

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 30th March, 2016

The House met at 2.30 p.m.

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

PRAYERS

PETITIONS

CONSTRUCTION OF FOOTBRIDGES ALONG THIKA SUPER-HIGHWAY

Hon. Francis Waititu: Thank you, Hon. Speaker. This is a public Petition by the residents of Juja Constituency for the construction of footbridges along the Thika Superhighway.

I, the undersigned, on behalf of residents of Juja Constituency, draw the attention of the House to the following:-

THAT, the residents of Juja Constituency highly appreciate the numerous economic, environmental and infrastructural benefits brought about by the construction of the Thika Superhighway including creation of jobs, facilitation of transportation access and increasing demand for goods and services among other multiplier effects of the road.

THAT, despite these numerous benefits, a number of innocents Kenyans have either been killed or left disabled along this road, robbing many households of their bread winners and leaving untold suffering on the maimed and their families.

THAT, there were 10 fatal accidents within a two-kilometre stretch between the weighbridge next to Ruiru Golf Club and Ndarugu River in 2015 alone, including on 5th May 2015 at Ndarugu Area, 18th May 2015 at Kwa Maua Area opposite Juja City Mall, on 9th June 2015 near the TNA Office in Juja, on 18th July 2015 at Nyacaba Murram Road and on 30th September 2015 near Juja Thriller among others, all of which either led to avoidable deaths or serious injuries.

THAT, as per the records, majority of the victims are students from Kenyatta University, Ruiru Campus, the Nairobi Institute of Business Studies (NIBS), Jomo Kenyatta University of Agriculture and Technology (JKUAT), Mang'u High School among other numerous primary and secondary schools, all being institutions with over 60,000 students and pupils combined.

THAT, sustained efforts to solve the issue and attain a workable solution to this concern have not been successful, and

THAT, the matter in respect of which this Petition is made is not pending before any court of law or constitutional body.

Therefore, your humble Petitioners pray that the National Assembly through the Departmental Committee on Transport, Public Works and Housing:-

- (i) Investigates the matter, allocates funds through the annual estimates and compels the Ministry of Transport and Infrastructure to construct more footbridges at the major black spots, namely:-
 - (a) Gwa Kairu crossing near Kenyatta University, Ruiru Campus;
 - (b) The Toll Station immediately after the weighbridge near Theta Club.
 - (c) The Juja High Point/ Ndarugu cross point; and
 - (d) The Bob Harries Road/ Nyacaba Road crossing.
- (ii) Compels the Ministry to devise similar strategies of curbing road carnage in other parts of the country as well; and,
- (iii) Makes any other order and/ or direction that it deems fit in the circumstances of the matter.

And your Petitioners will ever pray.

Hon. Speaker: Hon. Daniel Maanzo.

Hon. Maanzo: Thank you, Hon. Speaker. I would like to support Hon. Waititu's Petition. Some of us here have their people along that highway especially the ones in universities. In fact, in Makueni Constituency, we had a case of a university student who died on the same road. One of the prayers in that Petition is that orders be made pertaining to other matters related to the same whereby security is guaranteed.

There is a practice by the Kenya National Highways Authority (KeNHA) and KeRRA to build roads without bumps all over the country. *Wananchi* are forced to erect soil-based bumps by themselves which a lot of times are even more dangerous than speeding itself.

So, I support the Petition and ask the Chairman, who is here, to make sure that there are bumps all over the country. When they are constructing roads, we should also have bumps put at the same time.

Hon. Speaker: Charles Kemei.

Hon. Kemei: Thank you, Hon. Speaker. I also rise in support of the Petition by the Member of Parliament for Juja. When we are designing roads, the aspect of safety must be considered by the engineers. In my constituency, along the road between Kericho and Kisumu we have accidents day in, day out, at a place called Kaitui. Safety of our people is so paramount such that we are asking the designers, architects and all those involved in road construction to put the safety of our people in the forefront in the implementation of these projects.

I support.

Hon. Speaker: Opiyo Wandayi

Hon. Wandayi: Thank you, Hon. Speaker. I also wish to support the Petition by Hon. Waititu and underscore what my friend, Hon. Kemei, has just stated. It is critical that the designers of these roads have in place safety mechanisms. As I support this Petition, I must also recall that I did a more or less similar Petition in 2013 concerning the state of the road in my constituency between Madeya and Ligega trading centres and the requirements for bumps. To date, nothing has happened.

It is important that this matter is taken seriously because we continue to lose lives every day on these roads on account of lack of safety measures. So, I support this Petition and I request that the Committee takes this matter seriously and perhaps revisits my earlier Petition which was on the same matter.

Hon. Chanzu: Thank you, Hon. Speaker. I rise to support the Petition. It is true the Thika Superhighway was an eye opener. It is a road that has made us to understand as a country,

that we can develop by doing such roads. So, I support. Maybe it is because of the hurried way in which the project was done because of the need that was there. There are a number of safety measures which were not taken into account and many projects have been done like that. So, it is high time engineers in the Ministry of Transport and Infrastructure responded to this quickly, so that it can be remedied. Population has also increased. It is definitely very dangerous to the pedestrians. That should be apprehended.

Hon. Ogalo: Thank you, Hon. Speaker. I would like to support Hon. Waititu. In the wider realm of this matter, this country already has an authority, the NTSA, whose role is mainly transport safety. It should guide the development of transport infrastructure in a way that safety is ensured. The NTSA is not only supposed to work in urban centres at night, they are also supposed to look at safety in rural areas and other areas where transport services are offered.

The Budget they get is supposed to enable them to ensure that when KeRRA and KeNHA are developing roads, designing zebra crossings, bumps are properly planned and erected so that those who cross roads do so in a safe environment. In Nairobi where footbridges are the best way because of the high number of people, NTSA should carry out a survey and advise the county government, KeNHA and KURA that manage the roads to ensure that road safety is adhered to.

Hon. Speaker: What is the international best practice for you, Hon. George Ogalo? I am sure you have travelled substantially across the world. Is it bumps or the public who are educated on how to use roads and when animals can be driven across roads? Sometimes, you wonder if our people know how to use roads. Most of them just walk across from *shambas*. So it may well be that there is also another problem about how to use roads which I believe should also be part of the component of what needs to be done. Having travelled the way you have, I am sure you have not come across so many bumps yet those countries do not complain of as many accidents as we do.

Hon. Ogola: Hon. Speaker, while I agree with you, motorists, pedestrians and the NTSA are all culpable. The pedestrian needs to be aware of how to cross the road, but NTSA also needs to ensure that where people are crossing the roads, there are speed limits that people adhere to so that those who cross the roads can manage to cross. One way of controlling speed is to erect bumps. Erect bumps, so that they slow down if they cannot adhere to the speed limits specified by NTSA. Also ensure that the laws are applied. Those who do not obey speed limits need to be dealt with. So, it is the whole chain of the NTSA, pedestrians and motorists. That job belongs to an authority already established for that purpose, namely, the NTSA. Maybe they need to carry out *barazas* and enlighten the public on how to use road transport infrastructure.

An Hon. Member: On a point of order!

Hon. Speaker: No. There is no point of order. Let us send this Petition to the relevant Committee, so that when they bring their report we also, as the National Assembly, can express ourselves. The solution may not just be in the erection of bumps. There must be other avenues of dealing with this matter. It would be best addressed when the Committee has considered the Petition, handed it to various stakeholders like NTSA and all those others who are involved in the issue of road construction and development. Hon. Robert Pukose.

Hon. (Dr.) Pukose: Thank you, Hon. Speaker. I want to thank Hon. Waititu for this Petition. I happened to have done my thesis on incidents of road traffic accidents. This country is one of the countries with the highest cases of road traffic accidents. One time, I travelled to Pretoria. On standing at the side of the road, where they have robot street lights, somebody crossed from the other side. I said to him in Kiswahili, “habari” because the lights were showing

red and the fellow was crossing because there was less traffic. He asked me how I knew he was a Kenyan and I asked him where he came from. He told me that he came from Kayole. I told him it was because he had crossed the road when the lights were indicating red.

(Laughter)

In our country, pedestrians have a very bad habit. When vehicles are moving and the lights are indicating green, many pedestrians move to the side of the road. It is a bad habit. There is something wrong with our mentality in terms of obeying traffic lights. The NTSA needs to address it. At one time, they were arresting people who were crossing roads near flyovers. I do not know why they stopped. You will find pedestrians crossing the road where there is a flyover nearby. Instead of using the flyover, they cross the road. How do you explain that? It is something that is ingrained in our minds. We need to address it as a serious problem especially as a health related cause for road traffic accidents.

Hon. Speaker: Maybe that man from Kayole may explain something. Let the Committee look at the Petition. I am sure the House will be in a better position to debate the report of the Committee. Hon. Kamanda, there is nothing for you to debate now because it is coming to your Committee.

Hon. Kamanda: Thank you, Hon. Speaker. On this Petition, let me assure the Member that we do not have a pending issue on a Petition. So, it will receive the first attention. Maybe in two weeks, we will be able to deal with it.

I want to support Dr. Pukose and what you have said, Hon. Speaker. The solution will not be erecting bumps. As you have rightly said, some of us who have travelled outside this country know that you do not put bumps on highways. Members here normally ask for bumps on highways and the Ministry has gone ahead to do that because of that pressure.

However, the signage part of it is what needs to be done by the Ministry and generally educating the public. I think the Ministry is doing that through NTSA and very soon, this is going to improve.

Hon. Speaker: Let us have Hon. David Karithi, Member for Tigania West.

RELOCATION OF KK NKENGECHEIA PRIMARY SCHOOL

Hon. Karithi: This is a Petition by parents and pupils from Tigania West, KK Nkengechia Primary School.

I, the undersigned, on behalf of the pupils and parents of KK Nkengechia Primary School, draw the attention of the House to the following:-

THAT, KK Nkengechia Primary School has for many years been located within the environs of Isiolo Airport.

THAT, Isiolo Airport is scheduled for upgrade into an international airport with half of the runway extending deep into Meru County thus leading to demolition of several buildings and structures surrounding the airport.

THAT, the Kenya Airports Authority (KAA) has fenced off the erstwhile convenient access and entry points to KK Nkengechia Primary School thus forcing parents to escort their children to school with most pupils having to trek for several kilometers to access the school.

THAT, in order to pave way for the massive expansion and heightened operations of the airport the school will eventually have to be demolished in the long run.

THAT, the residents of Tigania West Constituency have donated about 15 hectares of land for the relocation of the school.

THAT, despite efforts to resolve the tussle between the school management, KAA and Ministry of Transport and Infrastructure, no substantial solution has been agreed upon.

THAT, the issues in respect of which this Petition is made are not pending before any court of law or before any constitutional or statutory body.

Therefore, your humble Petitioners pray that the National Assembly through the Departmental Committee on Transport, Public Works and Housing and the National Treasury:-

- (1) Recommends that the Cabinet Secretary for Transport and Infrastructure in conjunction with the KAA, builds the school to enhance the continuation of uninterrupted learning; and,
- (2) Makes any other orders or direction that it deems fit in the circumstances of the matter for the welfare of the pupils of KK Nkengechia Primary School.

Your Petitioners will ever pray.

Hon. Speaker: Let us have Hon. Nakuleu.

DELAYED ISSUANCE OF IDS TO TURKANA
COMMUNITY IN LAIKIPIA COUNTY

Hon. Nakuleu: Thank you, Hon. Speaker. I wish to present the Petition by Laikipia Turkana Council of Elders.

I, the undersigned, on behalf of the Laikipia Turkana Council of Elders and the entire Turkana Community resident in Laikipia County, draw the attention of the House to the following:-

THAT, Article 12 of the Constitution entitles every citizen to equal rights, privileges and benefits of citizenship including any document of registration or identification issued by the State.

THAT, Article 14 of the Constitution entitles every person to citizenship by birth if on the day of the person's birth, either the father or the mother is a citizen.

THAT, in spite of members of the Turkana Community in Laikipia County being citizens by birth, the national Government delays issuance of national IDs through a biased vetting process, contrary to Article 27 of the Constitution that prohibits all forms of discrimination.

THAT, the delayed issuance of IDs has denied the Turkana youth access to Government services, employment as well as access to socio-economic opportunities like Youth Enterprise Fund, Uwezo Fund and the Women Enterprise Fund.

THAT, the lengthy vetting process has also disenfranchised the affected citizens and deprived them the enjoyment of rights and fundamental freedoms enshrined in the Bill of Rights, particularly Article 38 of the Constitution on political rights.

THAT, inordinate delay in processing and issuance of national identification cards to the Turkana youth in Laikipia County is breeding unemployment, marginalisation and anti-social behaviour among the disillusioned youth who cannot access means of economic empowerment.

THAT, the efforts by the community to seek redress from relevant offices on the matter have been in vain and further averring that the issues raised in this Petition are not pending in any court of law, constitutional or legal body.

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

- (1) Investigates the circumstances and reasons for the inordinate delay and protracted vetting process of members of the Turkana community living in Laikipia County before issuance of IDs.
- (2) Intervenes with the Cabinet Secretary, Ministry of Interior and Coordination of National Government to forthwith revoke any orders authorizing or directing the tedious vetting of the members of the Turkana Community in Laikipia County by the offices responsible for registration of persons in the county.
- (3) Ensures that the Directorate of Registration of Persons expeditiously processes and releases all IDs belonging to youths of Turkana origin that have been pending for the last three years and immediately commences mass registration and issuance of IDs to all eligible persons of Turkana ethnicity resident in Laikipia County; and,
- (4) Makes any other orders deemed fit in mitigating the plight of the Petitioners. Your humble Petitioners will ever pray. Thank you.

Hon. Speaker: Very well. Your Petition is referred to the Departmental Committee on Administration and National Security. The other two Petitions are referred to the Departmental Committee on Transport, Public Works and Housing.

Next Order.

PAPERS LAID

Hon. A.B. Duale: Hon. Speaker, I beg to lay the following Papers on the Table of the House, today, Wednesday 30th March, 2016.

The Marrakesh Treaty to facilitate access to publicised works for persons who are blind, visually impaired or otherwise prints disabled pursuant to Section 8 of the Treaty Making and Ratification Act, 2012.

The Report of the Auditor-General on the Financial Statements in respect of the following institutions for the year ended 30th June 2015 and the certificate therein:- The Petroleum Development Levy Fund (PDLV), The Anti Female Genital Mutilation (FGM) Board and the Transition Authority (TA).

The Annual Report and Financial Statement of South Eastern Kenya University for the year ended 2014/2015.

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

Hon. Speaker: Very well, before we proceed, allow me to recognise the presence of students from the following institutions in the Speaker's Gallery:- Ndakaini Secondary School, Gatanga Constituency, Muranga County. In the Public Gallery, Pan African Academy, Ol Jorok Constituency, Nyandarua County. Welcome to observe the proceedings of the National Assembly.

Hon. Midiwo: On a point of order.

Hon. Speaker: Yes, Hon. Midiwo, what is your point of order?

Hon. Midiwo: On a point of order, Hon. Speaker. The Leader of Majority Party has just given a Statement. Remember yesterday, he gave some promise to this House. On that promise, as I went to consult the Committee outside, the Chairman alleged that I did not like governors and I wanted to be the governor of Kisumu. I do not even come from Kisumu. He said that I am scared because I do not have a degree. That kind of carelessness is not good from a Chair of a Committee who cannot even deliver. How can the Chairman of the National Government Constituencies Development Fund (CDF) say something that careless while we are demanding the rights of our people? We are telling him that CDF has staff that has not been paid for two months. What a heartless Chair! I have this afternoon sent my academic testimonials to his office, so that he can know that I went to school. I want the Leader of Majority Party to tell us where the Gazette Notice is? He promised to do so by 1.00 p.m. and it is now 3.00 p.m.

