

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 29th April, 2014

The House met at 9.00 a.m.

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

PRAYERS

MOTIONS

ADOPTION OF REPORT OF MEDIATION COMMITTEE ON COUNTY GOVERNMENTS (AMENDMENT) BILL

THAT, pursuant to the provisions of Article 113 of the Constitution and Standing Order No. 150(3), this House approves the Report of the Mediation Committee on the County Governments (Amendment) (No. 2) Bill, 2013 laid on the Table of the House on 1st April, 2014.

Hon. Speaker: On a point of clarification, hon. Speaker. Could I get clarification from the Leader of Majority Party on the business appearing under Order Nos.8 and No.9? Is this the case that---

Hon. A.B. Duale: Hon. Speaker, with your indulgence, Order No.8 regards the Mediation Committee on the County Governments (Amendment) Bill; we need to undertake further serious consultation before this Report is debated. That is because after consulting with my colleagues, there are a number of issues in this Report that we need to discuss. We do not want this to be the first Mediation Report to die on the Floor of the National Assembly. I would ask that we withdraw this Order because the Chair of the relevant Committee is not around. You can use your powers to re-arrange the Orders, so that we start with Order No.10, then go to Order No. 9; Order No. 8 can come another day. We can then proceed to Order No.11. The Whips will also agree with me; this Mediation Committee Report is very controversial. It was controversial in the House Business Committee. We want to do a lot of soul-searching in the month of May and agree as a House on which way we should go. We will also agree on whether we will approve it or not. But that is for the House to decide. For today, I want to request you to rearrange the Orders and we deal with Order Nos.9, 10 and 11.

Hon. Speaker: Very well, it is quite okay to defer the business appearing under Order No.8. But I see the Chairs of the Committees in respect of the other two businesses appearing as Order Nos.9 and 10. The leaders of the two Committees are also members of the House Business Committee and they are, therefore, aware that they requested, due

to the urgency of the business appearing there, that this needed to be debated today. Yes, Leader of Majority Party.

Hon. A.B. Duale: Hon. Speaker, I have been informed that both Chairs of Regional Integration and Transport, Public Works and Housing committees worked up to as late as 8.00 p.m. last night. I want to go on the HANSARD that, despite the Order Paper being in the website--- I mean, it is not my business to call every one of the 349 Members to tell them what is coming to the House, I offered leadership. I called the Chair of Transport, Public Works and Housing Committee and Chair of the Committee on Regional Integration. My able Chair of the Committee on Education, Research and Technology is telling me that hon. (Ms.) Kajuju was seen in the corridors of Parliament. I think you need to give direction and reprimand some of these Chairs. That is because if the Order appearing before us is for hon. (Ms.) Kajuju or hon. Chair of Transport, Public Works and Housing Committee, then they should be the first ones to be here.

(Hon. Kajuju walked into the Chamber)

But now that she has arrived, I will defer my contribution for another day.

Hon. Speaker: I think it is fair that everybody really comes in good time. That is because the Report that the Chair of Regional Integration is supposed to present has some deadline. This will be my direction: That the business appearing as Order No.8 is deferred. The business appearing as Order No.9 will be transacted first. I, therefore, invite hon. (Ms.) Kajuju.

(Motion deferred)

Hon. (Ms.) Kajuju: Thank you, hon. Speaker. I am sorry we were holding a Chairpersons' meeting in Room No.9. That is why I have come late. I apologize for that and thank the Majority Leader for holding brief for me.

Hon. Speaker, the Committee on Regional Integration is one of the Select Committees of the National Assembly established under Standing Order No.212. It is mandated to, *inter alia*, examine the Bills---

Hon. A.B. Duale: On a point of order, hon. Speaker. The Member is supposed to read out the Motion on the Order Paper.

ADOPTION OF REPORT ON CONSIDERATION OF EALA BILLS

Hon. (Ms.) Kajuju: Hon. Speaker, I thank the Majority Leader for his guidance. That is why he is the Majority Leader.

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

THAT, pursuant to provisions of Standing Order Nos. 212 and 251(4), this House adopts the Report of the Committee on Regional Integration on the consideration of the East African Community Cross Border Legal Practice Bill, 2014; the East African Community Integration (Education) Bill, 2014 and the East African Community Co-operative

Societies Bill, 2014 laid on the Table of the House on Tuesday, March 25th, 2014.

The Committee on Regional Integration is one of the Select Committees of the National Assembly established under Standing Order No.212 and mandated to, *inter alia*, examine Bills introduced by the East African Legislative Assembly (EALA) under Acts of the East African Community (EAC).

The Committee's membership is stated in the Report. On 11th February, 2014, the following Bills from the EALA were tabled in the House by the Majority Leader:-

(i) The East African Community Cross Border Legal Practice Bill, 2014, which was sponsored by hon. Dora Christine Kanabahita Byamukama, Member of the EALA.

(ii) The East African Community Integration (Education) Bill, 2014 by hon. Abubakar Zein Abubakar, Member of the EALA; and,

(iii) The East African Community Co-operative Societies Bill, 2014 by hon. Mike Kenney Sebalu, Member of the EALA.

Hon. Speaker, Standing Order No.251 provides that whenever the Clerk of the National Assembly receives copies of the record of relevant debates of the meetings of EALA, or copies of the Bills introduced into the EALA and Acts of the EAC, he or she shall forward the record of debate, Bills or Acts of the Community to the relevant Committee.

The Committee shall consider these or record and submit its report to the House within 21 days for consideration. Upon consideration of the Committee's Report, the Clerk of the National Assembly shall forward the House resolutions to the Clerk of the EALA within seven days. In accordance with Article 65(b) of the Treaty, the Clerk of the EALA requested the Kenya National Assembly in his forwarding letter to consider the Bills and submit its views by 25th March, 2014.

In processing the Bills, the Committee called for memoranda from stakeholders pursuant to Standing Order No.127(3) and Article 118(1)(b) of the Constitution. The following institutions sent their memoranda on the Bills:-

- (i) the Ministry of East African Affairs, Commerce and Tourism;
- (ii) the Law Society of Kenya;
- (iii) Kenya Private Sector Alliance;
- (iv) the Office of the Attorney-General;
- (v) the Kenya Law Reform Commission;
- (vi) the Ministry of Education, Science and Technology;
- (vii) the Council for University Education;
- (viii) the SACCO Regulatory Authority;
- (ix) the Kenya Union of Savings and Credit Co-operatives Limited, commonly known as KUSCO; and,
- (x) the Council of Legal Education.

The Committee considered the Bills and noted that the EAC Cross Border Legal Practice Bill, 2013--- The object of the Bill is to provide for conduct and regulation of cross-border legal practice within the EAC. The Bill operationalizes Article 126 of the Treaty by harmonizing the legal training and certification within the partner states. It will also seek to operationalize Articles 7, 10, 11 and 76 of the Treaty on the free movement of labour.

In considering the Bill, the Committee observed that the proposed EAC Council will not have a representative from the institutions offering legal training in partner states if the Bill was to pass in its current form. To effectively harmonise legal training, there is need for inclusion of a representative of the academic world from each of the partner states.

Hon. Speaker, in consideration of the East African Community Co-operative Societies Bill, 2014 the Bill makes minimal reference to the EAC Treaty and the relevant statutes governing SACCOs in individual partner states. It merely creates a regional co-operative society without providing how SACCOs will be inter-linked and regulated both within their countries and regionally. The mode of formation of the co-operatives is not clear as the integration component has not been addressed by the Bill. The Constitution of Kenya recognizes that SACCOs are a devolved function and, therefore, it is apparent that there will be divergent rules and regulations governing them from one county to another other.

Hon. Speaker, if the Bill was to pass in its current form, it would override all national legislation governing SACCOs as provided in Clause 54; it should, therefore, take cognizance of the fact that the licensing, supervision and regulation of SACCOs as deposit-taking institutions is not covered in the Bill. Thus domestic laws such as the SACCO Societies Act, 2007 ought to take precedence when it comes to prudent regulation of SACCOs.

The Committee noted in the East African Community Integration (Education) Bill, 2014 that the Bill proposes creation of an education unit within the secretariat with the mandate to co-ordinate integration of educational activities in the partner states, development of relevant materials and setting of standards and quality control measures, amongst other functions. The Committee observed that there is a clear mismatch of the title and the contents of the Bill. Whereas the title of Bill sets out its object as that of providing civic education to the people of the community in line with the people's centredness and initiative of integration, the content of the Bill goes beyond civic education by regulating the standards of education generally in partner states.

The Committee is grateful to the offices of the Speaker and the Clerk of the National Assembly for the logistical and technical support accorded to it during its sittings. The Committee wishes to thank all the stakeholders for their participation and scrutinizing the Bills. Finally, I wish to express my appreciation to the hon. Members of the Committee who sacrificed their time to participate in the activities of the Committee and preparation of this Report.

Hon. Speaker, it is, therefore, my pleasant duty and privilege to, on behalf of the Committee on Regional Integration, table this Report in the House.

Under the East African Community Cross Border Legal Practice Bill, the Committee dealt with the Bill clause by clause and reports the following. The definitions and/or interpretations under Clause 2 should be made in such a manner that the Bill recognizes advocates of the national bar associations; for instance, in the Republic of Kenya, it should recognize the Law Society of Kenya (LSK) as having met the stipulated qualification in that partner state.

Having been registered by the national bar associations in the individual countries, an advocate will automatically be enrolled in the Advocates Register of the

EAC and, therefore, will be eligible to practise in the other partner states. This, therefore, will avoid double registration.

The proposal in Clause 4(2) to have a representative of the East African Law Society as secretary to the Council will defeat the law of fair play. It is important for the Council to competitively recruit its secretary from among the partner states. The proposed composition of the council under Clause 4 excludes the important role played in legal training. To achieve the objective of harmonization of legal training and certification as is provided in Clause 3(b), there is need for inclusion of a representative of legal education from each partner state.

It would also be important for partner states to ensure gender representation when making nominations to the council. The envisaged council in the Bill will be a unit of the East African Community. Therefore, it should be funded from the East African Community's Budget as opposed to fees charged on issuance of a practicing certificate. It will be important if the council is allowed to raise funds through any other means to support performance of its functions.

Hon. Speaker, regional practising certificates should be issued by the national bar associations, which will retain fees charged for that service, as has been the practice.

The Committee considered the East African Community Co-operative Societies Bill, 2014, clause by clause and deduced the following. Under the Constitution of Kenya 2010, the principal legislation, or statute, governing the SACCCO societies is the Co-operative Societies Act (CSA), Cap.490, which is administered the Commissioner of Co-operative Societies. However, the Fourth Schedule of the Constitution classifies co-operative societies as a devolved function of the county governments. This means that registration of co-operative societies shall be devolved to the county governments. This will give power to county governments to enact their own county legislation to govern registration and regulation of co-operative societies within county jurisdictions.

Hon. Speaker, the Bill ought to recognize the fact that there may be more than one appropriate authority in Kenya as defined in Clause 7 and as read with Clause 2 thereof. With the exception of international best practice in co-operatives, there is a possibility that various co-operative society legislations, which may cropped up from the county governments to govern societies, may marginally differ. This may only be addressed through a national policy and legislation prescribing the minimum content of such county legislation.

Hon. Speaker, in relation to the co-operative societies, the Co-operative Societies Act governs the legislation and administration of all types of co-operatives societies. The SACCO Societies Act, 2008, as principal legislation providing for the licensing, supervision and regulation of deposit taking institutions would, therefore supersede the Co-operative Societies Act in case of conflict. The the Co-operative societies Act continues to apply to SACCOs since the SACCO Societies Act, 2008 is silent in this respect.

The Bill should clearly recognize these special type of co-operative societies, namely SACCOs, especially those engaged in the quasi-banking business, FOSA; there is need to have them regulated by an independent body within the partner states. Clause 54 of the Bill makes it superior to the partner states legislation, which is well within the spirit of the East African Community Treaty.

However, the Bill should take cognizance of the fact that the licensing, supervision, and the regulation of SACCOs as deposit taking institutions is not covered in the Bill. Thus domestic laws such as SACCO Societies Act ought to take precedence when it comes to prudential regulations of SACCOs. On membership of co-operatives societies in Kenya includes SACCOs as normally defined by SACCOs by-laws and not statutes as proposed by Clause 5 (2). This definition in the by-law was done through the common board principle, but which has since been abandoned by many SACCOs with the adoption of the open board policies. Clause 5 (2) of the Bill is limiting and does not agree with the current trend in Kenya where membership of SACCOs is open to a wide range of people, and not just those who live or work within a given area.

On the sale of shares to third parties, Kenya's current legal framework governing co-operatives does not envisage a situation where a co-operative society will sell its shares to third parties as proposed in Clause 5 (5) of the Bill. The law currently prohibits SACCOs from dealing with non-members; thus the issue of selling shares to other persons will not arise. A person seeking to purchase the share of a co-operative society must, therefore, join membership thereof, which may be through the normal member recruitment or as a transfer from an existing member. Such sale of shares will also violate the domestic Capital Markets Act. Clause 5 (5) should be redefined along the prevailing domestic laws in Kenya to limit sale and purchase of shares of a co-operative to members only.

With regard to recognition of co-operative societies registered in other partner states, whereas Clause 7 of the Bill provides that a co-operative society shall be registered by appropriate authorities in the partner states, there is no provision to guide the reciprocal recognition of such society in other partner states, other than where it has been registered. This will hamper cross-border operations of such a co-operative society in a state other than where it has been registered. This is very necessary for deposit taking SACCOs, where domestic registration ought to guide with certainty the prudential regulation.

The Bill should provide for the procedure for the recognition of the co-operative societies registered in one partner state seeking to operate within the jurisdiction of another partner state, and state whether such a co-operative will have to seek dual registration to operate in that other partner state. The Bill should also provide for mechanism for cross-border co-operative societies, particularly when it comes to deposit taking SACCOs mobilizing deposits.

On settlement of disputes, or alternative dispute resolution, the Bill proposes that all disputes arising between co-operatives societies – whether between members or employees in accordance with Clause 47 thereof - ought to be settled through the ETR mechanism of conciliation and default arbitration, with appeals lying to the High Court. This provision is in direct conflict with the Co-operative Societies Act, which provides that such disputes are to be handled by a co-operative societies tribunal and appeals from the tribunal lie to the High Court. Indeed, the SACCO Societies Act provides that disputes between the Authority and the SACCOs are to be referred to the tribunal as the court of first instance, which court has original jurisdiction.

