

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 5th August, 2014

The House met at 2.30 p.m.

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

PRAYERS

Hon. Speaker: Let us have the hon. Leader of Majority Party.

PAPERS LAID

Hon. A.B. Duale: Hon. Speaker, I beg to lay the following Papers on the Table:-
Report of the Auditor-General on the Financial Statements of National Irrigation Board for the year ended 30th June, 2013, and the certificate of the Auditor-General therein.

Report of the Auditor-General on the Financial Statements of the Kenya Re-insurance Corporation for the year ended 31st December, 2013 and the certificate of the Auditor-General therein.

Report of the Auditor-General on the Financial Statements of Jaramogi Oginga Odinga University of Science and Technology for the year ended 30th June, 2013, and the certificate of the Auditor-General therein.

Report of the Auditor-General on the Financial Statements of Kenya Nuclear Electricity Board for the year ended 30th June, 2013, and the certificate of the Auditor-General therein.

Report of the Auditor-General on the Financial Statements of the National Environment Management Authority for the year ended 30th June, 2013, and the certificate of the Auditor-General therein.

Annual Financial Statements of Kenya Coconut Development Authority for the year ended 30th June, 2013.

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

Hon. (Ms.) Nyamai: Hon. Speaker. I beg to lay the following Paper on the Table the House, Tuesday, 5th August, 2014:-

Report of the Departmental Committee on Health on the consideration of the National HIV/AIDS Authority Bill.

Hon. Langat: Thank you very much for giving me this opportunity. Pursuant to Standing Order 31(1), I seek leave to move a Motion for the adjournment of the House for the purpose of discussing the irregular allocation of land in Lamu.

Hon. Speaker, the recent pronouncements by the President that approximately 70 per cent of arable land in Lamu County was irregularly allocated to private entities during the period of 2011 to 2012 was very alarming. These land allocations were carried out in disregard of the law and the Constitution ostensibly with a view to claiming compensation under the Lamu Port, South Sudan Ethiopia Transport (LAPSSET) Project. It is distressing that this revelation may lead to the repossessing and cancellation of thousands of title deeds in the area. These allocations may have occasioned grievances among the original inhabitants of the area, and, possibly, contributed to tension and insecurity in that county.. I am concerned that such allocations pose both insecurity and sustainability challenges and may be a setback to national cohesion and integration efforts.

Hon. Speaker, I wish to request my colleagues, especially in the Departmental Committee on Lands, in conjunction with the relevant institutions, to investigate the matter and, possibly, provide a report to this House.

I request my colleges to give me support, so that we discuss this very urgent matter.

(Several hon. Members stood up in their places)

Hon. Speaker: Very well. It looks like you have the necessary support, hon. Langat. I will direct that, this Motion be moved for debate from 5.30 p.m., this afternoon.

REQUESTS FOR STATEMENTS

ETHNIC COMPOSITION OF NATIONAL POLICE SERVICE COMMISSION

Hon. Speaker: Hon. George Oner Ogalo, hon. Member for Rangwe, you have the Floor.

Hon. Ogalo: Thank you, hon. Speaker. As I make this request, I would like to draw your attention to the fact that this statement was first sought last year in June, and it has taken nearly a year. First, it was because the relevant committee was not yet set up and then it has now taken all this time since the committee was set up to be brought.

Hon. Speaker, I would like to seek a Statement from the Chairperson of the Joint Committee on National Cohesion and Equal Opportunity regarding the ethnic composition of the National Police Service Commission.

Hon. Speaker: Let us have hon. Sakaja, the Chairperson of that Joint Committee. Obviously the Vice-Chairman is from the other side. The Leader of the Majority Party will take up the matter and convey it to hon. Sakaja to respond to hon. Oner.

Hon. A.B. Duale: Hon. Speaker, hon. Sakaja told me verbally that he would be going to the USA, although that is yet to be confirmed from your record. Since his Vice-Chairman is from the other House, which is within the precincts of Parliament--- When I say “precincts of Parliament” I do not mean other houses to which we go and stay; I mean, the Senate. I will indulge my colleague, hon. George Oner, and an answer will be given in three weeks’ time.

Hon. Speaker: Hon. Oner, is three weeks’ time okay with you?

Hon. Ogallo: Hon. Speaker, I have waited for a year; so I can wait for another three weeks.

(Laughter)

Hon. Speaker: Very well. Hon. Mary Emaase.

MEASURES TO CONTROL TSETSE FLIES IN TESO SOUTH

Hon. (Ms.) Otucho: Hon. Speaker, pursuant to Standing Order No.44(2)(c), I wish to request a Statement from the Chairperson of the Departmental Committee on Agriculture, Livestock and Co-operatives regarding an outbreak of tsetse flies in Teso South.

Hon. Speaker: Hon. Nooru, the Chairman of the Departmental Committee on Agriculture, Livestock and Co-operatives. Who is the Vice-Chairperson? Is it Kareke Mbiuki? Where are the chairpersons of these committees?

Hon. Okoth, from where you sit, you said, Washington DC? I know that there are many stories and rumors doing rounds that everybody has gone to Washington DC. I want to confirm that I am not aware of that, and they are not supposed to travel without my permission. So, I suspect they are hovering around in the great City of Nairobi.

(Hon. Nooru walked into the Chamber)

The Chairman is making his way in. Hon. Nooru, the House starts at 2.30 p.m. Can you respond to this Statement request?

Hon. Nooru: Hon. Speaker, I first apologize for coming late.

We will give a response in the next two weeks.

Hon. (Ms.) Otucho: Hon. Speaker, I hope two weeks will be two weeks because this is a serious matter. If the flies are not controlled, the lives of human beings will be under a threat. I plead with the Committee to treat this matter with the urgency that it deserves.

ADHERENCE TO NIPCG FOR HEALTHCARE SERVICES

Hon. (Ms.) Mathenge: Hon. Speaker, pursuant to Standing Order No.44(2)(c) I wish to request a Statement from the Chairperson of the Departmental Committee on Health regarding adherence to the National Infection, Prevention and Control Guidelines (NIPCG) for healthcare services.

Hon. Speaker, the NIPCG for health care services in Kenya were developed in December, 2010 to help effectively manage healthcare associated infections. In the Statement, the Chairperson should inquire into and---

Hon. Speaker: Hon. Esther Murugi, we changed our rules. The Chairperson has--

Hon. (Ms.) Mathenge: It is fine, hon. Speaker.

Hon. (Ms.) Nyamai: Hon. Speaker, we undertake to respond in two weeks.

Hon. Speaker: Hon. Esther Murugi, is that okay?

Hon. (Ms.) Mathenge: I hope so, because there is still a pending Statement with the same Committee, which has not been delivered yet two weeks have elapsed.

Hon. Speaker: Hon. Nyamai, what do you say to that? Are you keeping another Statement?

Hon. (Ms.) Nyamai: Hon. Speaker, I am aware that we have a pending Statement, but I am going to pursue that matter; we requested the Statement from the Ministry. On for this particular one, I undertake that we will respond in two weeks' time

NON-DEPLOYMENT DCC IN HABASWEIN/WAJIR SOUTH

Hon. Mohamed Diriye: Hon. Speaker, pursuant to Standing Order No.44(2)(c), I wish to request a Statement from the Chairperson of the Departmental Committee on Administration and National Security regarding non-deployment of Deputy County Commissioners in the two districts of my constituency Habaswein and Wajir South---

Hon. Speaker: Stop those stories! He has the Statement! Yes, hon. Kamama.

Hon. Abongotum: Hon. Speaker, this matter is pretty urgent and we will take one week to respond to it. This is because having two districts without Deputy County Commissioners is bad for our security. We need these people there. Meanwhile, we will do with their deputies. District Officer Is will do the work as we prepare the Statement.

Hon. Speaker: Did you say you will respond in a week's time?

Hon. Mohamed Diriye: Hon. Speaker, one week is okay. But, Kamama, are you sure it will be one week? You know I sought another Statement but it has not been responded to!

(Loud consultations)

Hon. Speaker: Hon. Diriye, you are out of order. You cannot refer to your colleague as just "Kamama". If everybody recognizes you as Abdullahi Diriye--- I know this is a problem of--- You need to acquaint yourself with the language used in the House, and not that used out there. He is "hon. Asman Abongotum Kamama", the Member for Tiaty and the Chairperson of the Committee just as you are "hon. Abdullahi Diriye", the Member for Wajir South.

ADMINISTRATION OF MWANZELE SHOPPING CENTRE

Hon. Mutambu: Hon. Speaker, pursuant to Standing Order No.44(2)(c) I wish to request a Statement from the Chairperson of the Departmental Committee on Administration and National Security regarding the administration of Mwanzele Shopping Centre in Imba Location.

There has been conflict between the people of Mwingi Central Constituency and those of Bura Constituency.

Hon. Speaker: Hon. Kamama! He has this request and so he does not require the rest of the narrative.

Hon. Abongotum: Hon. Speaker, before I give an undertaking, in addition to what you said, I just want to remind my colleagues that apart from my names, I am also a

much decorated Kenyan with an MGH and OGW for serving this country with distinction.

We intend to take three weeks on this because we have to investigate how the administration of this shopping center is supposed to be managed. Three weeks will do.

Hon. Mutambu: Hon. Speaker, I stand guided by Hon. Abongotum, OGW.

(Laughter)

NON-COMPLIANCE WITH THE KYOTO CONVENTION OF 1974

Hon. Washiali: Hon. Speaker, pursuant to Standing Order No.44(2)(c), I wish to request a Statement from the Chairperson of the Departmental Committee on Finance, Planning and Trade regarding non-compliance by the Customs Department in verifying transit goods as required under the Kyoto Convention of 1974.

Hon. Speaker: Read the next bit. I want the House to be seized of the issue that you are raising.

Hon. Washiali: Hon. Speaker, Article No.32(8) of the Kyoto Convention, to which Kenya is a signatory, provides that arrangements should be made for measures of mutual assistance among the customs administration of the countries concerned with regard to verification of the accuracy of the documents describing goods transported under customs transit and the authenticity of the customs seals. However, in Kenya goods are transiting the customs points without being subjected to the requisite verification, making the country a transit point for illegal goods.

Hon. Speaker: Now the House knows.

Hon. Langat: Hon. Speaker, I want to promise my namesake that my Committee will look at this matter and in two weeks time I will deliver a response.

Hon. Speaker: Is that okay, Hon. Washiali?

Hon. Washiali: Hon. Speaker, as he proceeds to inquire about this matter, he may wish to call the KRA Commissioner-General. I request that when the Committee will be meeting him, he allows me to attend that meeting, so that I can also put a few questions to the Commissioner-General.

Hon. Speaker: You are perfectly entitled to meet the Commissioner-General and others. It is not just the Commissioner-General but any other person who may be there. You are entitled to appear and ask as many questions as will help us get proper answers.

Hon. Washiali: Hon. Speaker, I have no objection to two weeks. They are quite adequate.

RELEASE OF K.C.S.E CERTIFICATES

Hon. Shinali: Hon. Speaker, pursuant to Standing Order No.44(2)(c), I wish to request a Statement from the Chairperson of the Departmental Committee on Education, Research and Technology regarding the release of the Kenya Certificate of Secondary Education (K.C.S.E) certificates held by schools to affected students.

Hon. (Ms.) S.W.Chege: Hon. Speaker, I am very sure that the hon. Member already knows the stand of the Executive, because this issue has been in the public

limelight. I would like to request him to attend the Committee's sitting on Tuesday, where the Ministry will be answering questions, so that he can get further clarification on the matter.