Hon. Speaker: Next time you want to make such a lengthy statement about the person of yourself, you should approach the Chair, so that you can be allowed to make a Personal Statement, for which there will be no debate. Leader of the Majority Party, you want to respond.

Hon. A.B. Duale: Hon. Speaker, before I respond, I think Hon. Lessonet is not the right institution to verify academic papers. With the many fake degrees, Hon. Jakoyo's might be one of them. I think he should take it to the Commission for Higher Education.

(Laughter)

I want to confirm that according to the slogan of the Jubilee Administration of '*kusema na kutenda*', I have before me here a special *Kenya Gazette* Supplement No.38.

Hon. Angwenyi: Pigia yeye makofi.

(Applause)

Hon. Speaker: Hon. Jimmy Angwenyi, you seem to live in the past. You are so much tied to history.

(Laughter)

Hon. A.B. Duale: Hon. Speaker, I have this Gazette Notice and I want to make three Statements. I hope the Chair is here, so that he should retract what he said on the HANSARD. After you directed, I took that challenge yesterday. I spoke to the Attorney-General of the Republic of Kenya and there were no regulations in his office. The regulations were taken after they were done by the Committee on Delegated Legislation. They went to the Ministry and then the Board. It is only yesterday at 4.00 p.m. that the Acting Chief Executive Officer (CEO) of the CDF Board delivered them to the Attorney-General's Office. I had to force him to deliver the same document to the Government Printer today, this morning, and it was done. I want to ask Hon. Cheptumo to look at this document because there is a likelihood that after Parliament dealt with this matter, the Ministry and the Board may have made changes.

Hon. Speaker, since last week, the story from the Chair was that it was with the Auditor-General. He needs to retract that from the HANSARD. At least it has been gazetted and is ready. The Chair should be here to tell us the next cause of action because as Hon. Jakoyo has said,

bursaries have not been paid. Looking at these regulations, it will take another 21 days of a tedious process to appoint our constituency committee members and for them to be approved by this House. The Committee must work diligently in the interest of our membership and constituencies. Hon. Lessonet is a second timer and is up to the task. Whether he wants to become the governor or not is for the people of Baringo County to decide. I want him to, at least work. We have given him a chance to chair a very important Committee. I want to table these regulations. This is the copy of the special Gazette Notice and I have done my bit.

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

Hon. Speaker: Hon. Members, there is nothing to debate. I want to encourage Members to thoroughly read the Standing Orders. I see there is general excitement when a matter is raised on a point of order and other Members also want to raise points of orders. When shall I rule on the issue of order? This is why I am encouraging the Member for Kipipiri to read thoroughly. I know he has read the Standing Orders to appreciate that he cannot be rising on a point of order. We need to rule on whether, indeed, the Leader of Majority Party has done his bit, which he has as he promised.

Unless you want to rise and claim that the entire House spends another one hour praising the Leader of Majority Party, there is no debate. Even if there is an issue, I am not a Member of the CDF Committee. You cannot raise a matter with me. Raise it with that Committee or the Committee on Delegated Legislation. I am unlikely to be of any assistance from where I am sitting. I will only listen and hear what you are saying and sympathise. That is all. I am sure you do not just want sympathy. You want a resolution. Look at the published regulations and then raise whatever issues you may wish.

Hon. Benjamin Langat.

PROCEDURAL MOTION

EXTENSION OF PERIOD FOR CONSIDERATION OF SESSIONAL PAPER ON GOVERNMENT GUARANTEE

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

THAT, notwithstanding the provisions of Standing Order 61(2)(b), this House grants leave for the extension of the period for consideration of Sessional Paper No.1 of 2016 on Government Guarantee on Borrowing for the Construction of the Second Container Terminal Phase II by the Kenya Ports Authority (KPA) from the Japan International Cooperation Agency (JICA) by a further 28 days from 30th March 2016, excluding the period of the April short recess.

Last week, we received a Sessional Paper which seeks approval of this House, so that KPA can borrow Kshs.27.3 billion for the second container terminal by KPA. When the Committee visited KPA, we realised that the two weeks which is required by our Standing Orders to consider Government borrowing is too short. This is because one, our Constitution requires that we first of all check if it is development borrowing. Two, check whether KPA is capable of repaying this loan. Three, we were told through the same Sessional Paper that Phase I is 99 per cent complete

My Committee Members felt that we need more time to investigate and check, so that we do not make mistakes. This is a very large amount of money that we are borrowing from outside the country. My Committee felt that we should seek extension, so that we can do a good job. This will ensure that when we approve, we will do so from a point of knowledge and not because we have been rushed. That is why I seek this extension, so that this House can get a good report and do justice to that borrowing. Many Kenyans have been complaining about the high levels of public debt. We should start here, so that we get enough information and time. We even want to check whether Phase I is complete and how much it cost. Therefore, I seek the approval of this House to give us an extension, so that we have enough time to consider that Sessional Paper.

I beg to move.

Hon. Speaker: The Departmental Committee on Finance, Planning and Trade is seeking leave of the House, so that they have more time to go to the Port of Mombasa. The Chair says that Kshs27.3 billion is an important sum of money. All sums of money are important. It is also important that if the House grants you leave as you desire, you also look at the books of account to see whether they are healthy. Some of these bodies are extremely unhealthy. You need to see whether they are healthy and worthy of being accommodated financially in the manner that they seek. Hon. Mwadeghu wanted to express himself in two words about this. Look up. Your microphone is on. You have spectacles and that is why you cannot see. It is on.

Hon. Mwadeghu: Asante, Mheshimiwa Spika. Nimesikia ombi la Mwenyekiti wa Kamati kuhusu fedha ambazo zinaombwa kimkopo. Ni muhimu kuwa ijapokuwa Bandari inaomba hizi fedha, kuwe na uangalifu mzuri. Mara nyingi, mashirika yanaomba hela ama fedha na mara nyingi yanakabidhiwa fedha hizo lakini ule utumizi wake unatia hofu. Naomba Bunge likubali kuwaongezea ule muda ambao wameomba. Kuongeza huo muda kutakuwa ni jambo la busara. Itawabidi nao wazingatie mambo mawili au matatu.

Taasisi hii imetimiza yale ambayo yalitakiwa yafanywe katika mwango wa kwanza maana kuna kipindi cha kwanza. Waliomba fedha na tungependa kujua kama peza hizo zimetumiwa kama vile walivyosema. La pili, wakiongezewa muda na kuomba hizo fedha, wana uwezo wa kuzilipa? Halmashauri ya Bandari hivi juzi iliondoa mameneja wakuu wote Bandarini kwa sababu ya kutotenda kazi vizuri. Kwa hivyo, litakuwa ni jambo la busara kwa Kamati kwenda kuangalia ni lipi ambalo halikufanyika. Je, kabla hawajaondolewa walifanya kazi vizuri? Je, wametimiza malengo yao na shabaha za zile fedha walikuwa wameomba? Je, hizi fedha ambazo wanaziomba zitakuwa na malengo gani? Wanatarajiwa kufanya nini nazo? Je, wana nguvu ama uwezo wa kuzitumia kwa kipindi kilichobaki?

Kwa hayo machache, naomba niunge mkono uamuzi wa kuwapa muda wa kukamilisha zoezi hilo.

Hon. Speaker: Hon. Members, there is nothing up for debate. The Committee is seeking extension of time within which to consider Sessional Paper No.1, which is on the Government guarantee for borrowing by the KPA of the sums indicated by the Chair of the Committee, by a further period of 28 days from 30th March, which is today, including the period of the April short recess. Do I get the concurrence of the House that we allow the Committee the extension of 28 more days?

Hon. Members: Yes!

Hon. Speaker: It is so granted, Hon. Lang'at. Make sure that you do not leave anything unturned. They talk about stones, but maybe you may find other things, but not stones.

Next Order.

Hon. Ichung'wa: On a point of order.

Hon. Speaker: What is your point of order, Hon. Ichung'wah?

Hon. Ichung'wah: Thank you, Hon. Speaker. I rise on a point of order under the Standing Order Nos. 205, 207 and 217 on the establishment of the Public Accounts Committee, the Liaison Committee and the Budget and Appropriations Committee, more so, relating to the submission of certain statutory reports in line with Article 228(6) of the Constitution which states that:-

“Every four months, the Controller shall submit to each House of Parliament a report on the implementation of the budgets of the national and county governments.”

My concern is that this afternoon, the Leader of the Majority Party tabled a number of Papers before this House including audited accounts of State agencies. We are yet to see the Leader of the Majority Party table the half-year report from the Office of the Controller of Budget. When the Controller of Budget tabled her report for the first quarter last year, it was not the programme-based Budget of the 2015/2016 Appropriation Act as approved by this House. I, therefore, seek your guidance for the Leader of the Majority Party to inform this House and the country when the Controller of Budget will table this Report, which is about two months late. This House ought to have received this report by January this year. We are heading for a short recess.

It is not just in this House. There is a serious problem with county governments because what we do here informs how they behave. Even in the county governments, members of the county assemblies are unable to question or interrogate the implementation of the Budget processes by their respective county governments because they are not getting these reports. It is quite an embarrassment that even at our own level in the National Assembly, we are not getting this report.

Secondly, we have also seen very many audited accounts of State agencies being tabled before this House by the Leader of the Majority Party. Many of them are tabled in the Public Accounts Committee and the Public Investments Committee. This is an issue that I raised in the meeting that we had with the “Great Nine”. This House ought to appoint an audit firm to audit the Office of the Auditor-General itself. There are serious issues that are going on in that office. We have raised issues in the Public Investments Committee. I am sure the Public Accounts Committee has also found issues that relate to the way work is done there and the way that office conducts audits in this country.

I seek your guidance as to when we expect this House to nominate or appoint a firm of auditors that can audit, not just the systems, but conduct a thorough forensic audit of the Office of the Auditor-General. It should probably even look at a systems audit, including questions to do with recruitment of staff and such matters in the Office of the Auditor-General.

This is an important office for this country. If we allow things to go the way they are, then we are headed in the wrong direction. We cannot sit back when two months down the line, the Controller of Budget has not tabled a report on how the Budget process for this year will be concluded in three or four months. We are going on recess and we will be back mid-April. We have already started working on the 2016/2017 Budget, but we are yet to get a half-year report on the implementation of this year's financial Budget. I seek your guidance on this matter.

Hon. Speaker: A comprehensive Statement will be issued when the House resumes on 12th April 2016.

Hon. Ichung'wah: That will be far.

Hon. Speaker: It must be far because the House must do other things and tomorrow is not meant for these other issues. If you had desired, you should have sought my ruling earlier. Some of them are just constitutional obligations like the quarterly reports on the implementation of a Budget. That is a constitutional obligation that the Controller of Budget is required to do.

The appointment of the Auditor-General to office is provided for in the law. You should tell your colleagues whether commissioners of the National Audit Commission from the House still participate in the work of that Commission. I was once in such a commission and I know what the law required us to do. The Chairmen of PAC and PIC are supposed to be commissioners of that commission unless one of them was removed. They are supposed to deal with the appointment of an Auditor-General to office. It is provided for in the Constitution that there should be such an auditor. Let us deal with that when we resume on 12th April 2016.

Hon. Ichung'wah: Hon. Speaker, I am not questioning your ruling. I was just seeking your guidance. As you have rightfully said, some are weighty constitutional issues which I thought on the spur of a moment, you will make a ruling as to whether the Leader of the Majority Party and Office of the Controller of Budget are in order to be contravening the Constitution.

Hon. Speaker: The Leader of the Majority Party has not contravened any provision of the Constitution. He only acts as a conduit. Nothing obligates him to table any report. He can actually get the report and hand it over to you to table.

Hon. Ichung'wah: I will presume that being the Leader of the Majority Party and the person tabling these reports on behalf of the Controller of Budget, he would probably inform this House whether he had an opportunity to ask the Controller of Budget about the same. If we allow these public officers to contravene the Constitution with unabated impunity, it is the same impunity we are seeing.

Hon. Speaker: Your Committee will deal with that. I will make a Communication on what you have sought. The PIC will deal with the matter when the reports come. Whether the reports will be coming late or not, you will ask the Controller of Budget why she is bringing the reports late. You cannot ask the Leader of the Majority Party to explain why the reports are late. It is not his business. He is not expected to explain why any officer is late in carrying out his or her duty. Let us not dwell on non-issues. I will make a Communication in that regard.

Hon. (Ms.) Amina Abdalla, Chairlady of the Departmental Committee on Environment and Natural Resources.

BUSINESS PENDING BEFORE THE COMMITTEE ON
ENVIRONMENT AND NATURAL RESOURCES

Hon. (Ms.) Abdalla: Thank you, Hon. Speaker. I wish to report on business pending before the Departmental Committee on Environment and Natural Resources.

Under Petitions: The Petition by Hon. Mohamed Diriye on behalf of the residents of Ewaso Nyiro water catchment area regarding the management of Ewaso Nyiro by the Water Resource Management Authority (WARMA). Under this Petition, the Committee held a meeting with WARMA and has scheduled a fact finding visit to Wajir on 15th April, 2016.

The Petition by Hon. (Ms.) Florence Kajuju on behalf of the residents of Meru County regarding human-wildlife conflict. The Committee is planning to meet the Petitioner.

The Petition by Hon. James Gakuya on behalf of the residents of Lunga Lunga Village in Nairobi County and St. Mary's Primary School on the massive damage by dumping of soil in Ngong River on Reuben Side opposite St. Mary's Primary School. The Committee met with the Petitioner and scheduled a fact finding mission on 19th April 2016.

The Petition by Hon. Ahmed Ibrahim Abass on behalf of the residents of Ijara Constituency regarding irregular gazettement of Boni/Ijara Forest. The Committee met the Petitioner and has scheduled a meeting with the Cabinet Secretary for Environment and Natural Resources on 21st April 2016 for a response on the issues raised by the Petitioner.

On Reports: The Report on the study visit to China regarding the bamboo sector is awaiting adoption.

The Report on the 12th Session of the United Nations (UN) Convention to Combat Desertification Conference of the Party No. 12 is awaiting adoption.

The Report on the agreement of the Conference of Parties (COP) 21 Climate Change Conference in Paris, France is awaiting consideration.

Hon. Speaker: Any issue on the report by that Committee? The Chairman of Departmental Committee on Finance, Planning and Trade.

BUSINESS PENDING BEFORE THE FINANCE,
PLANNING AND TRADE COMMITTEE

Hon. Langat: Thank you, Hon. Speaker. On the issue of pending Bills, the following Bills are pending before us:

The Banking (Amendment) Bill, 2015. The Committee has engaged stakeholders and we are in the process of compiling our report. We need one more meeting with the stakeholders.

The Controller of Budget Bill, 2015: The Committee has considered the Bill and compiled the report for adoption and tabling. The Committee further consolidated the amendments and forwarded them to the National Treasury for comments pursuant to Article 114 of the Constitution. The Committee will be meeting the National Treasury to consider the proposed amendments in readiness for the Committee of the whole House.

The Proceeds of Crime and Anti-Money Laundering (Amendment) Bill, 2015. The Committee has considered the Bill and compiled the report which is awaiting adoption. The Committee has further consolidated all the amendments and forwarded them to the National Treasury for comments pursuant to Article 114 of the Constitution and is scheduling a meeting with the National Treasury to consider the proposed amendments in readiness for the Committee of the whole House.

The Uwezo Fund Bill, 2015: The Committee has received views from the stakeholders and is in the process of compiling its report for tabling.

The County Industrial Development Bill (Senate Bill No.7 of 2014) which was referred to the Committee on 17th March 2016 is under consideration.

On pending legislation proposals, we have four pending Bills:-

Competition (Amendment) Bill by Hon. Ababu Namwamba. The Committee engaged the Kenya Law Reforms Commission, Commission for the Implementation of the Constitution (CIC), Attorney-General, the National Treasury and the sponsor of the legislative proposal.