Hon. Speaker, the Co-operative tribunal as established is deemed to be a specialized court for purposes of co-operative societies disputes, as a court of first

instance. This, therefore, should be retained with the appropriate reforms thereto. Since Clause 54 makes the Bill superior to the domestic laws, the it is likely to oust the powers of the tribunal as a court of first instance in respect of co-operative societies matters. The Bill should equally provide for resolution of disputes arising out of cross-border operations of co-operative societies, and the inter-relationships with the domestic tribunals in order to make the dispute resolution forum clear. There is, therefore, need for creation of an East African Community Tribunal to handle what the tribunals in the partner states cannot handle.

As for the share capital of co-operative societies, Clause 27 of the Bill provides, *inter alia*, that the shares of a member may be used to offset a debt due to the society from such a member. This is erroneous and is likely to lead to de-capitalization of a society in case of default by Members. The current legislation in Kenya is clear that members' shares are equities for the society and cannot be expended except in liquidation. The shares cannot, therefore, be collateral against credit advanced to Members, nor can such equity be used to off-set debts owed. They can only be transferred to other members. The Bill needs to clearly distinguish between shares which are equity capital to the society and other deposits which may be used as collateral for credit advances, and also to offset debts due. This is particularly important for deposit taking SACCOs, which rely heavily on the Members' shareholding as their main source of capital, in the absence of which the SACCOs' existence will be threatened.

On the audit and inspection, the Bill proposes in Part VII that the auditing and inspection of co-operative societies shall be undertaken by the appropriate national authorities. However, the Bill does not take into consideration the extent to which such inspection and audit might go with regard to the operations of the society outside the jurisdiction at the registration state. The Bill ought to recognize the fact the cross-border operations of a society may have material negative impact on the performance and stability of the society, especially a deposit taking SACCO. In this respect, the role of the partner states and equivalent appropriate authority need to be defined in the Bill.

With regard to the terminologies, the Bill introduces terminologies which are not necessarily aligned to the prevailing legal system in Kenya. This includes the general assembly and the control committees, among others. These terms may bring confusion with regard to the operations of the co-operative society in the current module, unless the proposals are aligned. There is need to have a general terminology and not specific terminologies.

On the East African Community Integration (Education) Bill 2014, the Committee considered it clause by clause, and found that the Bill is anchored on Article 7 of the Treaty which provides for people-centred and market-driven economy; the object of the Bill is to provide a legal framework within which people in East Africa can get the necessary knowledge and information about their affairs and activities. The title of the Bill, therefore, is not consistent with the contents of the Bill. For instance, the Title makes reference to education whereas the contents of the Bill show that it is meant for dissemination of community information or civic education among the partner States. Therefore, the Committee proposed the following amendments to the Bills. Under the East African Cross Border Legal Practice Bill, 2014, the Committee proposes the following amendments when the Bill comes to the Committee Stage in the East African

Legislative Assembly. Under Clause 2, the Committee proposes that the Bill be amended in the definition of “indiscipline” and in (d) by inserting the words “on account of disciplinary proceedings” after the word “practice”.

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

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

The justification of this amendment is because this definition fails to contemplate that it is possible for a lawyer to be restricted or limited to practice on account of reasons other than disciplinary proceedings. For example, where a lawyer in good standing, but who has not taken a practising certificate, is practising.

That Clause 2 of the Bill be amended in the definition of the “disciplinary record” by inserting the following words immediately after the “e”: “(f) any other orders to pay fine and/or costs, compensation or reimbursement.

The justification is to cover all orders possible for issuance upon conviction of professional misconduct. That Clause 2 of the Bill be amended in the definition of the “practising certificate” by deleting the words “issued by registrar to an advocate authorizing him or her to practise in any of the partner States” and substituting therefor the words “be issued in accordance with the rules of the partner State”. The justification is that each partner State shall be issuing practising certificate according to its laws rather than an East African practising certificate.

That Clause 2 of the Bill should be amended in the definition of the “register” by deleting all the words therein and substituting therefor the following words “register” means a register of advocates admitted to the Roll of advocates by each partner State”. The justification is that at a regional level, we only need a register of the admitted advocates. Each partner State should keep a register of eligible advocates and reserve the right to authorize who to practise within their jurisdiction that will be guided by regulations to be provided for by legal council.

In Clause 4, the proposal is that Clause 4(2)(a) of the Bill be amended by inserting the words “or its equivalent to national bar association” immediately after the word “council”. The justification is that it is important to recognize that some partner States have their own regulatory bodies---

The Temporary Deputy Speaker (Hon. Cheboi): Order, hon. Kajuju! Hon. Okoth, what is it?

Hon. Okoth: Hon. Temporary Deputy Speaker, I rise under Standing Order No.97 to seek a clarification and guidance from you on the issue of presentation of a Motion where we have a hefty document ahead of us from the Committee on Regional Integration. I understand that in a good procedure, we would decide upfront how to limit debate, so that we can move the business of the House fast. I realize that we did not do that. So, maybe it is a little unfair for me to interrupt her, but at this point, would it be possible to ask the Chair of this wonderful Committee to summarize the highlights and then allow us to debate the Motion quickly and move on to other business? The Mover is entitled to 90 minutes.

The Temporary Deputy Speaker (Hon. Cheboi): Yes, hon. Okoth, you are right that such a decision, particularly on matters of procedure, should always be made upfront. Members, therefore, should always, when they have issues, especially in the light of what you have said, do it early enough, so that the Mover can organize themselves. In all fairness, hon. Chair, the Members have the report. You should highlight the issues. If you do that, there will be no issue about what hon. Okoth is raising. You really do not need to go through the entire report. I believe the Members who are particularly interested have already gone through the report. They have it. I realize it is about 36 pages long and, really, it will take a long time and, probably, half way through the Members will start losing interest. So, just highlight a few points and Members can speak to it.

Hon. (Ms.) Kajuju: Hon. Temporary Deputy Speaker, it is only that there were a number of legal technicalities that I thought I should point out. However, I appreciate that Members are able to respond to the issues that I have raised. Therefore, the issues that we propose to be amended, in summary, under the East African Community Cross Border Legal Practice Bill, 2014, are on definitions as I have stated under the register; each partner State should maintain its own register.

We have also proposed that Clause 4(2)(a), after consultations, be amended to ensure gender parity. I believe all of us understand why that has to be. The other issue that I would like to highlight is on the seat of the Secretary of the East African Law Council. It is the Committee's opinion that this seat should not be held by the East African Court of Justice; the Secretary of the Council should be appointed through a proper process. The other amendment that we have proposed is replacing the words "as prescribed under Section 4(3)". The justification is that the Secretary-General should be competitively recruited. The other issue is that the funds that are supposed to run the East African Law Council should come from the East African Community Budget.

In as far as the East African Community Co-operative Societies Bill is concerned, we propose amendments to various provisions in the Bill, especially in the definition of the word "persons" to replace it with the words "members of a society". The justification is that the Kenyan law currently prohibits SACCOs from dealing with non-members; thus the issue of selling shares to other persons does not arise. There are several other amendments to that Bill and justifications have been provided. The only one that I would like to pick out is the proposed amendment to Clause 12(1)(c). We propose that Clause 12(1)(c) of the Bill be amended by inserting the words "if eligible" after the word "elected". The justification is that in line with the standards of leadership expected, a society is entitled to prescribe conditions for eligibility to seek office.

There are other definitions that we seek to amend. I pray that Members look at them. Under the East African Community Integration (Education) Bill, the Committee proposes the following amendment. The word "unit" should mean the civic education unit established under Section 4 of this Act. A proper curriculum should be developed for civic education by relevant institutions in the partner States.

We were particularly concerned about the title of the Bill, which reads "East African Community Integration (Education) Bill, 2014". The Committee felt that it is important that that title is amended. This Bill does not particularly deal with education, so to speak; it deals with civic education within the partner States. Therefore, the Committee

proposes that the title of the Bill be amended to read as follows: “The East African Community (Civic Education) Bill, 2014”.

We have annexed the various statutes, or the Bills, that were sent to us by the East African Legislative Assembly. We have also annexed copies of the documents that we received from the various institutions and the minutes of the Committee that show that this was a unanimous decision, and the report was approved by the Committee as tabled in the House.

With that, I request a Member of the Committee, hon. Ouma Ochieng’, to second this Motion.

The Temporary Deputy Speaker (Hon. Cheboi): Yes, hon. Ochieng.

Hon. Ochieng: Thank you, hon. Temporary Deputy Speaker.

With all due respect to you, and looking at what has just happened now, the hurry with which my Chair has had to do this Report tells a lot in terms of how this House treats matters of regional integration. This is not the first time I am raising issues of regional integration. Every time these issues come up we want to sweep them under the carpet very fast; Members are not given a chance to take a keen interest in them.

The Temporary Deputy Speaker (Hon. Cheboi): Hon. Ochieng, supposing I was to interpret you. Members are actually eager to pass the Motion; therefore, are very receptive of these integration issues. In any case, hon. Ochieng, the issue is that Members already have the documents; they had the time to look at them and are eager to contribute. That is why they do not want you to take a lot of time. In fact, my advice to you is that you should not take too much time; just summarize as the Chair has done. Whatever you have just said is your opinion.

Hon. Ochieng: I agree absolutely, but what I am talking about is at the very core of the Bills. One of the Bills we have here talks about East African Community education. The reason I am saying this is because we have talked so much about EAC, but not so many people know about it. That is why we need to take time and have Members understand what it is about. All the Bills that I have risen to second, have talked about having a framework for making members of public, including Members of Parliament, know about regional integration, the continuum of the EAC federation process, from Free Trade Area (FTA) through the political federation to a union. That is why I just want to request Members to take keen interest in these matters; let Members be given time to understand this. The Bill on Cross border Legal Practice is very important. EAC is one of the most integrated regions in as far as legal practice is concerned; what this Bill does is that it makes it very easy to discipline lawyers as they practise regionally. As you know very well, even before the EAC came into force, we had lawyers practising in Dar es Salaam and Kampala; now they are able to practise in Bujumbura and Kigali. This Bill seeks to promote that.

I agree with my Chairperson that if we were to pass this Bill, it will be very easy for any client to brief a lawyer in Kenya and that lawyer works for him in Uganda; he will be able to follow up, how that lawyer works for him and, where possible, ensure that in case of any issues of discipline the lawyer is handled as such.

Legal training is a very important matter in this region if we are going to harmonize how we practise our law. We must ensure that those training lawyers across the region are able to get a forum, where they are able to set standards and say this is the

way we want the region to practise its law. I would, therefore, request Members to look at it technically and first allow the EAC Legislative Assembly to pass this Bill.

The East African Community Co-operatives Bill is very important; this region will only grow through SMEs; it will only industrialize if we allow SMEs to grow in a manner that ensures that they operate in Kenya, Uganda, Bujumbura and also in Kigali. This law, as proposed, ensures that our legal frameworks for operations of SMEs and co-operatives is synchronized and does in a way comply with the EAC Treaty in as far as promoting industry and commerce is concerned. The economy should be organised in a manner that allows all of us to participate in it.

The third Bill is the East African Community (Education) Bill. Last year, and early this year, there has been a very interesting happening. We are moving very fast as a community, and saying that we are ready for political federation. How can we be ready for a political federation when as we speak, my cousins in Ugenya do not know about the EAC? I am not sure your constituents know about the EAC in a manner that will enable them participate in its affairs and benefit. This Bill, as proposed, ensures that each country in the EAC is able to establish a framework, through which it is going to ensure that its citizens are involved and carried along in matters of regional integration. That is why I wish to request this House to consider this.

As I support, I want to make two statements that are very important to me. We have two committees of this House, the Committee on Finance, Planning and Trade and the Committee on Defence and Foreign Relations--- These two committees have all the time been encroaching on the work of the Committee on Regional Integration. I want you to advise them that the Committee on Regional Integration is a committee of this House that has a specific mandate under Standing Order No. 212 of our Standing Orders. Let them know that we have work to do and they should not try to encroach into our work.

With those very many remarks, I beg to second the Motion. Thank you, hon. Temporary Deputy Speaker.

(Question proposed)

The Temporary Deputy Speaker (Hon. Cheboi): The first chance goes, of course, to the Leader of the Majority Party.

Hon. A.B. Duale: Thank you, hon. Temporary Deputy Speaker. This Report was prepared based on Article 65(b) of the East Africa Community Treaty, which states that the Clerk of the Assembly shall, as soon as practicable, transmit to the Clerks of the National Assemblies, not Parliament or the Senate - it talks about National Assemblies - copies of the Bills introduced into the Assembly and Acts of the Community to be laid before the National Assemblies for information.

On the outset, we need to have communication and guidance on this. The National Assemblies of Rwanda, Uganda, Tanzania, Burundi and Kenya will look at these reports but will not amend them; the reports are only tabled in them and then go back to the EALA. The one million question is: What is the rationale or value? The three Bills, the East African Community Cross Border Legal Practice Bill, 2014, the East

African Community Integration (Education) Bill, 2014 and the the East African Cooperative Societies Bill, 2014, in one way or another contradict our existing laws.

This House should not be a conveyor belt of the EALA, on which we have Members and our President is the Chair of the EAC. When a Bill from EAC comes to a committee of this House, in my opinion, the first thing is that the committee should see whether that Bill, as passed by that Assembly contradicts, or is inconsistent, with our law. I am sure that the same thing we are doing today is going to be done by the National Assemblies of Uganda, Tanzania, Burundi and Rwanda. Then what next? In my opinion, and I have consulted with the Clerk---

The Temporary Deputy Speaker (Hon. Cheboi): Order, Leader of Majority Party! What is it hon. Wangwe?

Hon. Wangwe: On a point of Order, hon. Temporary Deputy Speaker. Is the Leader of the Majority Party in order to give us generalities rather than cite specific Articles which the Bills before the House contravene?

Thank you, hon. Temporary Deputy Speaker.

Hon. A.B. Duale: In my community they say patience pays. If you are patient I will tell you what this Report contradicts. I am very fast for the benefit of the Member for Navakholo, hon. Emmanuel Wangwe; I am sure the people who elected him will see what I am saying.