The position as of now is that no school or school head should withhold any certificate, be it a KCSE or the KCPE.

Hon. Speaker: Hon. Shinali, I notice that you are using the card for Hon. Ali Wario; he has been generous.

Will you attend the Committee's meeting on Tuesday? I think it will be important to attend it.

Hon. Shinali: Hon. Speaker, I will attend the meeting because this is a hot issue even in our constituencies. We are making statements but headteachers are asking for official communication from the Executive, so that they can start giving out the certificates.

Hon. Speaker: Very well.

Hon. Wakhungu: On a point of order, Hon. Speaker. I rise to seek your direction regarding responses to Statements. Sometime back the Procedure and House Rules Committee made some amendments where on Wednesdays the House starts at 9.30 a.m. which has been implemented very well. There is also the issue of Cabinet Secretaries coming here to respond to some Statements. We would like to know whether this is still in place and when we will start seeing them coming here to issue Statements for purposes of ownership and accountability.

Hon. Speaker: The matter is being worked on by the Procedure and Rules Committee. There is a proposal for further amendment to the Standing Orders to be in line with the provisions of Article 153(3) of the Constitution, so that we do not proceed under Article 153(4)(b), as had earlier been proposed. The reasons will be provided by the Committee when they tabled their report. But that is work in progress.

Hon. Limo: Hon. Speaker, I stand here to seek your indulgence because there is a Statement which I sought for on the construction of buildings across the country when there are already existing buildings. We are worried that this is affecting the counties now. There is a debate countrywide. People are arguing about whether counties are going to abandon county assemblies and offices buildings and construct others. Because the Statement is very important, I am asking for your guidance; we have not seen any sign that the answer will be coming. I raised this matter around June before we went for the short recess.

Hon. Speaker: Hon. Kamanda is not present but his able deputy is in the House. Are you in a position to respond? Hon. Limo, could you repeat? Hon. (Eng.) Mohammed was busy reading something.

Hon. Limo: Hon. Speaker, I will be glad to repeat it.

I have sought a Statement on an audit of Government buildings across the country, both in the national Government and the county governments because we are aware that there are many buildings which are idle while parastatals, Ministries and county governments are either busy buying buildings or are planning to construct them while others are already constructing them. In the spirit of saving this country a lot of resources, we want an audit of all the buildings and the status or level of usage, so that

the Government can come up with a policy to either stop construction or give guidance on when to build, when not to build and when to purchase.

Hon. (Eng.) Mahamud: Hon. Speaker, I am sorry to say that I have not been following up on that question as earlier asked. But what is being sought by the hon. Member is a very extensive exercise; it is about auditing all Government buildings in Kenya and seeing which assets are available and where. Similarly, there was a question asked by Hon. Ali on Government houses.

We will make an attempt and ask the Ministry to give us the exact situation of Government buildings in the country. I am aware that county governments are building their own houses while quite a number of houses are being abandoned. I am also aware that there is a problem of which properties belong to who, because the national Government wants to retain its own buildings. It is an extensive exercise; the hon. Member should give us a month to do it.

Thank you!

CENSUS OF GOVERNMENT BUILDINGS

Hon. Limo: Hon. Speaker, I appreciate but it is bad for them to ask for a month. The Statement was to come after three weeks after I requested it but now it is to take one month. Cumulatively, it will be delayed by four months. I have no option, but I want to tell the House that there is a problem. This is because most of the committees do not have an idea about the Statement. Therefore, we will lose a lot. I seek your indulgence, so that you remind the Committees to prioritize this. They should not take all the statements to be the same. This is a preventive measure and not a detective one.

We do not want to later find that the country went wrong when this House could have found a solution to prevent the counties and Ministries from moving further away from the City centre.

Hon. Speaker, we are aware that even the Ministry of Energy and Petroleum is about to move from Nyayo House, which will be half empty. This is because the Ministry has built another building. Other Ministries are following suit. This is a very serious Statement which should not be given after one month. This is a substantive issue that we can even discuss in this House.

Thank you, hon. Speaker.

Hon. Speaker: That may address the issue of policy at the national Government and government levels. Maybe, hon. Maalim can respond.

Hon. (Eng.) Mahamud: Hon. Speaker, I appreciate the concern of the hon. Member, but this is a very serious policy matter that needs to be addressed. I am aware that the Ministry of Energy and Petroleum is moving to a new building and this is necessary. This is because most of its parastatals will be housed there. Currently, these parastatals are paying rent elsewhere. So, there is a rationale in that Ministry housing itself under one roof. Apart from the KenGen and Kenya Power, all the parastatals in that Ministry are now housed in rental buildings.

As to where Government houses are and how they will be utilized *vis-à-vis* the 47 counties, this is not something small. So, it will not be fair to say that we will issue the Statement in two or three weeks. Even if we did not do something earlier on, let us make

an attempt and see whether we can do something in the next one month. I appeal to the Member to bear with us and see what we can do in terms of the policy of the Government on housing.

Thank you, hon. Speaker.

Hon. Langat: Thank you very much, hon. Speaker. That is really a very serious matter. In my Committee, when we looked at the budgets of Ministries and commissions, we resolved to request a report on how much rent we are paying for commissions.

This country is incurring Kshs1 billion every year on commissions' rent. It is not sensible that the Government reduced Ministries from the previous Grand Coalition Government's 42 to 18 and we still have Government parastatals being housed in private buildings.

One commission, which has a very good record of lecturing us is spending Kshs3 million per month to house 54 staff. That is the Commission on Revenue Allocation. That is a very important issue which I would like to encourage the Committee to comprehensively investigate. I want to request the hon. Member to give them more time, so that we can see whether there is need to rent or we have excess capacity within the Government buildings which are not being used. People are looking for posh places to house their commissions. This is a very important issue. I want to tell the hon. Member, who is my neighbour, that even if it means giving the Committee more time to come up with a very comprehensive report, let us give it time; let the House discuss the matter and expose the wastage that is coming from our wasteful commissions.

Thank you.

Hon. Bowen: Thank you, hon. Speaker. It is just on the same Matter.

Hon. Speaker: Not on the same! What are we doing? There is no Motion before the House.

Hon. Bowen: Hon. Speaker, I just want to give my input. Even here in the Parliamentary Service Commission---

Hon. Speaker: Hon. Kangongo, you cannot give an input to nothing. There is nothing before the House. So, you just want to speak to yourself. There is no Motion or report before the House but you want to give your input!

Hon. Bowen: Hon. Speaker, I just want to seek a clarification.

Hon. Speaker: Gosh! Hon. Mahamud has not given any Statement. He has asked to be given one month. Hon. Langat, as the Chair of the Departmental Committee on Finance, Planning and Trade, has indicated that they had reasons to question some of the expenditure. They suggest that, indeed, the Committee needs to be given ample time to investigate the matter and come up with a report, which then hon. Kangongo can give sufficient input to until he exhausts his time. For now, hon. Kangongo, even if I allow you to speak, you will just be speaking to nothing because there is no report.

Hon. Bowen: Obligated, hon. Speaker.

Hon. Dawood: Thank you, hon. Speaker. My dark colour brother, the Chair of the Departmental Committee on Lands, was supposed to set up a sub-committee two months ago to sort out issues at our borders, but I have not seen him set it up. There is the risk of fighting breaking out between our communities. I would like him to tell us how far he has gone, or are we going to fight over land again?

Thank you, hon. Speaker.

Hon. Speaker: Do you require a mediation committee to be set up or what?

Hon. Mwiru: Thank you very much, hon. Speaker. It is also good to inform my hon. brown brother that the Departmental Committee on Lands has no mandate to look at the boundaries in this country. The Independent Electoral and Boundaries Commission is the one that is mandated by the law to deal with boundary matters.

We were supposed to handle issues to do with land adjudication and settlement within the areas of common boundaries; we are already on the track. The Committee headed by hon. Kanini Kega, who is in London today, was supposed to have met and finished with a draft report; it was to bring to the Committee its report for onward transmission to the Floor of this House. Therefore, we are on track. Kindly, let the hon. Member give me a little more time. However, I will not look at the boundaries between people who have been fighting since time immemorial.

Thank you, hon. Speaker.

Hon. Speaker: Did you say the hon. Kanini Kega?

Hon. Mwiru: Yes, he heads that sub-committee on the adjudication of the common boundaries of the large Meru and Tharaka Nithi counties.

Hon. Speaker: He does not appear to be anywhere near Kenya? Does he? Is the hon. Kanini Kega around? Nobody has spotted him.

Hon. Amina Abdalla, what is your intervention about?

Hon. (Ms.) Abdalla: Hon. Speaker, I am concerned that hon. Dawood and hon. Mwiru might have contravened the National Cohesion and Integration Act by describing each other in terms of the colour of their skins. If they had said it outside the House the National Cohesion and Integration Commission (NCIC) would have dealt with. I am just concerned that we are misusing privilege by making racial statements that are against the National Cohesion and Integration Act.

(Laughter)

Hon. Speaker: Hon. Dawood.

Hon. Dawood: Hon. Speaker, I just said “my dark brother”. I did not say “black”. I said “my darkr brother” and definitely he is much---

Hon. Speaker: What did you say?

Hon. Dawood: I said “my elder dark brother”. I did not say “black”. So, I was not talking about any colour; he is more darker than I am.

(Laughter)

Hon. Speaker: Hon. Mwiru appears to be happy with that. Is that correct?

Hon. Mwiru: Hon. Speaker, I think it is not a matter that requires a lot of debate; really he did not feel hurt neither did I feel hurt. My other name is Mwiru, which means black. Therefore, I do not have a problem with being called “black”.

(Laughter)

Hon. Speaker: Hon. Lati Lelelit.

Hon. Lati: Hon. Speaker, I am prompted to say something because I am a very proud black person; I spent a lot of time living in the United States (US) and I have always been proud that I was one of the few black people in that country; it is okay to be black. I think there is nothing wrong with somebody calling me “black”.

Thank you, hon. Speaker.

(Laughter)

Hon. Speaker: Hon. Members, I am sure now we can deal with something better. Maybe we should hear from the hon. Ken Okoth. I hope it is not about studying in the US now.

Hon. Okoth: Hon. Speaker, we want to have good relations with the US. So, I do not think there was anything bad with hon. Lati going and studying there as I did.

My question is actually on our international relations and a report that the President submitted to the House, but which we have not had a chance to discuss. The House Business Committee (HBC), which you chair, has not slotted in time for us to discuss it. It makes our House look bad when the other House, that beat us in soccer is, also beats us in performance and discussing important national issues. I am just reminding, and pleading with, you on that.

Hon. Speaker: For your comfort and information it is scheduled for prioritization this evening when the HBC sits.

Hon. Okoth: Thank you.

Hon. Speaker: Very well. Let us move to the next order.

Second Reading

THE MINING BILL

(Hon. A.B. Duale on 16.7.2014)

(Resumption of Debate interrupted on 24.7.2014)

Hon. Speaker: Who was on the Floor? Was there any Member on the Floor? Hon. Members, I am assuming that the requests for contribution are on the basis of the business as listed on the Order Paper. We are debating the Mining Bill, National Assembly Bill No.9 of 2014. I will give the first shot to the hon. Daniel Maanzo, Member for Makueni.

Hon. Maanzo: Thank you, hon. Speaker.

Hon. Speaker: Had you already contributed?

Hon. Maanzo: I had a balance of five minutes, hon. Speaker.