The Committee is scheduling a meeting with the sponsor of the legislative proposal to finalise it. The last time we had a meeting, the sponsor was busy in Malindi. I was also busy in

Kericho for the campaigns. Before the end of the recess, we shall invite him, so that we can finalise his Bill.

The Insurance Motor Vehicle Third Party Risks (Amendment) Bill 2015 by Hon. Rose Mitaru: The Committee has received comments from the Kenya Law Reform Commission, Commission on the Implementation of the Constitution, Attorney-General and the National Treasury. The Committee also met with the sponsor. We are just compiling the Report for onward transmission to Hon. Speaker, so that the Bill can be published.

The Banking (Amendment) Bill 2016 by Hon. Jakoyo Midiwo: The Committee has received comments from the Kenya Law Reform Commission and the National Treasury. It is waiting comments from the Attorney-General. It will also be meeting the sponsor of the Bill, Hon. Jakoyo Midiwo.

The VAT (Amendment) Bill, 2016 by Hon. Jared Odhiambo Opiyo: The Committee sought comments from the Kenya Law Reform Commission, the Attorney-General and the National Treasury on the legislative proposal. We are still waiting for their comments. The Committee will be scheduling a meeting with the sponsor of the legislative proposal for a briefing session before it compiles its report.

We have the following petitions before the Committee:-

We have a petition by the Consumer Federation of Kenya (COFEK). We are finalising the report, so that we can table it.

We have a petition on the privatisation of Muhoroni Sugar Factory by Hon. Justice Kemei. To some extent, this petition was overtaken by events because of the amendment by the House on the privatisation proposals of the five sugar companies. We have made our resolutions and I shall be tabling the report immediately we resume from the short recess.

We also have the petition on the de-gazettement of Legal Notice No.103 on Excise Duty remission of sorghum by Hon. Joseph M'eruaki. Again, this petition has been overtaken by events because the prayers the Member sought were answered when we passed the Finance Bill of this financial year.

Another petition is that of amending the Constitution to provide for the establishment of a constitutional commission for innovation and inventions by Hon. Joel Kiprono Rop. We have not been able to progress this petition because the Petitioner has never appeared before the Committee despite several invitations. We will see how we can move despite his failure to attend the Committee proceedings.

We have a petition on the images on the notes and coins by Mitambu Michira. The Committee met with the Petitioner and the Central Bank of Kenya (CBK) on the petition and it is in the process of compiling its report for tabling and onward transmission to the Petitioner.

The petition on the amendment of the Accountants Act No.15 of 2008 by Mr. Wachira Kariuki Musa: The Committee had engaged with the Petitioner and the Institute of Certified Public Accountants of Kenya (ICPAK) for comments. The Committee has compiled a report and it is awaiting adoption.

The petition on the payment of terminal dues to the employees of Pan Paper Company Limited by Hon. Patrick Wangamati: The Committee met with the Petitioner. It is waiting comments from the Ministry of Industrialisation after which we will do our report.

Petition on waiver of Value Added Tax (VAT) on text books, journals and periodicals by Mr. Njoroge Waweru. The Committee has received comments from the National Treasury on the petition. We will be meeting the Petitioners and compile a report.

Petition on the waiver of taxes levied on raw materials used in the production of sanitary towels by Hon. Stephen Mutinda Mule. The Committee met with the Petitioner and received comments from the National Treasury on the petition. The committee is compiling this report for tabling.

We also have the Sessional Paper No.1 of 2016. This is on the Government of Kenya guarantee against a loan of Japanese Yen 32.116 billion, equivalent to Kshs27.3 billion. We just discussed this in the House and we seek an extension, so that we can consider this matter in a proper manner. That ends my Report to the House.

Hon. Speaker: Let us have the Chair of the Departmental Committee on Health.

BUSINESS PENDING BEFORE THE HEALTH COMMITTEE

Hon. (Ms.) R.K. Nyamai: Thank you, Hon. Speaker. On behalf of the Departmental Committee on Health, I wish to present the business before the Committee.

The Departmental Committee on Health has handled the Health Bill 2015, the In-vitro Fertilisation Bill, 2015 and the Health Records and Information Managers Bill, 2015. We have also concluded the following legislative proposals:-

- (i) The Clinical Officers Training, Registration and Licencing of Nurses Bill, 2015.
- (ii) The Occupational Therapists Bill, 2015

We have also finalised the following petitions:-

- (i) Petition by Mr. Kiprotich Cheruiyot regarding the review of the healthcare system.
- (ii) Petition by Hon. Iringo Kubai on behalf of the Kenya Association of Private Hospitals and recognition of National Hospital Insurance Fund.
- (iii) Petition by the Kenya Union of Clinical Officers on non-payment of allowances for clinical officers and interns.
- (iv) Petition by Hon. Samuel Moroto on behalf of Interlink Industries on delay of payment for construction of an outpatient block at Igegania Sub-District Hospital.
- (v) Petition by the Kenya Union of Nurses on the proposal to draft the Health Bill by the Kenya National Assembly Departmental Committee on Health.
- (vi) The Petition by Mr. Solomon Muriungi Mburung'a on the amendment of the Cancer Prevention and Control Act of 2014.
- (vii) Petition by Mr. Dennis Githenji on behalf of the university students and graduates of Bachelors, Masters and PhD degrees in Laboratory Medicine in Kenya regarding registration and regulation of practise of degree holders in medicine, laboratory science and technology.

The Committee has the following pending business before it:-

- (i) The Traditional Practitioners Health Bill, 2014. The Committee has considered the Bill pursuant to Standing Order No. 127 and tabled its Report on 23rd April 2015. We are waiting the Second Reading debate.
- (ii) Pharmacy Practitioners Bill, 2014. The Committee has also considered this Bill and tabled its Report. We are also waiting the Second Reading.
- (iii) The Biomedical Engineers Bill, 2015. The Committee has considered the Bill pursuant to Standing Order No.127. We have tabled the Report and the Bill is awaiting the Second Reading.

(iv) HIV/AIDS Prevention and Cancer Control (Amendment) Bill (Senate Bill No.4 of 2015). It is under consideration.

Hon. Speaker, we also have the following petitions pending before the Committee:-

- (i) Petition by Hon. Eseli Simiyu on alleged mismanagement and misappropriation of funds at the Kenya Medical Research Institute (KEMRI). The Committee is finalising this report. We have one set of witnesses to meet.
- (ii) Petition by Elijah King'ori Githima regarding the deplorable state of mental healthcare facilities in Kenya. The Committee has met the Petitioner. We have visited institutions that are concerned with this including Mathari National and Teaching Referral Hospital.

We are planning to meet other institutions that we felt can add value to this including the Prisons' Department. We also have a pending Petition by Mr. Brian Anyango regarding alleged irregularities at Medanta Africare Group of Hospitals, a private health care facility. This matter is under consideration by the Committee. The Committee will be meeting the relevant stakeholders on the matter in the petition as soon we are done with the short recess.

Hon. Speaker, we also have some pending legislative proposals. One of them is the Kenya Pwani National Referral Hospital Bill. The sponsor of this Bill, Hon. Abdulswamad Sheriff, requested the Committee to halt the consideration of this proposal, so that he can consult further.

We have some pending reports that have already been finalised and the Committee is waiting to adopt them. I am going to read through the reports.

1. The Second EAC Health Ministers and Parliamentarians Forum on Health and Symposium on Reproductive Maternal and Newborn and Child Health.
2. The SEAPACOH Executive Committee meeting held in Imperial Hotel, Kampala, Uganda.
3. The 68th World Health Assembly Report held in Geneva, Switzerland.
4. The 8th IAS Conference on HIV Pathogenesis, Treatment and Prevention.
5. Benchmarking visit to the Peoples' Republic of China on the Traditional Practitioners Bill, 2014.
6. The Report on Parliamentarians for Diabetes Global Network held in Vancouver, Canada.
7. The study tour to Japan on universal health coverage.

All these reports have been completed and we are going to arrange a meeting as soon as possible to adopt them.

(Applause)

Hon. Speaker: I would like to remind Committees that petitions have a maximum of 60 days within which to be considered. So, if you are about to exceed the 60 days, you have an obligation to come and seek extension from the House, so that petitions are not before Committees for periods in excess of 60 days.

Next Order.

BILL

Third Reading

THE HEALTH BILL

(Hon. (Ms.) S. W. Chege stood up in her place)

Hon. Speaker: Member for Murang'a County. Debate on this Bill was concluded, Hon. Members. What remains for me is to put the Question which I hereby do.

(Question put and agreed to)

(The Bill was accordingly read the Third Time and passed)

Next Order.

First Reading

THE ANTI-DOPING BILL

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

Hon. Speaker: Hon. Members, before we go to the next business, allow me to inform the House of a request which has been acceded to, to remove business appearing as Order No.10 (ii) in the Order Paper in consideration of the whole House, so that the Committee of the whole House considers only business appearing as No.10 (i) which is the Vetting of Judges and Magistrates (Amendment) Bill. Business will then proceed to Order No.11, the Land Laws (Amendment) Bill. Again, at the request of the leadership, it is rearranged that business appearing as Order No.12 will be interchanged with business appearing as Order No.13 such that business appearing as No.13 will become Order No.12 and vice versa.

Next Order.

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

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

IN THE COMMITTEE

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

THE VETTING OF JUDGES AND
MAGISTRATES (AMENDMENT) BILL

The Temporary Deputy Chairman (Hon. Cheboi): Order, Members! We are now in the Committee of the whole House dealing with the Vetting of Judges and Magistrates (Amendment) Bill, National Assembly Bill No.5 of 2016.

(Several Hon. Members left the Chamber)

Order, Members! Those who are exiting, kindly do so quietly. Okay, Hon. Members, kindly make sure you will be available especially at the end of this particular Bill because its deadline is tomorrow and, therefore, we must put the Question today.

(Clause 2 agreed to)

(Title agreed to)

Clause 1

The Temporary Deputy Chairman (Hon. Cheboi): I see that Hon. Chepkong'a has an amendment to this one. Proceed, Hon. Chepkong'a.

Hon. Chepkong'a: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 1 be amended by inserting the words "and shall come into force or be deemed to have come into force on 31st March 2016."

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Cheboi): I will give a chance to two Members. We will start with Hon. Mwalimu Kombe. Do you want to speak to this one? I do not think he wants to speak to this particular one. So, can we give a chance to Hon. Namwamba? Do you want to speak to this one?

Hon. Ababu: Hon. Temporary Deputy Chairman, I was actually targeting the next one.

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Makali Mulu.

Hon. Mulu: Thank you, Hon. Temporary Deputy Chairman. I want to support the inclusion of that statement because it makes sure that the three months we have added as an extension will expire exactly after three months. It is very important.

The Temporary Deputy Chairman (Hon. Cheboi): Hon. Injendi Mululu.

Hon. Injendi: It is Injendi Malulu. I support. This also helps to avoid a situation like the one of the CDF Act.

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

(Clause 1 as amended agreed to)

The Temporary Deputy Chairman (Hon. Cheboi): That marks the end of that Bill. It was that brief. I, therefore, ask the Mover to move reporting.

Hon. Chepkong'a: Hon. Temporary Deputy Chairman, I beg to move that the Committee doth report to the House its consideration of the Vetting of Judges and Magistrates Bill (National Assembly Bill No.5 of 2016) and its approval thereof with amendment.

(Question proposed)

(Question put and agreed to)

(The House resumed)

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

REPORT, CONSIDERATION OF REPORT AND THIRD READING

THE VETTING OF JUDGES AND MAGISTRATES (AMENDMENT) BILL

Hon. Cheboi: Hon. Speaker, I beg to report that a Committee of the whole House has considered the Vetting of Judges and Magistrates (Amendment) Bill and approved the same with amendment.

Hon. Chepkong'a: Hon. Speaker, I beg to move that the House doth agree with the Committee in the said Report. I ask the Deputy Leader of the Majority Party, Hon. Shaban, to second the Motion for agreement.

Hon. (Dr.) Shaban seconded.

(Question proposed)

(Question put and agreed to)

Hon. Chepkong'a: Hon. Speaker, I beg to move that the Vetting of Judges and Magistrates (Amendment) Bill be now read the Third Time. I request Hon. Otsiula to second.

Hon. Speaker: Hon. Otsiula, the Member for Bumula?

Hon. Otsiula: Yes.

Hon. Speaker: You now appreciate my knowledge of the constituencies.

Hon. Otsiula: Thank you, Hon. Speaker. I second. As we all know, this Board has done some good work for this country, and they deserve more time.

(Hon. Njomo walked into the Chamber)

Hon. Speaker: Hon. Jude Njomo, as you know, this is not Kiambu Constituency.

(Laughter)

(Question proposed)

(Question put and agreed to)

(The Bill was accordingly read the Third Time and passed)

Next Order!

BILL

Second Reading

THE LAND LAWS (AMENDMENT) BILL

(Hon. A.B. Duale on 9.3.2016)

(Resumption of Debate interrupted on 29.3.2016)

Hon. Speaker: There was a Member who was on the Floor and had a balance of eight minutes. I was not in the Chair but I monitor what is happening in the Chamber. Hon. James Kimaru Bett, I know you have a balance of eight minutes.

Hon. J.K. Bett: Thank you, Hon. Speaker for giving me this opportunity to contribute on the Land Laws (Amendment) Bill.

As I was proceeding yesterday, I mentioned that land in Kenya is very emotive. Even as this Bill attempts to realign the land laws with the Constitution and give effect to Article 68(c)(i), you will realise that Kenya has had a lot of historical injustices in matters related to land. This Bill has, therefore, come at the most appropriate time. As we all know, other than labour and capital, land is also a factor of production. Having in mind that this country is capitalistic and you get reward for your effort, I oppose this Bill particularly on the clause that will attempt to prescribe minimum land acreage for private owners. We will not allow it unless this country has turned to be a communist state, where effort is not rewarded. If we allow that to happen we should also set minimum and maximum standard both for capital and labour.

On behalf of my county and other counties like Trans-Nzoia and Laikipia, I wish to give an assurance that we shall not set maximum land acreage in relation to private property. As it is, this Bill does not meet the aspirations of many Kenyans and we shall oppose it if it sets maximum and minimum land acreage for private ownership. If we talk about minimum, what will be the size of the minimum that we are talking about? In some places land is too small to set the minimum since the land available could be the only piece you live on.

Clauses 42, 43 and 44 of this Bill attempts to give more power to the Cabinet Secretary (CS). The CS has been in charge of land issues for the last 50 years in this country. Article 67 establishes the National Land Commission (NLC). That is the commission that is supposed to set policies and run land issues in Kenya. If we give more powers to the CS in the Ministry of Land, we are moving back to where we were 50 years ago, where land injustices were experienced. We shall not support this unless necessary amendments are done.

The removal of county land boards and giving more power to the CS in charge of land lacks the touch on the ground. Land issues are mostly handled at the county level. The county

land boards consist of elders and those who have grown in those regions. In my opinion, the land boards should be reinstated so that communities can have more say on issues relating to land.

Hon. Speaker, as I go through the Bill, I have not seen any clause relating to community land. We need to know the role of the community in relation to community land.

As I conclude, the Bill is good but it requires a few amendments so that we do not pick on a single factor of production and start deciding the minimum and maximum acreage one can hold.

With those few remarks, Hon. Speaker, thank you.

Hon. Speaker: The Member for Muhoroni, you have the Floor.

Hon. Oyoo: Thank you very much, Hon. Speaker, for recognising my face. I support this Bill because it is in good spirit. Currently, there is a lot of conflict between the NLC and the national Government. The role of the CS for Lands still overlaps. The CS is suffering from the past of impunity, thinking that a lot of powers are still vested in his hands. If the issue of land is not handled with extreme care, it may explode. Land has brought many conflicts in this country. Because we are brothers and we did not choose where to be born, the passage of this Bill will add a lot of value to this country in terms of security and development.