Let me go to Clause 5(2) of this Bill, which does not agree with the current trend in Kenya, where the membership of a Sacco is open to a wide range of people. That is a contradiction. So, they are bringing a law that contradicts the SACCO Act that was passed by this House.

Hon. Temporary Deputy Speaker, further Clause 5(5) of this Bill of the East African Legislative Assembly (EALA) should be redefined along the prevailing domestic laws in Kenya in relation to the sale or purchase of shares of---

The Temporary Deputy Speaker (Hon. Cheboi): Order. What is it hon. Nakuleu?

Hon. Nakuleu: On a point of information, hon. Temporary Deputy Speaker. I just want to inform the Leader of the Majority Party that the Bills that have been tabled before this House were passed under the mandate of the East African Treaty. The East African Treaty and the municipal laws of different countries---

The Temporary Deputy Speaker (Hon. Cheboi): Hon. Nakuleu, you know you are the Vice-Chair of that Committee. Would it not have been better for you to get a chance and canvass the issues which you are raising? This is because the direction you are taking does not look to me like it points to a point of order.

Hon. Nakuleu: Hon. Temporary Deputy Speaker, I just want to inform the Leader of the Majority Party, so that he does not mislead the House in his contribution.

The Temporary Deputy Speaker (Hon. Cheboi): No. Let us do this; I think in all fairness the Leader of the Majority Party has the Floor; let him give us what he has. You will get your opportunity. You see you are being unfair, hon. Vice-Chair because, probably, you have gone through a lot of details at the Committee level. So, let the Members also get the benefit of different opinions.

Hon. Leader of the Majority Party.

Hon. A.B. Duale: Hon. Temporary Deputy Speaker, I want to be very categorical that when a report of a committee comes to this House it becomes a property of the plenary; I want the members of the Committee on Regional Integration to listen to me. I have no bad intentions. I want to protect the Constitution and the domestic laws of our country. We are members of the East African Community (EAC). Our President is its Chair. It is the first time I had the benefit of serving in the last Parliament. It is a new system. It is the first time we are having before the National Assembly of the Republic of Kenya Bills emanating from the EALA. So, it is a new thing and I am sure hon. Mbadi will agree with me.

So, it is a new thing. It was never in the last Parliament. It is the first time we are seeing this kind of thing. I am giving areas which I feel the three laws that were passed are not consistent with our laws. The question is: What do we do next?

Hon. Temporary Deputy Speaker, they had all the time to do the Report and to study; it is time for the membership of this House---

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

The Temporary Deputy Speaker (Hon. Cheboi): Hon. Ochieng, you seem to have something very burning.

Hon. Ochieng: Hon. Temporary Deputy Speaker, what I am going to say is going to help the Leader of the Majority in his debate. The reason these Bills have been brought to this House is because they have not yet been passed by EALA. We are at the stage of consultations. These are not laws of EALA. They have been brought before this Assembly, so that we can propose comments to them. Those comments plus this Report will be submitted to EALA before they pass the law. They are not laws yet.

The Temporary Deputy Speaker (Hon. Cheboi): What will happen after you give the comments? Will they change the specific---

Hon. Ochieng: Hon. Temporary Deputy Speaker, the Treaty provides that before EALA passes a law it has to go through consultations. This is part of the consultations that our Committee will look at; it will look at them based on this Parliament's comments. We will submit a report to EALA, which they will consider before they pass the law; these are not laws yet.

The Temporary Deputy Speaker (Hon. Cheboi): From what I hear the Leader of the Majority Party saying, he does not want a situation where we just become a conveyor belt, but I think you will also have an opportunity as a Committee when you are replying to canvass that point. You can straighten anything that needs to be straightened at that point.

Hon. Ochieng, because you are the one who seconded, let us give other Members time because they have their opinions one way or the other. You might not agree with their opinions, but you and the Mover of the Motion will have an opportunity to respond.

Hon. A.B. Duale: Hon. Temporary Deputy Speaker, the best thing for hon. Ochieng and the other Members is to take notes of what I am saying and what the Members will say and reply on the basis of their notes. Please, hon. Ochieng, have a pen and I can provide one. Take notes as I contribute; we have to follow procedure.

Hon. Temporary Deputy Speaker, the first one is that in the EAC Cross Border Legal Notice 2004, the Bill seeks to operationalise Article 76 of the EAC Treaty providing for free movement of labour. I want to say it here very clearly that there is no

honest free movement of labour between some of the member states. Tanzania does not agree to the free movement of labour. Kenyans working in Tanzania have problems. As the National Assembly, this must come out very clearly; this Committee must note our concerns that Kenyans are unable to get work permits.

When you bring a law called East African Community Cross Border Legal Practice Bill, as hon. Ochieng said, and we are stakeholders, we want to say it very clearly here that if this Bill is to operationalise Article 76 of the EAC Treaty on free movement of labour, then we are telling our brothers and sisters in Tanzania that they are not obeying that Article. Our Kenyan professionals are having problems in Tanzania.

Hon. Temporary Deputy Speaker, on what the Committee has noted, and I totally agree with it, Clause 7 of this Bill, in my opinion, should provide for a procedure for recognition of cooperatives registered in partner states. This Bill must recognize from the outset all the cooperative societies which are registered in our country. That provision is not there and they must provide it.

It must also provide the mechanism for cross border operations of cooperatives; for a cooperative in Suba or in Garissa, a mechanism must be provided to facilitate them if they want to go and do business on the other side of the border, in Tanzania and Uganda. It is not provided for. That must be provided for.

Hon. Temporary Deputy Speaker, mechanisms for solving cooperative problems in the wider East African region must be created. I really now need to get guidance by hon. Ochieng that the Bill has not gone through all the stages. Now, it is in this House for the purpose of stakeholder participation. The question that comes is that the nine Members who we selected from this House must go with our amendments. I hope they are not overseeing party elections. I saw some of them recently overseeing some party elections. Their business is to represent us in EALA.

Madam Nancy Abisai and Madam Pareno must be listening to me. She must take my amendments to the Assembly and not oversee some party elections. Madam Pareno, your business is to legislate on behalf of Kenya and not to participate in elections as returning officers; but when you are on recess you can do it. I now want them to listen to me. This is with a light touch.

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

The Temporary Deputy Speaker (Hon. Cheboi): Order. What is your point of order, hon. Ganya Chachu?

Hon. Ganya: Hon. Temporary Deputy Speaker, is it in order for the Leader of the Majority Party to mislead this House that there is a mechanism through which the National Assembly can inform EALA? Whatever we pass here as a resolution must be submitted, through our Committee, to EALA to deliberate on. What is the point of the Leader of the Majority Party mentioning names of hon. Members who are not in this House?

The Temporary Deputy Speaker (Hon. Cheboi): I hope you are not challenging what he said; proceed hon. Duale.

Hon. A.B. Duale: Hon. Temporary Deputy Speaker, I am a voter. I voted for Nancy Abisai and Pareno. The voter must speak. We did the voting in the Tenth Parliament. Now, as a voter I have a right to tell my Member of EALA that they have no business doing elections; even the people of Garissa Township will tell me that: "Duale,

you have no business doing elections since we elected you to legislate.” I am speaking as a voter. Hon. Chachu maybe did not vote for Nancy Abisai or Pareno, but I voted for them. Please forgive me and I will continue.

Hon. Temporary Deputy Speaker, the Bill also should provide dispute resolution mechanism. This is also with a light touch. Where I want to touch nerves I can, but this was with a light touch; it is not serious business.

The Temporary Deputy Speaker (Hon. Cheboi): Hon. Ganya, I hope you do not want to just say that you also voted.

Hon. Ganya: On a point of order, Hon. Temporary Deputy Speaker. I, for sure, did vote, having been in the Tenth Parliament with hon. Duale.

There is a fundamental issue that I raised. I mentioned that there is a mechanism through which our national Parliament can inform the East African Legislative Assembly. The Leader of the Majority Party is insinuating that there is no such mechanism. That is why he is calling people names and asking them to listen to him. It is not necessary for him to do so. It is out of order.

The Temporary Deputy Speaker (Hon. Cheboi): The second bit is an issue to which the Leader of the Majority Party should respond.

Hon. A.B. Duale: Hon. Temporary Deputy Speaker, I and hon. Chachu had come a long way together before he left my party. We will sort our issues. Let me continue. We have other forums.

Coming back to the Bill before us, it is important for Members of the Committee on Education, Research and Technology to hear me. Clause 5(2) of the Bill is, again, limiting. It does not conform to the current trend in Kenya. We need to look at this Bill, which was tabled by a Kenyan – hon. Abubakar Zein. The Mover needs to look at our national institutions responsible for conducting civic education.

Hon. Temporary Deputy Speaker, the final one is on co-operatives and the East African Community. I am referring to Clause 17, which talks about cross-border operations of co-operative societies, more so about the performance and stability of the co-operative societies. The way co-operative societies are run in Uganda, Tanzania and Rwanda might be different from the way they are run in Kenya. Kenya is ahead of those countries in terms of management of co-operative societies and their financial stability.

Finally, as a member state of the EAC, with nine members in EALA, and currently holding the Chair--- I hope that all the issues that the Members of the Assembly will raise will be based on the interests of our country and the interests of the EAC.

With those remarks, I beg to support.

The Temporary Deputy Speaker (Hon. Cheboi): Hon. Members, as the Standing Orders dictate, let us hear the Leader of the Minority Party, hon. Nyenze. You have 15 minutes, just like the Leader of the Majority Party.

Hon. Nyenze: Thank you, hon. Temporary Deputy Speaker, for giving me this opportunity.

The Committee did a thorough job and comprehensively addressed the relevant issues. So, I support the Report because the Committee has looked at the salient issues that will help us. They have thought through the three Bills that they have tabled in this House.

Hon. Temporary Deputy Speaker, after 1977, when the former EAC collapsed, a certain political class has always tried to prevent the revival of the EAC for some reasons. We have to resist that move and integrate. Kenya will benefit more than the other member states once we integrate. Every region in the world is integrating and forming economic blocks. There is the European Union (EU), ECOWAS and others. That is the only way to tap markets, engage in trade and develop economically. It is, therefore, in the interests of Kenyans for us to support the three Bills; they are well intentioned.

The other Bills that have been brought to this House by EALA have dealt with financial matters. These particular Bills want to integrate the citizens of the EAC. These Bills have good intentions. So, we need to support them. The EAC Cross Border Legal Practice Bill will help this country. Lawyers will not be required to undergo a lot of tedious exercises to practise in neighbouring countries. Legal services will be easily shared within the EAC. It will also eliminate the requirement for lawyers to go through lengthy and expensive licensing procedures. This will also help in standardisation of legal education throughout East Africa. That is why I support the Bill.

Hon. Temporary Deputy Speaker, Kenya is a giant when it comes to the co-operative sector. We have more co-operative societies registered in Kenya than in any country in Africa. Two hundred and fifty thousand Kenyans directly or indirectly depend on the co-operative movement for their livelihood, economic good and survival. We have 15,000 registered co-operative societies in this country. If you compare that with Tanzania or Rwanda or Uganda, you will find that for every eight million co-operators, Tanzania and Rwanda have only a million each while Uganda has a half a million co-operators.

So, when we integrate co-operative services, Kenyan will benefit more because she has a well established co-operative movement. It will be very good for this country. According to the International Co-operative Alliance (ICA), Kenya alone represents 46 per cent of all co-operative societies members in Africa. If we want to grow our economy, we have to cross our borders and integrate our citizens with those of other countries, so that besides free movement of goods there can be free movement of services and citizens within the EAC. That way, trade will thrive and Kenya's economy will grow at double digit – the dream the Jubilee Coalition had when they came to power, although it never materialised.

Hon. Temporary Deputy Speaker, it is very good for Members of the National Assembly to support the three Bills and give their input to the EALA. If we integrate, we will even have more local tourists from Uganda and Tanzania. Our tourism industry, which is collapsing at a very high rate, will rejuvenate. We will have members of the Kisii community exporting their bananas very easily to Tanzania. Kenyans will export labour to other EAC member states, given that we have very many trained lawyers and other professionals. The question of unemployment in Kenya will be tackled.

Another thing I would like to say is that the title of The East African Community Integration Bill, 2014 is slightly misleading, but it has good intentions – to integrate the citizens of the community's member states.

This Bill intends to create awareness and education to member states so that members in these states will understand each other and will not have stereotypes, that if they integrate with Kenya, Kenyans will come and grab their land. It should not be

understood that if they integrate, something will happen. That feeling should disappear. So, this Bill is a good one because first, it will create a uniform curriculum in all the five countries; the partner states and it will help Africans to know each other's culture and languages and so forth. This Bill also encourages the teaching and speaking of English and Kiswahili. Some of the countries in the region like Burundi and to some extent Rwanda never had English as their official language. That is changing because this Bill encourages the citizens of these states to speak English and Kiswahili and that will help them integrate. I just want to say, we should not allow a few individuals who do not want citizens to integrate, for their own personal good. There are those who want to keep these countries separate because once we unite, there will be common laws and trade. There will be more scrutiny and some of the underhand deals will not be possible any more. So, because of standardization of even the legal services, some of the people who are involved in funny deals or shoddy deals will not support this integration. I think it is in the best interest of Kenyans to support the three Bills.

I also want to say that the East African Community (EAC) collapsed because of three main issues. There may have been other issues, but one was political, economic and social. I will not deal with all the others, but Kenya got the biggest blame for the collapse of EAC. Let us be the first ones because we will benefit more than these other countries when we integrate with them. Out of these countries, we have noticed that Kenya has more trained personnel, even lawyers, co-operative officers and teachers. It is no wonder that after we train our Kenyans, most of them go to Europe, others to South Africa and so forth. It is a big loss to our revenue. But if we integrate, we will send our trained cadre to Uganda, Tanzania, Rwanda and Burundi. In these countries, they do not have that level of training and Kenya stands to benefit. So, without much ado and without taking a lot of time, I want to say there is nothing as good as supporting the integration of EAC because the dream of growing this economy at double digits will come to fruition. We will succeed only if we do not stand alone as a country, but if we integrate. The President of this country is the current Chair. We stand to gain. Let us support it because that is the only way for Kenya to grow.

