmers negatively. For example, this year when farmers were expecting to harvest their cane what happened is that, because these are private investors, they decided to harvest cane from Mumias. This was because as Mumias was collapsing most of the farmers were selling their cane so cheaply. Because these are private investors who have no interest in farmers and their business is to make profit and increase on productivity, they decided to harvest cheap cane from Mumias. In this case, the locals were suffering. Most of them were not in a position to take their children to school.

I support privatisation of these factories, Mumias being one of them. However, as we privatise these factories we should allow the county governments to have shares, for example, through ownership of the land that belongs to the farmers. I also support this because agriculture is a devolved function. I would support the county governments to have some shares through land ownership. I believe if we involve the county governments, they can have representation on the committees and boards that are running these factories. We will realise delivery of quality service and products to the communities where these factories are based.

I would also support this because schools, for example in Western, are up because locals gave out land. This land was given to churches. I remember there was one time when some of the churches wanted to convert these schools into private status and the Government came in to reject this. They were arguing that this land was given for free to the Government to deliver services to the people of the area. In this case, therefore, I support the privatisation with county governments having shares.

Thank you, hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Kajwang’): Thank you, Member for Rongo.

Hon. Anyango: Thank you. The story of sugar industries in this country is a very sad one. You will remember as my lawyer, I was sacked because I objected to the importation of sugar when sugar barons were worse than drug barons in this country and they did not care about what happens to the farmers and the factories. More so it was because these factories were mostly in western Kenya and the people who were making

decisions at national level were people who had no interest whatsoever either on the farmers or factories.

When they needed money they would import at any one time. We had a Sugar Development Fund which was never used to develop sugar at all. For a business to survive, the costs and the revenues must be such that there is a net profit which can then be used to preserve the factories.

The sugar industries have always been subjected to price controls. There was the price of cane and the price of sugar. In addition, it was the only food item which was taxed. It paid cess, VAT and excise tax. The factories remained unrenewed for a long time until the machinery was too old. In fact, it is even worse. When they got started the Government did not put in any equity as such. What they did was to value the land which they had paid some of the owners from which they acquired the piece of land. The rest of the factory was funded by debt at current interest rates in the economy.

It was impossible even in the hands of very good managers to accumulate enough profit to renew the machinery in time so that you achieve efficient production. Then as rural cities on their own, they carried so many social costs which made it impossible and they were not supported in any way by the national Government at that time. It is a sad story. When we come to privatising, we need a fairly creative approach in privatising the sugar factories.

First, all debts should be written off then the only value that should remain as the value of these factories is the value of the land at fair valuation and the depreciated value of the machinery. That value can be owned by the national Government or by the county governments for practical purposes given that the land was given by the community for that particular purpose.

We need a strategic investor who will come with enough capital and management not debt, to renew the factories and replace all the parts that are as old as 40 years and have a new factory that will be sufficient enough to be competitive. Then we have to agree on the ratios of the shareholding between the strategic investor given the capital and managerial expertise that he would be bringing and the county government, if the national Government transfers the current net value of the assets to the county government and writes off the rest.

On that basis we must agree on what the sugar farmers should own so that if prices of cane go down, you remain competitive globally, then when the prices are good globally, the profit is then shared with the miller and the farmers at the same time. This is so that the exploitative argument that the Member for Malava was mentioning which is real will not arise. So, we have to come up with a totally creative privatisation approach. What this Report has given to us is useless.

(Applause)

First of all, it is quoting 2009 figures. When I privatised Kenya Airways, I came up with a totally creative idea to be able to get strategic investors, get the right values and the right ratios to start the company in a competitive way that would make it compete globally with the rest of the other airlines. That is what we have to do here. A percentage

must be owned by the farmers and that percentage must be determined in some way for purposes of cushioning them from exploitation.

Once that is agreed in terms of fairness to the factories and the communities where these factories are, then we can now say that we have a sugar industry that can start from a strong competitive foothold. However, as recommended here with 2009 figures which were approved by the Cabinet in the year 2010, which have no meaning as of now, you are asking Parliament to approve something that is still unworkable. That is why I supported that amendment; that further consultation is necessary and we need some ingenuity in recommending the privatisation of all these companies granted that they were acquired differently. They have current different conditions as they operate. When you know as I do how these factories have been exploited, we even need legislation to protect these factories from some of the practices that have been there before. Honestly, people from western Kenya and that is the mistake that I made, if you continue to import exports then we know that you are clearly discriminating against western and Nyanza parts of Kenya. Mr. Kaguthi went and said Dalmas Otieno was trying to mobilise MPs from western Kenya to rebel against the Government and I was sacked promptly at one o'clock within three days.

(Applause)

The Committee, Privatisation Department and Treasury must sit down and look at how these factories can survive under a globally competitive environment based on equity base, debt base, ownership structure and how they can take off from now. It is not a simple privatisation as it is being proposed here. If anybody needs my help, I am willing to sit with that Commission, the Treasury and the Committee so that we come out with something that is workable and sustainable. It is a matter of business ratios and the right management assumed to be in place.

Thank you.

The Temporary Deputy Speaker (Hon. Kajwang'): Hon. Member for Rongo, while you are at it, I have been sitting here listening to you keenly with all your expertise and experience that we must all learn from. Things have changed since the promulgation of the new Constitution, giving a Member the right to propose legislation to this House. Under Articles 94 and 95, it is perfectly under your jurisdiction to propose legislation. This Commission that you are talking about is not a constitutional commission. It is a statutory commission. You can propose legislation and get all those beautiful ideas that you have and bring legislation before the Assembly. If the Committee cannot midwife it, you can midwife it yourself in a Private Member's Bill. It is taken to the Senate and if you want these things to be taken to the county, they can be taken there.

This is because, if we are going to have this blame game and wait for this Commission to sit with Treasury to do all those things, it will never happen. So, since the promulgation of this Constitution that we have, the power to make that law and reorder those things that are happening in your constituency lies with you. I want to say that even if you are a caucus of people whom your constituents rely on, you can put your heads together and come up with a legislation - an Act of Parliament to be able to do that privatisation that you are talking about.

Hon. Anyango: It is a strategic approach first before legislation follows. That strategic approach has to be discussed between the parties. Once the strategy is agreed, then the right legislation would have to be brought to the House.

The Temporary Deputy Speaker (Hon. Kajwang’): But you can take leadership of that approach because now, policy is fairly decided. Going through this Report, I can see policy around privatisation has crystalised. Therefore, as those Members who have the foundational responsibility to make legislation, you can take leadership and get it done.

They will not refuse to come to you because you are proposing a Private Member’s Bill or a Committee Bill. Are you a Member of the Departmental Committee on Agriculture, Livestock and Cooperatives? If you are not, you can still propose the same thing. It will go to that Committee and you will be able to discuss with that Committee.

Member for Rarieda, can you be honest as to whether you have spoken to this subject or not?

Hon. (Eng.) Gumbo: Hon. Temporary Deputy Speaker, I have spoken on the original Motion, but not the amended one.

The Temporary Deputy Speaker (Hon. Kajwang’): Unless you want to speak to the amendment, you are not entitled to speak to the Motion again. I will be very strict with you. I will limit you to the amendment.

Hon. (Eng.) Gumbo: Hon. Temporary Deputy Speaker, I am going to speak to the amendment only.

An hon. Member: --- (*Off-record*)

Hon. (Eng.) Gumbo: Relax my brother, there is an amendment. You have been a Member for one-and-a-half terms. You should know.