I am very dismayed that at a time when the new constitutional dispensation spells very good rules on what the NLC is, we have some personalities in the country that still believe in the past. I am astounded that this Parliament has discussed the privatisation of sugar industries and we said that the privatization should not go on until several salient things had been prosecuted and solved.

I am surprised that at the time of debating this Bill, the Privatisation Commission, which appeared before the House, is behaving as if meeting Members was just a by the way. It is as if the elaborate meeting we had in Mombasa, which cost taxpayer some money, was just a by the way. In elaborate newspaper advertisements, willing bidders are given up to 15th of April, 2016 to submit their bids for the industries that they would like to buy. I want to put it on record in this House that it will be a tall order to privatise Miwani, Chemelil and Muhoroni sugar companies in my constituency. Nobody, however big he or she is, should come and trample on my people, thinking that they can use high offices to bulldoze things that are unconstitutional and illegal.

By this statement, I am warning the Privatisation Commission to keep off Miwani, Chemelil and Muhoroni sugar companies. They can do their privatisation elsewhere but not in my constituency until salient issues are resolved.

Thank you very much, Hon. Speaker.

Hon. Speaker: Hon. Kifuma Chanzu, take the Floor.

Hon. Chanzu: Thank you, Hon. Speaker. I rise to support the Land Laws (Amendment) Bill. A number of changes arising from the Ndungu Report were not implemented because of the politics of the moment. It is good that this Parliament can now soberly look at the laws that have been in place and make the necessary amendments so that they can be in tandem with the expectations.

Kenya being an agricultural country means that the land we have is more valuable than any other asset that we may have. It may also be more valuable than in other countries which rely on other things. Therefore, the management and utilisation of the land we have is very important, hence the importance of these laws.

The colonialists came to Kenya and allocated themselves land the way they wanted. Unfortunately, those who took leadership immediately after Independence also adopted the same

trend of just acquiring land. This is why people at the Coast are very disgruntled to date. It is important to have legislation which can assist. Even if it is not going to control, it may regulate how land is going to be subdivided in terms of acreage and utilization. Kenya is more than three-quarters arid and semi-arid (ASAL), which means the land that can be put to agricultural use, must be well organised and well managed in terms of utilisation.

In Mau there were large scale farms where you could find people rearing sheep. Today those farms have been sub-divided into very small pieces which also tend to be uneconomical when it comes to utilisation. So, it is important that we have laws which can regulate this. If we say that what is underground is part of land, it is necessary that all this is brought out so that we are able to know if there is need to even zone the country in terms of how we can make use of land. Considering the fact that the land that can be used for agricultural production is a very small proportion, it has got a lot of value in terms of how we rate it ourselves as a country. Therefore, it is very important that we put in place measures which can assist to manage this valuable resource.

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

Hon. Speaker: I need to know whether there are any Members who may have contributed earlier on. Hon. Ababu Namwamba, have you contributed to this Bill or the other Bill? This is Land Laws (Amendment) Bill. I do not know whether you contributed to this Bill or the Community Land Bill.

Hon. Ababu: I have contributed to both.

Hon. Speaker: Okay. Hon. Gideon Ochanda, have you contributed to this Bill?

Hon. Ogola: No.

Hon. Speaker: Okay. You have the Floor.

Hon. Ogolla: Thank you, Hon. Speaker. I want to support this Bill largely on three main things. One is to the extent to which it removes what we used to call local authorities out of land issues and tries to correct many things that were in the hands of local authorities before. I also support it to the extent at which it talks about issues of settlements and evictions.

However, I also have three other areas which I have issues with, particularly the contradictions under Clause 159 in relation to the Constitution. Another issue is on the control of land. Largely, issues related to exemptions. The Bill has done very well in terms of clearing out the baggage of what we used to have as local authorities.

In particular, Clause 48 is very clear. One thing that used to happen that the clause has cleared is exactly how land used to turn from a freehold title to a leasehold title.

A lot of this used to happen. I do not know whether we have any Member of Parliament from Kuria. At one time, the entire Kuria was declared Kehancha Municipality. This meant the titles changed from freehold to leasehold. This happened in many other townships and municipalities. The geography used to change from time to time. With the changes, it meant change of leasehold arrangements. The same thing also happened in Nakuru.

This legislation has done very well. When we have situations like the one under Section 48, it is important that due regard is given before those changes are done. For an interest to be changed from leasehold to freehold there has to be very clear issue of surrender and a clear indication that the interest indicates that they are in agreement. Before, this happened by mere virtue of a presidential decree. To that extent, the Bill has done very well.

It also does well in terms of settlements. However, I want to embrace this with some element of caution. It has gone to the extent of setting up a Settlement Fund. It is good that some

portions of land can be put aside for taking care of interests that are unforeseen and circumstances for which we are demarcating or portioning out interests on land. This is good but one has to check it in terms of the history that we have had in settling people. The big question is: “Who do you settle? Who qualifies to be settled on land that is put aside for such purposes?” We have the history of the political problems that we had before. If we are setting aside land so that if anybody is evicted from his or her land – bought or ancestral – can be settled elsewhere because we have a settlement fund and a settlement arrangement it might not be right. This is something which has to be checked properly. It is about who are to be settled, at what stage and under what circumstances. This is a critical matter that the Bill might have to address.

Another issue that this Bill has addressed very well is eviction. Evictions have been bad. We have had evictions carried out at night and we have had a lot of property destroyed. People have been left homeless. The Bill has come up with clear indications. If we are at all to do eviction, they must be orderly. Adequate notices must be given in a manner that everybody can access them. The Bill does very well on evictions, particularly with regard to informal settlements in urban areas. This has been a big problem. Part of it was occasioned by the former local authorities. If we are not careful, even the current county governments can do things like raiding informal settlements overnight without notice simply because people were squatting in one area or another. The Bill looks at how well we handle evictions.

The biggest issue I have with the Bill is in three or two areas. One is Clause 151 in its entirety, and how this is related to Article 68(c)(i) of the Constitution. Our Constitution indicates that for purposes of minimum and maximum acreages that one can hold, the National Assembly shall come up with legislation. The Constitution says that Parliament shall enact legislation to prescribe minimum and maximum land holding acreages in respect of private land but this Bill is telling us that it is the CS who shall do this. That is a contradiction that needs to be looked at. It is not the CS but Parliament that shall come up with legislation. The Bill is telling us that it is the CS who should come up with guidelines. If it is the CS to come up with the guidelines and the Constitution is on the other hand telling us it is Parliament to enact legislation, there is a very serious contradiction to be cured. That is regardless of the many things that follow under Section 159 of the legislation.

The other thing I have a problem with in the Bill is what we call “control land.” If one looks at it in a very keen way, he or she will find that it is over a million acres. We can talk about control of land in terms of borders. We are talking about a radius of 25 kilometres. This is a very big chunk of land that is between the border inwards. It is different from what we normally refer to as “the border area” between two countries. Looking at it critically, a lot of that land will fall on what we call “community land areas.”

In the Western Region of this country, part of Busia County and some areas touching Mt. Elgon are freehold lands. This Bill is telling us that those areas need to be controlled. For purposes of security, it makes sense but in terms of transiting from the freehold arrangement to what this Bill is calling “controlled lands” it does not make sense. The Bill allows the use of controlled land but it says that you must have a minimum of 50 acres. What happens to someone in Teso with three acres of land touching the border? That land is obviously within the 25 kilometres of the controlled area that we are talking about. I have a big problem with Clause 58 of this Bill and all its attendant sub-clauses and provisions that support the issue of control land. This has to be looked at very seriously.

The other areas that are with community land will not be a big problem. Areas that are under freehold or leasehold but fall within the 25 kilometres do not make sense unless we provide for a transitional provision from the current arrangement to being control areas.

Thank you, Hon. Speaker.

Hon. Speaker: Let us hear Hon. Francis Nderitu.

Hon. Nderitu: Thank you, Hon. Speaker, for giving me the opportunity to contribute on this Bill. This Bill seeks to amend the Land Registration Act, the Land Act and the National Land Commission Act.

There are a few speakers who have talked about mutilation of the Bill. Someone said that we are dishing away the powers of the NLC to the CS for Lands, Housing and Urban Development. I would like to say that land, as a factor of production, is meant to bring prosperity, cohesion, peace and security. It is where we anchor all our development. This amendment has been necessitated by various laws that have been in place for a period of time.

We are trying to engage the Land Act and the Land Registration Act *vis-a-vis* the Constitution. According to some of us who are Members of the Departmental Committee on Lands, we had a lot of difficulties even dealing with the National Lands Commission (NLC) and the Ministry when it came to very simple matters such as the issuance of titles.

During our Committee meeting yesterday, we interrogated some titles in the Coast region and we had a lot of difficulties dealing with the NLC. You will find a letter of allotment that was allocated to a private citizen and the whole process such as the survey and the issuance of titles was done by the NLC. We did not want to give all the powers to the NLC in such a way that there are no controls, no oversight and everything is being done by one entity.

The mandate of the Ministry of Land, Housing and Urban Development, when we looked at the Land Act and Land Registration Act--- There are areas that we found were in need. There are various sections that we found, however, good they are, if you try to look at the spirit of the Constitution, you will find that they contradicted the mandate of the Constitution. We need to see how we are going to reform some of these sections. The NLC Act is supposed to eliminate the duplication of the institution is roles. There is the issue of the county governments' role in the Act. There is duplication of some duties that the NLC is doing and what the county governments are doing. We are trying to see how to amend this. The amendment provides a manner in which the NLC shall undertake, investigate the historical land injustices and complaints pursuant to Article 67(e). The same Article tries to harmonize the complaint pursuant to Clause 72.

The way the Ministry of Land, Housing and Urban Development is working *vis-à-vis* the mandate of the NLC. I feel that if we do not have outright separation on their mandates, it will be very hard for the two institutions to work in harmony. According to Article 67(1), the functions of the NLC are very explicit. At no time during our Committee meetings did we attempt to remove the powers of the NLC. So, I am worried that some of my colleagues are saying that we are trying to remove the powers of the NLC.

We want to align them because we felt that the NLC has very many things they are doing that even as a Committee that oversees it we are not aware of what it is doing. So, we felt that in some areas, we need to be very sure what the NLC is doing and what the Ministry is doing. I know with the various clauses that we are amending some of these issues will be straightforward.

When you lie so many times it can look to be true. Some people are saying that we are changing the Constitution. Some are saying that we are giving the wrong work to the Cabinet

Secretary (CS) but some of these functions are outright. On the issue of registration of titles, the work of the NLC is only to advise on policy matters and comprehensive registration of land.

So, we find it a bit worrying when some of our colleagues say that there are some powers that we are trying to remove from the NLC and we are dishing them to the CS. So, we are very keen on that. I am very sure that if we pass this Bill, the problems that we have been experiencing will not be there at all.

Under Clause 13, the Department of Survey is obsolete. On authority in determination of boundary, there are very clear guidelines on who should do that. On the authority and responsibility for survey, we are not at all removing the powers from them because this is a devolved function. The Ministry has a role in supervision and as the process goes on, we want to be sure that they are aware of whatever is being registered. So, for a proper functioning land mechanism system, the two bodies have to work together. We do not see a situation where the NLC can work independently exclusive of the Ministry.

There is the issue of the minimum and maximum land acreage. We have tried to look into the matter and as a Committee and like my colleague who talked last, there seems to be a lot of worries on this. As a Committee we tried to deliberate on the issue from the word go. We were brought some scientific formulas that we tried to determine the minimum and maximum land acreage but we still did not reach a conclusion. Because this is not a stand-alone Bill, I do not see why this should be a worry. The issue is: Has the intent of the Constitution been taken care of? It is not a simple issue as one would say the minimum acreage is one or two thousand. As the amendment puts it clearly, we found that if we give that role to the CS, the issue of minimum and maximum acreage needs more effort and we wanted to give them time to do that.

The Eviction Bill is also a thorny issue and should be looked into. Whereas we have not gotten a stand-alone Bill, the Bill expressly gives us the spirit of the Constitution. We are looking for an orderly and humane way of eviction of those people who find themselves in the wrong parcels of land.

With those few remarks, I support the Bill. We came across very many groups of interested people who gave us very many proposals on amendments and as we move along, all of them will be considered when we move clause by clause.

Thank you.

Hon. Speaker: Hon. Esther Murugi, you have the Floor.

Hon. (Ms.) Mathenge: Thank you, Hon. Speaker. I was about to give up.

Hon. Speaker: It is okay to give up. There is nothing wrong with giving up.

Hon. (Ms.) Mathenge: I support this Bill. Its main purpose is to harmonize the workings of the NLC as well as of the Ministry because in the last few years there have been a lot of wrangles and hence we were not able to move forward in the land reforms that the country was awaiting.

In this Bill, we have amalgamated the laws that we had envisioned. They are the Eviction and Resettlement Law and the historical injustices which have been put under the Land (Amendment) Act, 2015.

We found when we were discussing with various stakeholders, that there were too many laws and many Kenyans were not sure which law to use for what purpose. It is also expensive and too many bureaucracies building up when there are too many laws. This is supposed to reduce those bureaucracies and make sure that what *wananchi* want is delivered in the shortest time possible.

Under Section 159, the Land Laws (Amendment) Bill envisages that we shall create a scientific formula of maximum and minimum acreage which was a big contention in the whole country. This was a sour point for many people especially those who own large acreage. They were wondering how can a law be brought that will make one have 50 acres instead of their 1000 acres. After consulting with many stakeholders, we feel that the Land Laws (Amendment) Bill, 2015 should now harmonize all the land laws in Kenya. It should also make working within the two departments; that is the Ministry of Lands, Housing and Urban Development and the NLC harmonize and deliver to *wananchi* the services they require regarding the issue of land.

We also envisioned that we should have a law relating to eviction. As some of the previous speakers have said, the law on eviction is due because of the way we normally evict people in this country. This will give a formula on how you can evict and resettle people and reasons for the eviction. The Ministry of Lands, Housing and Urban Development is now the custodian of all the information and titling. We now have a central place where one can go to get information relating to various parcels of land in this county.

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

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

I support and being a Member of the Committee, we have done a lot of work--- We have consulted many stakeholders and feel this is the future for Kenya.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Well spoken. I have 14 requests Hon. Members, I understand some have spoken. The Member for Ol Jorok, you have the Floor.

Hon. Waiganjo: Thank you, Hon. Temporary Deputy Speaker, for giving me an opportunity to also debate the Land Laws (Amendment) Bill. Land being what it is in Kenya requires this kind of a law to streamline its tenure. We also need to have a land regime that is within the same Bill. I want to support the Land Law (Amendment) Bill and also be a little cautious because of some of the provisions that have been proposed in this Bill. I want to laud the Committee on Land for doing a good job. Some of the provisions that have been proposed in this Bill are a recipe for backlash. Land, for a long time, has been taken as a unit of production in Kenya. We must also realise that certain sections of the Republic or our people are moving away from holding land as sacred. We have realised that land is not just a unit of production. With the many past historical injustices on land, this is the best time to be debating the Land Laws (Amendment) Bill. It is also a dictate of Article 68(c) of the Constitution.

On the issue of the limit of land that one can hold, it lies on the face of capitalism. I do not see the possibilities of enforcing that kind of legislation because we shall be going against the norm. As a matter of fact, that is a proposal that will obviously require some amendments.

On the issue of eviction and resettlement, you will realise that the Eviction Bill will caution our people from arbitrary eviction. We have a huge problem of squatters in this country. We have vast land that have not been categorized as community, private or Government land. We are doing the right thing to have this debate but we must be minded by the dynamics that are ongoing now in matters land. I want to state that we have a problem of landless and homeless people. We have a situation where some sections of our people are landless while others are

extremely wealthy with huge tracts of land and ranches. Any law that we make relating to land must mind this section of the people. We cannot legislate on matters land and leave out squatters, Internally Displaced Persons (IDPs) and people who are forcefully evicted from their land either because of political or traditional reasons.