If you look at our economy in East African region, it is growing the slowest. The economy of Rwanda, Uganda and Tanzania is growing faster than Kenya's and for us to catch up, this is the only opportunity that has come up. So, this Committee has done a good job, they have read through the three Bills and this is the only way forward. It will help the Jubilee Government to realize its dreams because most of the projects that the Jubilee Government promised Kenyans; like the laptops, the irrigation of one million acres and even the LAPSET project have collapsed. Everything has collapsed. So, this is a window now that this Committee has given to the Jubilee Government. Let both sides of the House support because this is what will move the country forward. Before I sit down, I just want to say that insecurity has been a big problem in this country. I did stand in this House and say that I support the Government's move to flush out terrorists from within, and I do not regret. If we integrate, criminals will have nowhere to run to. If a car is stolen here in Kenya, you find it in Tanzania or in a neighbouring country and vice versa. This integration will stop all that and we will be one people. We will be a big economy commanding around 100 million people and everybody will want to talk business with us. We will grow our economy, create wealth for everybody and things like

insecurity will be a thing of the past. The Jubilee Government wake up to this, support it as CORD hon. Members will do.

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

The Temporary Deputy Speaker (Hon. Cheboi): Very well. I have nine requests here and I can see the mix is okay, other than the fact that the other gender has not placed any request. So, we will give it ago in this manner; hon. Gichigi, hon. Mbadi for purposes of preparation, hon. Kathuri Murungi and hon. Chrisantus Wamalwa in that order.

Hon. Gichigi: Thank you, hon. Temporary Deputy Speaker for giving me this opportunity. I do support this particular Motion. I, however, wish to begin by stating that, in the induction that hon. Members of this House went through, I think there was a bit of neglect in terms of preparation of the hon. Members in dealing with the scrutiny of Bills that come from the East Africa Legislative Assembly (EALA). Perhaps, there is need for us to go back and prepare the hon. Members so that we are able to deal with this particular issue. The hon. Members who originally spoke, including the Leader of Majority Party had to be assured that this is not already law, these are just proposals and in enacting the Bills our proposals are going to be considered. We also have a challenge. If you go out there, the Kenyan population hardly understands these East African Community Integration issues. There are challenges.

While at this level, clearly, a good number of our hon. Members are not well versed on this particular issue; what exactly is happening. Perhaps, we need a proper briefing by the relevant Ministries on the progress that they have been making. We need to be informed rather than read in the newspapers what is happening.

I support the EALA Bill on legal practice. As a lawyer, we are all kin to go beyond our borders and practise. Looking at the numbers that the Chief Justice keeps on admitting to the bar every other month, it is not going to take long before this particular profession becomes saturated. It is, therefore, important that we give our young legal professionals an opportunity to practise in our neighbouring countries. I have said in the past and I am still worried about the trend that is taking route in Tanzania.

I listened to the President of Tanzania the other day when he was justifying why Tanzania is very slow in adopting integration measures especially on cross border labour and why they appear to be very harsh to other members of the Community. Although I did not get what he meant, it appears that Tanzania is not yet ready to open up its borders for other member citizens to work there.

Hon. Temporary Deputy Speaker, while scrutinizing these Bills and having a look at what the other member states are bringing, it is important to safeguard our interest so that we do not open up our borders while other members of the community are shutting us out of their trade. The legal profession in the East African Community countries is based on the common law of England and the training is more or less the same. For a long time, our legal professionals came from the Dar es Salaam University as well as Makerere University. So, what we are doing is going back to the good old days when a person trained in any of the countries would practise elsewhere.

When it comes to the Education Bill, it is important that we look at our Constitution. We have certain challenges. Our education system in our country compared

to the other countries is a bit different. We have the 8-4-4 System of Education and I think they have the 7---

(Hon. Abass consulted loudly)

The Temporary Deputy Speaker (Hon. Cheboi): Order, Hon. Abass! There is a big consultation room outside the Chamber. The two of you can walk and consult there. I can see you are even crossing the Floor and back.

Hon. Gikaria: Hon. Temporary Deputy Speaker, so our representatives and the other membership should be careful so that we do not appear to be violating our Constitution and give an opportunity to very many people in Kenya, some of whom are busy bodies going to courts to try and declare the other legislations unconstitutional.

Looking at the education sector in the country, very many people out there, especially in my county of Nyandarua, have invested in educational institutions; primary and secondary schools and also universities. It is important that we harmonize our education systems so that people from the other jurisdictions, other member states can come to the country and benefit from this investment which is a symbiotic relationship. Our investors will also gain from students who come from across the border.

For a long time, our students used to go abroad. They used to go to Uganda and Tanzania to study. We now have ample universities and since they are many, we need to get our students from across the border. I support this Motion but let us be careful because with the new Constitution, we might have challenges.

Looking at the proposed co-operative legislation, we are aware that counties are coming up with their own legislation and it is important that we are alive to these developments so that we do not have a conflict of laws between the national laws, county laws and regional laws.

I support!

Hon. Ng'ongo: Hon. Temporary Deputy Speaker, I rise to support this Motion that is seeking to get our approval to adopt the Report of the Departmental Committee on Regional Integration. First of all, let me congratulate this Committee that is chaired by my friend, hon. (Ms.) Kajuju which has sat and done a good job in terms of analyzing these three Bills. My understanding is that these three Bills are before the East Africa Legislative Assembly (EALA) and they have not been processed. They are still awaiting debate and possible amendments. Therefore, our responsibility as the National Assembly of the Republic of Kenya is to ensure that we give input in terms of a report to our representatives to EALA so that when they are debating these three crucial Bills, whatever we say in this House will form part of their contribution. Still, we have an option, as a House or country, to domesticate these Bills once they become law. Therefore, if some of the legislations that come out of the EALA, we feel are not consistent with our domestic laws or rather have issues that we need to iron out at the point of domestication - that is my understanding - we will still be able to have an opportunity to give an input in this legislation.

Having said that, I know and as a country we have been pushing very hard, probably, more than any other state within the EA region for the integration of the EAC. As the biggest economy in this region, we have been in the forefront of trying to integrate

the EAC. It would be proper for us, as the big brother, to take the leadership in terms of support to the EALA and even urge that the EALA moves with speed to enact relevant laws or required laws to make sure that we realize the dream of the EA integration. Before we go to the political integration, we have to carry through economic integration.

Having said that, I must also point out as my other colleagues have spoken before me, even as we integrate, we need to be very careful and we must look at the Bills that are being enacted into law by the EALA to ensure that whatever is passed there conforms to our domestic laws and that there is synergy between the laws passed in EALA and the ones passed domestically or through the National Parliament. This, therefore, takes me to support the report of the Committee which suggests--- I was very keen on the one on the EAC Cooperative Societies because we cannot overemphasize the role that the co-operative movement has played in this country in terms of development and support to those low income earners in this country. If it were not so, the movement in this country, even some of the properties that we see around Nairobi and across the country would not be there. A lot of this real estate is financed through the co-operative movement. Therefore, we must be careful even as we support the regional legislation on co-operative societies to ensure that they support our local co-operative movement.

I must also talk about the Bill on education. Education is what allows us to be competitive even globally. Therefore, the kind of education system; the kind of education structures that we put in place should be those ones which make us competitive, not only within the region but internationally. We must look at the Bill on education with a lot of keen interest.

Hon. Temporary Deputy Speaker, there is also the issue of the legal practice. This, to me, is a very good Bill in the sense that if I have a case within the region, I should predict how the case will go. Currently, we are confronted with a related, but very interesting matter not within the region; the so-called Anglo Leasing issue. Without anticipating debate, you will realize that the Kenyan courts have declared some of the companies that we are talking about as non-existent, closed, *et cetera*. However, someone somewhere in the world, say, London, is saying that they exist and we should pay them.

The Temporary Deputy Speaker (Hon. Cheboi): Hon. Mbadi, on your own personal admission, I think you are actually anticipating debate. In any case, I do not really see how relevant it is.

Hon. Ng'ongo: Hon. Temporary Deputy Speaker there is really no debate before the House on Anglo Leasing. However, the relevance I was trying to point out is that the laws should be harmonized globally and not even within the region so that we can predict issues. For example, if a case comes before Kenyan courts, we should be able to predict the outcome if the same case is taken to a court in London or Switzerland. We should get the same results or almost predictable results. I will, however, not pursue that line any further.

Finally, hon. Temporary Deputy Speaker, even as we seek to harmonize the regional loss with our domestic loss we should also look at our country. This country has two levels of Government: The national Government and the county governments. The legislations passed in the county governments must conform to the laws of this country. It pains me when I see a county government passing laws to outlaw miniskirts. The question I ask myself is this: If, say, Homa Bay County passes a law that outlaws the

wearing of miniskirts and I am on my way from Migori, when I reach the border do I change from the miniskirt into a trouser? When I get back to Migori, do I then remove the trouser and put on the miniskirt? We need to know the jurisdiction of the county assemblies. The county assemblies should pass laws that are within their mandate. I remember there is one county that has been debating the Mututho law. Surely, there are certain parameters of that Bill that you cannot change. You cannot say, for example, that in Homa Bay County people should drink past a certain time and yet in other counties people should not. That cannot be a country. We are in one country and we must respect our laws.

Remember there are counties that tax people for chicken and have other kind of taxes yet the taxes that are allowed under Article 209 for county governments to levy are only property taxes or rates and entertainment taxes. The others must be spelt out through the National Parliament. However, some counties are going on to levy taxes without reference to the National Parliament. If provision for the tax is not mentioned in the Constitution, the National Parliament must allow you to levy that tax before you levy it in your county. You, however, see county assemblies, through their finance bills coming up with taxes that are ridiculous. Therefore, as a country, it is high time we started thinking seriously on how to integrate the legislations within our 47 counties so that we have uniformity and predictability which can promote business and economic growth in this country. If we do not do that, we are going to discourage investment. It will also send a bad name about this country. Ours will be seen as a country in which you cannot predict which law will operate when you transact your business or you carry out your investment.

Hon. Temporary Deputy Speaker, I support.

Hon. Murungi: Thank you, hon. Temporary Deputy Speaker. I rise to support this Motion as presented to this House by the Committee on Regional Integration of which I am member. I thank the Chairlady for elaborating this matter and giving out clauses that need to be looked at. I hope the hon. Members will look at the HANSARD to check the clauses that we need to look into so that we can have good laws.

Hon. Temporary Deputy Speaker, these Bills show Members that they are not already enacted by the East African Legislative Assembly (EALA). They have been brought to us so that we give our input. We have done so as a Committee. We have consulted stakeholders. On this Bill on cross-border legal practice, we consulted the Law Society of Kenya. They gave us very good input which we have incorporated in our comments.

One thing that we should do as the National Assembly is to support and scrutinize the laws which will help us get into integration, soonest. On the Common Market Protocol, Kenya is the highest beneficiary of this protocol. This is because the volume of trade that we transact with our partners; Uganda and Tanzania is so high.

On cross-border legal practice, these laws will enhance free movement of labour in this region. I also would wish that EALA brings forward other legislation that will enable other professionals like doctors, engineers, architects and others to practise across the region. In this Bill, Clause 10 and Clause 11 talk about free movement of labour. If you look keenly at this Bill, you will realize that it is a good law. We need to look closely at the recommendations that we have given as a Committee.

On the East African Community Cooperative Societies Bill, it is true that our SACCOS have been devolved to the county governments. These are the recommendations we have come up with. If we incorporate what we have and the comments from hon. Members in this Assembly, then we will come up with a good report to give to EALA.

The other one is the East African Community Integration (Education) Bill. Actually, these Bills are from private Members of EALA. The Member who owned this Bill indicated from the outset that this Bill touches on civic education. However, when we scrutinized it we realized that it talks about regulating standards in the region. I want to urge that we enact laws in this House from EALA. I was a member of a delegation from the Committee on Regional Integration which went to the EU. The EU has 29 countries which are already members. The benefits that region is getting are enormous. I hope we will be able to fast-track this integration process so that we benefit from this union.

Hon. Temporary Deputy Speaker, I would like to give this opportunity to other hon. Members to contribute to this Motion.

Thank you very much.

The Temporary Deputy Speaker (Hon. Kajwang'): All right. Member for Kiminini.

Hon. Wakhungu: Thank you hon. Deputy Speaker, I rise to support this Report with a lot of reservations. I want the Chair to actually listen so that he can respond to our issues. Much as we have the East African Legislative Assembly (EALA), it is supposed to pass laws that are in line with the Constitution. I listened to the Chair when she was trying to move this Motion, unfortunately, she went so much into the observations. I expected her to give an executive summary rather than being told whom she held a meeting with or what was discussed. The presentation was too detailed. We did not follow as such.

Having looked at it, first and foremost, let me start with the one on education. We understand very well that the Constitution of Kenya is focusing on devolution. When you look at Schedule Four of the Constitution, there are some functions which are devolved to the county level and not to the national level. If you look at this proposal, it is negating the principle of the counties. For instance, when it comes to education, we know very well that, according to Schedule Four of the Constitution, education is partly devolved to the counties. The early childhood education and issues to do with polytechnics have been devolved to the counties. Issues to do with secondary schools, primary schools and universities are left to the national Government. Therefore, it is important for the Committee to tell us the level of education where there will be engagement. With regard to childhood education, it is just a matter of time before we see different curriculums depending on each county. I am aware that some counties are even introducing mother-tongue to be taught in schools. It is important for the Committee to be specific. Is it at the tertiary level or higher learning?

When you focus on higher learning for instance, in this country, we have the Commission for University Education which is in charge of quality assurance. It is, indeed, important for us to understand the framework of those high levels. How are they going to harmonize because of the education system in East Africa? Different countries

have different kinds of syllabus. Even the number of years is different. We know very well in this country, for instance, we have the 8-4-4 System of Education. When you go to Uganda, I am told they still have Form V and VI. If we are to integrate, it is important for this Committee to involve other key stakeholders so that we can see how we are going to harmonize all that. The Committee should not bring laws which are in conflict with the Constitution of this country. That is going to take us back.