Hon. Speaker: You did not avail yourself when debate resumed. You are skipped. Forget it. If you do not come it does not happen that way. That is jungle practice.

Hon. Ken Okoth, are you contributing to the Bill?

Hon. Okoth: No, hon. Speaker.

Hon. Speaker: You see now this is the problem; that is why I am asking--- Hon. Members place requests yet they do not want to contribute. Maybe, I need to read out how you have placed your requests, so that you know whether you want to contribute to this. Hon. Members, also it is to be appreciated that when this business was last before the House, a total of 48 Members contributed to it. It shows a great interest in mining. So, let me follow the order again. Hon. Waiganjo.

Hon. Waiganjo: Not on this, hon. Speaker.

Hon. Speaker: You see now. There is a problem because I have to follow the list. Hon. Charles Njagagua, do you want to contribute to this?

Hon. Njagagua: Hon. Speaker, I have not had a chance to contribute to this Bill. Thank you, hon. Speaker for giving me this chance to say a word on the Mining Bill.

Hon. Speaker, from the word go, it is a nice piece of legislation because for one, it seeks to preserve what is ours naturally, or God given. Two, we have seen that many communities end up losing their natural resources especially to foreigners who come in under the guise of wanting to assist us in, say, mining minerals but at the end of the day they exploit us.

Hon. Speaker, a case in point is the titanium in Kwale. We have seen that for a long time there has been a certain firm that has been trying to mine this titanium; I believe this has taken the last 12, or so, years but nothing tangible has come out of it. We also have what we are now calling “the untapped huge resources of coal” in Kitui at Mui Basin. You find that there are so many squabbles between the residents, the would be miners and the Executive. So, I believe that this legislation will streamline all this business.

Hon. Speaker, we may not also forget the untapped iron ore in Mbeere, especially in Mbeere North. We would want to have legislation that is going to define how the local community is going to benefit from the minerals. A word of caution is that we have seen in many areas in Africa where minerals are found people end up in war. Countries go to war because their leadership compet to either mine or own these mine fields.

Hon. Speaker, in as much as I support this Bill, I want to give a word of caution to the leadership in this country, that we should not take the beaten, or trodden, path of leading people to war, or having warlords to controlling these minerals.

With those few remarks, I support. Thank you.

Hon. Speaker: Hon. Limo, after the records have been checked you have a balance of eight minutes.

Hon. Limo: Thank you, hon. Speaker. I had already made a few points; I had also touched on the importance of ensuring that this Bill brings harmony among the communities which live in the mineral rich areas. We know that in Africa, many countries are fighting because of the resources that they have.

Hon. Speaker, there is also a pertinent issue where companies are awarded licences to extract mines without proper procedures to ensure that the mines are protected, and the people who live around are not affected. When this is not done there are a lot of problems.

Hon. Speaker, of interest is that among the things which are listed as minerals are materials which are used in the construction industry.

We have a case where there is a total failure by some of the bodies which are created to protect the environment in this country. An example of such authorities is the National Environmental Management Authority (NEMA). NEMA has completely failed to protect Kenyans. When they are given instructions to do an environmental assessment and give a report which shows impact on communities around, they do not do that in good faith. An example is a situation where in my constituency there is a big excavation from which materials for building roads are taken. The quarry has become a curse rather than a blessing to the community. About a month ago, a lawyer, who had been hired to represent the locals, the people who do not have anything to pursue compensation, came and took all the cows in the village.

So, we need a law to protect the people who live in places where we discover minerals like precious stones; the law should protect people against unscrupulous businessmen and even lawyers. This is because it makes people poor. These are the issues which are going to cause conflict. As I am speaking now, the residents of the area called "Kisabo Village" are really suffering. I do not want a situation in this country where people in Kitui or Kwale will be suffering in the same way. We want a law which ensures that compensation is provided for people who are moved for create room for mining, or who border mines.

Another resource which brings a lot of conflict in our communities is forests. Forests should managed in the same way; we should come up with a law, or amend the Forest Act, to ensure that communities, counties and, therefore, the people who live around the forests get a better benefit than what they are getting because they are actually the people who watch trees grow. Whereas copper and gold can be mined and you are not able to see how it develops--- You cannot know what happen underneath the top soil, but we can see trees growing. A forest becomes a curse to a community because other than firewood, there is nothing else they get. Miners come and take everything, leaving communities around with nothing. In fact, in the Bill I will propose at the Committee Stage that we even enhance the percentage of the benefit to the communities to even 30 percent, because they are the people who have actually been taking care of places where minerals are. At the Committee Stage we will ensure that we move amendments to enhance benefits to communities, so that they are well taken care of.

We should also ensure that we describe properly who the communities around the mines are. This will ensure that people do not fight in future. With those few remarks, I would like to end by saying that we must ensure also that we protect and enhance the small businesses in this country. As we prepare to approve those who will engage in mining, we should ensure that entrepreneurs who employ the youth, women and people with disability they give these groups special attention, because they can also mine, especially if the Government assists them to acquire proper machinery. Likewise, saw millers in this country, who harvest trees, must give priority to the local people, so that these people get a chance to build entrepreneurship skills; they should be given a chance to buy proper machinery, so that they are not chased around by people who have never seen trees growing. I say this is a very important Bill, and we must ensure that it goes through, but with a lot of benefit to local communities.

Thank you hon. Speaker, I support the Bill.

Hon. Speaker: Hon. Richard Makenga

Hon. Makenga: Thank you hon. Speaker for giving me the opportunity to contribute towards this very important Bill. This Bill is very timely as it sufficiently covers very pertinent issues in mining. If implemented, it will ensure sustainable use of our mineral resources to facilitate revenue generation to the national and the county government. It will also to enhance skills transfer to Kenyans as well as ensure that mining is of benefit to local communities. In this era of climate change and environmental degradation concerns, it is also commendable that this Mining Bill will provide a framework to compel miners to implement healthy and safety environmental protection measures.

Hon. Speaker, I would wish to point out a few areas of concern. The first part of the Fourth Schedule, general provisions on mineral rights, Clause 32(2), the timelines for the receiving of feedback on application status for these mineral rights, ought to be shortened; probably when it comes to the Committee Stage, I will propose an amendment for the period to be shortened from 90 days to 75days. Similarly, the waiting time in getting reply for the mining license--- The application status should be reduced also from a 120 days to 90 days. This is in line with the ongoing efforts to make Kenya a preferred investment hub in East Africa, by cutting the waiting time required for doing business in the country.

This Bill also proposes that the holder of mining right initiates development projects in the host community. This will go a long way in increasing projects within the host community. The host communities are sometimes exploited by investors; for the first time in this country, I think we are going to see communities benefitting from investors, who will come and prospect for mines, or do mining, in their areas.

Communities will, for the first time, put money in their pockets because the Bill proposes that part of the proceeds be shared among the communities. It is important to note that miners will also be required to comply with environmental and management requirements. It is also important to note the fact that the mining industry contributes significantly to global carbon emissions. There is also a need to compel miners to take deliberate action reduce emissions by, for example, giving incentives to encourage the use of renewable energy resources like fossils, and levying carbon tax on compliance.

With those few remarks I would like to support the Bill. Thank you, hon. Speaker.

Hon. Speaker: Hon. Jimmy Nuru Ondieki Angwenyi.

Hon. Angwenyi: Thank you, hon. Speaker, for giving me a chance to contribute to this Motion. Mine will be very few words.

First, I would like to urge this House to pass this Bill with speed. We have a lot of minerals in this country, but I am particularly concerned about the coal in Kitui, one of the poorest counties in this country. The county is sitting on enormous wealth, which might wither within very few years. As we all know, the world is moving towards a situation where it will not allow coal trade, or the exploitation of coal. So, I ask my countrymen from Kitui to move with dispatch and begin exploiting that coal before trade in it is prohibited throughout the world. Commercial quantities of coal were discovered in 2003, 11 years ago. If it were exploited, today, Kitui County would be the richest county in this country. The situation is the other way round as it is the poorest county in this country.

We have minerals at the Coast and the people in the area keep on complaining that they are poor and their land has been taken away, yet minerals lies beneath the soil. If I were them, I would allow the Government to exploit those minerals and give those areas some good percentage of the proceeds for local development.

I note that the board that will oversee the exploitation of minerals comprises of people from various Government departments. However, the drafters of this Bill have omitted to have the Principal Secretary in charge of Energy on it. This country intends to multiply our production of energy three times and thereby reduce the cost of energy in this country in the next three years. The Principal Secretary for Energy and Petroleum should be a member of this board, because coal and geothermal power fall under their Ministry. If we do that, then we will have an all-inclusive board that takes care of all the interests of the energy sector.

Finally, I hope the Minister for Energy will move with dispatch, again, to Kisii, South Mugirango Sub-county, a place called Tambaka, where our indigenous people are being exploited by middlemen. We have soapstone there, a unique mineral, which is not found anywhere else in the world. Late last year, I went to Indonesia and found that they carve statues out of soapstone, which is sourced from South Mugirango. The people of South Mugirango do not get a good reward for their product. So, the Ministry should take interest and work with leaders from South Mugirango. I can see the indomitable hon. Manson Nyamweya here. They should work with these leaders, so that our people in Tambaka get the fruits of their labour and resources.

With those few remarks, I beg to support.

Hon. Speaker: They are, indeed, very few. Hon. James Ekomwa. I hope you have not contributed. This is The Mining Bill.

Hon. Ekomwa: I have not, hon. Speaker.

Hon. Speaker: Proceed.

Hon. Ekomwa: Hon. Speaker, I want to thank you for this opportunity. I am the happiest person today for this opportunity. There are many minerals in Turkana County. This Bill has come at the right time. I thank this House for bringing here this Bill at this particular time.

One thing that is so unique in Kenya is that most of the land, especially in pastoral areas, is communally owned. We have also realized that many minerals are found in pastoral areas. Therefore, it is difficult to separate minerals from pastoralism. When minerals are found in a place, you are not supposed to interfere with grazing land and water points. This Mining Bill proposes to ensure that pastoralists' land is not misused. The law provides for compensation for even the smallest piece of land where minerals will be found. The pastoralists must be compensated. God was very wise; when He gave other people coffee, tea and sugar-cane, he knew that there was something for people in dry areas. So, the same way people enjoy tea in Kericho, sugarcane in Trans Nzoia, the Turkanas also enjoy their gold, sand and stones.

This Bill will uplift the lives of people who have been marginalized for over 50 years. I want to challenge the Government because I also belong to it, that when it comes to sharing of the revenue, pastoralists, or people in areas where minerals have been found, should get 50 per cent. It should be 50-50. The Government should remain with 50 per cent and the community with 50 per cent. The 50 per cent would accelerate

development in the areas. I want to make it clear that when others were busy building schools, hospitals and roads, in areas like Turkana, the people were not given that opportunity. They were busy herding livestock and relying on relief food all the time. When others were given schools, pastoralists were given relief food.

It is high time we stopped provision of relief food. We deserve to enjoy the same rights as other Kenyans. God has given us minerals and we must enjoy their benefits to the maximum, so as to be at par with the rest of the communities in the country. People should not ask why Turkana is allocated more revenue through the CDF. This is because they have a lot of problems. We should also ask who has caused all these problems in Turkana. Our problems have been piling up and this Government has given us an opportunity. So, we must maximize on that opportunity.