It is also a good time to debate about land inheritance and the people who have lost land because of certain cultural practices. We know for instance, for a long time women were not supposed to inherit land and that was the law traditionally. We also know that after modernizing our laws we have women being people who do not only have land but cannot even inherit land. It is still the same situation in some of our cultural practices. Women can still not own land.

Within this Bill one of the institutions that we must caution and enable to work is the NLC. It is a constitutional Commission and the framers of the Constitution deliberately put that Commission there because of seeing how matters land had been dealt with before. There was a lot of patronage of land, dishing of land and even outright theft and land grabbing. I would like the mandate of NLC to be protected and even while saying that this Commission may have been cannibalized by narrow selfish interests and probably taking sides in matters political. I think NLC is one Commission that we need to protect and allow it to work within its mandate. We do not want a situation where we revert, to the old system of dealing with land. We have a constitutional Commission that has been well thought-out by Kenyans and has been put in place by the framers of the Constitution which was voted for by Kenyans.

The other problem I see in this Bill is that it does not come out clearly to state what to do with the landless. We are cooking a pot but a section of our society is out there just looking for this cake and we are not giving them an entry point. We are talking about land and a quarter or third of our population is landless and we are not talking about them. We are talking about land as a unit of production. At the same time we do have informal settlements. People who are living in villages and slums and do not have hope on earth to ever own a roof over their heads.

We are debating but we are not providing for them. One of the reasons why lawlessness and disorder come into play is when you ignore a huge section of the population. You proceed to make laws for the rich and forget that others are also entitled to land. It is not enough to classify land as community land or private land. Those are good ideas. However, we are not talking about the squatters, people living in the slums and people who are living on land that they have lived on for many years.

There is a practice in this country where one puts somebody on his or her land because he or she is an absentee landlord. He or she puts a family on his or her land to take care of it and then he or she retreats to the city. The family lives there for more than 12 years and he or she still calls that land his or hers. Even if those people had an opportunity to obtain advance possession of that land, they would need legal processes to stake a claim on that land. Even as we debate this law, it is important to have in mind people who we know need land so that we can bring about equality in wealth and ownership of land. Land means home for some people. Even as I support this Land Laws (Amendment) Bill, I wish to see various amendments to this piece of legislation that will make land tenure in Kenya a completely new regime.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Let us have the Member for Nambale. You are next on my request list.

Hon. Bunyasi: Thank you, Hon. Temporary Deputy Speaker. I support the Land Laws (Amendment) Bill 2015 because it institutes a number of improvements in bringing together statutes that were in different places. It also begins to make some headway for what was

expected of the amendments when the Constitution was passed. However, there are three observations I would like to make.

One is the issue of the minimum and maximum land holdings that has brought about heated feelings and it probably will. Let me say a few things about this. Somebody talked about a scientific study. Science cannot solve this issue. This is one issue whose solution does not lie in the domain of science with respect to determining the minimum and maximum land holding. It may lie in the domain of science with respect to finding alternative sources of livelihood so that this issue does not arise. Minimum and maximum land holding is a matter that lies in the social policy that a country adopts and in the values that they wish to achieve. This was the driving force when the Constitution was being drafted. The fathers of the Constitution wisely thought about this.

First of all, it is a misnomer for people to think that land just a factor of production. Land is not just a factor of production. It is a lot more than that. It determines our livelihood. It sometimes determines whether some communities exist or become extinct. It is a subject of historical injustices because it was acquired by force in the colonial period and inherited by force in the post-colonial period, by virtue of the fact that there is a positive correlation between large land holdings and the quantum of power. That means that it is not a normal factor of production. This is a factor of production that causes disruption in the process of its acquisition. We must make note, as Parliament, that we cannot leave this difficult emotive question to future generations. If we do, that is going to be with us and haunt us for a very long time.

Furthermore, Kenya is one of the most unequal societies in the whole world looking at the indices of inequality. Not that this is unique. We all know that. One of the reasons why there is this huge inequality is access to capital resources, and particularly access to land. This inequality varies across regions in Kenya. We have inequality all over but inequality perpetuated by adverse land holding sizes is concentrated in certain parts of this country. We will never get stable societies in those areas until this issue of access to land is addressed. It may be difficult but we must confront it. You cannot draw a boundary and put up an electric fence around your 10,000 acres when the people next door have virtually nothing to eat, no access to land and are squatters, who do not even have a vegetable garden. We have to confront this issue. We might say that we do not have an immediate solution yet but we must work towards getting a solution. If we do not, there will be a huge ball of fire hanging over us.

The second issue I would like to comment on after the min-max issue on land is on privatisation with respect to land. I always get such a strange feeling about privatisation of land. It happens in many societies. People would sell land where I come from in Nambale, Busia. Ten years later you find that they have used up all the money that they received and they still think that you underpaid them, not realising that the prices have moved up during the course of the 10 years. You sell your cow when it is thin because you have nowhere to graze it. The neighbour has some fodder for it; it gets fatter and commands a high price. You go to the market and you find that they are selling it twice the price you sold it and you feel cheated. The time dimension when you are surrendering an asset in exchange for a reward happens when, for example, land is acquired for development and owners are compensated. Over time, that compensation looks like a pittance because you probably live next door and you find that the price at which you sold the land is no longer---

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Order, the Member for Nambale. There is an intervention by Hon. Ababu Namwamba.

Hon. Ababu: Let me apologise to the Member for Nambale. My intervention was supposed to come earlier on. I had sought to find out from the Speaker whether due to the oppressive heat all over, we can be allowed to sit in the Chamber without our jackets. I had intended to make the request to the Speaker. Maybe the Hon. Temporary Deputy Speaker may want to consider that request or convey it to the substantive Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): You have stated that the intervention was supposed to be made earlier on.

Hon. Ababu: Hon. Temporary Deputy Speaker, I hear the Member for Kisumu East insinuating that I want us to sit topless in the Chamber. I do not want us to sit topless. I merely want us to sit with less attire to respond to the punishing heat all over the place.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Carry on, Hon. Member for Nambale.

Hon. Bunyasi: That has taken five minutes. I hope that I will get the five minutes back.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): You are wasting time. Just carry on.

Hon. Bunyasi: Thank you, Hon. Temporary Deputy Speaker. I appreciate that.

The sentiments around land and privatisation are that people feel limitations to privatisation are going to hamper many industrial and other forms of development that this country is seeking to achieve. We must come to the realisation that if you have an interest in an asset, you surrender it the moment you receive compensation. That is the point I was making. That is what privatisation is all about. If an investor or the Government acquires land and compensates the owners, they surrender their interest in it. It cannot be that you sold your land, even jointly as a community, and you perpetually have a claim to it. You cannot have it both ways. There are issues, particularly in the turn of the last century and in the years preceding the Second World War, during which there was no compensation. There was forceful eviction and acquisition of assets. We must find a way in which to revisit those issues and get due compensation for the aggrieved parties if that is the case. There are many cases in which communities surrendered their land. Sometimes it might be treacherous but so was the colonial regime. We never completely overturned it. After they left we just stood in their shoes, took over what they left behind and inherited it

We have to confront this issue otherwise we are going to frustrate genuine situations in which we are seeking to turn around the economy by creating opportunities for greater employment simply because we have a perpetual fascination with land.

In conclusion, historical injustices must be tackled because it is a real monster. We must remember that Kenyans are very fascinated with land because there has been insufficient growth in other sectors. Every kind of development depends on land. Even if you are doing Information and Technology (IT) in offices, you are sitting on land. Some depend on land more intensely than others.

In respect to dependence on land, if development in the industrial sector had been rapid as we had anticipated after mid-1960s, then people would have lived and survived without having owned an hectare of land because after all, when you retire you would probably have a financial instrument that can look after you and it does not have to be a piece of land you left behind. Failure of growth in the other sectors has heightened the importance of land to the extent that it has a virtual magical value in Kenya. That is the real problem.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Next on my request list is the Member for Malava, Hon. Moses Injendi.

An Hon. Member: He is not in the Chamber.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Members, we should not be leaving our cards in the request slots. Let us hear Hon. (Ms.) Zuleikha Juma.

Hon. (Ms.) Juma: Asante sana, Mhe. Naibu Spika wa Muda kwa kunipatia nafasi hii nichangia Mswada huu wa ardhi wa 2015. Ningependa kusema kuwa ninapinga Mswada huu vikali kwa sababu unakiuka Katiba ya Kenya. Kuna Mbunge aliyesimama na kutukosoa Wabunge ambao tunapinga Mswada huu. Alisema kuwa Tume ya Ardhi haiwezi kufanya kazi pekee na ni lazima ifanye kazi na Wizara ya Ardhi. Ningependa kumkumbusha Mbunge huyo kuwa Kipengele cha 249(2)(b) cha Katiba kinasema kuwa: “Tume ya Ardhi ni huru kufanya kazi zake bila kuelekezwa kazi na mtu au shirika lolote lile.”

Maandiko ya kukumbusha habari katika Mswada huu yanasema kuwa sheria hii inataka kupunguza nguvu za Tume ya Ardhi ili ishughulikie tu masuala ya ardhi za umma lakini Kipengele cha 67(2)(c) cha Katiba kinasema kuwa: “Tume ya Ardhi inapaswa kushauri Serikali kuu kuhusu uandikishaji wa ardhi zote katika nchi yetu.”

Katika mambo hayo mawili, sheria hii imekiuka Katiba.

Zaidi ya hapo, inapunguza nguvu za Tume ya Ardhi kutengeneza sera za masuala ya ardhi. Kipengele cha 67(2)(b) cha Katiba kimeipa Tume ya Ardhi hii nguvu lakini Mswada huu unaiondoa. Vilevile, Mswada huu unataka kupunguza nguvu za Tume katika kuamua jinsi ardhi za umma zinagawanywa. Imekiuka Katiba katika sehemu nyingi sana. Ningeomba wale waliotunga Mswada huu waurejeele na wauandike jinsi unavyotakikana. Wasiseme kwamba tuna muda mfupi wa kuandika sheria kama kisingizio cha kuleta sheria ambayo haitafaa.

Mhe. Naibu Spika wa Muda, Mswada huu umeondoa kazi ya Tume ya Ardhi katika masuala ya kuendeleza kazi za ofisi za masuala ya ardhi.

Masuala ya dhuluma za kihistoria yamezungumziwa kwa ufupi sana na yanafaa yazungumziwe kwa kinaga ubaga ili tuangalie njia ambazo watu wamekuwa wakidhulumiwa kwa sababu ya ardhi hizo siku zilizopita. Sababu kubwa ya kuleta Katiba hapa nchini na kuibadilisha ilikuwa kuhakikisha kuwa shida zote ambazo tumekuwa nazo kama nchi pamoja na shida za ardhi zimetafutiwa suluhu. Sheria hii inaturejesha pale tulipokuwa kabla ya kupata Katiba - siku za giza na kudhulumiana.

Sheria za kufurushwa kwenye ardhi hazijazungumziwa licha ya kuwa wamesema kuwa zitazungumziwa. Hivi sasa, katika maeneo ya Mombasa, Changamwe na Kisauni, kuna watu wameahidiwa kuwa wataondolewa Ijumaa katika ardhi yao. Wizara ya Ardhi inafanya hivi na vipi inaweza kufanya hivyo bila sheria ya kusema jinsi watu wanavyotakikana kuhamishwa? Tunapinga jambo hilo na mambo ya kuhamisha lazima iwe katika sheria kama hii.

Waziri wa Ardhi amepewa majukumu ya Tume ya Ardhi. Kwa mfano, masuala ya kuamua ardhi ni ya mtu fulani.

Sheria hii inasema kuwa makamishna wa Tume ya Ardhi wataandikwa kazi na Tume ya Kuwaajiri Wahudumu wa Umma. Hicho ni kinyume cha Katiba. Katiba inasema kuwa makamishna watateuliwa na Rais na majina yao kuletwa Bungeni ndio wapitishwe au wakataliwe. Makamishna wamechukuliwa kama viongozi wa bodi ambayo Serikali inaajiri. Tume ya Ardhi ni huru kama vile nilivyosema awali.

Sheria hii imeondoa bodi za kaunti za kusimamia masuala ya ardhi. Katiba imepeana kazi kwa serikali ya kaunti kama njia ya kukabiliana na masuala ya ardhi kupitia bodi hii. Tumeondoa

nguvu ambazo Katiba imepeana kwa kaunti kuhimili ardhi na kurejesha kwa Serikali kuu. Shida za ardhi zitaendelea na iwapo mtu kutoka Kwale ana shida ya ardhi, apande gari na aje Nairobi agharamie safari na makaazi na kwenda kutafuta hati miliki kwa watu ambao hawaelewi masuala ya ardhi kule kwao. Tumerudi katika zile dhiki kwa hivyo, sheria hii ni adui kwa ugatuzi kwa sababu kaunti zimepewa nafasi kushirikiana na masuala ya ardhi lakini sheria hii inaondoa.

Zile njia ambazo watu wanaweza kukaa na kukubaliana kuhusiana mizozo ya ardhi zimeondolewa; kwamba si lazima kuenda kortini kuzungumzia shida zao. Imezidi kutia mwananchi katika dhiki na shida. Katika Mkoa wa Pwani, kuna asilimia zaidi ya 60 ya watu ambao wako kwenye ardhi ambazo hazijasajiliwa. Umaskini ambao uko katika nchi hii hususan Mkoa wa Pwani ni mkubwa ilhali unamwambia mtu azidi kugharamika kwa sababu ya kutetea haki yake ya kuishi pahali ambapo ni kwao tangu jadi na ambapo vizazi vyote vya familia vimetoka.

Kitu cha mwisho ambacho ninataka kusema ni kuwa hatutakubali kamwe kurejeshwa nyuma katika nchi hii. Sio kwa masuala ya ardhi pekee bali katika masuala yote ambayo wananchi wenyewe wa Kenya wameamua kuwa tusonge mbele na wakapitisha Katiba. Tunapata watu wawili au watatu wanatuletea sheria ambayo itaturejesha kwenye siku za giza na itaendelea kuwadhulumu Wakenya kama vile walivyokuwa wakidhulumwa hapo awali. Wanatuletea sheria ambayo haiteti marekebisho au mabadiliko yoyote.

Kwa hayo machache, ninapinga sheria hii.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Let us hear the Member for Ndhiwa, Hon. Aghostinho Neto.

Hon. Oyugi: Thank you, Hon. Temporary Deputy Speaker. I would like to oppose this Bill because it is bad. The Departmental Committee on Lands should take this seriously. I have seen the kind of legislation they have brought.

(Several Hon. Members consulted loudly)

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Order! Order! The members who have a *kamukunji* on my right, this is the National Assembly. It needs some decorum.

Hon. Oyugi: Thank you, Hon. Temporary Deputy Speaker, for protecting me. I said that this is a very bad Bill and it needs to be opposed. I have watched the sort of legislation that the Departmental Committee on Lands has brought. With due regard, they brought the Community Land Bill and now this Land Laws (Amendment) Bill, 2015.

Article 60 of the Constitution talks about the principles that need to guide land issues in this country. Those principles speak to equity and access to land, security of land rights, sustainable and productive management of land and transparent and cost effective administration of land. They go on and on because those are the aspirations of the Kenyan people in terms of how land ought to have been administered.

Consequently, many Kenyans have suffered several injustices. Many Kenyans, like those my colleagues have spoken about are squatters as we speak. Half of the country owns nothing and yet land is the only resource that they have to move forward. Land has not been dealt with equitably in a manner that gives them recourse.

I will be speaking to specifics in this Land Laws (Amendment) Bill. I just want to give us the holistic scenario in the country. We have a couple of squatters in this country who are landless and who still survive and yet they are Kenyans. Kenyans are supposed to live in dignity.