I also want to mention something on the co-operative movement because SACCOS are very critical as far as the economy of this country is concerned. Research has shown that Kshs400 billion is controlled by SACCOs in this country. That you cannot wish away. Kenya is way ahead when it comes to the co-operative movement. For instance, we have a new body that came in recently. It is called SACCO Societies Regulatory Authority (SASRA). It is in charge of regulation of SACCOs. When you talk about other countries, as far as the co-operative movement is concerned, they are way behind. We need to look at these issues and, instead of us focusing on other countries; we can be on the same level. It will be taking us back as far as the co-operative movement is concerned.

I know that some of the SACCOs in this country are already doing banking. There are those which are doing front office banking while others are doing back office banking. But when you compare with Uganda, its co-operative services are way behind. It is important that this Committee works together with other committees. Where we see that we are negating ourselves, we do not pass. When I look at this, it is actually taking us back. When you look at the East African Community (EAC) our next step was to get a common currency. Then from common currency, we were then supposed to enter into a political federation. I think that has been the trend. For us to come and pass such kind of laws, it is taking us back. So, what I am requesting my friend hon. (Ms.) Kajuju is to find a way forward. I was keenly listening to the people who proposed this Bill. You will realize that the people who proposed these Bills were not even Kenyans. It is important that next time you bring such an issue, it is for you to tell us: "These people are coming from this country." I guess they were bringing this for purposes of enhancing their co-operative movement, whichever countries they are coming from.

It is, again, a wakeup call to the Members of EALA who are representing this country. Before such an issue reaches such a level, they are supposed to put their input in the interest of this country, instead of us allowing such Bills to come at this level and say it is a form of consolidation. It will be a waste of time. It is important, as they try to push this ahead, to involve the line ministries, for instance. We know very well that the Jubilee Government has come up with a policy of reducing the number of parastatals in this country. It is about the issue of the wage bill and all that. An executive order is supposed to be issued. The idea behind this is based on an Article of the Treaty, but it negates the Constitution of this country. So, it is important that before such things come before this House, the aspect of the Constitution must be given priority.

With regard to the issue of lawyers, there is the East African Community Legal Practice Act. In this country, we have the Law Society of Kenya (LSK). Unless you have gone to the School of Law, you cannot be allowed to practise as an advocate. We will also need to have a comparative analysis and see how we are going to harmonize that, when cross border legal practice is put in place. We understand we have different

professionals who, once they qualify, become idle. That is why LSK and other professional bodies have come up with continuous professional points. What framework has been put in place so that the respective professionals do not just qualify and avoid continuous development? I was in my village and saw a certain doctor prescribing some drugs for malaria. This good old friend of mine, an old doctor, was prescribing some old kind of drugs which are no longer recommended by World Health Organization (WHO). It is important that when professionals have qualified, they need to have continuous development. We already have a lot of paradigm shifts. That way, as the professionals continue practising, they are able to understand what the current practice is as far as their profession is concerned.

We need to look at where EAC came from and where it is going. This is the area we need to focus on. Again, there is the issue of foreign relations. Did you involve the Committee on Defence and Foreign Relations? That is because you find some matters are cross-cutting. It will be important that, next time, when such an issue is being discussed, to do a stakeholder analysis so that we have the line ministries in place. Let us hear what their take is. There may be other ministries concerned. You cannot afford to do this and the issue of foreign relations is not in place. Right now, Kenya and Uganda have issues relating to Migingo Island. We are discussing issues of boundaries and coordinates. We must start from there. The other related committees that are in place, we must involve them, so that we can walk the same path. But let us not just pass Bills for the purposes of East Africa. We must do a cost-benefit analysis and ascertain what values these Bills are adding to our country - not just East Africa but our country. Do a cost-benefit analysis. Tell us the merits and demerits. That will be good, instead of coming up with a blank report without due diligence being done properly and we are expected to rubber stamp it. I think this is the time we should not just be passing Bills without proper scrutiny.

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

The Temporary Deputy Speaker (Hon. Kajwang’): I will continue with the trend that I found my predecessor following. We will take the requests in this order: Member for Navakholo, Member for Nakuru Town East, Member for Balambala and Turkana North in that order. Let us start with Member for Navakholo

Hon. Wangwe: Thank you hon. Temporary Deputy Speaker, for allowing me to share my views with the Members of the National Assembly today. I rise to support this Motion. First, I wish to let Members know the four pillars of EAC. There is the EAC Customs Union Protocol and currently, we have already undertaken the Common Market Protocol. In October, we saw the signing of the Monetary Union.

Hon. Temporary Deputy Speaker, the three Bills before the House whose Report we are discussing today are basically meant to operationalize the Common Market Protocol. If you look at the functionalities of that Protocol, you will find that it is purely to allow the mobility of people and labour and making sure that all the factors of enterprise are put to shape.

Hon. Temporary Deputy Speaker, if you look at the first Bill on cross border legal practice, you will find that this is a very useful Bill especially when it comes to operationalization of the fundamentals of any business set up. You cannot do business without a legal practice. Whenever there is business, there is dispute and commercial disputes must be sorted out. If you look at the Bill as it is today, although it will be

discussed in the EALA, you will find that it will ease the professional movement across the border.

The point where you could wait until you were approved by the Law Society of Kenya (LSK) or the Kenya School of Law before you practise in Kenya--- They are now putting in place mechanisms against which anybody who in the legal profession can cross over from the member states and practice. There are mechanisms or structures which have been laid down, if you read the Bill properly. It is going up to the East African Law Council. This will take care of each and every position when it comes to practising law.

Hon. Temporary Deputy Speaker, we also have mechanisms of resolving issues in the law. That has been very tricky especially in Kenya where you could find a rogue lawyer moving freely. If you look at the resolution mechanisms which are laid down in the Bill, you will find that they talk about the formation of the East African Dispute Resolution Council. They will make this Council operational. If a lawyer is from Kenya and he commits an offence in this country, he is also bound by the laws of Kenya first as he moves on to the East African Community. This means that no lawyer will get away with crime. That is a wonderful thing that the Bill proposes to us.

Hon. Temporary Deputy Speaker, if you look at the East African Community Cooperative Societies Bill, the Chair who was moving the Report indicated to us that it is not complete. She is proposing amendments and I also agree with her that first of all, we take cognizance of the fact that Kenya is embracing a two-tier Government where we have the national Government and the county governments. If you look at our Constitution, you will find that it tells us where the co-operatives lie. Co-operatives are fundamental functions of the county governments. So, this Bill has not taken cognizance of that fact. We will be proposing during the Committee of the whole House stage some amendments. If the Chair will not be there, I will move the amendments to make sure that the law complies with our current law.

On the East African Community Integration (Education) Bill, first, it is a wonderful Bill. My people are used to crossing over to Uganda in a normal day to day business. They do not know the benefits that are presently available. This Bill is now telling us that it is now the individuals' right to get informed of what is happening in the EAC. We are not letting our people know what is going on. We have made the laws for them and provided space for them but we have not allowed them to know what is new to them. They are still hiding because they do not know that it is their right to cross over to Uganda and Tanzania and trade. So, this Bill proposes that we need to enforce civic education.

On quality of education across the countries, I feel that, that one should be corrected. We should align it to the current system in Kenya at the Committee stage. The system in Kenya is superior to most of the countries that we have.

Hon. Temporary Deputy Speaker, being a Member of the Committee, I feel obliged that I give chance to my colleagues to contribute.

I beg to support.

Hon. Nakuleu: Thank you, hon. Temporary Deputy Speaker. I wish to declare from the outset that I am a Member of this Committee.

(Loud consultations)

Hon. Temporary Deputy Speaker, with your indulgence, I wish you could request my colleagues to consult in low tones.

The Temporary Deputy Speaker (Hon. Kajwang’): You also need to speak to the microphone so that we can hear you better. You know you are endowed in height. So, you may be away from the microphone. We will hear you better if you are closer to the microphone.

Hon. Nakuleu: Hon. Temporary Deputy Speaker, I wish to declare from the outset that I am a Member of this Committee.

The Temporary Deputy Speaker (Hon. Kajwang’): That point is taken. However, Members particularly nearest to the Member debating, please allow the Member to have concentration of thought.

You may continue.

Hon. Nakuleu: Hon. Temporary Deputy Speaker, I wish to declare from the outset that I am a Member and the Vice-Chair of this Committee. While supporting this Report, there are a number of issues I wish to put forward for the benefit of Members because this Committee is new in this House. This mode of introducing Bills to the House is also new. I wish to remind hon. Members that in the Bills originating from the EAC, this Assembly constitutes part of the stakeholder consultation just like other members. The recommendations and the Report we will adopt will be transmitted to the Clerk in Arusha and will finally find its way to the Assembly.

I would like to support the three Bills because if you look at the East African Community Cross Border Legal Practice Bill, you will find that it very crucial for the movement of legal experts to go and practise within the region. That movement must be regulated through a legal mechanism which is this Bill. The three Bills also operationalize the Common Market Protocol. You will realize that the EAC Treaty has four pillars and the Common Market Protocol is the most crucial pillar that allows movement of labour, rights of establishment, movement of goods and the rights of residents. Therefore, without this Bill being put in place, it will be very hard for the EAC region to operationalize the Common Market Protocol. Going back to 1977, one of the reasons why the EAC collapsed among other reasons was non-involvement of the East African residents in the decision-making process and all activities of the Community.

The East African Community Integration (Education) Bill brings into fore the involvement of citizens of East Africa in the decision-making process of the EAC affairs through civic education. Therefore, it will only be fair for the leadership of the EAC to make sure that the Bill on education is put into place.

On the East African Community Cooperative Societies Bill, we are aware that every country in the EAC operates at different levels of economic development. They have different ways of managing the co-operative affairs and they have different ways of forming their co-operative units and managing them. To remove these disparities in the region, this Bill comes handy to make sure that the region adopts uniform policy and regulations within which the co-operative affairs are managed.

Hon. Temporary Deputy Speaker, pertaining to the dispute resolution mechanisms for legal practitioners, the Bill also addresses keenly the procedures of admission and punishing of those advocates who mess things within the profession. It also provides procedures for enforcement of all mechanisms within the legal regime. The treaty

establishing the East African Community allows the five national assemblies of the partner states to give their input in form of reports which may or may not be adopted by EALA. This is because of the supranational nature of the EAC Treaty with regard to constitutions of various states.

Therefore, the issue that the Leader of Majority Party raised previously that this Assembly is becoming a conveyor belt, is not true *per se*. He is quite pretty aware that the East African Treaty is superior to the constitutions of Kenya, Uganda and Tanzania. Therefore, this assembly is quite in order as part of the stakeholder body in that regard.

Finally, the other reason some members are giving that Tanzania does not agree with the movement of labour is not true. Tanzania is rightfully a member of the East African Community and it assents to all Bills and protocols that originate from Arusha.

The only thing that Tanzania has rescind to cede is the issue of land which other member states of the EAC have said; the issue of land remains a national issue. Therefore, it is good for hon. Members, while contributing, to understand the domains under which the EAC has classified some of the factors of production.

With those few remarks, I wish to urge hon. Members to support this report.

The Temporary Deputy Speaker (Hon. Kajwang’): Hon. Nakuleu, while you are on your feet just hold on. Well, I was not in the Chamber when the Leader of Majority Party was moving or was making his speech, nor did I follow the discussions by hon. Members who contributed to this conveyor belt theory. But I think it is also good to notice that the treaty establishing the EAC, which is an Act of Parliament in this part of the world--- Before, we did not have the privilege of examining Bills coming from EALA. For the first time now, we have an opportunity because before, it would go directly to the Executive for enactment. Now we have an opportunity as the National Assembly to re-examine it before the Executive can also put its pen. I have not heard people praising that development in law, that National Assembly is able to re-examine the Bills that are being passed in EALA, leave alone the conveyor belt theory. But again, you as the National Assembly, you have an opportunity to debate those issues where you feel there should be an amendment. Where you feel there are deletions required or where you disagree, you should show those disagreements. That way, we will have a nice Bill that has been thought of by everybody in the EAC.

Let us hear your last comments on that and then you sit down.

Hon. Nakuleu: The point is taken, hon. Temporary Deputy Speaker. I totally agree with you on that, but there a number of issues. In as much as the EAC Treaty could be part of an Act of this Parliament, you will realize that as it stands now, there are 27 pieces of legislation within the Republic of Kenya which are not in consonance with the EAC Treaty.

In the year 2010, the attorneys of all partner states were mandated to identify those areas in their respective states which were not in tandem with the EAC Treaty. As we speak now, no reports of harmonization between the provisions of the treaty and the provisions of the constitutions have been done. Therefore, in as much as we have this Committee in place, no regulation has been put in place to create a proper engagement between us and the Community.

The Temporary Deputy Speaker (Hon. Kajwang): Thank you. Well spoken. Hon. Member for Mogotio, I know you to be an authority in this subject. Will you please speak to us?

Hon. (Prof) Sambili: Thank you, hon. Temporary Deputy Speaker, for giving me this opportunity to contribute to this Motion. Having served in the docket of the East African Community, I felt that I should stand to support this Motion and, therefore, I thank you profusely for this chance.

Hon. Temporary Deputy Speaker, EAC is a block of more than 100 million people. I support this Motion very strongly because the Bill on education will enlighten the people of East Africa and co-ordinate the provision of education as provided to the members of the partner states. It is going to co-ordinate what is given to our citizens in these particular states.

Hon. Temporary Deputy Speaker, when it comes to the Bill on Co-operative societies, we know very well that Kenya is very much ahead of the other partner states. I think that this is an opportunity for Kenya to practise the principle of being our brothers' and sisters' keepers. We should be able as Kenya to contribute and share the rich experience that we have in this field and support the members of other states that may not have reached that level in the co-operative movement.

Finally, the legal practice across the border is very useful because that will provide advice that will be given to member states national bar associations, as it has been said by my colleague. It will protect members of the EAC from undue exploitation. Therefore, I support this Motion because when enacted, it is going to make more than 100 million people of the EAC to be an enlightened and exposed group of people. It will make this block contribute to the development of this continent and the globe.

Therefore, I want to end by supporting what the hon. Member, who is the Chairperson of the Departmental Committee on Defence and Foreign Relations said, that the 27 pieces of legislation that are not in agreement with our own laws should be looked at. I remember when I was the Minister for East African Community, we talked about those issues. I think it is important for this Committee to take up that particular challenge so that we can seriously move forward and support the integration process in all areas of protocols.