The Temporary Deputy Speaker (Hon. Kajwang’): Hon. Gumbo, you are a senior Member of this House. I am asking you again, out of integrity, just clarify whether you have spoken to this matter and whether you think you should speak to it again.

Hon. (Eng.) Gumbo: Hon. Temporary Deputy Speaker, I want to speak to the amendment only.

The Temporary Deputy Speaker (Hon. Kajwang’): The amendment was disposed of. We are back to the Motion, as amended.

Hon. (Eng.) Gumbo: Yes, I want to speak to the Motion, as amended.

The Temporary Deputy Speaker (Hon. Kajwang’): That does not allow you to speak to it as though there is still an amendment which must be disposed of. If you were a first timer, I would have handled you differently. I just want you to speak to the microphone and say that you were misguided, and that you want to resume your seat.

Hon. (Eng.) Gumbo: Hon. Temporary Deputy Speaker, my understanding is that when you amend a Motion, it is a new Motion.

The Temporary Deputy Speaker (Hon. Kajwang’): Go back and read Standing Order 92. You can speak to the amendment when you are debating whether to amend it or not. As soon as we take a vote on the amendment, we go back to the Motion. Although it is the Motion as amended, it is the Motion all the same.

Hon. (Eng.) Gumbo: Hon. Temporary Deputy Speaker, I stand guided.

The Temporary Deputy Speaker (Hon. Kajwang’): Member for Shinyalu, what is out of order?

Hon. Anami: Hon. Temporary Deputy Speaker, in the spirit of the intervention by the Member for Nairobi County---

The Temporary Deputy Speaker (Hon. Kajwang’): Let me go back to the Member for Nairobi County because I had put the matter aside. If that is what you want to do, do not pull the rug from under the feet of the Member for Nairobi County. Let her be the one to speak about it.

Member for Nairobi, what was it? I had put you aside.

Hon. (Ms.) Shebesh: Hon. Temporary Deputy Speaker, I was standing under Standing Order 95 to move that the Mover be now called upon to reply because we have canvassed this issue effectively.

The Temporary Deputy Speaker (Hon. Kajwang’): Hon. Members, that is music to my ears. It is a fair enough request but it is for you, hon. Members, to decide.

An hon. Member: Put the Question!

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

The Temporary Deputy Speaker (Hon. Kajwang’): Proceed, Mover.

Hon. Gaichuhie: Hon. Temporary Deputy Speaker, I would like to thank all the hon. Members who have contributed to this Motion because it has been here for quite a long time. Privatisation of the sugar companies started way back in the Tenth Parliament. As we all know, privatisation is one of the requirements for us to be in line with COMESA. Since hon. Members have agreed that we privatise our sugar companies, I thank them all.

I would also like to tell hon. Dalmas Otieno that, as Parliament, we had approved the write-off of the debts of these companies. However, the write-off could not take place before Parliament approved the privatisation of the sugar industries. I confirm that, as Parliament, we agreed to write-off the debts. We had allowed the Privatisation Commission to privatise companies only. We have heard the good ideas that came from hon. Dalmas Otieno. I hope that the Privatisation Commission will sit down and consider the good ideas that have come from all the hon. Members who have spoken on this Report, and more so hon. Dalmas Otieno’s.

I thank everybody else and hope that the Privatisation Commission will move with speed to consult Members from this country’s sugar belt; and consult the likes of hon. Dalmas Otieno, who has very good ideas, and move with speed to privatise those companies for the benefit of all Kenyans and the farmers in that area.

With those very few remarks, I beg to move.

The Temporary Deputy Speaker (Hon. Kajwang’): Thank you.

Hon. Members, I order that this Order appears on Tuesday’s Order Paper for the purpose of taking a vote.

Next Order!

THE SPECIAL REPORT OF PUBLIC INVESTMENTS COMMITTEE

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THAT, this House adopts the Special Report of the Public Investments Committee on the Recapitalization and Balance Sheet Restructuring of Telkom Kenya Limited, laid on the Table of the House on Tuesday, April 29, 2014.

(Hon. Keynan on 24.3.2015)

(Resumption of debate interrupted on 24.3.2015)

The Temporary Deputy Speaker (Hon. Kajwang’): Hon. Members, this is a resumption of debate. Is the Chairperson of the Public Investments Committee (PIC) here?

Hon. Members, I do not see the Chair of PIC but I know that it is public knowledge. I take judicial notice that he must be busy in his constituency, following the issues that we have had to wrestle with in the past. So, I will order that this Motion be deferred.

Hon. Members, as I understand from the HANSARD, this Motion was in the process of being moved when the House adjourned last time. It needs to be moved and seconded before you can debate it. Therefore, I defer it to such other time that will be convenient to the House.

(Motion deferred)

Next Order!

REPORT OF FIFTH ORDINARY SESSION
OF PAN-AFRICAN PARLIAMENT

Hon. (Ms.) Shebesh: Hon. Temporary Deputy Speaker, I beg to move the following Motion:-

THAT, this House adopts the Report of the Fifth Ordinary Session of the Pan-African Parliament and the Annual Speakers’ Conference (2014), together with the Revised Protocol to the Constitutive Act Relating to the Pan-African Parliament (PAP), laid on the Table of the House on Thursday, 12th February, 2015.

Hon. Temporary Deputy Speaker, the Pan-African Parliament (PAP) was established by the Protocol to the Treaty Establishing the African Economic Community. Article 2 of the Protocol to the Treaty is a declaration by the member states, establishing the PAP. It also provides for the composition, functions, powers and organisation of the PAP. The Parliament of Kenya has five Members who represent our country. Two Members are from the Senate while three are from the National Assembly.

Our membership includes hon. Murkomen, hon. Zakayo Cheruyiot, hon. Millie-Odhiambo, hon. Janet Ongera, and I. Those are the five Members that represent the country at the Pan-African Parliament.

The ultimate aim of the PAP is to evolve into an institution with full legislative powers. For now, we are not engaged in full legislative work because our Parliament is

more or less considered at this point an advisory body. However, the protocol which was approved by the African Union Summit; and which I am happy to note that the Leader of the Majority Party laid on the Table today, suggests that in future we will be electing Members of PAP through universal suffrage and that will be in accordance with the way we currently elect Members to represent us in the East African Legislative Assembly.

Hon. Temporary Deputy Speaker, much of the work that we do at PAP deals with the current issues that are bedeviling the continent. I will go through some of those issues. I want to note that, that particular session was opened by the President of Mali, His Excellency Ibrahim Boubacar Keita. He was our chief guest. I am pleased to say that with regard to the next session which will start in May, our President, hon. Uhuru Muigai Kenyatta will be the one opening it.

Some of the issues we talked about and which may be of interest to this House are issues that are currently bedeviling the African Continent, as I have said before. One of the issues we discussed was mobilization around the issue of *Ebola*. Everybody knows that *Ebola* hit Liberia and Sierra Leone. We requested all Heads of State to increase substantially the financial, logistical and human resource support to *Ebola*-affected areas. It is important for us to note that our country is one of those that responded. We have sent nurses and doctors to these affected areas so that we also learn about the *Ebola* virus that has taken Africa by storm and is creating a backlog even in economic development.

We also spoke about the ongoing actions to obtain the release of the 300 young Nigerian girls abducted by the terrorist group known as *Boko Haram*. The PAP decided to express its solidarity with the families of the abducted girls and vehemently condemned all forms of violence perpetrated against women in general and these abducted girls in particular. We requested that measures be taken for the unconditional release of the abducted girls and appealed to the authorities in Nigeria as well as international community to take further action to secure their release.