The other thing that I want to make clear is that since some of the miners know that they have power, money and technology, they take the opportunity to marginalize communities. The companies that have been given the opportunity to mine should consider local content. There is what we call in the country “value;” when a foreign company comes to mine, it must maximize on all equipment. All the employers’ requirements must come from the country. They should not import everything. We must use the local materials in Kenya to benefit our communities. When it comes to job opportunities, you will find a company imports all its employees and members of the local community are just spectators. How can you be a spectator of your own resource? How can you just die hungry when a foreign company is mining next to your area? This Bill should ensure that owners of minerals enjoy benefits of minerals more than foreigners. It is not good to find a refugee more being more comfortable than a Kenyan here in the country. It is shameful! Therefore, when minerals are exploited in an area, the first expectation is that people who are affected will have their lives uplifted. For example, oil has been discovered in Turkana. We do not expect Turkana people to be given relief food all the time. We expect Turkana now to be ‘haven’; if people fail to go to the haven they have been promised, they can just go to Turkana.

(Laughter)

I am just citing an example. I am saying that if a mineral, or resource like oil is discovered in Turkana, we expect the Government and other stakeholders to ensure that people who live close to that oil benefit before others do. This is exactly what we expect this Mining Bill to take into consideration.

Lastly, there is the issue of culture. We will always solve African problems using African perspectives. We can never be compared with the Western people who are ego-centered. Therefore, when a mineral is discovered in an area, it should not interfere with the culture of the local community. It has to respect and uphold the culture of that community.

Hon. Speaker, for example, you get into your place and find that, maybe, the pastoralists of that place wear the *shuka*, and then the company forces them to drop the *shuka* and wear suits. The environment cannot actually allow that. Therefore, mining in a place should not cause harm to a local community. Even the Bible says that if a culture does not break the Ten Commandments, it then assists

We are saying that even with this Mining Bill the Constitution must be respected. The culture of Kenyans, and even Africans at large, does not mean that we are desperate for other cultures. We are rich in culture; we have never sat down anywhere in the world and agreed on which culture is superior to the other. No! We have our own culture and we have never borrowed somebody else's culture. Therefore, our culture must also be respected even when we are desperate.

With those remarks, I support the Bill.

Hon. Speaker: The Bill will respect culture. Will it?

Hon. Ekomwa: Yes.

Hon. Speaker: Hon. Members, there is some modification; I think hon. Ekomwa has caused some excitement.

Let us hear from hon. Kipruto Moi.

Hon. Moi: Thank you very much, hon. Speaker for giving me this opportunity. The Geothermal Development Corporation is very busy extracting power from Rongai Constituency in Nakuru County. A regulated mining sector is good for this country, because it will avoid the pitfalls of other mineral-rich countries; it should not bring environmental conflict and social decay.

Therefore, because of the replacement of the previous Mining Act of 1940 with the current Mining Bill of 2014--- We believe enacting this Bill will attract investors into this country, who will then process these minerals, add value and trade in them. Kenyans will benefit in the sense that it will become the centre, or the capital, of mineral trade in the East African region.

Hon. Speaker, delays in passing this Bill will cause problems that will not attract investors. The good part of this Bill is that it incorporates the international best practices on such issues as royalties and the engagement of communities; it will benefit the current and also future generations.

Hon. Speaker, local equity participation is critical to this country; previously mining companies would enter a region and simply look for minerals to exploit without allowing local participation. Ultimately, the losers were the local people; that happened in Taita Taveta and even Baringo. Therefore, we need mandatory local participation. The sharing ratio should not be 75 per cent to the national Government, 20 per cent to the county and 5 per cent to the local community. I believe it should be the national Government 70 per cent stake, the county government 20 per cent and the local community 10 per cent.

Hon. Speaker, it is said that all the minerals under oceans, rivers, lakes sand land, belong to the people of Kenyan and is held in trust for them by the national Government. In spite of that, if we allow things to go that way, and the local people do not participate or are not turned into investors--- We must become investors as well as owners of the land. Instead of calling for investors from Mauritius, Singapore, Europe or USA, WE must be able to first ask – can the community become AN investor, and hold big equity stake in operations?

With these few remarks, I would like to support this Bill, with amendments. Thank you

Hon. M'uthari: Thank you, hon. Speaker. I rise to support this Bill and I can see it is important because it brings harmony and sense into this important sector. We realize

that today in Kenya we are discovering new minerals, which are important for stimulating development. Therefore, once we have proper leadership and management of these resources, they will be our important source of revenue. They also create the possibility that the Cabinet Secretary (CS) and the bodies created in this particular Bill to coordinate the exploitation of the mineral resources--- This will also stimulate mapping out of the whole country, so that we discover where minerals are. This can be exploited and managed in accordance with the aspirations of the communities and also the country.

Hon. Speaker, for a long time, there has been exploitation of mineral resources. But local people, who are involved in areas where even gold is mined, are in deplorable condition. I think this sector should be managed in a way that even the local people, the small miners, are also supported. Investors can exploit natural resources around the locals, so that those locals benefit have their living standards uplifted.

Hon. Speaker, we have big corporations that come and exploit minerals, destroy the environment, and by the end of the day what is given to the local people is very little. Their operations end up being a cost to the local community because the environment is polluted. In this case, we need to, at least, be clear to ensure that by the end of the day people benefit. Some of the problems are as a result of some of the people who are entrusted with authority, like NEMA, who do not do what is expected of them. They are supposed to protect the rights of people by way of protecting the environment; NEMA is entrusted with the duty of protecting the environment.

So, given the possibilities availed here through the Bill especially the fact that the Cabinet Secretary responsible, before giving the rights to prospectors or miners has to go through a number of interested individuals or bodies is a good move. I think that will give us a possibility where various agencies will have a word before mining takes place or before a body is given the right to exploit these resources.

In the same breath, it is good that the Cabinet Secretary is given an okay to acquire the land compulsorily. This is because some of these bodies may be given the opportunity for the concept, but through the concept they may deny the opportunity to mine or exploit the resources. Once the resources are not exploited they have no benefit to the local people or even contribute to national development or economy. Through the mapping of areas where we have minerals--- In the country, for example, in Igembe North we have iron ore but nothing has happened. There are other areas which have salt. This will give an opportunity through the directorate responsible for surveying to survey various parts of the country and then determine what we have in terms of minerals. This will also encourage the processing of the same. That way, the products from these materials can be exported at a higher value. This will create job opportunities for our people. When we add value, at the end of the day there is the possibility of technology transfer and diversifying what can be got from our wealth. We export these minerals as raw materials and then we import them back. Exporters must be encouraged to do the processing of the minerals for the greater benefit of the country.

I support this Bill because it is going to bring harmony and also greater exploitation which will support the development of this country.

Hon. Nyamweya: Thank you, hon. Speaker for giving me a chance to contribute to this Bill. One thing I want to bring out is that there are very many contradictions in this Bill. Unless there are massive amendments in this Bill, it is going to be a source of

serious conflicts. The Bill does not recognize county governments. We know that county governments own property. Constitutionally, the county government is the owner of the county property. This Bill only recognizes the Cabinet Secretary. It does this through and through. It is as if we do not have devolved units in this country. We need to bring an amendment so that we incorporate the county governments which have the right to protect the natural resources in their localities. They must be given a say on the mining and revenue sharing. Unless this is addressed, the communities where the mining is going to be done will complain. I have gone through this Bill. I come from Tabaka where we have special minerals, as hon. Angwenyi said. This Bill actually recognizes the fact that if you own land you can develop it and even sell it. You can get somebody to come and develop the land. The same Bill states that the Cabinet Secretary has absolute authority to nullify all that. This is a very serious contradiction that this Bill is bringing. Unless these issues are addressed then we are actually setting this country to conflict.

Clearly, the rights of private property are protected by the Constitution and yet here we are talking about the Cabinet Secretary coming to acquire this land for commercial purposes for vested interest groups. It is not going to be easy for communities to agree especially now when we are discovering minerals. A lot of minerals have been discovered including oil, coal, soapstone in Kisii and so on. We need to come up with an honest structure so that this wealth can benefit all Kenyans equally.

Hon. Speaker, another issue in the Bill is that the Cabinet Secretary will form a parastatal. When you look at the membership of the parastatal, it comprises all the Government appointees. It has the PS, Ministry of Finance, the PS, Ministry of Trade, and then it says "four other people who will run that organization." Basically, this is a Government body which is being formed. I thought the Government is running away from forming parastatals. This Bill contradicts the aspirations of the Jubilee Government. For example, the Jubilee Government is downsizing on parastatals and it is creating wealth. This Bill is creating a body which is purely controlled by the Government. For what purpose is this? Let these people work in the Ministry. There is no private input--- If you want to create a parastatal, the purpose should be to benefit from private input so that individuals who have expertise can give correct advice and information to the Government. If you, however, make it a Government appointee thing then it is still the PS who is in charge. And if he is in charge, why do you create it and for what? This is just another conduit for corruption, nothing else. There are murmurs today that before somebody is given a licence, they are asked to pay up to US\$1 million. It is a serious issue in this country.

I would like to urge the Committee and hon. Members that we do not pass this Bill the way it is. If we do, then we are pitting Kenyans against each other. You cannot say private ownership, community ownership, right to develop land and at the same time give the Cabinet Secretary power to acquire the land. How do you determine how it is going to make money?

The Bill also talks about auction. It states that the Cabinet Secretary can auction the land and the highest bidder develops the land. At the same time it states that the Cabinet Secretary can give directly. Which is the correct procedure? We must have one clear procedure which is going to be used. If it comes to issuance of licences let us form an independent body to issue them. This is a body which can be fair. The way this Bill is,

we are creating red sinkers. I do not think that is what we should do because it is against the Constitution of the Republic of Kenya. Hon. Members need to go through this Bill. Let us not pass this Bill the way it is. Let us have it amended. There is a monster here called the “CS”. Everything in here is “CS”. What is it that we are doing as a House?

As far as I am concerned, the Bill is good, but we need major amendments so that the powers of the Cabinet Secretary are minimized. We need to remove the red sinkers. This is the problem that is killing this country. People feel that they have right connections and then communities that own the land remain poor perpetually. They will not even benefit from the jobs that will be created. Somebody from Nairobi, somebody who has no interest because he is a broker; because he has the right connections; because he can reach the Cabinet Secretary, will benefit financially than the community where that mineral is going to be mined. The people remain poorer and fortunately, Kenyans have been enlightened. You cannot do this. That time is over!

Hon. Speaker, so let us go back to this Bill and make sure that the county government is involved on how the mining is going to be done. That is very important because the Constitution of the Republic of Kenya recognizes that county governments own the land in their jurisdictions. The county government exists; it is kicking. There is no way you are going to work without involving the county government. So, we need to look at the best way it can be involved so that they participate in this because the property belongs to them. They give people licences. As we speak, if you want land at the county government, you will be given that land by the county government. So, you cannot come here and tell us who will supersede and have more powers as vested to the county government by the Constitution. On this Bill, let us do major amendments before we pass it.

With those few remarks and with major amendments, I will support the Bill.