With those remarks, once again I thank you Chair. I support this Motion and look forward to the time when we will move to the Committee stage and contribute more.

Hon. Aden: Thank you, hon. Temporary Deputy Speaker for giving me this opportunity. I rise to join my colleagues in supporting this very important Motion. This Motion touches on the formation of many of the necessary legal frameworks that are critical to the achievement of the main objective of having a common market for the EAC. The three Bills which have been proposed or are currently under discussion in EALA are very important. If I may start with the East African Community Cross Border Legal Practice Bill, 2014, for the business environment to thrive, certain basic provisions have to be available. Legal services are one of the very important provisions that enhance the performance of businesses across the borders, so that if there is a Kenyan company going to Tanzania or Uganda, they are able to access legal services which they know very well and have been dealing with before and probably, carry along their own lawyers who

have been serving them here in Nairobi and use the same legal services when they are in Kampala or Dar-es-Salaam.

Similarly, the harmonization of education is also very important. In the older EAC, there was a lot of closeness in terms of the mode of education and a person who went to school in Kampala was as good as a person who went to school in Nairobi. Therefore, that creates a labour market that is more or less at parity, so that you do not have any one country fearing and saying that the other country is more educated than it and therefore, would take over all their jobs. When you harmonize education, you get equally trained professionals from across the East African region. Therefore, they provide professional services and get employment across the EAC market.

Similarly, for the SACCOs, it is a very important Bill. Kenya has been a champion in the co-operative SACCOs. This is one of the things that Kenya will be exporting with pride in terms of perfection of how they work and allowing people to be members of SACCOs across the region. As was mentioned earlier, our Constitution is very clear. Any laws which are inconsistent with our Constitution are null and void. I do not see why we should fear. I do not see how EALA can make a mistake of bringing into being laws that are not consistent with the Constitution of this country. So, as they go through that law, we expect them to also have a good consideration of the existing laws in Kenya.

The Temporary Deputy Speaker (Hon. Kajwang’): But you are also keeping in mind that you have the power to prefer amendments, so that you can be consistent with the Constitution of Kenya. This is what Members must be thinking of, of how to trim those parts that they feel are inconsistent with the Constitution, so that we remain with those parts which are consistent.

Hon. Aden: That is correct, hon. Temporary Deputy Speaker. That is very right. Having gone through the Report and having seen what the Chairlady has recommended in terms of the amendments that need to be done, I have no doubt that these areas have exhaustively been addressed. As the National Assembly, our role is to give input, just as we are doing now and as the Committee Report has done, so that EALA can now go ahead and do the rest.

As I end, the people and the governments in the East African Community must see the larger benefits of the union and not get carried away by the feeling that if they open up, they might lose a lot as a country. We need to borrow the practice that exists in places like the European Union. It is a place where there is free movement of people, labour and capital. This is very important. If you are a Tanzania investor and you see an opportunity in Kenya, then you have all the reasons to come and do your investments in Kenya, the same way a Kenyan investor should be free to invest in Tanzania, Uganda, Rwanda or all the other countries referred here. Businessmen and women are quick to identify opportunities, but often they are held back by the fact that they do not have the necessary existing legal framework to enable them to go and take those opportunities.

Finally, we will have an opportunity to share a vast cultural diversity. This is a region which is very rich in culture and can attract, by opening our borders to each other, very large numbers of tourists. They can stay two nights in Rwanda, another two nights in Maasai Mara and finish up at Amboseli. They can even fly to Dar-es-Salaam, so that the benefit of attracting tourists is also shared across this region. I support this

Committee's work. Any step towards bringing in place laws that enable the existence of an environment for the operation of the EAC should be supported by all.

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

The Temporary Deputy Speaker (Hon. Kajwang'): Member for Kisumu Central, is something out of order or is this your way of greeting the Speaker when you enter the Chamber?

QUORUM

Hon. Mirenga: On a point of order, hon. Temporary Deputy Speaker. I want to take this opportunity to bring to your attention that we could probably be facing the problem of lack of quorum in the House. This is a House of rules and you may have to rule on this. That is all. I am just trying to be very strict with the rules of the House.

The Temporary Deputy Speaker (Hon. Kajwang'): Thank you, so much. I appreciate your candidness about the rules of the House except that next time you do it, also be prompt in the House. You do not come into the Chamber and the first thing you notice is the quorum. But because under the Standing Orders I do not have discretion, I will ask for the Quorum Bell to ring until such a time that the Table will inform the Speaker whether we have a quorum or not. I order accordingly.

(The Quorum Bell was rung)

The Temporary Deputy Speaker (Hon. Kajwang): Order! Order! I now order that the Quorum Bell is switched off. We have quorum to continue transacting business. Hon. Members, we have really done a lot of service to this Bill. I wish that we now move to the other business that is pending before us. I know that many of you want to put their voices into it, but there are other things that we need to speak about.

As you know, the Speaker does not vote on these issues. It is up to you Members to decide how you want to proceed. Is the Mover in the Chamber? First of all, I have six requests on the screen. Is it the feeling of Members that we should reduce the contribution time? Just a minute! Member for Kibwezi East, is something out of order?

Hon. (Ms.) Mbalu: On a point of order, hon. Temporary Deputy Speaker. Pursuant to Standing Order No.97, I do request that we reduce our contribution time to two minutes each for the sake of Members who want to contribute.

Hon. Members: Three minutes.

The Temporary Deputy Speaker (Hon. Kajwang): Well, Members, that is for you to decide. Do you want three minutes or ten minutes?

Hon. Members: Three minutes.

The Temporary Deputy Speaker (Hon. Kajwang): All right. Three minutes. Since I have seven Members and I am not able to stop them from contributing, they will contribute for three minutes each. I will start with the Member for Saku. You have three minutes.

Hon. Dido: Thank you, hon. Temporary Deputy Speaker. Indeed, I am disappointed that Members just walk into the Chamber and have all sorts of suggestions.

That is a serious distraction to debate in this House. I will abide by the three minutes. It is okay with me.

The Temporary Deputy Speaker (Hon. Kajwang): Proceed, your three minutes are passing by. The clock is ticking.

Hon. Dido: Thank you, hon. Temporary Deputy Speaker, for giving me this opportunity, I wish to support this Report by the Committee on Regional Integration. Regional integration in East Africa is anchored on four pillars of common market, custom union, monetary union and political federation. Through this Report, we are seeing that we are going further into integrating. That is because by suggesting legal practice and co-operatives be harmonized throughout the region, this is good. It is geared towards the interactive aspect of what we have always wished the East African Community to be. Kenya has the largest economy in this region. All the economies of four nations combined make that of Kenya. It is to the advantage of our country. Steps are being taken to harmonize professionalism, which is the first thing. We have started with the legal practice across the region.

The other one is the East African Community Co-operative Society Bill, which has been suggested. Throughout this region, Kenya contributes a lot in terms of co-operative movements. Extending our business to other regions is a big advantage to us.

I beg to support.

The Temporary Deputy Speaker (Hon. Kajwang): Member for Taveta, I recognize your seniority in the House. But allow the Member for Nyeri, who has been waiting for quite some time, to do a three-minutes speech.

Hon. (Ms.) Kanyua: Thank you, hon. Temporary Deputy Speaker. I am also happy to participate in this debate of the Report and to congratulate the Committee led by my friend hon. Kajuju, who was, at one time, the Vice-Chair of the Law Society of Kenya (LSK). So, in terms of the matters around cross-border practice, I would want to believe that the Committee has actually dealt with it and it up to us to support this Report.

The reason why I support the Report on regional integration is because of the comparison between what is happening in East Africa with what is happening in the Economic Community of West Africa States (ECOWAS). In East Africa, we need to move a bit faster in terms of integration. In ECOWAS in West Africa, students as early as Class VI and VII get a chance to travel to the countries in their region. As early as 14 or 15 years, you have had a chance to go to Lagos, Accra, and Sierra Leone.

In this region of ours, and in a country where we are still tackling issues of tribalism, it would make a lot of sense to have a chance to go to Kampala, Bujumbura or Kigali. Therefore, in this House, as we support the East African integration, we are actually supporting a Report that does make meaning to the citizens of this country. This relates to the civic education matter, which is part of what the Integration Bill has tackled. We do need a lot of information and education on what is happening in terms of integration. So, I support the Committee in what they have recommended; that the Integration Bill is looked at again in terms of matters of education.

On matters of co-operative societies, we know that this country is leading in terms of SACCOs and what we have done with them. What the Committee has recommended in looking at the Societies law in our country *vis-a-vis* the East African region is very valid. We still want to see SACCOs that are not just local, but could even be cross-

border by having members from other countries. I am yet to see a banana SACCO despite this being a region that has lots of bananas. There would, indeed, be a lot of work around the co-operative societies.

As I wind up, I just want to reiterate what we say in Nyeri: “That to go is to see. To go to East Africa is to see more.” Let us support this Report, adopt it as a House and have an East African integrated community in line with His Excellency President Uhuru Pan-African approach, where we can have better regions and more purchasing power. I support and congratulate the Committee.

Thank you, hon. Temporary Deputy Speaker.

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

Hon. Anami: Thank you, hon. Temporary Deputy Speaker for giving me this chance. I wish to support the adoption of this Report because East Africans, for a long time, have been bound together by our history and the co-operation which has continued to happen between them. In fact, this is the right time for us to intensify integration and the common market.

Hon. Temporary Deputy Speaker, when this comes before us, I start reflecting on the dysfunctional defunct East African Community (EAC) institutions like East African Airways (EAA) and others. We have, especially in my constituency, people who worked for those institutions and they have unfinished business. They have not been paid their dues and through this, I see an opportunity for them to reflect on this and, maybe, make claims of their unpaid dues.

Hon. Temporary Deputy Speaker, the co-operative movement is very important. It is responsible for the economic emancipation that has happened in Kenya. This is an example of best practices that we can share within the East African regional economic institutions so that we can all move together alleviating poverty among our people.

The educational agenda is critical. If we have to promote a common market, then we have to have a common basis for human resource development. We have had a lot of questions on whether or not some of our economic institutions are meeting the standards of their graduates. Perhaps, this is the time for us to harmonise those standards and move together as East Africans. Having put together this wonderful region of East Africa, it is only fair that we work together as has been the case in history.

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

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

Hon. Shidiye: Thank you, hon. Temporary Deputy Speaker. From the very outset, I want to support this Bill. These Bills are very crucial. You remember the EAC has become a model of other integrations. It has been modeled on the European Union (EU) and it has benefitted immensely.

Hon. Temporary Deputy Speaker, this country has got a lot of skilled manpower that can be exported. In the legal fraternity, for instance, we have about 7,000 lawyers and the market is not big enough in this country. So, it is very important that the legal profession can practice in Tanzania, Uganda, Rwanda and Burundi. I think time has come also for us to extend and enlarge the EAC to include Ethiopia, Somalia, Djibouti and others. Why do I say so? I say so because the market will grow. If right now the EAC is about 150 million and when we have the rest, we will have about 300 million people.

The Temporary Deputy Speaker (Hon. Kajwang): Member for Lagdera, I am trying to find out whether it is the technology which is not compatible with your voice.

Hon. Shidiye: No. I am a bit tall and that is why. Let me come down like this.

The Temporary Deputy Speaker (Hon. Kajwang): Yes. Bring yourself closer to the microphone, so that we can follow you.

Hon. Shidiye: Hon. Temporary Deputy Speaker, time has come for us not only to think big, but to organise ourselves because this country is one of the most vibrant. It is the driving factor of the EAC. You will realise that Kenya has one of the largest elites – people who are highly educated and skilled and that is why I was saying that we need to export this skilled manpower across the borders. You will realise that Tanzania and Uganda do not have many in the legal profession. That is why I was saying that we need to export some of them across the borders.

Hon. Temporary Deputy Speaker, in terms of education, we need to have a similar system. You remember Tanzania had the “A” Level system unlike the 8-4-4 system. Uganda has the “A” Level system. We need to have a system where all the countries, whether you are in Tanzania, Uganda or here in Kenya, have a similar system such that, when you want to transfer your credits to another university or you want to work in another country, people can understand and read your papers *in tandem* with the rest---

The Temporary Deputy Speaker (Hon. Kajwang); Thank you. Member for Homa Bay Town.

Hon. Kaluma: Thank you, hon. Temporary Deputy Speaker. Time has been reduced. I had a lot to speak but I will try to put them together. In my life as a lawyer, I have acted for businessmen particularly in the transport sector who move between Mombasa, Kampala down to Rwanda and, at times, to Tanzania. In my practice, I usually arrange with them to pay me for a whole year, what in the legal practice we call a retainer. The problem we have had is that once the transporters cross our border at Malaba, they have to get another lawyer if a legal issue arises across in the other countries to represent them.

Hon. Temporary Deputy Speaker, so, I am saying this is not just about the legal practitioners. It is also about reducing the cost of business and for that reason, I really support the Cross Border Legal Practice Bill and the Report by the Committee. I remember my firm also did the concessioning agreement for the Kenya Railways Corporation and just before the agreement was to be put in action between the Member States, particularly Kenya and Uganda, there were issues of pre-concessioning agreement litigation. That is that though we did the agreement as a law firm and we would defend it better, the litigation arising from the side of Uganda was to be done by lawyers on that side. That became very difficult because we then we had to sit with lawyers briefing them on the pre-documentation negotiations which were under this agreement. So, this is very important. I know on the Kenyan side, we have permitted all lawyers practising across East Africa to come to this side. There should, therefore, be no problem.

I want to say lastly that in this Cross Border Legal Practice Bill, if you look at the composition of our Judges and Magistrates Vetting Board across here, I think the nation needs to know that the former Chief Justice of Tanzania is really sitting as a member of the Board. The former Deputy Chief Justice of Uganda is sitting as a member of the Board and this is because we have a lot to share. I wrote a book before I came to

Parliament whose greatest sales are in Uganda and, indeed, in Tanzania. This confirms how integrated - even in terms of legal practice by dint of our colonial history - we are.

So, I support this Motion but hon. Temporary Deputy Speaker, I would not have supported this Motion if it were about a political federation. That is because, as you know, Tanzania is a social democracy, Kenya is a presidential democracy and Uganda is something between a military dictatorship and a military democracy. I do not know what to call it. I think for political federations, we need time to co-gel as a people and to be confident that we can move together.