Hon. Temporary Deputy Speaker, we spoke about the issue of transitional justice. The PAP recommends that the PAP Members mobilize their national Parliaments for the adoption and popularization of the Transitional Justice Policy Framework (TJPF). We also asked the African Union (AU) to develop guidelines for establishment of truth commissions in Africa. We urged that the AU develops guidelines for implementation of reparation of victims of abuse; and member States to ratify the amended protocol of the African Court on Human and People's Rights and ensure its greater jurisdiction as well as promote the mechanisms of transitional justice. This was a very sensitive issue and the debate on it was a heated one. There were mixed reactions to the International Criminal Court (ICC) at this particular time and some members felt that an African court would solve for us our problems. Others thought that the ICC should remain. So, that was our recommendation.

On issue of persons with disability, PAP recommended that governments should raise awareness among its members of society on issues related to people with disabilities. Members of PAP should then disseminate the Maputo Protocol relating to the rights of persons with disability in their national parliaments as well as schools and universities to raise awareness amongst the youth to matters relating to persons with disability.

Our resolution relating to the *Ebola* virus epidemic was that a fact-finding mission, monitoring and evaluation mission on the epidemic be sent to the actual affected countries in light of the prevailing health and humanitarian situation. That fact-finding mission is normally undertaken by the relevant committee of PAP at that time.

Lastly on the resolution on the ratification of the protocol that I have spoken about that today was tabled by the Leader of the Majority Party, it will be our joy for us to see our President opening the PAP. I believe we shall have ratified this protocol in terms of turning the PAP into a legislative body. The PAP is now playing an advisory role. However, we believe that if PAP is given legislative powers, then we would be able to engage in making model laws that can be implemented in each and every country in Africa. I think the members of PAP should consult with their national legislatures during the model-making process to ensure that we have laws that can be given prominence, especially laws that have to do with environment, human rights and justice for people. Therefore, those are some of the issues that we raised during our last sitting of the PAP.

I beg to move that hon. Millie Odhiambo seconds.

The Temporary Deputy Speaker (Hon. Kajwang’): Member for Mbita.

Hon. (Ms.) Odhiambo-Mabona: Thank you, hon. Temporary Deputy Speaker. I rise to second the Motion. I am a Member of the PAP as the Mover has indicated. It has five distinguished Members from Kenya. We are distinguished not just because we are distinguished Members, but we have distinguished ourselves in the PAP as able debaters and movers of the PAP.

The PAP is now in its 11th year. It is a parliament that represents the interests of the African countries and its people. The PAP has had its challenges with limited mandate. As the Mover indicated, that resulted in the passing of a protocol in the AU Summit in Malabo, Equatorial Guinea in June, 2014.

(Hon. Member crossed the Floor without going to the Bar)

The Temporary Deputy Speaker (Hon. Kajwang’): Order! Which constituency does this Member represent? Can you go to the Bar and retrace your step? Well, if you are in doubt, you just crossed the Floor. You came from the right hand side of the Floor and got to the left hand side of the Floor. Yes, you did bow at the Bar, but you crossed the Floor.

Hon. (Ms.) Odhiambo-Mabona: As I was indicating, at the AU Summit in Malabo Equatorial Guinea in June, 2014, the Assemblies of the Heads of State adopted the revised protocol on the PAP that has now been designated as the legislative organ or rather that protocol now designates the PAP as a legislative organ of the African Union.

The Pan-African Parliament will become the legislative arm once that Protocol is ratified. Right now, its mandate is limited to a consultative and an advisory body to the African Union. With the legislative authority that it will have, it will draft model laws for the African Union on the initiation of the African Union or on its own motion.

Currently, the mandate is limited and it is within that limited mandate that we have been meeting. At the Fifth Ordinary Session of the Pan-African Parliament, we discussed a couple of issues as is the tradition within the Committees and also within the different caucuses. Some of the issues that we discussed have been raised by the Mover,

hon. Rachel Shebesh. So, I want to focus on some issues that have not been mentioned. Because all of us have access to the report, I will not go into all of them.

One of the issues that were of concern at the Fifth Session was that of the e-Government. This was discussed through a report that was presented by the Permanent Committee on Transport, Industry, Communication, Energy, Science and Technology. One of the issues that were of concern was that we need to develop model laws on e-Government across Africa that will ensure that our governments are more accountable, accessible and are brought closer to the people. We were happy that Kenya was given as a positive example that has embraced e-Government. Of course, a lot still needs to be done, but in Kenya, we have a legislative framework in relation to some issues of e-Government. However, some of the issues of concern included cyber security and E-waste. The member States noted with concern the security situation in the continent which countries need to work on urgently to deal with.

Peace and security in Africa is another issue that was canvassed. It was noted that a lot of countries were facing the challenge of civil wars. Sudan was given as an example at the time. The issue of terrorism was also raised. At that point, the Westgate terrorist attack was discussed. That is one of the things that we were not very happy about because even though there were many instances where Kenya was mentioned positively, we were also on the spotlight on issues of insecurity. We were hoping that when we go back this time, we would have a positive report on the issue of security, but unfortunately we are going back spotlighted on the issue of security as a consequence of the unfortunate attack on our young people in Garissa. I would like to encourage the Government that we need to work extra hard on the issue of security, so that we do not get spotlighted on them.

The issue of *Boko Haram* and the protection of women's rights and especially the girls who were abducted in Nigeria was spoken to very strongly. There were concerns that Africa needs to find lasting solutions on terrorism.

The state of governance in Africa is another issue that was discussed. It was noted that a lot of countries are still not doing well. Kenya was not doing too well, but also not too badly. It was ranked 17 out of 52 while Mauritius was ranked first with 81.7 per cent. This, therefore, shows that even though we are putting measures in place to improve governance as a country, we can still do a lot to improve issues of governance.

Another issue that was discussed was the need to mainstream issues of disability. I sit on the Committee on Justice and one of the issues that came up very strongly is the need to ratify the African Union instruments. It became apparent that a lot of African countries have a lot of confidence in international instruments except for the African Union instruments. I am, therefore, happy that we have already presented a Protocol on the Pan-African Parliament. I hope Parliament can fast-track it, so that we do not appear as though we have no confidence in our own continent and the instruments that we pass as a continent. This will ensure that when the President comes to open the Pan-African Parliament, which should be in a few weeks time, we are not embarrassed as a country and we are not giving excuses as to why Kenya is not among the first countries to ratify the instruments.

The Pan-African Parliament will change its status once the 27 plus one members ratify this Protocol. Parliaments will turn into electoral colleges and will elect Members from outside Parliament. That, therefore, means that even though we are very keen on the

ratification, we are aware that as soon as the ratification takes place, within one year, we shall exit as Members of the Pan-African Parliament until or unless we are elected. That means that if we are elected to the Pan-African Parliament, we would have to leave our seats in the national Parliaments. That is what the Protocol says.

The other issues that were canvassed are issues of the youth, education and skills development. There was concern that one of the reasons that we have radicalization in Africa is youth unemployment. Governments were encouraged to focus on youth employment.

Finally, on the issue of land, we talked about issues of agriculture in Africa. I can see my time is up, but I will leave it to Members.

(Question proposed)

The Temporary Deputy Speaker (Hon. Kajwang'): Member for Kiambu, you have been on the queue for quite a long time.

Hon. (Ms.) Gathecha: Thank you, hon. Temporary Deputy Speaker. I rise to support this Motion on the adoption of the Report of the Fifth Session of the Pan-African Parliament. It is important that as a country, we participate in areas that will influence issues of radicalisation, land use and e-Government that have been raised in this Report.