With a population that is half semi-illiterate, the only thing that can give us sustainable incomes is land. I have travelled to several parts of this country. If the land issues are not handled properly, that is where Kenya's conflict will begin. If we really want to deal with Kenya's problems properly, land issues ought to be dealt with sufficiently. I do not think this Land Laws (Amendment) Bill that the Committee has brought deals with these land issues.

I want to speak to a few things that this particular legislation proposes to do. If you allow me, I will be reading a couple of provisions. Article 67 of the Constitution speaks to the establishment of the National Land Commission (NLC). There is a reason why the Kenyan people said they wanted the NLC. They thought that the CS and several mandarins within those various ministries deal with land in a manner that is not good and that is not effective in this country. That is the reason why we created the NLC. I heard some speakers alluding to the fact that the NLC, as is presently constituted, looks like it is speaking to only one side of the coalition. I think that is total madness because the Commissioners are not there for perpetuity.

Today, it may be the one who could be in Jubilee, tomorrow it may be a coalition for CORD commissioner. You cannot look at a constitutional commission with coalition lenses. You cannot start saying that it is either Jubilee or CORD. It is the NLC as stipulated in the Constitution. You cannot start looking at the Constitution with coalition lenses simply because the person heading it is either Jubilee or CORD. I think that is improper. Having said that, I really think that the NLC ought to be treated as an independent commission, whoever heads it or whoever will head it in future. We need to respect constitutional institutions. We must protect them in whatever form and manner. Whether the NLC is doing its job right now is what we need to evaluate.

Article 67(2)(a) of the Constitution says:-

“The functions of the National Land Commission are to manage public land on behalf of the national and county governments.”

The Constitution is saying that the person who is supposed to manage this land on behalf of the national Government and county governments is the NLC. I do not understand why someone wants to make this management the subject of the CS. For example, we appreciate that there could be tough fights between the CS and the NLC. That is appreciated, especially in a new Constitutional dispensation, where some people still believe in the old order. We know change does not come easy. That is why someone will constantly be opposing change. That is not bad because they will learn to live with change. Change is the only thing that is constant. It shall always be there. Whether you like it or not, the NLC is in existence and shall execute its mandate. To that extent, the Constitution speaks to the fact that---

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

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Order! Order! There is an intervention by Hon. Korere Paulata. Is there anything out of order or do you want to inform the Hon. Member? What is out of order?

Hon. (Ms.) Korere: My very good friend, Hon. Aghostinho Neto, and the soberest of all the Orange Democratic Movement (ODM) Members of Parliament I have known, is insinuating that there are mad men and women in the NLC. She is using very un-parliamentary language.

Hon. (Ms.) Odhiambo-Mabona: On a point of order, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Order! There is another intervention.

Hon. (Ms.) Korere: The member is misleading this House by insinuating that the NLC is an affiliate of CORD. He should withdraw or substantiate that.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): We have a point of order from the Member for Mbita. What is out of order?

Hon. (Ms.) Odhiambo-Mabona: Thank you, Hon. Temporary Deputy Speaker. Can the Member please withdraw and apologise for implying that some members of ODM are not sober. I am a teetotaller. I may be very lethal but I am a teetotaller. I am absolutely 100 per cent sober when I do anything and everything I do in this House. So, can she please withdraw and apologise?

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): She was on a point of order from Hon. Neto. Hon. Korere, what is your statement?

Hon. (Ms.) Korere: The Member has said that there is total madness in the Departmental Committee on Land. That language is very un-parliamentary.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Ababu Namwamba.

Hon. Ababu: Hon. Temporary Deputy Speaker, two wrongs do not make a right. Before she seeks clarification from the member for Ndhiwa on the reference to insanity or madness or magneton posturing, I still insist that she either substantiates that within the ranks of ODM or CORD, there are levels of sobriety, which means that some of us are ordinarily not sober. This means that we imbibe foreign elements that influence the functioning of our blood. The English language is foreign. So, when a Member, metaphorically, refers to matters like madness, it does not give licence to the gracious colleague to cast aspersion on these ranks of the Orange army that I lead as the Secretary-General. Ordinarily, I will be the soberest of them all.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): You are now rating them.

Hon. Ababu: No. I would just insist that the Hon. Member either substantiates that, indeed, we take things that rank our sobriety on her scale or otherwise she withdraws the insinuation.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): It is important, before I give Hon. Neto a chance to contribute for Hon. Members to use good language in the House. That is because you are referring to other Members.

Hon. Paulata, please, can you substantiate what you meant by sobriety and the level of madness? Can you withdraw or substantiate?

Hon. (Ms.) Korere: Hon. Temporary Deputy Speaker, I did not intend to rub my very good friend the wrong way. I withdraw, but it could be that I have dealt with one or two who are

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Withdraw and apologise.

(Laughter)

Withdraw and apologise to the other Member. We respect all of us.

Hon. (Ms.) Korere: Hon. Temporary Deputy Speaker, I do not see why I should apologise.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Paulata, please, just withdraw and apologise because we have a custom in this House on how we refer to other Members. If I were you, I would have said that it was on a light note. It is important to refer to

other Members as Hon. Members. Hon. Member, she has withdrawn the statement. It is in the HANSARD. Do you claim to be the most sober, Hon. Ababu Namwamba?

Hon. Ababu: I am not seeking to be declared the soberest of the sober because I believe that we are all sober. All Hon. Members of this House are very sober.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): I can confirm from where I sit that they are all sober.

Hon. Ababu: We are a House of traditions, customs and rules. The custom here is that if you withdraw, you apologise. She had apologised really even though on a lighter note. The House certainly needed some comic relief because the debate was becoming a little dull.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): I know. We are all awake now that we know about several things. She withdrew the statement unless she wants to speak again.

Hon. Ababu: (*Inaudible*)

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Nothing is now out of order. She has withdrawn and it is in the records. It is important, Hon. Members, to use the language that is acceptable in the National Assembly, especially when you are referring to your other colleagues. We are honourable. We are the representatives of constituencies, counties and Kenya. Nothing is out of order.

Hon. Aghostino Neto, carry on. We know we are all sober.

Hon. Oyugi: Thank you, Hon. Temporary Deputy Speaker. Hon. Paulata Korere and I have a long history. That is why some of the comments ---

(Laughter)

I really think the comments by Hon. Korere were made on a light note. It is in the spirit of camaraderie. I think she means well for the country. I have dealt with her for a long time.

Before those very interesting light moments, I was saying that this is a very bad Bill. It is a Bill that should be opposed by all Members of Parliament who like this country. I am happy Hon. Mwiru has come to the Chamber because I wanted him to listen to this. Your mandate is under Article 60 of the Constitution. Look at the aspiration of Article 60 of the Constitution and give us laws that would be moving us to Article 6 of the Constitution. I appreciated, Hon. Chair, when you spoke yesterday and said that both the Cabinet Secretary and the National Land Commission (NLC) are your children. Those turf wars are allowed but they should not be taken away to eat into the mandate of NLC.

I was reading the second role of NLC. This Bill seeks to limit the mandate of NLC with regard to the management of public land. Article 67(2) of the Constitution is very clear. It says that the NLC role is to manage public land on behalf of national and county governments. So, if you want to limit it, where are you limiting it from and to where are you taking it when the Constitution gives it an express mandate?

The second thing that this Bill proposes to do is to limit the policy making powers of NLC. But look at what Article 67(2)(b) of the Constitution says. It says that the National Land Commission shall recommend a national land policy to the national Government. So, it is their role to recommend. You cannot then limit its role in what it does. The only thing you can do with the policy it proposes is to redefine it in a way based on the proposal, but you cannot limit how it conducts that, Hon. Mwiru.

The third thing that this Bill proposes to do – and which we really need to look at - is to deal with the minimum and maximum acreage of land. Article 68(c)(i) of the Constitution speaks to the fact that there will be legislation to do that. I will read it for you, Hon. Chair, because I respect you having done many things with you. It reads:-

“Parliament shall enact legislation to prescribe minimum and maximum land holding acreages in respect of private land”

I have seen what this Bill pre-supposes to do under Clause 159 (a). I hope I can find it. It reads in part that the Land Act is amended by inserting the following new sections immediately after Section 159. It makes an insertion in the Land Law that presupposes the creating of legislation in the manner Article 68 of the Constitution anticipates. That is wrong. If you want to look at the issue of maximum and minimum holding of land acreages, that particular legislation ought to be thought out properly and that mandate cannot be given to the Cabinet Secretary (CS) in the manner of regulation. The thinking about giving the CS power in regulation to do maximum and minimum acreages is wrong. That is not what the Constitution anticipates in Article 68.

The second last thing I would like to speak to is the fact this Bill wants to regulate how evictions are done. The world of evictions is a whole world out there. Conducting evictions need to be something that needs to be thought out properly. There are international principles on how to conduct evictions and there are standards on how to do evictions. You cannot do that within the meaning of a simple law like the Land Law (Amendment) Bill.

However much the Departmental Committee on Lands was trying to do with this Bill is wrong and should be opposed. I request my colleagues to oppose it. I request the colleagues in the Departmental Committee on Lands to look at the aspirations of Article 60 of the Constitution with regard to land so that, any legislation they make henceforth ought to be informed by it.

I beg to oppose.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): The representative of the people of Baringo South, Hon. Grace Kipchoim.

Hon. (Ms.) Kipchoim: Thank you very much, Temporary Deputy Speaker. I rise to support the Bill. We are talking about the Land Laws (Amendment) Bill. I support members of the Departmental Committee on Lands for the noble work they have done by coming up with this Bill.

As pastoralists, we fear this Bill. I want to appreciate the Committee for taking us through it. We have sat several times with the Committee to listen to how the Bill is going to operate on our lands. When you come to the maximum and the minimum acreage, pastoralists have a lot fear because we live in a jungle. We feel that the Bill will not work in our areas, but we thank the Committee and the officers at the Ministry of Lands, Housing and Urban Development for taking us through the Bill and explaining how it is going to support us.

As other Members have a lot of fear on NLC, I also feel that it is an important commission that should not be wished away. I am a victim of circumstances. Last week, we saw a Gazette Notice published by the Ministry of Environment, showing that a full location in my constituency was hived off and annexed to be a forest. That is against the wishes of the local people. We have since been fighting as a county to ensure that, that injustice does not happen in this era, when we have leadership from the county level all the way to the national Government. We feel that the rights of the majority were not observed. The only department that stood with us was the National Land Commission (NLC). They listened to us and have come to our rescue by

halting the process of annexation. They have done this in writing. That has saved our communities from fighting. We will be working together as a team and, in the process, bring sanity to both sides. People will sit and agree on what to do with their land.

The other issue is about compensation. The funds that have been allocated as compensation to the Ministries in charge are not clear. It is not clear who will be compensated and when they will be compensated. We need to introduce some amendments.

With those remarks, I support.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Member for Kipipiri!

Hon. Gichigi: Hon. Temporary Deputy Speaker, we need to coin a language that borders between rising to support and rising to oppose. This will be ideal for people who oppose and support certain issues within a Bill. This is a grey area that we need to agree on.

I support a substantial part of this Bill, but I will still make recommendations for amendments on others. Generally, this is a law that I would want passed.

Hon. Temporary Deputy Speaker, I am a lawyer who has dealt with land issues before I joined Parliament. I have dealt with many cases. I have also done conveyancing. If there is a sector that has suffered because of the Constitution that we passed in 2010 and the land laws that were passed by the last Parliament, it is the real estate sector. If you speak to any lawyer or real estate company, you will realise that they are suffering as we speak because of the confusion that is occasioned by the existing land laws. If you say that we oppose the provisions that have been brought to this House, it would not be fair to this country. You had better bring your amendments so that we can consider them, but do not just oppose. We know we have a big problem under the current land laws. Somebody has attempted to bring in some clarity, especially on the functions between NLC and the Ministry. Instead of us saying that this Bill is bad, we should bring some amendments. That is a mandate that is vested in this House. I challenge my colleagues and other stakeholders to invest in the Members of this House to improve the proposals that have been brought to us.

In my constituency, we have about five colonial villages. People were settled in small parcels of land, but they have not been given title deeds. Since I joined Parliament, I have been pounding the corridors of the buildings housing the NLC and the Ministry officials to no avail. One body will, for example, say that they do not know who is supposed to handle leases and who is supposed to sign them. The next time you go to their offices, you will find that they have gazzeted the officers to sign the leases. Let us get clarity. We may not be able to get the best law from what we have here today, but we can improve on it and then if, subsequently, where we have challenges, we can amend it. However, we cannot let the existing status quo to subsist. I will be supporting this Bill subject to serious amendments.

Hon. Temporary Deputy Speaker, the provision provided for under Clause 12 gives clarity. For instance, the Survey of Kenya prepares the maps, but we will need NLC to house them. That is a good provision.

Clause 13 talks about boundary disputes issues. The boundary disputes have been on for a long time. The law is now saying that boundary disputes must be determined within six months. Hon. Members, we need to support this law.

Land lawyers are aware of how the business of first registration has made Kenyans to suffer. A family may register their land while one member is not there. The members who are registered as the owners can claim to be the first registered owners. The law used to say that even if that registration is fraudulent, it cannot be impeached in court.

Clause 15 says that even if it is a first registration, and it was fraudulent; if it is discovered that there was a misrepresentation and the land was acquired illegally, the court can cancel that registration. If somebody says that they are going to oppose the entire law, I do not know what they mean.

Hon. Temporary Deputy Speaker, we have other provisions. For instance, Clause 20 talks about transactions that are in the offing. If the person buying land does a search and notifies the registrar that they are negotiating and are in the process of buying some piece of land, the dealings that are contrary to that particular transaction will be suspended for 14 days so that somebody does not pick money from one buyer and rush to sell that land to another person. This Bill has good provisions in as much as it has some provisions that are challenging.

Hon. Temporary Deputy Speaker, I will be proposing an amendment because the Bill says that land that requires consent before dispositions can be registered and the registrar can dispense of it with that consent. The law does not provide for circumstances under which that should be done. The reasons are not given and there is no requirement for the person who is likely to be prejudiced by such dispensation to give consent by notification. It is, therefore, important that a clause like this be amended.

I will also propose an amendment to Clause 24. Ordinarily, when a document is signed abroad, the law requires a notary public – that is a senior or certified advocate to be a witness. This law is now proposing that the CS can now prescribe any other witness. We need clarity because we do not want any person from the streets to claim to be a witness. This law now proposes that the CS can prescribe any other witness. We need clarity because we do not want any other person from the street to claim that the witness has a serious document. I will, therefore, be proposing an amendment to this provision. Clause 29 is also a good law.

What happens now is that if you register a caution or a restriction against land, it bars all types of transactions. This clause is good because it says you can go and apply for registration of a partial restriction on a certain interest only while the other dealings can be registered. It is a good Bill and we should not oppose it.

Clause 35 also needs some clarity. It says that in a transfer of title where two or more people are buying or receiving land or an interest in land, if the law does not say whether you own jointly or separately in what we call tenancy in common, the law is then proposing that the Registrar is going to indicate that you own as owners in common. My proposal would be that there is clarity. The provision should tell us whether it is a joint ownership or tenancy in common.

Clause 45 shows how historical injustices can be dealt with. Clause 47 also requires an amendment because it may be prejudicial to squatters since it requires all sorts of approvals from authorities.

I support the Bill subject to amendments.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): The Member for Kaloleni.

Hon. Chea: Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity. I wish to add my voice to this debate. I believe that, at the end of my contribution, I will have declared my stand on this Land Laws (Amendment) Bill.

The clamour for a new Constitution was basically informed by the need to take care of issues of land in this country. The successive Governments have always struggled to ensure that the land question is addressed conclusively, which has not been possible. I want to believe the introduction of this Bill is an attempt to see whether the land question in this country can be

adequately addressed. But you realise there are so many institutions in this country, including hospitals and schools, that stand to be demolished any time. For instance, there is an area in my constituency where a title deed was issued in a record 30 minutes. The effect of that title deed, which is fraudulent, is that a school and a hospital stand to be demolished because of the interests of an individual.