Hon. Temporary Deputy Speaker, I would have spoken more. But because of limited time--- I do not know whether my time could be added because I wanted to---

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

Hon. (Dr.) Shaban: Thank you, hon. Temporary Deputy Speaker. I wish to add my voice to that of my colleagues in congratulating hon. Florence Kajuju and her team for a job well done. This Motion could not have come at a better time and, more so, at this point when our President Uhuru Kenyatta is actually the Chairman of EAC.

Hon. Temporary Deputy Speaker, for us who come from border places like Taveta, we appreciate quite a lot of things that happen. This Motion and the Bills that are attached to it are coming just at the right time. It should have been done, in fact, earlier on because that is what would have brought an improvement to our people. Cross border business has always been a nightmare. Things are put in place but, somehow, we find Kenyans suffering going across the other side. Those are teething problems and I am sure they are being sorted out by the Ministers who are in charge of EAC.

However, I just want to point out that because we come from the border places, we see quite a number of children coming from across and when they go back, they have a problem of being integrated back. Even when our children go there and they come back to Kenya, they have a problem of being integrated back into our systems simply because the education curricula are not harmonized. There are certain things that people have not learnt, and which would be useful to EAC.

So, this Motion is just it. I am sure that every community that lives in border areas appreciates this Bill more than other people who, maybe, do not even know what happens there. I am well informed that we have 10,000 lawyers in this country. Those are professionals who are well educated and endowed with the right background and foundation to practice law all over. This is the time we really need to move and use those good brains. Even internationally, our lawyers are known all over. Back home, within the EAC, they have to be appreciated. More so, you find Kenyan lawyers even being consulted by lawyers from other countries to see how the lawyers from other countries can benefit.

Hon. Temporary Deputy Speaker, on the issue of co-operatives, again, I want to say the same. We cannot empower people without having a co-operative---

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

Hon. Mulu: Hon. Temporary Deputy Speaker, considering the kind of support that this Motion has received from this House, would I be in order to move that the Mover be now called upon to reply, so that we can move to the next agenda?

The Temporary Deputy Speaker (Hon. Kajwang): Hon. Members, I will put the Question.

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

The Temporary Deputy Speaker (Hon. Kajwang): Yes, Mover!

Hon. (Ms.) Kajuju: Hon. Temporary Deputy Speaker, may I, at the outset, thank all my fellow hon. Members who have supported this Report. As East Africans, we believe that this is a good Report.

I would like to just point out some issues which have been raised by hon. Members on the Bills. Hon. Members will notice that the Bill on Education, in particular, seeks to deliberately deal with civic education. We have proposed an amendment to the Bill, so that the unit bit reads “civic education unit”. What this Bill seeks to do is only dealing with issues of integration, and not on issues of education generally. There was fear that we have not recommended the development of any curriculum. The Bill talks about development of curriculum for civic education by the relevant institutions within the partner states.

Hon. Temporary Deputy Speaker, we have been asked whether we consulted the various stakeholders. From the Bill, it is evident that various institutions were consulted. Most importantly, regarding the Bill on the integration of the co-operative movement, we consulted professionals and received a detailed critique on it – which issues were taken on board by the Committee.

The break-up of the former EAC in 1977 was generally due to the fact that there was no political goodwill amongst the leaderships of the various member States. Over and above that, there were no legal mechanisms to govern and retain the institutions of the former EAC. Therefore, the integration failed. This is, therefore, a deliberate move by EALA to ensure that there are legal frameworks within which the EAC can operate, thereby, speeding up the process of integration. More importantly, the Bills have come to the House at a time when our President is currently the Chairperson of the Heads of States Summit of the EAC, whereas Cabinet Secretary Phyllis Kandie is the Chairperson of the Council of Ministers.

These Bills actually seek to harmonise the various Bills that refer to various countries within EAC. Therefore, this is a good way forward to enable us have a general legislation that will govern the five partner States. I would like hon. Members to note that what governs us, as East Africans, is that we to have a community of one people with one destiny. That is the *Motto* of EAC. Most importantly, we are moving towards the mission of the EAC that talks about widening and deepening the economic, the political, the social and cultural integration in order to improve the quality of life of the people of East Africa, through increased competition.

Hon. Temporary Deputy Speaker, as it has been said, we are around 150 million people within EAC. It is, therefore, very important that, at the beginning, we harmonise the integration process through the various Bills that have been brought. I am happy to report that this being our first Bill from the Regional Integration Committee, it has received 100 per cent support. I pray that today, we stand up as East Africans, support

these Bills and our Members within EALA and encourage them to ensure that they move into all the other aspects that affect us as East Africans, and be able to bring other legislations, so that we can harmonise not just the Bills that are before this House today, but also other Bills that affect other aspects of life within EAC.

Since we have already satisfied with the Customs Union Protocol, the Common Market Protocol and the Monetary Union, and we intend to move towards a political federation; this is important because it will give us the stepping stone towards the complete establishment of EAC.

Hon. Temporary Deputy Speaker, I thank you and my colleagues. I request them to support this Report and pass it as it is.

Thank you.

Hon. Temporary Deputy Speaker (Hon. Kajwang): Hon. Members, I order that the Question upon this Motion appears in this afternoon's Order Paper. So, let us move to the next Order.

MOTION

ADOPTION OF REPORT ON BILATERAL AIR SERVICE AGREEMENTS

Hon. Kamanda: Hon. Temporary Deputy Speaker, I beg to move:-

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

Hon. Temporary Deputy Speaker, the Bilateral Air Services Agreements were tabled in the House by the Majority Whip on Tuesday, 19th November, 2010 and were subsequently committed to the House Committee on Transport, Public Works and Housing. The Committee held a number of Sittings during which, a delegation from the Ministry of Transport and Infrastructure appeared before the Committee and the agreements were considered in accordance with the Treaty Making and Ratification Act, 2012.

A bilateral air agreement is entered into by two nations to allow international commercial air transport services between their territories. Before an airline can operate an international service in another country, the home government of that airline must, first, negotiate, at treaty level, an agreement with the destination country's government. Bilateral air services agreement or arrangement contain the following key provisions:-

(i) Traffic lights that can fly, including cities that can be served between and beyond bilateral partners,

(ii) The number of flights that can be operated or passengers who can be carried between bilateral partners.

(iii) Ownership and control. In this regard, the agreement elaborates the number of bilateral partners that can be nominated to operate services and ownership criteria that airlines must meet to be designated under the bilateral air services agreement.

(iv) Tariffs. It is worthy to mention that international aviation is regulated by a complex website of 3,000 inter-locking bilateral air services agreement. In the recent years, a group of countries have come together to negotiate their services agreements, commonly known as bilateral agreements. However, the majority of them---

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

The Temporary Deputy Speaker (Hon. Kajwang): Will you hold on a minute.

Hon. Okoth: Hon. Temporary Deputy Speaker, I rise to seek your guidance because the matter that is under discussion, which is this Motion that is very important on bilateral treaties, brings to mind the notion that our President came here recently and gave three reports to Parliament; the State of the Nation, National Security Report and the Status of our International Obligations. We only had one chance to discuss the State of the Nation Address in general, but we did not have a chance yet to discuss the two other reports. I note that the Senate has already had a chance to discuss those reports. So, I was just seeking your guidance because of the issues at hand. Where are we and when will the House discuss those two other reports?

The Temporary Deputy Speaker (Hon. Kajwang): Well, I was waiting for you to inform the House what is out of order so far as the Chair or Chamber was discussing this Motion. Yes, you have adverted to some other thing. But is that an issue out of order?

Hon. Okoth: No, hon. Temporary Deputy Speaker. The Chairman is doing a fantastic job. I respect him highly and he is an example to the other Chairmen.

The Temporary Deputy Speaker (Hon. Kajwang) I was going to rule you out of order, but I am informed from the Table that, yes, those issues that you referred to are before the House Business Committee (HBC). They are going to be scheduled properly. I think then hon. Members will have an opportunity to look at them.

Hon. Kamanda: Hon. Temporary Deputy Speaker, allow me to point out a number of benefits associated with the bilateral air services agreements. One is to allow scheduled air carriage flights between territories, for example, between Kenya and other States hence leading to construction of required infrastructure facilities such as airports and create employment. You will remember that we are expanding our Jomo Kenyatta International Airport (JKIA) so as to cater for those people who have entered into an agreement with us.

There is also facilitation of trade between member States, ease of movement of persons and goods between Kenya and other States. There is more than 80 per cent of tourists who are using that agreement. There will also be co-operation arrangement between States. The Competition Authority has been facilitating joint assessment of alliances between Kenya and other State carriers, for example, KQ and KLM.

They will also create a market access for flights between Kenya and other States thus creating a level playing field between Kenya and other carriers.

This is in summary form but the whole document is there; article by article. There are many articles and I hope hon. Members got it two weeks ago and they have gone through all the articles. These are documents that are negotiated by highly placed people in the Government. For all the bilateral agreements, Kenya had sent a delegation and so,

it is something that has been anchored by our delegation that has been representing the country. I just want to acknowledge that the Committee is grateful to the Office of the Speaker and the Clerk of the National Assembly for the logistics and technical support accorded to it during its Sittings.

In conclusion, it is imperative that this House adopts this Report on the consideration of bilateral services agreements that allow the Cabinet Secretary for Transport and Infrastructure to prepare instruments of ratification within 30 days pursuant to Section 7 of Treaty Making and Ratification Act No.45 of 2012.

With those remarks, I beg to move and request the Vice-Chairman of the Committee, Hon. (Eng.) Mahamud to second it.

Hon. (Eng.) Mahamud: Hon. Temporary Deputy Speaker, I beg to second this Motion. This is a requirement that any agreement that the Government enters into pursuant to the International Conventions and Treaties must be approved by this House. The Report is anchored on the Treaty Making and Ratification Act No.45 of 2012. Kenya is also a party to the Convention of International Civil Aviation which was opened for signature to party members in 1944. We are member No.31. This particular agreement is asking us to sign an agreement which is an air services agreement between the Government of Kenya and the Governments of Angola, Mozambique, Canada and the State of Kuwait. The concerned Ministry has already negotiated with those countries very elaborately. In fact, there is an MOU in the report which is before the House. In the Report, we have all the four agreements which are there and they have common features. The rights that are being negotiated between the member countries are at three levels. One is to fly without landing across the territory; that is the airlines of member States can fly across the country without landing. The other one is to make stops in the said territory without carrying passengers and the third is where you stop and carry traffic between the two countries.

In the Report, there is a requirement that the countries designate airlines that are going to fly. In our country, I think it is KQ but nothing stops this country to designate other airlines in future. However, this is open to discussion between the country and the other contracting parties. The Report is very elaborate. I think we have gone article by article within the Report. We have seen they are consistent with the provisions of the Ratification Act No.45 of 2012 and what is required of us - just because this was negotiated by experts from the Civil Aviation Authority, the Ministry of Transport and Infrastructure and the Attorney-General's Office, as the Assembly of this nation is to agree so that we know our airline and the airlines of Angola, Mozambique, the State of Kuwait and Canada can fly within the confines of the agreement which was signed and negotiated. This will enable our people to move freely.

With those few remarks, I beg to second.

(Question proposed)

Hon. (Capt.) Wambugu: Thank you, hon. Temporary Deputy Speaker. I also rise to support the Motion. I am also a Member of the Committee. It is good to say that we have looked at all those documents and found that they were in order. We encourage the Government to go ahead and enter into agreements with those countries.

Like it has been said before, the importance of the bilateral agreement is to give permission to airlines or other operators operating into different countries, especially over-flights--- If you are flying from one place to the other, other than going round an airspace, you can overfly directly thus reducing costs. Otherwise, if you do not have that, you will be deemed to have infringed the airspace of that country and it could be a security threat.

The other one like the Member said before is technical. It allows airlines to land in areas where they have been given permission for technical reasons such as refueling, in case of an emergency and all the others.

It becomes difficult when you do not have the technical rights and you are overflying airspaces and something happens or you run out of fuel, trying to get a diversion. It is also a way of reducing direct costs on operations once we get that.

Hon. Temporary Deputy Speaker, the main one that touches on us is on the carriage of persons, where we have an airline that can be designated to--- For example, Kenya Airways is being given permission or rights to land in a place like Lusaka with only one stop; going to Lusaka and coming back without any other rights into that country. That is one of them. Another one is when you land in the main capital of a country and from there you are given permission to proceed to another town within that country. This, sometimes, becomes very difficult if it is not negotiated for. However, I am very happy because most of these agreements have really catered for that. For example, Angola, Kuwait and one into Canada.

As we go along to do this, you will find that in the other countries, their respective governments are giving a lot of support to their airlines. However, in our country, you will find that our Government has not been able to give the same support to our operators. Kenya, unless it pulls up its socks, we might end up losing a lot of money because we do not give the capacity to our airlines. I will give an example. Recently, there was the introduction of VAT to aircrafts and aircraft parts. What is the interpretation of that? You will find that operations in this country will be very expensive.

When we were debating the amendment Bill, I asked the Government to look at this issue critically because what will happen is--- Though it has been suggested and even requested by the International Civil Aviation Organization that countries should support their local operators so that they can be able to reduce the cost of flying, we are doing the reverse in our country.

As we move along, I was in touch with the Chairman of the Departmental Committee on Finance, Planning and Trade who told me that they will look into the matter when we discuss the Finance Bill of 2014/2015. But I think that this issue needs to be looked into even earlier because we could be closing down the airlines in this country.

Hon. Temporary Deputy Speaker, if you look at the capabilities of various operators, you will find that it is the Government that comes up to guarantee the airlines in other countries, so that they can source for better and modern equipment. As a country, I know we are proud because we were able to get the Dream liner Aircraft. I hope the Government was able to remove VAT on the engines because most of the times, when you get a new aircraft, for you to operate it properly, you need to have those spare engines standby. Most of them are on lease. Therefore, when you put VAT or any tax on

engines and aircrafts, you punish all the other operations. That makes the operations very expensive. While we do that, we also need to look at the facilities and the infrastructure in our country.