Africa is now the new frontier for the whole world. It is the region where everybody is looking towards. It is important we get a legislative framework where if, as a country we are not able to resolve some issues internally, we can then go to the African Union for adjudication. The African Union has adjudicated on issues of security and in situations when countries are at war. We can take a look at the Inter-Governmental Authority on Development (IGAD) within Africa as an example. The main challenges which have emerged in Africa at the moment are radicalization and terrorism. It is important that we get a common united front where we will get adjudication in an institution where we have legislative representation.

It will give us a voice as a country in various issues that are trans-continental. Kenya is seen as a key leader on this continent when it comes to various issues. This country has been a shining example of how e-procurement is done. It is important to note that when the President of the United States finally comes to his father's homeland, Kenya will be seen as a country that plays quite a large and substantive role when it comes to international representation. The things we do are considered leading and landmark across the continent.

Therefore, I support the adoption of the Report. I hope it means that Kenya will have significant seats. I am sure that in terms of Kenya leading in the gender issue, we will have enough of our women represented despite the fact that this House wants to throw out the issue of increasing the number of women in Parliament. I know that this House will discuss some of these issues. We will continue to uphold the issue of women's rights in this country.

With those remarks, I support.

The Temporary Deputy Speaker (Hon. Kajwang'): Thank you. Let us have the nominated Member, Hon. Isaack Mwaura.

Hon. Mwaaura: Thank you, hon. Temporary Deputy Speaker. I rise to support the Report of the PAP.

Before I proceed, I want to make an observation. There is need to check the registration system here. Even when you log in successfully, you are consistently missing. I am a very ardent attendant of Parliament yet I do not appear in the attendance list. Maybe this affects many other hon. Members. That is one thing that needs to be checked.

The Temporary Deputy Speaker (Hon. Kajwang'): Sorry, what are you talking about? Your volume is low. I can hardly follow you.

Hon. Mwaaura: Hon. Temporary Deputy Speaker, I am talking about the log-in system. Even if you log-in successfully, you seem to be missing. I just want to raise that concern. Looking at my attendance, it is very sparse yet I attend each and every session of Parliament.

The Temporary Deputy Speaker (Hon. Kajwang'): You are mixing two issues. On the issue of whether you are on HANSARD or not, there is the HANSARD department.

Hon. Mwaaura: No! It is not about the proceedings, it is the actual registration of attendance. Those are two issues, hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Kajwang'): Proceed. Do not waste all your time on administrative issues.

Hon. Mwaaura: Hon. Temporary Deputy Speaker, please allow me to raise the concern. It is a bit discouraging to see that you are listed as not attending yet you attend. It also has a remunerative component.

Hon. Temporary Deputy Speaker, I laud the move to make the PAP the legislative wing of the African Union. This is very commendable. This is so because I have attended African Union (AU) meetings in the past in Addis Ababa, where we just make sweeping declarations. However, when you look at them, they may not be effected because they lack the full force of the law. It is highly commendable for such a process to commence.

In that same vein, I imagine that the move would also go ahead to link the other regional Parliaments such as the East African Legislative Assembly (EALA) so that they are also part of a legislative structure that would enhance the resolutions of the AU.

We have heard the main issues that have been raised. For me, some of them, like the issue of e-Government, stand out. It is very important that our governments take that issue very seriously because with the advent of e-Government processes, there is more openness and accountability. Everything would be online for everyone to interrogate. For example, I know that in this country there is already a directive that all procurement processes be done online. The development will remove the element of human urgency. People will not also have issues to do with files having been lost. One can also be notified of any alteration through an SMS system, the same way it is done in the banking system. This is highly commendable if we were to move our continent forward.

Another issue is that of military intervention in many African countries with the aim of promoting peace. If we have the legitimisation of the PAP as the legislative arm of the AU, then I would imagine that it would be easier to rally countries and to give the military backing or approval in intervention where there are civil unrests or strife. In itself, that will ensure proper audit and a complementary role with regard to the United

Nations Security Council resolutions. This is something that needs to be promoted because more often than not, we have had a situation where interventions come from other places other than Africa, when there is civil strife. We have even seen countries like France gloating on how they were able to intervene in countries such as Cote d'Ivoire when there was a tug of war between Laurent Gbagbo and Alassane Ouattara.

This move is commendable because it speaks to the PAP dream of the establishment of a super state. As we continue going forward to consolidate our collective response and working together towards the enhancement of various organs of the AU, it will actually slowly but surely lead us to that great dream where Africa can be one big state that can have respect among the committee of nations.

I am also enthusiastic to hear that the resolutions of the AU spoke to issues of disability mainstreaming. I am very glad because, together with other Members of Parliament representing people with disabilities, I have been invited to participate in a special session in May in Johannesburg. We will see to it that the PAP takes cognisance of the fact that disability mainstreaming is a key and integral part in ensuring that Africans with disabilities are actually raised from poverty and depravity. For example, I note that there is the African Peoples Human Rights Charter that is already being developed. I have participated in the development of the optional protocol. I hope that it will be ratified and that countries will actually respond to the various options that are there. However, there is a problem. Sometimes when you try to domesticate international treaties, you ask yourself if there is anything African in them. Because of being schooled in western ways, maybe we need to look at local knowledge to ensure that when we domesticate some of these human rights and humanitarian laws, we really look at how they work best for us. That is something that lacks. It is just a question of taking a document and trying to cascade it down to a language that people would understand. There is something we need to also define – that which comes out in the real discourse of our people. We need to know what is really African so that we do not just adopt everything. For example, the issue of recognition of group and community rights is quite critical. This can be enforced through the formal channels that are being established.

I agree that there is a tendency to accede to international laws that are basically emanating from the United Nations. Maybe that is because the AU may not necessarily have distinguished itself with regard to the development of some of these treaties or rather enforcement. One of the key challenges has always been the funding to ensure that the actual implementation of such treaties is done. I want to imagine that states within the African continent would continuously give monies to the AU and regional economic communities and any other initiatives in order to ensure that the objects of such treaties are actualised.

I also note a very interesting conversation around youth and employment. One of the greatest challenges that we have been having as a continent is the issue of our young people wanting to migrate to Europe in search of green pastures. Yesterday I watched a very interesting conversation of young people who are trying to cross to Italy through Libya's Gibraltar yet Europe was actually developed by Africa. You ask yourself why young people are trying to go to Europe to live in not necessarily very good situations. Some of them were even detained in concentration sort of camps for more than a year. There is need to have this kind of awareness that there are innumerable opportunities in

Africa and that, that is the reason multinationals are coming to our country and Africa has some of the fastest growing economies. That is including Kenya so that we have that kind of pride of ownership; so that our people do not walk around in a stoop. They should feel they are in the most resource-rich continent and that given an opportunity those resources can actually be turned around to create employment for their kith and kin.

I also note the fact that we are increasingly developing protocols to create free movement of goods and services. However, I note that the killing of people with albinism has become a regional issue because of lack of proper guidelines within the East African Community (EAC). I hope and believe that even as we try to move our goods and services, those who are the most vulnerable will be protected so as not to be trafficked for killings like we have witnessed.

The Temporary Deputy Speaker (Hon. Kajwang’): Hon. Member for Siaya.