Hon. Korir: Hon. Speaker, thank you for giving this opportunity to contribute to this Bill. Like my friend who has just finished speaking, I support this Bill but with major amendments. As a country, as we move forward, mining is becoming a very important part of our country. We now have discovered a lot of natural resources that can benefit this country but as this Bill stands, we are going to chase away investors instead of attracting them. The reasons why countries like China and Rwanda have become prosperous is because they put laws and regulations that are conducive for investors to want to go there. When you look at this Bill, it gives so much power to one person; the Cabinet Secretary. It does what we have been fighting for, for a long time, of centralization of power. The reason why we fought for a new Constitution and counties is because we wanted to decentralize power from one person to a community or many people. When you look at this Bill, the way it stands right now, it gives all the power to one person and that is the Cabinet Secretary. If we do not watch, as this House, I have noted something. Every time I read a Bill in this House that we pass, they take back the power to one person; the Cabinet Secretary. The Cabinet Secretary is becoming a very powerful person in this country because of this House. So, I hope that the Chairperson of the Committee that is responsible for this Bill is listening and they are going to bring amendments so that when it comes to Third Reading, we have key amendments to this Bill.

In this Bill, there are two parts of mining. There is the prospective part of the mining, operation; and there is the real mining or operation of the mining industry. When you look at this Bill, for example, the rights in private or public land, it makes it difficult for an investor to come and invest in this country. This is because when we put so many regulations that before you know there is something to be mined or not, you have to have consent of the owner of the land and yet we are trying to see if there are minerals there, what if the owner of the land says he wants Kshs10 billion before you look for minerals? Would that prospective investor want to go on with that? He will run away and when he does that, what happens? We are losing the natural resources that lie beneath this country.

We need to amend the Bill so that the only time that we put serious regulations for an investor who wants to come and do mining is when it involves excavating or turning and removal of soil. But if it just testing; the initial testing, they should let them test and see if there is something to be mined. Another thing that this Bill does not cover is how to share the resources, especially the royalties. It says that the owner of the permit pays royalties to the State. We have the county government. We have the community but it only says that the royalties are to be paid to the State. What about the county government? What about the estate? What about the community in that place? I support that we need to regulate so that when a natural resource is taken from an area, the people of that area become the first beneficiaries. For example, the issue of water. A Chinese company came to Cherangany in Cherangany Hills and extracted water. The people who are benefiting from that water are not from Cherangany. Even somebody living next door to the water does not have clean water. The water is flowing under people's houses but they do not have water. The people in Kitale Town and Western Kenya are the ones who are benefiting from the water and yet the people of Cherangany themselves who have the privilege of the water source are not benefiting.

Hon. Speaker, we need a Bill that forces the investors, before the natural resource leaves the area, to ensure that the people around that area get maximum benefit from it. Otherwise, we will have people from other areas benefiting and not people within the areas where the natural resource is found.

Another issue that I have is the environmental impact of the mining industry. Right now we know that we have global warming. This Bill should make reference to the Environmental Management and Co-ordination Act, No.8 of 1999 so that it reduces the loopholes that can be created if the Act is not followed. So, I urge the Chairperson of the Committee that deals with mining to make sure that they look deeply into the Bill before it comes for Third Reading because if it goes like this, we will be chasing away investors instead of attracting them. Our President is in the USA right now looking for people to invest in this country. It is upon this House to pass laws that make the work of the President and county governments that go outside to look for investors to be easy so that people can come to this country. Let us not become people who make too tight and tough laws that chase away investors.

Thank you and I will support this Bill with intensive amendments.

Hon. (Ms.) Lay: Thank you, hon. Speaker for giving me this opportunity to contribute to this Bill. Just as other Members of Parliament have expressed their reservations on this Bill, I also do the same because a lot of power has been given to the Cabinet Secretary. Because most of the points have been raised, I will just pick on a few.

If you look at Clause 13 of the Bill, you will find that it empowers the Cabinet Secretary by a gazette notice to declare areas reserved for small-scale mining. Clause 14 also empowers the Cabinet Secretary, by gazette notice, to declare any area of land to be an area for applications by tender for large-scale operations.

Hon. Speaker, if we leave it this way we will get a Cabinet Secretary who will be very good and later on, we get someone who is very ruthless to the community. You will find that most of the time they will be sitting in the offices striking deals with the investors without involving other people.

On strategic minerals, Clause 16 states that the Cabinet Secretary charged with mining will advise and seek approval of the Cabinet to declare certain minerals or mineral deposits to be strategic minerals for socio-economic development and national security purposes.

We have to make sure that our people are also part and parcel of this Bill. This is especially in the community and areas that minerals are found. I am specifically touching on places like Taita Taveta County where we have different minerals which are industrial. It is ideal that we involve county governments on this Bill so that we can have public participation.

Clause 40(1)(c) of the Bill talks about the conditions that touch on mineral rights. However, it vaguely talks about community development. This should be backed by emphasis on public participation as enshrined in Article 10 of the Constitution before any decision is made.

Hon. Speaker, touching on royalties because that is where the interest of the people is, I think it is ideal that we capture it on the Bill. As my colleague said, we should put it at 30 per cent. I know that there will be some reservations on this but it is high time we made sure that royalties also go to the people where these minerals are found. We know that minerals are under the national Government but our people also need to be enlightened or given some education on this. This is because sometimes they start fighting amongst themselves or with the Government and saying that those are their resources. They ask why they are not being involved or why they are not being given a big chunk of royalties. So, there is need for us to create awareness for them to understand that the minerals are not only under county governments but they are also under the national Government. It is the national Government which will have to sit down and decide how much percentage will be given to the people.

Hon. Speaker, the Bill also touches on employment and training of Kenyans. This is covered under Clauses 44 and 45 of the Bill. Clause 45 of the Bill talks about preference in employment by holders of mineral right. Since these minerals are found in communities, it will only be fair to give priorities to members of the marginalized communities and the rest of the Kenyan citizenry in that order. Like I said I know it will be controversial and will be termed discriminatory. However, Article 56(b)(c) of the Constitution expressly provides that the State shall put in place affirmative action and programmes designed to ensure that minorities and marginalized groups are provided special opportunities in education and economic fields. They should also be provided with special opportunities for access of employment.

There is something else that I wanted to touch on especially on revocation of licences or mining rights. One of the reasons that a licence should be revoked should be

on violation of human rights. When I speak about violation of human rights--- The Chairlady of the Committee is aware of the story that we are trying to follow up in Kasigau where a lady who was in a mining area was violating the rights of women. I think that should also be a ground for revocation of a licence. This is because we have these people who come to mine in our areas. Because our people especially women are poor, they work under very horrible conditions. Most of them are not even given protective gears such as gloves and masks. It is really sad especially when you get to the mining sites. They work under very bad conditions. These people violate women rights. In the evening, this woman searches women in the private parts to see whether they have stolen gemstones. That should also be a ground for revocation of licence.

Hon. Speaker, I support this Bill and leave reservations for amendments of this Bill.

Thank you.

Hon. Lati: Thank you, hon. Speaker, for giving me this opportunity to contribute to this very important Bill. This Bill is very important because it strengthens and establishes the legal framework for the management of our environment and exploitation of our mineral resources.

Before I contribute to this Bill, as we sit here today, I take note that the presence of our continent and in particular our country, Kenya, in Washington DC is because the American Government requested to have a conference with the Heads of State. This speaks volumes noting the ignorance that America has always placed on the African Continent. There is something in the offing and as Africans we have to take care of that. This is because Africa's economic growth is well above all the other continents and for the first time in history it appears like Africa is on the move in terms of economics.

Hon. Speaker, I was watching Broomberg and other news channels across the world yesterday and I was very impressed. Although this is an African delegation, there was a lot of emphasis in the news media across the world on Kenya's delegation, particularly the President of this Republic. The reason for that is that Kenya is emerging, apart from being the financial hub in the East African region, it is a resource rich country that is depended on by the region. I think that is very important to note in light of this Bill that talks about the management of our natural resources.

I want to support this Bill. I have heard Members talk in this House about Cabinet Secretaries being given a lot of power. I tend to disagree because there are checks and balances within our Constitution and other legal frameworks to make sure that we are able to watch what the Cabinet Secretaries do.

We know that the Government holds in trust all natural resources for the people of Kenya. There is nobody else that we can place that trust on other than the Cabinet Secretary.

Hon. Speaker, one of the things that I am very proud of is the right of preemption. This is something similar to the eminent domain doctrine where the Government can take care of the public good outside individual good if something truly serves the public. I think our Cabinet Secretaries holding these resources in trust for our people is closer to the eminent domain doctrine. To declare an area a mineral area, those are things we should leave to our Cabinet Secretaries because it is necessary. When you work in Parliament, you do not have that time to do day-to-day work of the Ministries. I have said

that there are enough checks and balances provided through the Constitution to this House and other legislative organs to take care of the Cabinet Secretaries.

Hon. Speaker, the other thing that I am proud of in this Bill is the recognition of the minerals that are strategic, particularly the radioactive minerals. With the advent of so many terrorist activities in our region and in the world as a whole, I think it is very good of this Bill to recognise the restriction of radioactive materials like uranium which might come out of our country.

Hon. Speaker, I think what I wanted to speak more on is the silence of this Bill on very important issues. The first thing that this Bill is silent on that is very important is the revenue sharing formula between the county governments, the communities and the national Government. I think without a clear framework on how communities that are close to the mineral areas benefit, we risk having community-investor conflicts when exploiting these minerals and that is the last thing we want to do when we want to improve our economy and when our economy is slowly moving into a resource economy. We want to make sure that those communities that live around mineral areas benefit so that they can have a good time with the people who invest in those minerals. We want to make sure that the county governments which are the custodians of these minerals at the local level and who hold the minerals in trust for the people of Kenya also benefit in certain ways. We want to make sure that the revenue that is generated from these minerals also benefits our country as a whole. I think one of the amendments that is necessary in this Bill, and I would support it, is to bring a revenue sharing formula that is clear and that serves all those three communities.

Hon. Speaker, the other thing that is silent in this Bill is the Sovereign Wealth Fund. All the countries that have had minerals--- I am very optimistic that our country is moving towards being a mineral rich country particularly with the discovery of oil in Turkana. I am very sure the next one will be in Samburu--- I know for sure that the oil that is in Turkana comes from Samburu because it flows downwards. I think I will be proved right very soon.

However, today as we speak there are a lot of chromites in Samburu in a place called Kangura and we need to find a way as a country to mine it. If we look at all the countries that have minerals or have budget surpluses on trade, there is a special fund called the Sovereign Wealth Fund. If you look at our Constitution, it establishes all other funds such as the Equalisation Fund, the County Revenue Fund, the Consolidated Fund but it lacks the establishment of Sovereign Wealth Fund. I wanted to bring that Bill to the House but I am told somebody else is bringing it. I think that is something very important. Although we do not have trade surpluses or budget surpluses with these national resource discoveries in our country, we need the Sovereign Wealth Fund because it will help to diversify the revenue strings for our country, particularly when these minerals are exhausted.

Hon. Speaker, I happened to be a portfolio manager managing one of the biggest wealth sovereign funds in the world called SAMA, which is the Saudi Arabian Monetary Agency and the Government of Singapore Investment Corporation. When markets were not doing well in 2009, that is how countries like Singapore and Saudi Arabia tended to survive. That is how they survive through the bad economic times or troughs within the economic circles. I think as a country that is one of the things we need to do so that we

do not exploit our minerals. When prices plummet like it happened to copper prices in Zambia, people get poorer. I guarantee that with the discovery of oil and with prudent use of that oil, the lifestyles of our people might improve and it is usually very hard to take people to lower lifestyles once they have gotten used to higher lifestyles. I think Saudi Arabia and Abu Dhabi are good cases in point on the Sovereign Wealth Fund issue.