Hon. Temporary Deputy Speaker, in other countries where we fly to, most of them have installed the latest technology and equipment. Of course, that leads to saving lives especially in bad weather. That is because the aircrafts are able to land even in very bad weather. But in Kenya, we still have the old type of equipment that can only bring you down to about 200 feet. That forces the aircrafts to divert to other airfields in case of bad weather. We request the Government to start putting in more money so that we can improve our airfields to the highest levels of standards that are in other countries. That will improve our operations for even our neighbours and other operators who want to come into this country.

As I conclude, there is an issue about training in this country. Formerly, our pilots used to go to Soroti. That is where we used to have the East African Flying School. But as at now, the Government is not even been able to establish an aviation school in this country. We are asking the Government to move very fast and establish a flight training school in this country.

With those very few remarks, I beg to support and ask all the other hon. Members of the House to support this Motion.

Hon. (Ms.) A.W. Ng'ang'a: Thank you very much, hon. Temporary Deputy Speaker. I rise to support this Motion on the Bilateral Air Services Agreements.

We could have done this like yesterday to have the agreements between the airlines and the countries. Therefore, our Government needs to sign these agreements so that we can trade with other countries.

Hon. Temporary Deputy Speaker, as we all know, as much as we are doing that, we have a lot of challenges as the Kenyan Government, especially when we come to our airline. All of us have been travelling and we know that the competition is stiff. When hon. Members and Government officials want to fly out of the country, they stay away from our airline – Kenya Airways (KQ). We know why. When you use it to travel, it will delay you even for three hours. The services that you get from them are not good compared to the other airlines.

Therefore, as much as we are making these agreements with other countries – which is very healthy - our airline KQ needs to be very creative and innovative. We need to up the game so that we can benefit from these agreements. If we do not, people will still choose to fly with other airlines because of the poor standards of our airline.

Hon. (Capt.) Wambugu: On a point of order, hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Kajwang): Are you sure that it is a point of order or a point of disagreement? Is it something that you think the hon. Member is not saying as it should be? Before I give you the microphone, is it a matter of the hon. Member being out of order or something which you think the speaker is not getting right?

Hon. (Capt.) Wambugu: Hon. Temporary Deputy Speaker, let me put---

The Temporary Deputy Speaker (Hon. Kajwang): Well, if you insist on getting the microphone, I will give you the microphone. But are you on a point of order or you are trying to---

Hon. (Capt.) Wambugu: It is basically a point of order because the hon. Member has said that KQ normally delays for up to three hours. I do not know whether the hon. Member is in order to quote that if she does not have substantive information.

The Temporary Deputy Speaker (Hon. Kajwang): Where did you get the view that she does not have information?

Hon. (Capt.) Wambugu: Hon. Temporary Deputy Speaker, if there is such information, may it be laid on the Table of the House so that we can go through it. That is because I do not believe it is so.

Thank you.

The Temporary Deputy Speaker (Hon. Kajwang): All right. Hon. (Ms.) Ng'ang'a, can you respond and finish your contribution? Probably, you could quote the source of your information.

Hon. (Ms.) A.W. Ng'ang'a: Thank you, hon. Temporary Deputy Speaker. I had to say it. It is not because I got it from any other person. It is not that I have been told by another person. I am speaking on my behalf. Recently, I was travelling to Dubai and I had to stay for---

The Temporary Deputy Speaker (Hon. Kajwang): So, hon. Member, she is relying on her own information, which I find to be in order.

Hon. (Ms.) A.W. Ng'ang'a: Hon. Temporary Deputy Speaker, I want to finish by saying that I was flying to Dubai and I was delayed for three hours at the airport and yet, I was there on time. Even as I was coming back, I was delayed for three hours from the other side. The other day, we, the Members of the Budget and Appropriations Committee were travelling to Mexico and we were delayed for three hours. They always give reasons. If it has not happened to you, Member for Mathioya, then it will be happening to you soon.

The Temporary Deputy Speaker (Hon. Kajwang): Well, now you are getting out of order. Do not address a hon. Member.

Hon. (Ms.) A.W. Ng'ang'a: Thank you, hon. Temporary Deputy Speaker. I support the Motion because these agreements are in order. We need to sign them very fast. With these agreements, we will save time in terms of connections. If we have landing permission, it means we will not have to go through other routes. This will save us time to do our businesses. We will not have to delay to wait for the next connections. We will connect to those countries direct. We will also save our resources in terms of money because the many times you connect, the more money you spend. When you are bringing in goods from those different countries, the many connections makes the cost high.

I also want to support this Motion because if we have direct connections, businesses, especially the flower business, will be boosted. We will not have to pass other countries because, as you know, flowers are fragile products that need to have direct connections to those areas, especially Canada. We will have more business between us and the Canadians, the Angola people and the Mozambicans. Some of the products that we could not fly direct, we will be able to fly them direct.

We have launched the *Uwezo* Fund for our youth. If some of those countries open up with this kind of agreement, it will mean that we will have markets. We can tell our

youths and women to do agro-businesses because we have the market in Canada or Mozambique.

I beg to support. Let us do it. We could have done it yesterday because it is important.

Hon. Okoth: Hon. Temporary Deputy Speaker, I also rise to support this proposal to approve the bilateral agreements of air services between Kenya, Canada, Mozambique, Angola and the State of Kuwait. I would also like to urge that in that spirit, given the comments made by the last Member, the *Uwezo* Fund, though it has been launched, the money has not reached the ground. So, our young people who are eager to do businesses, export and import things from the countries which we will be trading with, do not have the money. So, it is in this spirit that I ask all the Members of the House who have an influence with the Jubilee Government and the Cabinet to push for the quick delivery of that money to constituencies such as Ruaraka and Kibra, so that our young people can start doing business with it.

With those few remarks, I beg to support.

The Temporary Deputy Speaker (Hon. Kajwang): Thank you for being very generous to the people of Ruaraka. Member for Mwingi East.

Hon. Kitungi: Thank you, hon. Temporary Deputy Speaker. I am the Member for Mwingi West.

The Temporary Deputy Speaker (Hon. Kajwang): Well, on the console, I have here Bernard Kitungi, Member for Mwingi East. Is that correct?

Hon. Kitungi: It is Mwingi West.

The Temporary Deputy Speaker (Hon. Kajwang): Then just after the adjournment, please pass by the reception so that you are able to correct that mistake. I think it is a mistake.

Hon. Kitungi: Hon. Temporary Deputy Speaker, first of all, I rise to support this very important Motion. If the agreement is signed, it will create a lot of facilities as we increase services in this country. The creation of more facilities will also create trade opportunities, so that we can trade with those States. This is very healthy to this country.

Hon. Temporary Deputy Speaker, the co-operation among the States - and especially when we have these agreements - is very important especially to the people who are working in different States. This one can create a market as we continue having the co-operation between the States once these agreements have been signed.

Hon. Temporary Deputy Speaker, as it has been said, the Women Fund, which is now being created and we are waiting for the funds, will have a lot of business and products which we can easily transport to our neighbouring States. Also, as we continue with these services, the agreements will allow the improvement of services and as it has been said. Sometimes, you delay so much in airports waiting for connecting flights. However, with many airlines coming into our country, we will have an easy way of travelling.

With those few remarks, I support this Motion. Thank you.

The Temporary Deputy Speaker (Hon. Kajwang): Thank you. Hon. Members, I wish you were this brief and short to the point as hon. Kitungi has been on this Motion. Let us have the Member for Emuhaya.

Hon. (Dr.) Ottichilo: Thank you, hon. Temporary Deputy Speaker. I rise to support this Motion. First, communication is very important. Without it in any country, we cannot have economic development. So, I believe this proposed Bilateral Air Services Agreement with countries like Angola, Mozambique and Canada is very timely. We need to do business with various countries and air communication is very crucial and fast. It can yield a lot of dividends in a very short time.

Hon. Temporary Deputy Speaker, we have had diplomatic relations with the Government of Canada for a long time and it is sad that, to date, we do not have direct air communications between Kenya and Canada. I believe this Bilateral Agreement will be very crucial so that we can have direct links with countries like Canada, where we have a lot of business and students learning in various institutions. I also believe that we already have Kenya Airways flying into Angola and Mozambique. It is important that we have a bilateral agreement so that our airline can get the appropriate services and attention when it is necessary.

Hon. Temporary Deputy Speaker, I also want to echo the issue raised by Capt. Wambugu regarding the increased Value Added Tax (VAT) on aircraft parts. This is going to make air transport very expensive in this country and, as Capt. Wambugu has alluded to, we are likely to lose a number of aircrafts who actually fly into this country. They will change their destinations to other countries. So, it is important as a country to reconsider this decision to charge very expensive VAT rates on aircraft parts.

As you realise, aircrafts are very delicate instruments and you cannot afford to make a mistake and, therefore, servicing of aircrafts is a must and can never be delayed. Therefore, when we put a lot of VAT on these parts, chances are that some of the aircraft companies may want to take a chance to start, probably, not servicing their aircrafts as required and this could lead to various disasters. So, we would want, once again, as we finalise the VAT Bill, to relook on this issue.

Hon. Temporary Deputy Speaker, I finally want to echo the issue of VAT as regards air tickets. If you look at an air ticket, you will realise that a big part of the cost of air travel is attributable to VAT. That discourages many Kenyans from flying. It is important that we promote air travel because it is faster. Air travel enables one to accomplish many errands in different places within a short time. Therefore, we need to look into the issue of VAT on air tickets with a view to making air travel affordable to every Kenyan.

With those few remarks, I would like to support this Motion.

The Temporary Deputy Speaker (Hon. Kajwang): Yes, Member for Nakuru Town East!

Hon. Gikaria: Hon. Temporary Deputy Speaker, I would like to thank the very effective Committee on Transport, Public Works and Housing for bringing this Report to the House.

It is important to note that, as per the provisions of the Constitution, we need to seek Parliament's approval. It is very important for Kenyans, through Parliament, to go through the agreements that have been prepared by the Cabinet Secretary and appreciate their contents. The law requires that treaties must be in conformity with our Constitution. Therefore, anything that contravenes the Constitution must be rejected by this House. I

want to thank the Committee for taking due consideration of the Constitution, as required by law, and going through the treaties and coming up with a Report.

Although I did not hear the Chairperson make reference to public participation during their deliberations, the effect of public participation as regards this issue is very important. Members of the public should have appeared before the Committee to give their views. The relevant stakeholders, especially, should always be given an opportunity to air their views. I am saying this because one of the issues that came up last year is about the agreement between Kenya and Nigeria. When an aircraft took back to Nigeria one of those unwanted persons by the name of “Chinedu”, our flight was held up in that country for quite a long time, without the authorities following the due process of the law as provided for under Section 22, where it says that settlement of disputes procedure must be followed.

It is, therefore, very important for us to understand as to what really calls for aircrafts from this country to be held up in a foreign country and yet, there are agreements in place. So, it is important for us to check on such eventualities as we move forward. This Motion is on issues to do with commercial air transport, which is very important. This country is not locked on itself. It needs to do bilateral trade with other countries and be able to earn the very much needed foreign exchange for this country, so that it can be able to compete with other countries in the area of air travel. Commercial air transport across territories is very crucial for this country.

Hon. Temporary Deputy Speaker, the other bit is about traffic rights. As it has been said, as a country, if you want to travel from one region to another, you may have to land in some place and wait for another flight to connect. This treaty gives birth to a situation where commercial airliners can fly through territories without having to land in that country, with the effect of making the commercial airline business very lucrative. Our customers will be able to fly without having to do a lot of connections. They can be able to fly through a territory without having to land in those territories.

Again, something that has been raised by the Committee---

The Temporary Deputy Speaker (Hon. Kajwang): David, I am persuading you, without compelling you, to finish in another one minute, so that the Speaker can do something here.

Hon. Gikaria: Hon. Temporary Deputy Speaker, of course, with your direction, I will do so.

Lastly is about the pricing or tariffs. It is important for us also, as it has been said, that this be approved so that it can assist in the competition policy. The safety issues of air travel and security are very paramount. You will find many countries have been bogged down by insecurity issues because of the lukewarm rules and regulations on flights.

Hon. Temporary Deputy Speaker, with those few remarks, I beg to support.

The Temporary Deputy Speaker (Hon. Kajwang): In view of the time that I see is encroaching fast and cognizant of the calendar which is before us, working under Standing Order No.1, I hereby direct that the House will extend for ten minutes to allow the Mover to reply.

Hon. Kamanda: Hon. Temporary Deputy Speaker, can I donate one minute? I will be very brief.

The Temporary Deputy Speaker (Hon. Kajwang): You do not take a minute--- Do not take away the privilege of the Speaker. You may want to come and sit here to do what you want to do.

Hon. Kamanda: I am sorry, hon. Temporary Deputy Speaker. Let me thank hon. Members who have contributed to this Motion and those who did not get time to contribute, like hon. (Ms.) Nyokabi. My Committee went through all these issues that hon. Members have talked about; monopoly of our airlines, pricing and we have agreed that we will invite those airlines and discuss the modalities because we feel there is monopoly in this country.

Some of these agreements were signed in 2011 and you can imagine from that time that there are some countries that have wanted to pull out because they have seen there were delays. I want to thank hon. Members who have contributed and supported this because, as one hon. Member has said, communication is development. If you do not communicate, then there will be no development. We have also heard from hon. Members about delays and we are going to pass that message to the concerned airlines. That is because as hon. Waititu has stated here, it is true that, sometimes, there are delays at the airport and mostly by our national carrier. I believe that this is one carrier that has monopoly in the country.

On safety, this will be addressed by the MoU, article by article. They have taken all measures to ensure that the negotiations were done by very highly powered delegations. I did not read all the names that negotiated these treaties, but they are documented in the Report.

So, with those few remarks, I want to plead with hon. Members to support this Motion and adopt the Committee's Report to enable the Cabinet Secretary to prepare the instruments of ratifications of these treaties.

I beg to move.

The Temporary Deputy Speaker (Hon. Kajwang): Hon. Members, the Question on this Motion shall appear on the Order Paper of this afternoon to be taken by the Assembly in Plenary.

ADJOURNMENT

The Temporary Deputy Speaker (Hon. Kajwang): Order, hon. Members! The time now being 12.30 p.m., that brings us to the end of business this morning. The House is, therefore, adjourned until this afternoon, Tuesday, 29th April, 2014, at 2.30 p.m.

The House rose at 12.30 p.m.