Hon. (Ms.) Ombaka: Thank you, hon. Temporary Deputy Speaker for this opportunity. I rise to support the adoption of this Report on the Pan-African Parliament (PAP). The issues that are raised and discussed at PAP are quite relevant to our everyday situation in Africa. This is because for years, Africa has been viewed as a dark continent, a continent that is infested with wars, conflicts, diseases and illiteracy to the extent that we never had an image across the world. This PAP is likely to salvage the African image to be more positive than it has never been seen. However, we still need to dissect issues that have been raised in a deeper sense.

I listened to hon. Millie mentioning issues of insecurity, mainstreaming disability, problems of unemployment and so on and so forth but I did not hear mainstreaming gender yet gender is a problem on the whole of the African continent. It is even more painful in the Islamic areas. It is only last night when I was watching a programme on Kenya Broadcasting Corporation (KBC) on maternal health. They picked some sections in Sudan and mainly Islamic countries where Female Genital Mutilation (FGM) is practiced; child birth becomes complicated and many women die. In terms of health for women, I do not know whether this is being highlighted. It is a huge problem in the whole of Africa, particularly in the regions that practise FGM. It was tear-dropping. I cried all through watching it because it is a very painful experience. The African continent should address it in their parliament so that the health of women can be improved. I also feel that if you do not mainstream gender into the legislative agenda, we are going to miss the boat. This is the best opportunity to address some of these problems that affect women because of our harmful cultural practices. There are a lot of early marriages. The *Boko Haram* is part of that gender problem.

We still have a lot of violence in Africa. Even though we are talking about peace, violence is still coming in different corners. Just yesterday, you realised the reports about xenophobia in South Africa (SA). They are chasing away fellow Africans because they are taking jobs there. This is degenerating into violence. Terrorism is not going to go away so soon. We need to be serious with these issues and the kind of violence that come in different forms. Violence comes as a result of failed elections across Africa, ethnicity, xenophobia and so on and so forth. We still need to address that and PAP must capture this so that the whole of Africa can streamline peace in whatever we do and in every aspect of development.

When it comes to health, they mentioned *Ebola*. *Ebola* is not the only disease. We have malaria that kills every other day. Some of these diseases need to be lumped together and be addressed equally. *Ebola* is one of those but we also have malaria and HIV/AIDS. I wonder if this is also appearing in the discussions at the PAP. A lot needs to be done and we also need to look around election processes where more violence and problems emerge and Africa can never be the same. We want to see that at the end of the day presidents that take power in Africa are not going to be life presidents. They are not going to be there for the rest of their lives. They need to know that there is a time limit and a time frame and that they need to give up power in a peaceful manner like we see in other countries.

That is my contribution and I want to conclude by simply saying that there is hope now. Africa will never be dark again if PAP legislates on those very areas that affect Africa as a continent. Deep harmful cultural practices must be part of that address that will bring Africa to a peaceful process. Otherwise, I think we are moving towards the right direction and very soon the African Union (AU) will be like the European Union (EU) and we will move very well. However, those areas must really be highlighted if we want to work as a one big continent that is looking for peace and to settle men and women on equal terms.

Thank you.

The Temporary Deputy Speaker (Hon. Kajwang’): All right. Hon. Member for Makueni. Hon. Member for Makueni, are you in the Chamber?

An hon. Member: I think he is out.

The Temporary Deputy Speaker (Hon. Kajwang’): Hon. Member for Makueni though wishing to contribute---

(Hon. Maanzo walked into the Chamber)

Hon. Maanzo: I am sorry, hon. Temporary Deputy Speaker. Thank you for the opportunity to contribute to the Motion in relation to the Report relating to PAP. It is impressive to see that there are plans to make it like the East African Legislative Assembly (EALA) which we have. Now that we have an African Court of Justice, it is only fair that we have a legislative site of Africa. That is where matters relating to Africa can be checked, debated and legislation can then be implemented by the African Court of Justice passed. There are many similarities of issues in Africa. Such issues are of youth, gender and terrorism. They cut across in all parts of Africa. It will be good when we have a fair and collective standard of dealing with it because if the trend goes on as it is today, it divides Africa especially into religious conflicts where Christians and Muslims and maybe other religions find themselves in conflict. With a place where people from all these nations can come to debate, it is going to be very good in bringing the African people together. We will be able to nominate Members here in Kenya who will represent us and share out ideas. Whatever the experiences we have in Kenya will be shared in other countries and we will build Africa in terms of the software of an African thinking because the hardware is already there. We will be able to think together and analyse matters in a similar way so that the African continent which has been underdeveloped gets developed. That way, our people will not be running away to Europe or other parts of the world hoping for better living conditions.

Hon. Temporary Deputy Speaker, there are issues relating to youth and Kenya was leading even in cooperatives. Kenya has been leading the rest of Africa in structuring the youth and accommodating the youth. You see now the rising cases of xenophobia in South Africa. If there were such debates and people begin to appreciate each other, you will realise that we are all the same and that is why other African states helped South Africa when it was down, it will begin to bring us together as Africa. It will promote trade within the African countries. Already, we have commercial regions such as the COMESA. So, this will be a better place to go and formulate policies which improve the infrastructure because one is now able to travel from South Africa to North Africa using the road. There will be ways of agreeing that this is the best way to do it, these are the shorter routes and this is what we can do. We have also been acting against terrorism. Countries come together and produce their armies. There will be a better structure and a better legal framework to do those things. Africa will begin participating better at the United Nations.

What is happening in the Pan-African Parliament is very important. We have been sending very strong Members who have brought results. One of the issues you cannot ignore totally is education especially when it is women versus men. Gender has not been unionized. There is gender violence and part of it is witnessed in Kenya. There is gender depression where women have no rights at all. There will be a common way of taking care of the human rights bit all over Africa. Now that we have the African Charter, then it is better when we also have a parliament.

I support and once again I apologise for having walked out for a minute. Thank you.

Hon. Cheruiyot: Thank you, hon. Temporary Deputy Speaker, for allowing me this opportunity to also contribute in support of this Report.

At the outset, I want to say that I am a Member of Pan-African Parliament from Kenya. Kenya has shown a very good example where gender rules the waves. Indeed, we have a delegation which is ably represented by three ladies, hon. Murkomen and I. The three ladies have acquainted themselves commendably well and they are recognized in that country as very good representatives.

The Pan-African Parliament has always been a dream for Africans to have one government; one government for the whole of Africa despite its diversity. As you can see from the Report, the issues which have been addressed are issues which bedevil Africa. These are the issues of conflict, disease and poverty which are more or less synonymous in public forum about Africa. There are recommendations for African governments to see how we can address some of these issues. These are issues which have affected all of us without exception including South Africa. These issues of conflict are now rising. Even after Garissa we are seeing in Durban Africans are rising against their brothers because of poverty and they are venting their anger against the so-called immigrants who are contributing to the welfare of the South African economy. These are issues which have been addressed.

The issues of land have also been addressed in this Report, what is happening to Africa and how land can be made to be more productive in terms of legislation as regards planning, ownership and land use. On this aspect, Kenya seems to be the leader in terms of legislation but surprisingly, in terms of implementation, we may not be doing very

well. Some of these legislations are being used by other African countries and they are already implementing them and are doing very well.

There is an aspect also which has not been seen which is addressed in this Report; the issue of climate change and global warming. These are things which are being taken for granted in Kenya. We are now facing drought prolonged from December. We are now beginning to receive rainfall. This afternoon, we received a report that in Mandera there are heavy floods which have swept away buses and caused a lot of disaster. This is part of climate change. As the Kenyan Government we should start giving it more and better attention so that we can protect ourselves through mitigation and adopting. As we now go forward in terms of the development of the Pan-African Parliament, the issue of legislative status of Pan-African Parliament is something which we want to recommend, that our Parliament adopts so that we can help Members of Parliament who are full-time employees to this task of representing Kenya.