Hon. Speaker, the other thing that this Bill is silent on is the recognition of small-scale miners. You know, apart from the big investors that we get from abroad that we give a lot of attention or the big businessmen from Nairobi, there are small-scale miners across our villages. These are people who just collect minerals and sell. If you go to Arusha today, you will get so many Maasais digging a lot of tanzanite and diamonds and I think there is need to make sure that we recognise those people within our legal frameworks.

Hon. Speaker, finally, you know that minerals are exhaustible. After some time minerals will end and the case of Bamburi in Mombasa is a good case in point. We always need to reclaim our environment back and I think we need to put something in this law that makes sure that environmental degradation is brought to an end so that communities that live next to those areas will continue enjoying the good environment that the almighty God has given them in their lives.

Hon. Speaker, with those few remarks, I thank you and support this Bill.

Hon. Speaker: Hon. Mlolwa Jones.

Hon. Mlolwa: Thank you, hon. Speaker for this opportunity to contribute on this Bill. One, I do not want to repeat what my colleagues have already said but I want to say that we need to regulate this industry properly especially where these minerals are found. The local communities for a long time have not been benefiting from these minerals. I am saying this because I come from a mining area in Taita Taveta where even the roads leading to those mineral areas have never been made. People come, mine and take all the money away and they do not even leave anything for the local communities. So, this Bill should be able to include how the communities are going to be included, how the county governments are going to benefit and from what point the division of these resources is going to be done.

Secondly, the Cabinet Secretary has been given a lot of powers in this Bill. We need a suggestion that there should be a mineral regulatory institution which should be able to regulate minerals in the way the business is done, the way the benefits will go to the people and everything else which concerns the minerals so that there will be a win-win situation for everybody.

Hon. Speaker, another thing is that when you look at how this has been done over the years, the locals have never benefitted from anything. I am looking at my county where we have a lot of natural resources including the wildlife which have never benefitted the locals. I think this is the right time now for us to regulate institutions and how mining is going to be done to ensure that we have everybody benefiting and there is enough money going to these counties.

We also have this period of mining, of 25 years. I think that is a long period. We might need to bring it down to may be 20 years so that people do not just remain in one place even when there is nothing to mine any more. We need to reduce this period to 20 years so that we have as many people as possible prospecting. The small miners in my

area have always been called illegal miners because they do not have enough money to purchase big machines. We also want the small miners to be included so that they can also do their business without being inconvenienced and being called illegal miners because they do not have enough money like other investors. I am saying that the communities where these minerals are found must benefit and they must be asked if their land is going to be used as mining areas.

With those few remarks, I want to support with those amendments. Thank you so much.

Hon. Speaker: Alois Lentoimaga.

Hon. Lentoimaga: Thank you, hon. Speaker. I also want to add my voice and support this Bill. It has come at an appropriate time and especially when we know that there are so many resources and minerals in our areas, particularly those areas that are in northern Kenya. The issue is that there has been a lot of opaqueness. There is no openness in the transaction---

Hon. Speaker: Hon. Kathuri, what is the intervention about?

Hon. Murungi: Hon. Speaker, I was emphasizing that I need to talk to this Bill because I really support it strongly. Sorry. It is not---

Hon. Speaker: But you are already in the request order. You do not need to put an intervention. However, you see I must follow the order that you have listed. You will be reached at some point but it just shows that you came late and there are others who came before you.

Proceed, hon. Lentoimaga.

Hon. Lentoimaga: Hon. Speaker, I was saying before I was interrupted that some of the international companies as well as local companies that do prospecting in our areas sometimes carry out these activities without the knowledge of the local people, especially in places like Samburu where land is not registered. We still live in group ranches or trust land. So, these companies actually take advantage of this and they come and exploit resources or register companies within our areas in the name of those areas. I am aware of a company that for a long time from the 1980s has registered itself as Baragoi Mining Company. The local people are not aware of what this company is doing but secretly they have been mining minerals without a clear law that can assist the local people.

Over time, people have actually quarreled and it has created conflict. It has made people to quarrel and fight because they come secretly and sometimes corrupt a few individuals who are not knowledgeable about what goes on in exploitation of resources. So, this Bill, when it comes to the Committee of the whole House, I will bring amendments so as to ensure that local communities are totally involved in terms of sensitization and issues of benefits, so that there is openness. There should be a lot of openness in terms of where these resources are exploited. Sometimes, they also exploit young people; the very few they employ. Chromite is mined in my area. The few young men they employ do a lot of work because chromite involves heavy excavation. Local people work hard to excavate and carry chromite, yet they are paid peanuts. When I bring amendments, I intend to ensure that this Bill will assist our people to benefit from the resources that come to their areas.

Even the issue of corporate social responsibility; some of these companies do not even take care of that. In areas where resources are exploited, communities have needs. They have needs of security, water and schools but because there is no policy on that, these communities are forgotten. Some of my colleagues have already mentioned about the percentage that needs to be put in place to ensure that communities are assisted through the law.

[Hon. Speaker left the Chair]

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

I want to recommend that the national Government can take 60 per cent, the county government 20 per cent and even the local communities can take 20 per cent. They are the owners of that region. In my view, I also feel that we cannot just allow the county governments alone to handle everything. I have seen several times what has happened in my area where the county government has actually managed geothermal and even solar energy. I see them bringing investors without the knowledge of the local people. They sign agreements without the involvement of the local communities. So, we should involve county governments and communities.

I happened to have worked in North Eastern Province in the beginning of oil exploration in 1980s. These companies were sometimes accused of depositing toxic waste in the area without the knowledge of the local people. We need to ensure that local people are involved from the start of exploration. In areas where there are group ranches or trust land, they set one community against another. They collude with some opinion leaders and other people to rise against their elders who have signed contracts. So, we need to have openness. We should make sure that the law does a lot of sensitization so that we can assist the communities. The communities should know that they have a share; they have a specific amount of share when these resources are exploited.

Lastly, when these local people are used to work in those areas, the Bill must guarantee that there will be insurance for them. Companies employ people and when they get hurt, they are not paid benefits. They are not compensated when their health is affected by the nature of work that they do.

I want to conclude by saying that I support and I will bring amendments.

Hon. Rop: Thank you very much for allowing me to contribute to this Motion.

From the outset, the Constitution of Kenya, 2010 placed all minerals under the national Government and it allows equitable sharing of the proceeds or benefits from the said minerals. I want to support this Bill by saying that it does not apply to petroleum and other hydro carbon gases. This is purely a mineral Bill. The Bill recognizes both the large-scale and small-scale miners. It seeks to establish two directorates; the directorate of mines and the directorate of geological survey. That used not to be there. Currently, we only have the Commissioner of Mines who handles the two areas that deal with mining.

This Bill intends to establish the National Mining Corporation for the Government to invest in mining. It is important to invest in mining. Recently, I visited the

United Arab Emirates and I was surprised to find that a country in a desert was well endowed to take care of its citizens because the Government has invested in mining. So, this corporation will help this country to invest a lot in mining. It will allow this House to give the initial capital so that the corporation can pick from there and start investing. For sure, without minerals, we cannot sustain the livelihoods of our people. We require enormous resources to take care of our citizens. We require as a Government to really invest in mining and do a lot to our citizens.

Sections 35 and 36 stipulate the requirements for granting mineral licence. I have listened to Members expressing their fear that investors might take our land without the consent of our people. These sections allow for mineral rights of both private and community land. Before you do anything, you must seek express consent of the owner of the land. Therefore, it clears fears that people might have about being chased away from the community or their land.

The Cabinet Secretary in charge cannot acquire the land without the consent of the owner. It is well stipulated in Section 38 (a) and (b) and it gives some conditions. The Cabinet Secretary may take steps to, of course, acquire the land but he must also consider Sections 34, 35, and 36. Therefore, I believe the Cabinet Secretary cannot just wake up and decide that this land belongs to the Government or it must be having minerals and he acquires it. The Act has stipulated very clearly the conditions that the Cabinet Secretary must follow.

Hon. Temporary Deputy Speaker, I want to also say that the Bill also seeks to enable Kenyans to get employed in this sector because everybody seeks to work. The Bill has allowed Kenyans, under Article 44, to be given preference when it comes to employment. This will help further their skills and capacity-build our citizens.

Section 48 of the Bill also gives preference for local products and minerals made in Kenya so that we can have our products being used in the mining sector. We need not be importing products to use. We should have our own local products that can be used to develop this sector.

I want to say that the Bill also recognizes what the community can do, under Article 126. The Act gives the right to graze livestock and cultivate the land on the prospecting area so long as you do not interfere with prospecting or mining operations that are taking place. Therefore, this Bill guarantees our people freedom to use that land while the prospecting is going on.

Hon. Temporary Deputy Speaker, I want to say that this Bill is good and I want to urge my colleagues to support it. I am a Member of the Departmental Committee on Environment and Natural Resources and we participated in developing the Bill. Let us support this Bill, of course, with a few amendments that we have also mentioned; so that we can have a Bill that will help Kenyans benefit from mineral exploration and the mining itself.

With those few remarks, I support the Bill.

The Temporary Deputy Speaker (Hon. Kajwang'): Alright. Let us have the hon. Member for Turkana Central, if he has not spoken to this Bill. Is the hon. Member for Turkana Central in the Chamber?

An hon. Member: It seems that he has left.

The Temporary Deputy Speaker (Hon. Kajwang’): Not present, though desiring to contribute. Request dropped.

An hon. Member: He is there!

The Temporary Deputy Speaker (Hon. Kajwang’): Where is he? Are you there, hon. Member for Turkana Central?

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

The Temporary Deputy Speaker (Hon. Kajwang’): Can you go as quickly as you can and press the intervention button? There you are.

Hon. Nakara: Thank you, hon. Temporary Deputy Speaker, for giving me this opportunity to contribute to this debate.

I have few comments to make on issuing of prospecting licences. I come from Turkana County. There are some cartels that have applied for licences and they pretend to be the owners of the land there. Some are given land but they extend beyond what they have been given by the Government. We need the Government to make sure that the people given prospecting licences are monitored so that they do not take more land than what they had been given.

Secondly, it is about corporate social responsibility. Some of the places where these minerals have been found, the companies that are prospecting fail to undertake corporate social responsibility. In this Bill we want to make sure that these companies do corporate social responsibility in the areas where minerals have been found.

Another issue is about the sharing of resources. From the experience we have, most of the communities that God has given these minerals are poor and yet they are told that there will be a formula for sharing the benefits. If such a thing is implemented, those communities will remain poverty stricken forever. So, we are appealing to this House to make sure that the formula for sharing resources favours the local people so that such areas can develop.

Another issue is about empowering and educating the local people. We are challenging these mining companies to educate local people. They need that education so that they can run those companies in future. We want those companies to give scholarships to the local people and give them courses that will empower them to come back and take over those companies. Some of these companies give scholarships to our people, but they are in the areas of education and administration. They do not give scholarships in the field of minerals.

Finally, it is on the issue of leadership and job opportunities. The top management of some of the companies does not have Kenyans. Local people are not involved. We want this Bill to empower the local people to be part and parcel of the leadership of those companies that do mining in our place.

On the issue of job opportunities, there are some jobs that local people do. They do non-skilled duties which are lowly paid. We want to challenge these companies to pay local people well so that they can promote the economy of that area.

On involvement of the local people at the county government level; the land that will be given out by the Government belongs to people. Mining companies must involve local people before they settle on any land. The local people should be shareholders as well, so that after the companies leave, they too will benefit. We want the Bill to compel companies to sell some shares to the local people or to the host community. We do not

want companies to reap all the benefits and leave local people poor. We want this Bill to take into consideration the issue of selling shares to the host community so that they too can own the companies. It is wrong not to involve the local community in decision making. We want to alleviate poverty in these areas.