As we look at all these issues, we must appreciate the fact that we have had land registrars who have been very corrupt and who have messed up our land registries. This is a country where files have been missing from the land registries. This is a country where entries have been altered in various land registers. If you look at history, then you will realize that there is a serious need to have a law to take care of those injustices so that, eventually, people can have their land and secure it well.

If you look at the Memorandum of Objects and Reasons, it is very clear that the drafters of the Bill begin with a mischief. It speaks to limiting the mandate of the National Land Commission (NLC). We are all aware that the enactment of the Constitution of Kenya, 2010 brought in independent commissions, one of which is the NLC, which is established under Article 67. The functions of NLC as seen in Article 67 are basically the management of public land for both the national and county governments. I keep on wondering whether we now have a law whose primary objective is to limit the mandate of NLC. The question is: Are we trying to amend the Constitution? I appreciate and, indeed, I will always advocate a situation where every department is looked at in terms of checks and balances. I do not expect the NLC to work in isolation. Neither do I expect the Ministry of Lands nor the county governments to work in isolation. There must be checks and balances. But as we do this, we must respect the roles that have been given to those commissions by the Constitution. So, with these amendments, there is an attempt to amend the Constitution and dilute the powers of NLC. For that reason, I oppose the Bill.

In Clause 7 of this Bill, we are seeing a situation where we are likely to lose history in terms of land ownership. There is a proposal to empower the registrar of lands to delete entries or open new registers. It is important that those who do conveyance should, at all times, get the history of a parcel of land so that we know how land passes over from one person to another. But as it is now, that may be quite tricky.

What appears interesting in this Bill is the question of evictions. My only problem with the provisions on evictions is: What happened to the Resettlement Bill? The biggest problem in this country, particularly in regions at the Coast, has been the question of squatters. If we will only be addressing ourselves to the question of having an eviction that is done in a humane manner, what happens after that? We have seen situations where people have been evicted in a manner that is not humane, but what is the solution to that? I would have expected that this Bill would provide long-lasting solutions to this problem, but that is not the case.

We want to appreciate the fact that the present Government has struggled to issue title deeds in various parts of this country, the Coast region being one of them. But even if those titles are issued and we are not sure of the people who manage our land registries, then you can be sure we are headed to trouble. As has been proposed by Hon. Gichigi, and I believe that should be the Chair's view, we should look at this Bill and propose amendments so that, at the end of the day, this Bill can be a progressive one as envisaged under Article 68 of the Constitution. At the end of the day, we can have laws that will ensure that this country moves forward; laws that will ensure

people utilise land to its best so that, at the end of the day, it can be a beneficial factor of production.

Hon. Temporary Deputy Speaker, with those many remarks, I stand to oppose this Bill. Thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): The Member for Laikipia East, Hon. Anthony Kimaru.

Hon. Kimaru: Thank you, Hon. Temporary Deputy Speaker. I stand to support the proposed amendments to the Land Registration Act. When we look at matters pertaining to land in the rural areas and urban areas, they trouble people a lot all the time. That is because one person or the other will be exchanging land at any given time. When the land law is not clear, you will find people suffering a lot. That is why the issuance of new title deeds and replacement of title deeds has been taking so long and, more so, in the recent past, when we had a conflict between the National Land Commission (NLC) and the Cabinet Secretary (CS) for Lands, Housing and Urban Development. It is the people of this nation who suffer.

I support this Bill in the sense that it tries to streamline operations at the Lands Registry. Those operations are core to the many businesses that we do. Any business is carried out on land. Farming is carried out on land. When the ownership, the transfer and the rights to that land or the giving of those rights is delayed, it affects business, farming, schooling and social services like health. When you want to get a loan to settle a hospital bill, you cannot get it. You may need a loan to even have such cases registered. When delays occur, people suffer a lot.

I support these amendments, particularly Clause 2, where we have recognition of condominiums, fractional or sectional titles. This is a progressive development. Many people may not be able to own even a quarter acre of land in urban centres. They may not even be able to own a sixth of it. Following the new concept in apartment building, somebody can own just a small section. It recognises condominiums and other forms of sectional ownership. That is important. Though I can see the recognition of those sectional units, I have not seen where we are talking of sectional titles. If you recognise sectional units, it will follow that it is important to provide for sectional titles.

The involvement of claimants or people with claim to land or resident on those pieces of land when adjudication is being carried out as provided under Clause 6(a) is important. That is because people may sit on land that has been sub-divided on paper and is changing hands while they have no idea. Clause 6(a) provides that people who are resident on a parcel of land be notified when such land is being changed.

Clause 5 will be relevant to squatters because it talks about people who have been on a piece of land having a mechanism of claiming ownership to it. That land may not be owned by anybody or owned by somebody. A mechanism has been set for them to write to the Ministry or the Cabinet Secretary (CS) concerned; asking for titles to those pieces of land.

I have something on the qualification requiring that the registrars of land be lawyers or advocates of the High Court with five years experience. I have been to offices of lands. There are so many people who are working there. If you are going to overhaul the whole system and require that land registrars be advocates overnight and you are saying that any registrar of land without a degree in law will cease forthwith at the operationalisation of this law, it is unfair. If that was to happen, are we not creating a situation of chaos and disorder? Are we not creating a situation of delay in issuance of title deeds? The officers who are working as registrars may not be lawyers, but the amount of law they know about land can challenge very many lawyers on

land law. I do not know if it is right to kick them out overnight and replace them with advocates of the High Court. Those advocates may not have a lot of experience in land law. We may have to look into this afresh, especially when you say that this has to be done once the law comes into effect. That is not a good thing. We may provide for a transition where lawyers are incorporated. Do not discount the amount of knowledge that the current officers have. I have interacted with registrars of land and I can tell you for free that their knowledge of the land laws is unparalleled in many instances.

I support the part that talks about fraudulent registration. Previously, it was taken to be a sacrosanct right to land once you were the first person to register it. This is whether it was fraudulent or not. This is forgetting that the person getting the first title may have done so fraudulently. Issuance of title deeds to land that has been acquired fraudulently, whether in the first instance or not, should be revoked.

When we talk about public land, we still need to streamline a lot of things. In my county, land which is for public utilities like sewerage and disposal of garbage has recently been given out to individuals. This has been done with the blessing of the Commissioner of Lands. How can that be done? How can people be so greedy? That has happened in a town like Nanyuki, which needs those amenities more than ever before. The gurus of the municipal council, uneducated as they might have been, bought land about 50 kilometres from Nanyuki, envisaging the growth of that town. They planned for the sewerage and garbage disposal to be located far away from the town, only for some people to convert that land to private hold. I do not know how consent could have been given by the Commissioner of Lands. It is not acceptable.

On the issue of historical injustices, we need to have a structured way of looking at it. My grandfather was a squatter. My father was a squatter. I have bought land. I was never given land by anybody. Just because I come from a certain tribe, it is seen that the regime of Jomo Kenyatta is the one that gave whatever piece of land that I have acquired. My parents were squatters.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Your time is over. Let us hear the Hon. Member for Igembe North Constituency.

Hon. M'uthari: Thank you, Hon. Temporary Deputy Speaker. I rise to support this Bill because it clarifies the roles for the various actors. When the roles are not clarified, we end up in confusion. It is a sad state of affair in this Republic. I have observed in many ways, including during the process of making our Constitution; that laws are made to a certain extent with the image of individuals in mind. Even if you look at the debate in this House at the moment, there is a certain inclination to people as to either their regions or party affiliations, irrespective of the content.

As the representatives of the people, it is high time we follow the Constitution, especially Article 95 (2). We should look at matters that are of interest to the people. When we look at such a legislation, we ask ourselves what it brings rather than look at it in terms of the personalities involved and, for that reason, one decides to support or not. That way, we will not be able to take our country forward, although politics is around the area of interest.

When I look at the law, clarification and mandate of the Ministry of Land, Housing and Urban Development, the issues regarding the National Land Commission (NLC), the Land Act and the harmony that is trying to be created in this, it is true that through this amendment Act, there are certain areas that may need to be looked at.

It is important that we realistically look at the areas where Members may not be comfortable with. This is the House that is given the responsibility for making laws. Members

should come with amendments rather than thinking of throwing away the whole Bill. The Bill has a constitutional implication. It is brought so that the different Land Acts can be harmonized.

We are aware of the challenges that this country has gone through because of the land question. Most of the conflicts that we have - especially around election period - are related to land. The disquiet we have in certain regions of this country is land related.

Given the importance of land in this country and the resources allocated to the same land, it is not commensurate. I have been following a number of issues for my constituency, which is Igembe North which is within Meru County. We have huge chunks of land that has not been surveyed or adjudicated. Majority of the people do not have title deeds and when you ask the Ministry, you are told that there is no money. When you consider the monies that are collected by the Ministry through land rates, you wonder why the goose that lays the golden egg is not fed, so that it can lay more golden eggs.

This is a matter we need to look at. Clause 61(a) is giving the Cabinet Secretary (CS) the mandate to come up with a process for the registration of land titles. This should be commensurate with the funding given to the Ministry. It is sad that most of the conflicts of the people I represent revolve around land registration. At times, we get conflicts between one county and another. I can give the case of Meru County and Tharaka Nithi County, which used to be one district in old days. But there are conflicts between them. There are conflicts between Nyamira and Kisii. It is the same area but, at times, the problem is because of land. So, if the question of land is tackled, we can reduce the conflicts.

In my constituency, people waste a lot of time on cases revolving around land. So, we must have clear roles and responsibilities given to NLC and the Ministry of Land, Housing and Urban Development. We should set the timelines for the mandate that is given to them. That way, people will be cautioned. We will move away from some of these issues and move ahead. People will understand clearly about land tenure, ownership of property and, in the process, also invest in a proper way. Other issues within this particular Act that have been clarified are the roles and requirements. Qualifications for the land registrars and deputy land registrars are given. This clarification of roles, in my opinion, is a good thing. It will be of much help. The process of acquisition of land and the question of land sizes is something that is important. In Kenya, we have people who acquire land purely for speculation and, in the process, we are facing challenges. One of the challenges is with the oil pipeline where our neighbours are a bit uncomfortable because of the cost of land. Here in Kenya, we over-price land and, at times, you wonder even if you buy a piece of land, what will you invest on it and how long it will take you to recover your cost. Those are some of the things we may need to look at because in this country, we have people who over-value land and make the investment difficult. The would-be investors are forced to run away from our land.

As we scrutinize this Bill, we should look at the amendments. Some colleagues were a bit uncomfortable. I have read the Report from the Committee on Lands. They have identified some of the areas they are not comfortable with, and have already indicated the amendments that they will bring to streamline the law laws in this country.

With those remarks, I support.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Members, I must appreciate that, as much as the Land Laws (Amendment) Bill (National Assembly Bill No.55 of 2015) is important, we have really debated on it. I will accept a few to debate, but we must agree

to close the debate today. Before then, the Minority Whip, you have caught my eye because of your position. Let me recognize the hon. Member for Wundanyi.

Hon. Mwadeghu: Ahsante sana, Mhe. Naibu Spika wa Muda. Naomba nami nitoe mchango wangu kidogo kuhusu sheria hii. Hizi sheria vile zilivyo, hakuna mtu yoyote anayeweza kuziunga mkono. Mimi kama mwanakamati, naziunga mkono kwa sababu nazijua na naziielewa. Kuna mabadiliko kadhaa ambayo tumekubaliana kama wanakamati kuyaleta hapa, ili turekebishe pale ambapo tunaona kuna upungufu. Kama si hivyo, zingekuwa na utata na hazingeridhisha watu ama wananchi kwa jumla.

Kwa sababu najua kuna marekebisho kadhaa ambayo yatakuja na tutayazungumzia hapa na kukubaliana nayo, naunga mkono haya mapendekezo. Swala la ardhi ni nyeti na linaguza kila mmoja aliye hapa. Hata wengine wakisema ni maskwota, wengine wamenunua mashamba na bado wanachukuliwa kama maskwota. Hiyo ni kwa sababu hili swala halijapatiwa uzito vile linavyostahili.

Nikiangalia sehemu ambayo natoka ya Taita, ardhi imenyakuliwa na kuchukuliwa. Unapata Wataita wanakaa kwa theruthi moja tuu ya ardhi yao. Hiyo nyingine yote imeenda. Ndiyo maana tulikuwa tunatarajia kwamba tutapata nafasi ya kipekee ya kuleta sheria ambazo zitangalia wale watu walio dhulumiwa na mambo ya ardhi. Kwa sababu ya hekima ambayo hii Kamati iko nayo, ilionelea ni jambo la busara zote zishikanishwe ziangaziwe pamoja.

Kuna sheria za kufurusha watu, sheria za ardhi ya umma na sheria za watu ambao wamehujumiwa. Sheria zote zikusanywe na kuwekwa pahali pamoja ili mtu akitaka kuangalia sheria za ardhi, asiwe anaenda kwa kitengo hiki na kile na kuzunguka huku na kule. Atakuja kwa hizi sheria za ardhi ambazo zimeletwa pamoja. Ataziangalia na kuzisoma kuanzia sheria za ardhi zenyewe, sheria za mambo ya vile wengine wamefanyiwa tangu hapo awali, sheria za kufurushwa kwa watu na sheria za umilikaji.

Tukiangalia yale ambayo yanaendelea nchini hivi sasa, ule ufisadi uliopo na vile watu wamejipatia stakabadhi na vyeti vya mashamba, utapata kuwa moja wa vitu ambavyo sheria hizi zinapaswa kuzingatia ni kuhakikisha kuwa watu hawataendelea kunyanyaswa na kunyang'anywa mali yao.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Member for Wundanyi, there is an intervention by Hon. Chepkong'a. Is he in order or do you want to inform him?

Hon. Chepkong'a: Thank you, Hon. Temporary Deputy Speaker. I have a lot of respect for the future governor of Taita Taveta County.

(Laughter)

I have undertaken to ensure that he will become the next governor, in spite of my pocket being too shallow. He looks like he will become the next governor. He has been praying very hard. God has heard his prayers.

On a more concrete note, I rise pursuant to Standing Order No.95 as read together with Standing Order No.106. This matter has been canvassed quite effectively for some time. Would I be in order to request that the Mover be now called upon to reply? Looking at the discussions that has been going on in the House, much of it has been repetition in terms of support or opposition. It is only fair that the Mover be asked to reply so that we can conclude this matter. We have discussed this matter for over 5 hours. I have a lot of respect for our leader. He is a

good gentleman. He knows how far we have come. He is my mutual friend. I do not wish to rock his boat. Would I be in order to ask you to put the Question?

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): You have read the right Standing Order No.95, in terms of closure of debate. With all due respect, before we come to your point, please allow the Chief Whip of the Minority Party to finish his contribution. You can carry on, Hon. Mwadeghu. Is there another intervention? Is something out of order? Carry on with your contribution, Hon. Mwadeghu, before I get back to the Chairman of the Departmental Committee on Justice and Legal Affairs.

Hon. Mwadeghu: Ahsante, Mheshimiwa Naibu Spika wa Muda. Nimesikia ombi la mwenzangu ambaye ni wakili na namheshimu sana. Nashukuru kwa kuwa haujakataa hilo ombi, ila umelichukulia maanani. Vile alivyosema kuwa anaona kweli nafaa kuwa gavana, namshukuru na naomba kuwa Mungu azidi kulirehemu na kulibariki ombi lake. Tutakutana wakati mwingine.

Ni muhimu tuangalie kuwa hizi sheria ambazo tumezipitisha hapa na ambazo tutazipitisha tukipata nafasi, Inshallah Mungu akipenda, ziwe sheria ambazo zitaendesha nchi yetu isije ikapata matatizo kwa sababu ya ardhi. Langu la muhimu ni kuangalia vipi tutakavyofanya na ile rasilimali tulionayo.