With those few remarks, I want to join in recommending that this be adopted. Thank you.

The Temporary Deputy Speaker (Hon. Kajwang’): There is a Member here who seems not to have his card. From where you are sitting, use that microphone. We strongly discourage Members from coming to the Chamber without cards. So, if you left it somewhere in Garissa or North Eastern, you better find out how to go there and get it back.

Hon. Isaack: Thank you, hon. Temporary Deputy Speaker. At the outset, I would like to support the adoption of this Report which is very important. The Pan-African Parliament is an important institution that Africa needs. This Parliament will be the reconnaissance of the African dream; the pan Africanism which our forefathers, the late Nkrumah, Jomo Kenyatta and Julius Nyerere, among others, dreamed and had a vision of. I hope this new African Parliament will address and fulfill this vision which our forefathers had.

Having said that, the Pan-African Parliament should address the issue of climate change. As my colleague has just stated, despite the fact that climate change has been caused by the industrialised nations in the West, Africa’s contribution to this pollution has taken toll on our climate, air and seas. Africa produces less than 2 per cent of this pollution. We need compensation for the pollution of our continent. This is what the African Parliament should address. As a result of this pollution on our continent which we have not caused because Africa is yet to be industrialised, it has affected our agriculture which is the backbone of our economy. Now, Africa is turning into a desert. Areas which have been arable lands that were producing plenty of food no longer produce. Therefore, climate change has had a big toll on Africa and, therefore, this is what Pan-African Parliament should seriously address.

In matters of security, Africa is known to be the continent of conflict and disaster where many people have died. We are the faces of starvation and death. This has to change. A good example is the Democratic Republic of Congo and Somalia which for the last 25 or 30 years have not seen the semblance of any government. There has been no law or order.

Despite the birth of the African Union (AU) from the Organisation of African Union (OAU) we are yet to see AU addressing serious security matters and failures in

many parts of Africa. Where there has been conflict and where some countries have failed, the AU has not been seen to bring law and order to those countries. It is a failure on the part of the AU and we are yet to see that arm of the AU which deals with security bring the African conflict to an end. That should be seriously addressed.

On the issue of economy, Africa is yet to be economically as mighty as other continents despite the fact that there are plenty of resources. Africa is known for its vast resources from minerals and many other resources. During colonialism, it is Africa's vast resources that caused industrial revolution in Europe, America and the rest of the world. Africa is yet to realize and make use of those vast resources. One thing that is responsible for Africa not becoming a mighty economic zone is that Africa is a primary producer of raw materials.

African countries do not get fair prices at the World Trade Organisation (WTO) which puts Africa at the corner because those who negotiate and those who are at the helm of WTO, most of the time are not from the African continent. Therefore, Africa has been denied fair prices in the world market. Therefore, there is need for specialized African intellectuals to spearhead the negotiations of the prices for African commodities at the WTO. Many a times, Africa sends people who are not specialized and who cannot negotiate for fair prices for the goods particularly the primary goods at the WTO and therefore losing and Africa getting a raw deal in prices for its very important goods.

On the area of research, this is one area Africa has failed in apportioning resources to our universities and research centres so that we can be industrialised and produce industrial goods for markets outside Africa. It is unfortunate that after 50 years of our Independence, Africa cannot manufacture a needle. They cannot manufacture anything used for the African resources. As I said, after all the resources that have been used to industrialise the West, it is now selling the final product from Africa yet in Africa we are not able to produce and manufacture even a needle. We are not making use of our intellectuals. Therefore, Africa must set aside a lot of resources and a lot of funds towards this area so that we can do research and be geared towards industrialisation.

Hon. Temporary Deputy Speaker, in the area of energy, Africa has abundance of energy yet we have not been able to harness the energy we have within our continent. We need to produce enough energy so that we provide cheaper electricity and produce goods that are cheaper and compete with the rest of the world. We should produce cheap goods and sell a lot of our goods outside the country. If you do not produce goods that are cheap, we cannot compete competitively with the rest of the countries especially those which are industrialised.

There is scramble for African resources especially raw materials by those industrialised countries. We have the Chinese coming to Kenya. There are other many countries from the West coming to Africa and in many parts of Africa there is neo-colonialism probably coming back to take away what was left during the colonial period. We have to be very careful and guard our resources. If we have to sell them, we must sell them at a competitive price in the world market.

Hon. Temporary Deputy Speaker, I support this Report.

The Temporary Deputy Speaker (Hon. Kajwang): Member for Kasipul.

Hon. Magwanga: Thank you, hon. Temporary Deputy Speaker. I rise to support the adoption of the Report of the Fifth Ordinary Session of the Pan-African Parliament (PAP).

This Motion is timely and it tries to address the issues affecting Africans. African states have been crying every day for being marginalized and for not developing but all these goes back to our leadership. It goes back to the way we manage things. It also goes back to the way we behave.

The PAP, I hope addressed the issue of corruption which is eating African states which is very critical. Most of the developed countries have declared zero tolerance to corruption and that is how they developed and they are still developing. I want to urge the House to adopt this Report.

When it comes to the issues of security, security is very critical for African states, it is not good and neither is it economical given what is happening in South Africa where immigrants and other states' citizens are being killed and harassed. I want to say that we need to appreciate one another even if we are in this country advocating for various political beliefs or ideologies. We need to appreciate one another. We need to see one another as brothers and encourage the brotherhood to ensure that we protect ourselves. Should we fail to offer security to ourselves and to support the laws which are enacted, we may not go anywhere. We will all die in this country. So, we must appreciate and support every measure that is put in place to ensure there is security. This is really sad.

In the 21st Century, we encourage the African States to address food security issues to ensure that everyone has enough food and clean safe drinking water. This will improve our living standards. I am just from a conference in Washington where we were trying to analyse land and poverty. How does land contribute to poverty? We farm in Africa. We do not do much because as we continue to farm, we continue to get poorer. Do we put the best mechanisms in place to ensure that we reap the maximum from the farming techniques that we apply? So, we need to ensure that the vast land that we have gives us the maximum benefits. That way, we shall be economically empowered.

There is also the issue of human rights. We involve ourselves in these human rights abuses. It is a hard issue to talk about because Members of Parliament are also involved in this. We talk of cattle rustling and rape in the 21st Century. Leaders are involved in these things. We need to tackle this issue as a nation. Leaders should be in the forefront in fighting human rights abuses which have taken toll on this country.

Lastly, there is information regarding insecurity which is very critical. Occasionally, the National Intelligence Service (NIS) gathers information which is then trivialised and politicised. In the end, we get the wrong analyses. We end up doing the wrong things and so insecurity still bites this country. Of recent is the Garissa attack where we lost young and promising ladies and boys who would be in leadership to man this country. It is all because we failed to take heed of advice. We failed to analyse the information given professionally. We also failed to act accordingly. As we attend these meetings, we had better address these issues professionally and come up with very tangible and concrete conclusions which will lead the African States to a better union. We need to assure everyone of security. I support.

Hon. Nyenze: Thank you, hon. Temporary Deputy Speaker for giving me this chance to contribute to this Motion: The Adoption of the Report of the Fifth Ordinary

Session of the Pan-African Parliament. It is good when African countries move towards that direction of having a continental Parliament, an African Court of Justice and other continental bodies. This is so that this continent can realise development and economic growth for its own population.