Finally, on environment; during prospecting chances are that our environment will be affected negatively. The process of mineral exploration can damage the environment terribly. When NEMA is given an opportunity to do the report, they do not write according to what is there. Even as a layman, I can use my eyes to see that the environment has been spoiled. If you read the report of NEMA, they say that everything is okay because they have been bribed. They write a good report of that company so that they can continue being there.

Hon. Temporary Deputy Speaker, the Government should make sure that NEMA writes exactly what is there. For instance, some places in Turkana are deserts and not what they were before. This is because the people who are exploiting oil have very strong vehicles and machines. When they pass somewhere, the grass does not germinate again. The seeds die completely. So, we urge the Government to make sure that after the companies have done their geological survey and are leaving the place, they should leave the environment intact. They should plant some trees and treat the land, so that it can be used again. Some holes are very deep and when it rains, some children fall into those holes and die. They should cover the holes after they have used them so that we do not get deaths in our places.

I support the Bill.

Hon. Okoth: Thank you, hon. Temporary Deputy Speaker. I rise to contribute to this Bill and to share some of my concerns and thoughts. First, a lot of Members have contributed in this House understandably with a lot of concern and reference to petroleum and oil in places like Turkana. However, I would like to put it on record that this Mining Bill is separate from the Petroleum Bill. It expressly excludes petroleum and hydro carbon gases. So, this is not the Bill that the people of Turkana have been talking about with excitement. Their issues are valid, but it is the wrong Bill.

That being said, the Mining Bill is important for our nation. I do not think it is perfect and it still needs a lot of work to be done. My prayer is that the period between now and the Third Reading and the Committee stage in the House where real amendments will come before the final Bill is passed, we can find a way to make that a big enough period for a lot of people to give input including the private sector, experts from our universities and even people we can consult internationally. We need to consult them on the best practices, so that we can get it right rather than rush through with this Bill as it currently is and have a lot of problems to fix down later.

When I look at mining and the use of mineral resources for the benefit of communities, there are very good examples of places where royalties are shared very well with communities. This is a key thing that our current Mining Bill misses by saying that the national Government owns all minerals. If you own land, private property or communal land, anything under that land, by principle, should also be your property unless there is a strategic reason otherwise. For instance, minerals that are important for national strategic purposes or military purposes. Anything else should be that your land is your land. It belongs to your ancestors. They passed it on to you as a community or it is

your land that you bought as a private citizen and now you have discovered hidden value in it through minerals, it is yours for private benefit. That should be the key principle.

We have good examples in other countries from which we can learn. These are places like Alaska in the United States as well as Australia, where previously marginalized people, namely, the native Americans in Alaska and Aborigines in Australia, who were marginalized and the poorest of the poor people in the peripheries of those countries' economy lived. When serious mining industries came to their lands and properties, trusts and revenue sharing formulas and ownership by communities on those lands and partnership and shareholding in the mineral development was done in very good ways, so that those communities were lifted out of generations of poverty and indignity and they now receive annual royalties and shareholding dividends because of the mining that has happened in their areas.

Any mining that is going to happen in Kenya in a big way, whether we are talking of such areas as Kwale or anywhere else in this country, should be done with the same formula. The Committee should take its time and the Members of this House should dedicate their resources to study the examples. I am sure we can get friendly support from even the Embassy of the United States of America to provide us with sample laws and documents from their countries and even experts to come and testify to our committees here. We do not have to travel there. We could ask for the same help from the people of Australia through the Australian High Commission to give us experts and tell us what their experience is. They should give us the dos and don'ts and what they have experienced over the years that we can adopt here in Kenya.

A second key issue that I wanted to raise when I look at this Mining Bill is the issue of devolution. I am a firm believer in devolution as the only hope for this country, for all the Kenyan citizens to feel that they are benefiting from the national Government and the resources of this country. Sadly, this Mining Bill that has been pushed here mentions the county government only one time. For a document that is almost 100 pages to mention the county governments only one time, it tells you that this Bill was drafted before devolution became a reality. I am sure the 47 county governments led by their governors and their county assemblies and the people that they represent will want to have a say in the manner in which the Mining Bill reflects the reality of devolution and the aspirations of our people through our Constitution, which established a devolved system of government. My position is that we must come up with a formula in which revenues generated from mining must be shared in a clear and predictable manner between the county governments and the national Government.

We talk about taking development to the grassroots and urging our county governments not to just rely on allocations from the national Government. If we come up with a clear set of regulations and a formula for sharing money with the county governments, especially the counties where the wealth of mineral resources will be found, that will be a very important step taken forward.

The third point that I would like to share is the issue of licences and the granting of the power to revoke or withdraw licences or even just to grant the power. Sections 12, 31, 146, 147 and 148 amongst others clearly vest all the rights and the powers to review and receive applications, to negotiate, grant, revoke, suspend and review mining rights licences permits and to set regulations of the operations of the mining sector in this

country under the Cabinet Secretary. Again, this is fundamentally wrong and it is the wrong direction for Kenya to take. It is an invitation for corruption and unpredictability in the industry. It is not an international best practice or model which will attract foreign direct investment to Kenya. It is a model that will keep away international corporations from countries such as Australia or the United States whose foreign relations Acts prohibit them from dealing in bribery and corruption. So, they will come to Kenya if you set up a system where you are putting all these powers in one hand.

The best practice is that powers to grant, review and revoke licences must never be vested in the hands of only one Cabinet Secretary or even just officials from one narrow Government branch. They should be done through a committee or a licensing board that is independent, verifiable and can be audited. Such a body would include representatives of the Cabinet Secretary, the mining industry, employees, private citizens and the committees. So, you have decision making on such vital matters as licences not being done by one person and creating a huge space for rent-seeking and corruption.

We must make sure that our mining sector, as it comes of age, is set on the right principles of ensuring that there will be no pollution or destruction of our water, soil and air resources. We have seen examples of countries, including our neighbours Tanzania where unregulated, unco-ordinated and unsupervised mining has resulted in the destruction of ground water and the rise in cases of cancer and other diseases. That is a huge blow and it will not be worth it if we seek to get economic gain for huge multi-national corporations and their shareholders, but we sacrifice the well-being and the health of our children and future generations by making our water, soil and air dirty so that we cannot live in it nicely.

I have seen good examples of mining companies in Kenya which have done well on the environmental front. I will give an example of the Bamburi Portland Cement Company which has done so well with regard to quarry reclamation.

(Loud consultations)

Hon. Speaker, there is loud consultation here on the minority side of the House. Please, protect me.

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

Hon. Okoth: Thank you. The Bamburi Portland Cement Factory had an enormous quarry just north of Mombasa---

The Temporary Deputy Speaker (Hon. Kajwang’): Order, Members! Member for Rangwe, I will throw you out of this House. Do not ever hold a phone while you are in the Chamber!

Hon. Okoth: A good example is the Bamburi Portland Cement Factory which has done reclamation of its major quarry north of Mombasa. It has filled it in and turned it into a healthy green space and forest. That is very important.

May I conclude by saying two quick points as I see the red light; the role of our Parliament in appointing---

The Temporary Deputy Speaker (Hon. Kajwang’): Alright, Member for Kibra. That is all we had for you. Member for Makueni.

Hon. Maanzo: Hon. Temporary Deputy Speaker, I first want to seek your indulgence because earlier on I had been called by the Speaker and I had lost my balance of five minutes. So, I had keyed in for the 5.30 p.m. debate on land in Lamu.

The Temporary Deputy Speaker (Hon. Kajwang’): Let me understand how that came about. Just allow the Member for Kacheliba to come before you. He is absent, not desiring to speak. His chance is dropped. Member for Wajir North.

Hon. Saney: Hon. Temporary Deputy Speaker, the Mining Bill is good for all intents and purposes, especially in the management and regulation of the many minerals being discovered in the country. More importantly, the Bill comes at a better time when there are pockets of conflict related to mineral discoveries and management. However, on the Bill, I have a few comments to make.

Under Clause 2, we have the categories of minerals that this Bill seeks to regulate and manage. It seems this is a closed bracket. With scientific advancement, there are minerals that will be discovered that may not be in our books. It is prudent to relax that bracket and further relax the mineral classified under the Second Schedule by including other minerals. We need not legislate for specific minerals. We are legislating for today and tomorrow. It is, therefore, only fair for this House to make rules that will serve the interests of the generations to come.

Clause 25(1) is about the appointment of the chairman to the corporation’s board. It gives huge discretionary power to the appointing authority; the President. He is the one to establish whether that will be an executive or non-executive chairman. That will be prone to abuses, political patronage and fear. I am afraid it will hold production and output that is related to this office.

Further, the Cabinet Secretary is given so many powers from licensing to other decision-making matters. This should have been left to the regulatory body; the directorate which is a professional body so formed to manage matters of minerals.

Further on matters of dispute resolution mechanism, any dispute resolution mechanism must be independent. This is envisaged in our Constitution and should not be watered down. Referring negotiations after a dispute has failed to a Cabinet Secretary will not augur well with our Constitution and I believe is ill advised.

Part 10 of the Bill gives diamond a preferential position to the exclusion of other minerals and that is not well couched. This could be misconstrued as the basis of according preference to diamonds as opposed to other minerals of potential equal benefits to the country.

With those few remarks I beg to support.

Hon. Maanzo: Hon. Temporary Deputy Speaker, I said that I had contributed on this Bill for five minutes. Last time when there was an adjournment, I had a balance of five minutes, but today when the substantive Speaker called, I had lost my right of five minutes according to the Clerk. So, it was ruled that my contribution was sufficient and I cannot get more contribution on this particular Bill. Now that the substantive Speaker had ruled that I cannot contribute on this, I think it is only fair that I contribute on the next matter on land.

The Temporary Deputy Speaker (Hon. Kajwang’): I am glad that you are satisfied.

Hon. Maanzo: I will just be honest on the land issue at 5.30 p.m.

The Temporary Deputy Speaker (Hon. Kajwang’): Member for Makueni, that is very good in terms of honesty. We want Members who are that honest. However, it is not just because the substantive Speaker ruled that you do not have a right to speak. The ruling, it seems to me, now that I have consulted with the Clerk-at-the-Table and the HANSARD, it was considered arising out of Standing Order No.32. Members, you may want to appraise yourselves with this: That out of Standing Order No.32 you had a right to speak on the following day for five minutes when the debate resumed. Record shows that on 24th July, 2014 there was that kind of right. You were called to speak, but you did not avail yourself. We then went on the quorum issue. Today was the next day when you had the next available time. You were, again, not present and hon. Limo spoke. When you look at Standing Order No.32, the last phrase, it states: “...but if such Member does not avail himself or herself of this right, his or her speech shall be deemed to have been concluded.” The way you avail yourself is to be in the House as early as possible so that the presiding Speaker may recognize you and then you will have your time.

So, it was a very considered ruling in my view. Again, you have been honest about it and I think you are satisfied. I thank you for it.

Hon. Maanzo: Hon. Temporary Deputy Speaker, today I was in when the Speaker called. I spoke. If you check, I explained to him that I had a balance of five minutes but, unfortunately, somebody else was given the opportunity.

The Temporary Deputy Speaker (Hon. Kajwang’): Yes, the record says on 24th was the next available time and, instead, the record states that you were not here and hon. Limo instead spoke. So according to the Standing Order, you did not avail yourself in the next available time.