Vile ilivyo, itabidi wale watu ambao wamefanyiwa maovu tangu hapo awali watafute mbinu zingine za kufuata jopo ambalo ni la ardhi ili waweze kuhakikisha kuwa malalamishi yao na zile dhuluma ambazo wametendewa zimefikishwa.

Malalamishi hayo ni kama yale nilioyanukuu mwanzo. Kwa mfano, maovu ambayo yametendewa watu wa Taita, ambao ardhi yao yote iko katika mbuga ya kuhifadhi wanyama. Hatukuweka mikakati mwafaka ambayo ingehakikisha kuwa hali waliojikuta inarekebisha kivi. Namshukuru Mwenyeketi wa Kamati ya Ardhi alivyoifafanua Sheria tuliyofikiria itakuja inayobainisha watu watachukua kiasi kipi cha ardhi. Alieleza kuwa haitakuwa busara kusema tunaweka vipimo kuwa mtu awe na ekari tano, kumi au elfu moja ya shamba kwa sababu inalingana na sehemu aliyoko. Tuliona haifai kuweka viwango vya ardhi ambayo mtu anaweza kukaa nayo.

Lakini tukisema hivyo, haimaanishi kuwa sasa watu wanapata ruhusa ya kunyang'anya wenzao ardhi, ili wawe ni wao pekee yao ndio watachukua ardhi. *Settlement schemes* ni za wale watu ambao wako katika eneo hilo, lakini sheria ilivyo inasema kuwa watu wanaweza kuja wakagawanya hiyo ardhi na kuishi hapo -ilhali wenyeji wanakosa ardhi hiyo. Hizo ndizo dhuluma ambazo lazima zitafutiwe mbinu ya kuzirekebisha.

Nikielewa umuhimu wa ardhi, tutajibidiisha tuwezavyo kuhakikisha kuwa haya marekebisho yote ambayo watu wameyaomba na Wabunge wanayaomba yachangiwe kwa undani ili sheria hizi ziwe mwafaka. Marekebisho haya yakipitishwa, hizi sheria zitakuwa za kuungwa mkono na yasipopitishwa, basi tutakuwa na shida. Kama nilivyosema tangu hapo awali, mimi ni mmoja wa wanakamati wa Kamati ya Ardhi na naelewa kinachoendelea. Kwa hivyo, naunga mkono Mswada huu nikijua marekebisho yanakuja.

Naomba mnitakie kila la heri kwa malengo yangu ya baadaye.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Members, Hon. Chepkong'a rose on a point of order on closure of debate, pursuant to Standing Order No. 95 - that the Mover be now called upon to reply. This is not an abuse of the proceedings. The Speaker has no vote, and it is upon the House to take a vote on this.

(Question, that the Mover be now called upon to reply,

put and agreed to)

(Laughter)

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Members, I must appreciate your interests and contributions. The Leader of the Majority Party.

Hon. A.B. Duale: Thank you, Hon. Temporary Deputy Speaker. I want to thank my colleagues for debating this Bill---

Hon. (Ms.) Odhiambo-Mabona: On a point of order, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): I do not know what is out of order when the Leader of the Majority Party is replying.

Hon. A.B. Duale: I am well-dressed and fit.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. (Ms.) Millie, what is out of order?

Hon. (Ms.) Odhiambo-Mabona: On a point of order, Hon. Temporary Deputy Speaker. I want to know the next Order because some of us have been seated here the whole afternoon with very specific interests. The way we are moving might be a bit unfair to Members because we come here when we know what is in the Order Paper.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Thank you for the request, Hon. Millie. Before I give back to the Leader of the Majority Party to reply, let me take the opportunity to inform you that there was a communication. Let us get the Leader of the Majority Party to reply. You can consult on the next Order.

Hon. A.B. Duale: Thank you, Hon. Temporary Deputy Speaker. Hon. Millie Odhiambo should be aware of the fact that there are Clerks-at-the-Table who will read the next Order. I know you are very serious. The House is also very serious.

This is a very important Bill. It has taken the House more than four Sittings to discuss and debate it. I am sure what is remaining is for Members to prepare their amendments in line with the Bill. The Chair has been sitting here. He has heard all your comments. This is a very important Bill that brings together various land laws which are principal Acts like the Land Registration Act, Land Adjudication Act and many others. I mentioned them when I was moving it. I am sure it attracted a lot of attention because land is a factor of production and, therefore, it is a serious issue.

We in the Jubilee Coalition, we are proud to say - and I want to go in the HANSARD - that we have the land answer. We have known the land question. What we have and what we want to promise the country is that we are the custodians of all the answers to the land question - from legislation to implementation.

I thank Members. I am sure if you look at the HANSARD, you will see that various members contributed. Members have voiced their concerns on areas where we have land issues. I am sure that after we come back from recess, through consultations with the Committee Chair and the House Business Committee, we will slot it for the Committee of the whole House.

With that, I beg to reply.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Members, I am not in a position to put the Question to the Land Laws (Amendment) Bill (National Assembly Bill No.55 of 2015). I, therefore, direct that the Question will be put in the next Sitting at the most appropriate time.

Next Order!

Second Reading

THE POLITICAL PARTIES BILL

(Hon. Chepkong'a on 17.3.2016)

(Resumption of Debate interrupted on 17.3.2016)

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Members, there was a communication by the Speaker that we jump to Order No. 12, which is the Political Parties (Amendment) Bill (National Assembly Bill No. 2 of 2016). Hon. Millie Odhiambo claims she has been sitting here to contribute to the Constitution of Kenya (Amendment) Bill.

As per the records, there was no member who had a balance of time in the previous Sitting. I, therefore, move to the first Member on my request list. The first one on my request list is the Member for Emurua Dikirr, Hon. Johana Kipyegon Ng'eno.

Hon. Kipyegon: Hon. Temporary Deputy Speaker I wish to thank you. I know the name of my constituency is quite difficult to pronounce. It is called Emurua Dikirr. I appreciate the fact that you really try to pronounce it just as many other people do. I wish to speak to the Political Parties (Amendment) Bill. The Leader of the Majority Party is trying to intimidate me.

Hon. A. B. Duale: *(Inaudible)*

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): You are protected from the Leader of the Majority Party, though he has really done you a favour.

Hon. Kipyegon: In brief, I wish to make some comments on the Political Parties (Amendment) Bill which is before us. I have some issues with it. We have so many political parties because people are not comfortable with the rules that govern them. The reason we need to have the Act amended is to strengthen the parties and the rules which govern them. You realise that elections in the country are always preceded by nominations which affect the real election itself. I would wish us to support this Bill so that we have a very strong background on financial matters, how coalitions are made and how parties are funded so that, those which claim to have Members in this House or even in the county assemblies are funded. I thought we should have a Bill that will ensure that parties which have one representative either in the National Assembly or in the counties as a governor or member of the county assembly (MCA) should be funded, so that they have the power to run their parties.

I support this Bill and look forward to having parties in this country that are fully funded and that can allow their members to be represented in this House.

We have parties in this country majorly because they are vehicles which people use to ascend to these Houses. We should not have a situation where parties are meant to humiliate people or disallow them to meet their political ends. Parties that are meant to promote values and inclusivity in any democracy. We need to have these rules so that people can access offices, this House or any other office or position in Government based on the parties that they come from. The question of mergers is not a serious priority, although people would like to have one party or two parties. The question of mergers is a disciple of one party state. We should merge when we

agree. We should not make it a very serious recommendation that we either agree to merge or we perish. We need to have room for ---

Hon. A.B. Duale: On a point of order, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): The Leader of the Majority Party has a point of order.

Hon. A.B. Duale: Hon. Temporary Deputy Speaker, have you heard the Member for Emurua Dikirr say that mergers will bring back one party state? Barely three weeks ago, he was campaigning for Kenya African National Union (KANU), the *baba* and *mama* party, which has a history of a one party dictatorial state in Kenya. Is he in order to contradict himself? He is doing this in the House, but he is doing something different outside.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Member for Emurua Dikirr, you can correct, substantiate or inform the Leader of the Majority Party whether you are contradicting yourself or not?

Hon. Kipyegon: Hon. Temporary Deputy Speaker, let me inform the Member for Garissa Township Constituency and the Leader of the Majority Party that I campaigned for KANU because it is part of the Jubilee Coalition, of which I am a member.

By the way, if there are ills and evils which were committed in this country by KANU, it was because of the Members who are in the Jubilee Coalition right now. At that time, KANU, under the chairmanship of Hon. Uhuru Kenyatta, almost brought this country to its knees. The Secretary-General was Hon. William Ruto. Therefore, it is only fair to say that KANU is now cleaner because the members who brought this country to its knees moved to the Jubilee Coalition.

That beside the point, we must be very careful on how we make mergers and how we make our Members agree to the rules of coalitions and mergers.

With those remarks, I beg to support.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Nicholas Gumbo, your request on the Political Parties (Amendment) Bill is active. Are you ready for this debate?

Hon. (Eng.) Gumbo: Yes.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Please, proceed.

Hon. (Eng.) Gumbo: Thank you for giving me the opportunity to contribute to this Bill. As I do that, it is important for us, as a country, to go down the memory lane so as to understand the path that we have walked into, making Kenya a multiparty democracy. That is recognized in our Constitution. It is one that we must defend. As we do that, concern must be exercised. Some of us were not active participants in the second liberation not because we did not want to, but probably because we had not become of age to participate in it. Some of us were still in school at that time.

One of the reasons as to why there was so much agitation for multiparty democracy in Kenya was to give political space to all the actors, so that we could have the ultimate freedom of thought. If you stifle freedom of thought then, in essence, you are stifling progress in society. Concern has been raised that, to some extent, there seems to be emerging a culture of intolerance even within the units that we have now. That is perhaps why my good friend, Hon. (Dr.) Musimba saw it fit not to identify himself with any political party.

(Loud consultations)

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Order, hon. Members! Allow hon. Members to listen to the contribution by Hon. Gumbo.

Hon. Gumbo: As we amend the Act governing political parties, all the efforts that we are making towards amending this Act should be to strengthen multi-party democracy and not to weaken it because of the gains that we have made over the years. There was a time I saw a comment in the papers that, as a country, we seem to be the only society which seems to believe that you can progress by walking backwards. Some of the actions we have been taking even within our political parties are based on intolerance. We need to give people the latitude to express themselves, especially those who have divergent opinions. It does not necessarily mean that they do not want to see the course for which the political party stands for. Sometimes, it should be seen as an opportunity to have an alternative look at how things are done.

If all of us in this world were speaking, dressing, talking and doing things in the same way, where would be the diversity that we seek? Sometimes, you are contradicted merely because the position that you hold does not seem to be in tandem with the position that someone else holds. Let us strengthen our political parties and entrench democracy in our country because it can only be good for this country. During the Committee of the whole House, I will propose some amendments not for the purpose of diluting the growth of democracy in our country, but for the purpose of entrenching democracy so that people can be free to choose within the realms of the democratic space that we have fought so hard to create.

Hon. Temporary Deputy Speaker, with those remarks, even as the Member for Dagoretti South harasses me through latency, I beg to support.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Member for Dagoretti South, Hon. Dennis Waweru.

Hon. Waweru: Thank you, Hon. Temporary Deputy Speaker, for giving me the opportunity to make my contribution on this very important Bill. It is a Bill that promotes inclusiveness, democracy and participation of various stakeholders. It is important that after the passage of the Constitution, some of these laws are aligned to the new realities of the Constitution. I strongly support this Bill, particularly the provisions on gender. In this Bill, there is promotion of achievement of the two-thirds gender rule, which is very important for our women. The provisions make sure that everybody is involved in the political process of this country.

I also want to contribute on the issue of building strong national institutions. As you have noticed, there have been some efforts in trying to merge parties. That is why we have parties coming together to form the CORD Coalition while others are coming together to form the Jubilee Coalition. There is a need to form institutions that are strong, national and inclusive like in western democracies. We need to have parties that are strong and with foundations based on issues which are shared nationally, and based on inclusivity of everybody. I strongly support the Bill.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Chepkong'a, are you on an intervention?

Hon. Chepkong'a: No.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Okay. Hon. Members, there are no more requests on my screen. I, therefore, call upon the Mover to reply. I will use my discretion to extend the Sitting by five minutes.

Hon. Chepkong'a: Thank you, Hon. Temporary Deputy Speaker, for the time you have spent presiding over this debate. This has, indeed, been a very important discussion. As I rise to reply, I would like to donate two minutes each to Hon. Oner and Hon. Savula.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Oner.

Hon. Ogalo: Thank you, Hon. Temporary Deputy Speaker. I rise to support the Bill. I thank the Chair of the Departmental Committee on Justice and Legal Affairs for donating to me the two minutes, so that my voice can also be on the HANSARD.

Constitutionally, we are a multi-party democracy. Parties play a very important role in how governance is practised. I would like to urge that when we go to the Committee of the whole House stage, we should improve this law to help transform the way parties are managed. In this country, only the Orange Democratic Movement (ODM) party conducts elections. We cannot have parties being run by appointed people. This law should promote true democracy in political parties to ensure that parties are owned by the people because they are funded by the people. All parliamentary parties are funded by taxpayers and, therefore, they must pay attention to the wishes of the taxpayers as opposed to the wishes of those who claim to own them.

Thank you, Hon. Temporary Deputy Speaker. I support.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Savula.

Hon. Angatia: Thank you, Hon. Temporary Deputy Speaker for giving me the opportunity to add my voice to the Political Parties (Amendment) Bill. This Bill will give a new political impetus to political activities in the country in the way they are run. We will not run our parties as individuals. There will be no issue of *baba*. Parties will be following national rules that are passed by the National Assembly. In the past, we have been having people forming their own shops and call them political parties. Such people coerce members who do not agree with their principles, but have a huge following. This Bill will enhance national values in the political dispensation of this country and hence, add value to the debate in this House after it is enacted.

Lastly, this amendment to the Political Parties Act will also streamline the operations in the political parties to ensure that they operate at a national level. Previously, political parties were supposed to have 24 offices in 24 out of the 47 counties. Very few have achieved that.

With those few remarks, I beg to support.

The Temporary Deputy Speaker (Hon. Ms.) Mbalu): I now give three minutes to the philanthropic Chairman of the Departmental Committee on Justice and Legal Affairs.

Hon. Chepkong'a: Thank you, Hon. Temporary Deputy Speaker. Indeed, I am a philanthropic Chairman in terms of ensuring that the voices of the people are heard in this House; particularly those who have stayed to support this Bill. In fact, the debate has been extremely vibrant. Many issues have been said about the amendments. I would like to assure Members that this is a Committee-sponsored Bill arising by amendments that were proposed by the Registrar of Political Parties herself. What we are seeking is to close the gaps that were there in 2013. Many things have been said about the question of mergers as contained in Clause 8.

Section XI of the Political Parties Act clearly provides for mergers. However, it does not provide for the process of mergers. So, mergers are anticipated in the principle Political Parties Act as it exists. So, there is nothing that we are doing here that is not in the principle Act. The principal Act lacks procedure just like the Referendum Law. This is one of the things over which we need to close some gaps. It is just that the Independent Electoral and Boundaries Commission (IEBC) and the Attorney-General (AG) failed to propose a referendum law. We have asked them to do that since 2013. These are some of the things for which we are going to have chaos in this

country, if we do not provide for a level playing field for all the parties. This legislation ensures that there is order in the management of political parties.

With those remarks, I beg to reply. Thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Order Members. I am not able to put the Question on the Political Parties (Amendment) Bill (National Assembly Bill No.2 of 2016). I order the Question to be put in the next appropriate time as per the decision of the House Business Committee (HBC).

ADJOURNMENT

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Order, Hon. Members. The time being 6.33 p.m., this House stands adjourned till Thursday 31st March, 2016 at 2.30 p.m. I thank you all.

The House rose at 6.33 p.m.