Africa has been referred for too long as the “dark continent”. Africa faces challenges like brain drain. We train doctors and engineers and then they go for greener pastures in Europe, United States of America and other countries. We also have conflicts. Some are religious, racial and tribal. We also face terrorism. It is very common in Africa. We are suffering from *Boko Haram* and *Al Shabaab*. Lately, we have the latest xenophobia in South Africa where foreigners are being forced to go back to their countries. They are actually being killed. These are challenges that can be overcome once we have this big legislative Assembly and the bodies that put us together.

The African continent is strategically placed in the middle of the globe. We are between South and North America and Asia. We are between Europe and Australia. When people talk about investment, they say that you have to consider location. When you are setting up a business, you are told that you need to consider location. There are other things. Africa has what it takes to be a very developed continent because of our strategic position in the globe. We are in the middle. We have also vast resources. We have gold, diamonds and oil which is being discovered everywhere. However, Africa is the least explored continent. This is just the tip of the iceberg. This continent is the richest in terms of mineral resources yet we have the poorest of populations. That is why young people are leaving to go to Europe and other countries and never coming back because those are developed countries.

Surprisingly, out of ten fastest growing economies, six are in sub-Saharan Africa. After Kenya rebased its economy, it became the sixth largest economy in the whole of Africa. Now, we are lucky because we have gold in Kakamega, iron ore in Taita Taveta, coal in Kitui, oil in Turkana and natural gas elsewhere. Each African country is blessed. Not only can we develop economies based on mineral resources, but also on good governance. For example, Rwanda experienced genocide less than 20 years ago, but today it is one of the fastest growing economies. It is pulling most of the foreign direct investment. It is one of the leading countries in Africa because of governance. So, we need to set our priorities right. One way is to be strong and sort our problems instead of waiting for countries like France to come and intervene whenever there is a conflict in Africa like it has done in Mali and Ivory Coast. Africans should have a standing army to tackle any conflict that arises instead of relying on Europeans, Chinese or Americans.

The other area which we should look at, if we want this continent to develop, is value addition. A speaker before me said that Africa cannot manufacture a needle. I disagree. Africa manufactures basic things. We have to invest a lot in research and development. We have to add value to our products, whether we produce tea or iron. We should add value by refining our products, so that we can compete in the international market.

A country that is not with the other African countries may not develop, but I am sure the Pan-African Parliament will pass legislation that will tackle these issues. If it is on trade, they should form trading blocs that are favourable to Africans. You have seen the Economic Community of West African States (ECOWAS) tackling conflicts and

maintaining law and order in West Africa. We have also seen that some trade blocs have brought a lot of benefits to countries in the specific regions. We have seen the Southern African Development Community (SADC) promote trade in the Southern Africa region up to Tanzania. We have also seen our own trade bloc in the East African Community.

When people are united, they form a bigger market for their goods, share intelligence, research and exchange goods through trade. Surprisingly, because of the East African Community, Kenya trades more with Uganda and Tanzania than with Europe and any other country in the world.

For us to grow our economies and become rich, we have to get our things right. It is only through proper public management, good governance and leadership that we can get things right. If African leaders will not entertain tribalism, negative ethnicity and corruption, this continent will move forward. There was genocide in Rwanda and close to a million people were massacred. However, they learnt their lessons and picked up their pieces. Today, you can walk in the streets of Kigali at any time of the night without checking who is behind you. Every investor wants to invest there. Rwanda is not rich in minerals. It is a tiny country with a small population, but you can see what good governance can bring.

With the adoption of this Report of the Pan-African Parliament, African countries should learn from each other. The first leaders after Independence such as Kwame Nkrumah and Jomo Kenyatta worked towards pan-africanism and bringing Africa into one country. They had a vision. Where did that vision go? Four years ago, Muammar Gaddafi, who was promoting the African Union, was killed. We may say many bad things about him, but he had a vision for the African Union. Unless people are united, we will not achieve much. When you are united, you achieve much. Africa is divided into two religions, namely, Islam and Christianity. Islam is the most practised religion in Africa.

I was also surprised that Kiswahili is the second most spoken language in Africa. We can unite. Christians and Muslims have lived together for centuries without wars. Even today in Turkey Christians and Muslims live together. In other countries they live together happily. This idea of trying to exploit religion to create some division among people is wrong. It should be addressed. This country has been blessed. This continent has been blessed. In Africa we do not experience cold winters. So, we do not have to buy gas to heat our homes. We have the equator passing through the continent. We have the best forests. We have daylight sunshine, beaches and animals to promote everything. However, we cannot get our act together. Look at tourism. In most countries where tourism was doing well, it has died because of insecurity.

Pan-African Parliament will now elect members the way we are elected to this House instead of us appointing them. Let them be serious and legislate. Let all countries adhere to the protocols, conventions and agreements set out by the PAP for this continent to be strong. If 50 years after Independence, most African countries are still exporting their raw materials with little or no value addition, we will still remain poor. Let us trade amongst ourselves, try to manufacture things and create strong research centres. Let us exchange ideas at the continental level. That will help this continent to develop faster.

Today most of the rich countries are coming to Africa and signing agreements with African countries independently, some for farming, others to do infrastructure

programmes. However, the real reason is they are targeting African resources because this is one of the richest continents in terms of mineral resources. When an African country is approached by a rich country from the West or East, it is very difficult to negotiate alone. However, when we have a trading bloc, PAP and we also form something that can compete with the World Trade Organisation (WTO), European Union (EU) or Asian countries, we will be stronger. However, when a small, poor and struggling country is promised goodies in exchange for the good minerals that they have, it does not gain.

So, I support this idea of PAP. It is good that we appointed very good people. I am sure hon. Rachel, hon. Millie, hon. Zakayo Cheruiyot and the others are very effective Members to that Parliament. I would urge them that when time comes, because now it will be elective, they stand and represent us in that Parliament.

I support.

The Temporary Deputy Speaker (Hon. Kajwang'): Thank you. Member for Nyeri.

Hon. (Ms.) Kanyua: Thank you. I want to rise in support of the Motion that we are debating and support the Members from the Kenya National Assembly who represent us in the Pan-African Parliament - colleagues like hon. Millie, hon. Shebesh and hon. Zakayo Cheruiyot and the Senators. We are happy that they were able to bring this to this Floor so that we could all add our views and be able to even read what PAP is proposing in terms of the different areas that are covered in the Report. Looking at that Report you get inspired that Africa is moving in the right direction. You get inspired that we are thinking about our problems and that we are applying African solutions to African problems. I want to congratulate hon. Shebesh for the Motion and for bringing this to the attention of the Assembly and for doing it within reasonable time. Not a lot of time has passed from when the Report was drafted to when we have been able to debate it.

If we, in the House Business Committee (HBC) had known how important this Report was, I think it should have been debated when the House is full and when a lot more people can participate in these solutions. That notwithstanding I congratulate that team. I am also happy to learn that our President, His Excellency Uhuru Kenyatta has been invited as a guest to PAP and that is really encouraging. This is because, our President is among the Presidents who believe in the pan-african approach, dream and way of doing things because Africa has come of age. I will be looking forward to his speech and inspiration to the rest of Africa.

He has done a good job in Kenya. I hope he does a good in Africa as well. I also want remember that his own father, the first President of our Republic, the late Mzee Jomo Kenyatta did have very good links with the rest of African countries. Every time you travel to Ghana, they do not ask you for a visa. When you travel to Ethiopia and Zimbabwe you do not need a visa. It is a very good thing. I hope that the current President like his father will try to pursue more bilateral relations with countries. It is still quite painful to go to countries like Nigeria since the visa process takes a long time and even when you get the visa you get a single entry. I hope that with some of these countries in Africa we can begin to collapse our barriers even as we fight terrorism and insecurity. There can be a good balance between fighting insecurity and making sure that Africans can travel and that Africa continues to remain as one and PAP is the way to go.

I have had the benefit and the pleasure of serving in the African Union (AU) and the Economic and Social Council which is the civil society organ of the AU, almost similar to PAP. The Pan-African Parliament has legislative power and the ECOSOC, the civil society permanent assembly has advisory role to the Heads of State in governance.

If you look at how the AU has organised its work, you really marvel at the architecture of governance that we do not even see in our countries. In the AU, you have the highest organ which is the Heads of State in governments, the council of ministers, the PAP, the ECOSOC which is the civil society organ bringing the voices of the African people, round tables of experts and you have thematic areas around which the work of AU is organised.

We also have blocs. There is the ECOWAS bloc which is largely West African. There is the East African bloc where Kenya is based and then we have the SADC which is the southern region. This is fairly good architecture in terms of how Africa has organised its work and the levels of consultations, advisory organs and intense deliberations that go on in the AU are very admirable.

I am hoping that as we look at this Report, that a lot of those lessons can be brought to our countries. Our countries are not spending sufficient time deliberating on issues that affect us. We are not spending sufficient time on matters of security. In this country, we know the issues of insecurity that confront us. The level of expert roundtables that go on in other countries and in AU are the sort of expert roundtables we would expect to see here in Kenya on matters of security. I hope that we can learn from the AU.

Looking at the normative frameworks that the AU and especially our Heads of State and governments are able to adopt in Africa, it is also very commendable.

In the women rights arena, we have the Maputo Protocol, which is way ahead of its time. A lot of our constitutions do not even reach where the Maputo Protocol is. The Maputo Protocol even allows women to inherit on equal terms as their male counterparts. A female child and a male child are equal in all respects. We are asking that in our African countries, we continue to adopt these very positive influences that are coming from the regional bodies. The Maputo Protocol would be one such document. We have many.

I have had occasion to look at the solemn declaration of the African Heads of State and government on peace and security. Again, a fairly elaborate framework on African government Heads of state and governments promising that they will not engage in activities that are going to cause Internally Displaced Persons (IDPs) and refugees. In Africa, we have to start saying 'no' to war and embrace conflict resolution mechanisms that are peaceful. It is only through peace that we can develop. As long as war remains an aspect of Africa, we remain in trouble. So, looking at the solemn declaration of the African Heads of State and governments on peace and security, I think that is the way we want to go – to make sure that in our countries, we are not engaging in activities that are going to produce IDPs and refugees. We say this completely aware that Kenya is still struggling with the burden of refugees in Dadaab, Kakuma and many other urban areas. We must make our countries peaceful, and our environment conducive, so that our people can live in peace. It will take no less than the Head of States and governments to ensure a peaceful environment in Africa.

Looking again at the Report, being aware of the proposals of the African Charter on Elections and Governance, we are asking that all African countries commit themselves to free and fair elections. It is only through free and fair elections that we can get governments that serve the people as they should. Any government that gets to office, it does so to serve the people that elected it as well as those who did not vote for it. It is good to see the African Heads of State and governments agreeing to leave office. Nobody is a monopoly of knowledge. There cannot be a time where only one person knows every answer that the country needs answered such that they have to stay in office until Christ comes back. It is a shame that we still have African heads of government who want to stay in office until God comes for them. Nobody should leave office because of death. People should leave office because they have retired. They should leave office because they have served their country. Those of us who serve in Parliament are called upon to ensure that we embrace free and fair elections in order to allow our people to choose the leaders that they deserve. That particular charter, which the Report speaks to a lot, is very useful.

We are also looking at the issues of the youth, women and persons with disabilities, which are very well elaborated in the Report. I hope that we can also adopt some of those mechanisms, proposals and strategies that are written in those elements, especially acknowledging that 70 per cent of young people in Africa live in rural areas. They live below US\$2 a day and, therefore, live in poverty. We should make sure that we invest as much time as we can in finding solutions for youth employment and youth empowerment; and making sure that our youth are taking part in our growing economies. It is not fair to have our economies growing, but leaving out women and youth in that growth.

Let me end with the question of security again, just to make sure that we are looking into the security situation in Africa and ensuring that appropriate measures are put in place.

My challenge to the two colleagues who are in the PAP is the question of corruption. The AU needs to give us a normative framework on corruption. A time has come when the AU must accept that corruption is part of our problems in Africa, and that we need an AU convention on the fight against corruption, so that we can have normative standards that will allow us to fight corruption.

Hon. Temporary Deputy Speaker, with those remarks, I congratulate the Members and move and pray that the Report is adopted by this House.

The Temporary Deputy Speaker (Hon. Kajwang’): Member for Baringo Central, you cannot rise, knowing that you have a watch with you. I appreciate you for being in the Chamber and for requesting to speak. We will allow you to speak on Tuesday when this Order comes up again. Would you want to take your chance with one minute left?

Hon. Mwaita: Yes, hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Kajwang’): All right, I will give you some minutes to contribute.

Hon. Mwaita: Thank you, hon. Temporary Deputy Speaker, for giving me an opportunity to support this Report.

First is to congratulate the delegation from this House, who represented Kenya very well, and for coming up with a very incisive Report. I have perused the recommendations that they have given. They are very brilliant. Particularly, I was looking at recommendation number four, which talks about sensitising our citizens on the role of PAP. This is a very critical recommendation which this House should support so that Kenyans can know what PAP is doing for the African citizens.

The other recommendation is on synergy in regional parliaments. I have in mind the East African Legislative Assembly (EALA) and the Economic Community of West African States (ECOWAS) Parliaments, which should synergise, so that whatever is recommended at the regional level is also picked up at the PAP level.

Hon. Temporary Deputy Speaker, I have about three issues to raise with the Members of delegation to PAP. When they participate in the next PAP session, they should look into the issue of security. The security situation in Africa is wanting. We are talking about *Al Shabaab* in East Africa and *Boko Haram* in West Africa. They should be able to pick up this issue and see what can be done about it.

The second issue I want to talk about is how to resolve conflicts in Africa, particularly in our youngest state of South Sudan. We know that the Republic of South Sudan is grappling with conflict. The PAP should look into this issue and see how we can resolve the situation with a view to assisting that young nation of Africa to get together and move forward.

On the issue of resources for Africa, when Members participate in the next PAP session, they should see how our resources, especially the newly found resource of oil, can be used to develop Africa so that Africa does not continue being the “dark continent” where its resources are exploited to develop the western world. A number of countries, like Kenya, Uganda and others, have struck oil.

Finally, on the issue of exports from Africa, I have in mind exports like flowers from our country. The PAP should articulate it so that our exports, especially flowers, can have an easy access to the European market.

With those few remarks, I support.

The Temporary Deputy Speaker (Hon.) (Kajwang’): Hon. Members, there being no other Member requesting to contribute to the Motion, the Mover will be called upon to reply when the Motion comes up for debate next time.

Hon. Members, I thank you for showing enthusiasm and the clarity of thought that you have offered to this very technical Motion.

ADJOURNMENT

The Temporary Deputy Speaker (Hon. Kajwang’): Hon. Members, the time being 6.30 p.m., the House stands adjourned until Tuesday, 21st April, 2015 at 2.30 p.m.

The House rose at 6.30 p.m.