Hon. Maanzo: I agree hon. Temporary Deputy Speaker.

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

(Hon. (Ms.) Tobiko stood up in her place)

An hon. Member: Are you the Member for Kajiado South?

Hon. (Ms.) Tobiko: I am not!

The Temporary Deputy Speaker (Hon. Kajwang’): How many Members do we have from Kajiado South?

Hon. (Ms.) Tobiko: I think it is better if you refer to the name because---

The Temporary Deputy Speaker (Hon. Kajwang’): No! The practice in the Commonwealth is for the Presiding Speaker to mention you by the constituency you represent.

Hon. (Ms.) Tobiko: I am the Member for Kajiado East.

The Temporary Deputy Speaker (Hon. Kajwang’): Are you from Kajiado South?

Hon. (Ms.) Tobiko: No! My constituency is Kajiado East.

The Temporary Deputy Speaker (Hon. Kajwang’): All right; I will send you after you have spoken to the Reception so that you can rectify that with the ICT people because according to my records, you come from Kajiado South. Anyway, proceed!

Hon. (Ms.) Tobiko: Hon. Temporary Deputy Speaker, I think they must have noted that by now and they should have done the correction.

The Temporary Deputy Speaker (Hon. Kajwang’): No, you should have noted that by now and rectified it.

Hon. (Ms.) Tobiko: It is not my work but thank you for the opportunity to speak to this Bill.

Hon. Temporary Deputy Speaker, this country is well endowed with mineral resources and the coming of this Bill is very timely. It is good that we regularize the sector and harmonize the many pieces of legislations that are there. This is because quite a number of them are archaic; they come from colonial times and we need progressive laws. Of particular interest to me is the formula that is going to be there for the sharing of the benefits from the mining of whatever mineral is in a particular area. This Bill does not really address how the county governments, the community and the national Government are going to share the benefits that will accrue. So, I think this is one great anomaly in the Bill. The Bill is well intended but it needs amendments for it to address this very important sector. In my constituency, we have a lot of mining of limestone and gypsum that is going on by the various cement industries including Simba Cement, East Africa Portland Cement, Savannah Cement, Mombasa Cement and many more. There are quite a number in my constituency and I have seen a number of them, wherever they are doing their excavation, they have left very huge areas destroyed; areas that need rehabilitation. The environment is completely damaged and polluted. These are the things that should be addressed in this Bill. We need to have an environment that is habitable for human beings even if mining is going on.

I also have concerns like many other hon. Members who have spoken about the emphasis on the role of the Cabinet Secretary. Whenever we are doing laws, I believe we should do laws for posterity and the holder of the Office should even think of a law that will exist beyond him or her. Most of the times when we pass Bills, people want to personalize laws. People want to do laws that will fit their situations and I think it is the wrong way to go. We must have laws that can exist 100 years and more. So, I think the emphasis of the Cabinet Secretary here is a bit too much. We should have other institutions playing a great role. Of course, the Cabinet Secretary will have his own role.

Hon. Temporary Deputy Speaker, the Member for Turkana who spoke earlier mentioned mining in pastoralist areas and I share his sentiments. Our concern is that most of those communities have seen a lot of mining being done in our areas and the benefits go directly to Nairobi - to the central Government. The same thing has applied to the conservation of wildlife. In Kajiado, we have particularly the Amboseli National Park where all the benefits are going to the national Government.

(Hon. Midiwo spoke on the phone)

The Temporary Deputy Speaker (Hon. Kajwang’): Order! Hon. Midiwo, I will throw you out of this House for using your phone in the Chambers.

Hon. (Ms.) Tobiko: Hon. Temporary Deputy Speaker, so, my concern is what the communities, whether they are aware or not, what they will accrue from what comes from their areas. God must have placed every society wherever they are for very good

reasons. So, the natural resources that are there must, first and foremost, benefit the community that is there. We expect the Turkana today to benefit from the petroleum when it is processed and the larger country. However, that community first should benefit. I am happy that the Bill speaks about employment and training of the people from that particular area. But most of the times, we see those communities not benefiting. I have seen the management of the East African Portland Cement (EAPC) being fought for even giving the Maasai Community casual jobs. It is a major concern to us that a company that is getting almost 90 per cent of its raw material from that particular area cannot employ those Kenyans in the name of some interesting law called 33 per cent or something like that and yet, when you find other Ministries or parastatals, one community dominates and nobody has raised eyebrows. However, when our people are employed where we should because the EAPC today is our Mumias--- The way people from Western Kenya will talk about Mumias is the same way we talk about EAPC. We expect EAPC and the many cement industries that are in our place and getting resources from our county should employ our people. We expect them to be trained. We expect our people not just to do casual jobs but to be trained to become technical personnel. I would wish to support this Bill but with many amendments and consideration on what benefits would accrue to the communities.

Thank you.

Hon. Ichung'wa: On a point of order, hon. Temporary Deputy Speaker. Under Standing Order No. 95, considering that most of the afternoon we have been on this matter, will I be in order to ask that you call upon the Mover to reply and put a closure to this debate and move on with the other business on the Order Paper?

The Temporary Deputy Speaker (Hon. Kajwang^o): Well. It is your Motion. This is debate on a Bill which is a business of the Assembly. But you see, I have almost 29 requests and you have been speaking about this Bill most of the afternoon. So, it is something which you, as debaters, have to decide. You know that, of course, we had resolved to adjourn for an issue of national importance. Your roles are legislative and they are also representative. So, the Motion under the adjournment Motion is representative. It is really your business as hon. Members.

Before I put the Question, let me see the mood of the House.

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

Hon. A.B. Duale: Thank you, hon. Temporary Deputy Speaker. Over 55 Members of this august House have contributed immensely to this Bill, which is at the Second Reading. We expect Members and the Committee to bring amendments to this important piece of legislation. Because it is first of its kind in our country, we will give hon. Members ample time to prepare the amendments. When that time reaches, we want a full House so that we make the necessary and appropriate laws that will set in place the mechanism of sharing of resources between the county government, the national Government and the private companies. We also want to make a legislation that will not only help our country, but also becomes a piece of legislation that can be borrowed by other countries.

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

(Question put and agreed to)

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

The Temporary Deputy Speaker (Hon. Kajwang): Order, hon. Members. It is still five minutes to the adjournment time but I will use my discretion under Standing Order No.1 that, notwithstanding the fact that it is not 6.30 p.m., we will nevertheless step into the next business which is the Motion on Adjournment. Who is prosecuting this? Is it the Leader of Majority?

Yes, the Member for Ainamoi. According to the Standing Orders, the Mover has ten minutes to move and five minutes to every other Member contributing.

ADJOURNMENT MOTION

IRREGULAR LAND ALLOCATION IN LAMU COUNTY

Hon. Langat: Thank you very much, hon. Temporary Deputy Speaker. I want to thank the Members of this House for supporting my request for adjournment to discuss this very important issue about irregular land allocation in Lamu County. On 31st July at 8.00 p.m., the President addressed the nation on the issue of the land question in Lamu County.

Subsequently, it came out that huge chunks of land have been allocated to very few private companies in that county. It is still very fresh in our minds the insecurity problems in that county where more than 90 people lost their lives. Land issues have remained largely unanswered in this country. The land question has always been used to campaign.

Hon. Temporary Deputy Speaker, in a period of two years, namely from April, 2011 to December, 2012, 500,000 hectares were allocated to 22 private companies in one county where the residents largely believe that they have been short-changed.

It is not imaginable that 22 people – when I say people, in law, companies are regarded as people – were allocated 500,000 hectares. I have never imagined how I can possibly own 40,000 acres. What does a person want to use 40,000 acres for?

It is also notable that Lamu County has been earmarked for the LAPSSSET project through the construction of the Lamu Port. The timing of this allocation is telling. I will be very worried if I was leading a docket where allocations of 500,000 hectares take place in one place.

It is high time that we addressed the issue of land. In fact, many people were promised that they would settle squatters. I want to thank my former party. In fact, when we were campaigning in 2007, it was said that the people of Lamu had not been given fair treatment as far as land allocation was concerned.

Hon. Temporary Deputy Speaker, in the last campaigns, it was a very serious topic and many people of Lamu were promised that if the CORD coalition won, it would

settle the squatters in Coast Province. I want to thank the Jubilee that in a record one year, 60,000 titles were given to the people of Mombasa and Kilifi.

(Applause)

Whereas we were campaigning to settle squatters, unfortunately, we were making land a bigger tree to the people of Coast Province. That is because we were busy campaigning and people were busy pocketing titles. They were promising people to come and sell. I saw my good friend hon. Orenge saying he had cancelled titles. I want to congratulate him for cancelling those titles. That was very good. He who seeks equity must always come with very clean hands. You can never come with very dirty hands and say I did this. You will have cancelled three acres but allocated illegally 500,000 acres of land.

Hon. Temporary Deputy Speaker, I think this country deserves the truth. I sympathize greatly with the people of Coast Province because they were promised resettlement and I honestly believe they largely never voted for the Jubilee administration because they were told the Jubilee candidates are responsible for land problems. They voted hoping that the land will be given to them. Unfortunately, for five years, they received nothing. I was an ordinary member of that coalition but I thank myself because I left that coalition midway in 2010 because we cannot mislead the people of Kenya to give us votes. They gave us almost 100 per cent of the votes and yet, again, you go ahead to take away their land and give it to a few individuals.

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

Hon. Langat: Hon. Temporary Deputy Speaker, I think the Member should wait.

The Temporary Deputy Speaker (Hon. Kajwang’): Just one minute. Order! The Mover will be heard in silence. Until a Motion has been moved and seconded, it is not a property of the House and I know you are anxious to debate this Motion. However, unless something comes to the attention of the Speaker that something is out of order and not a point of argument, the Mover will be heard and everybody will have his say. So, proceed.

Hon. Langat: Thank you, hon. Temporary Deputy Speaker for that very good protection. We want the relevant authorities to lift the veil. We want to know who the people behind Shanghai African Investments are. We have been given the names but we want to know the real owners of those pieces of land. We know the people behind those names and I think the Ethics and Anti-Corruption Commission (EACC) and the Director of Public Prosecutions (DPP) must move with speed because we want to know who the owners of Shanghai African Investments are and how they found themselves there. We also want to know how Pick Investments found themselves with 40,000 acres and we are saying people are squatters.

Hon. Temporary Deputy Speaker, I would want to encourage the Departmental Committee on Lands of this House to give us a report naming the people behind those companies and who approved the titles. There is no way you can justify the allocation of 40,000 acres of land to one individual. I think it is immoral, illegal and unconstitutional to give one person 40,000 acres of land in a county where people are squatters. We want to know how a company called Witu Conservation Self Help found themselves with 54,000 acres of land.

Hon. Temporary Deputy Speaker, I think it is immoral and the issue of land---

The Temporary Deputy Speaker (Hon. Kajwang): All right. So, who is seconding this? Order! Member for Ainamoi, could you please go to the microphone and say you move?

Hon. Langat: Hon. Temporary Deputy Speaker, I stand guided. I beg to move. I request the Chairman of the Departmental Committee on Lands to second.

The Temporary Deputy Speaker (Hon. Kajwang): All right. Member, can you put your intervention button on so that I am able to recognize you? There you go.

Hon. Mwiru: Thank you very much, hon. Temporary Deputy Speaker for according me the opportunity to second this Motion that has been moved so well by my good colleague, hon. Langat.

Hon. Temporary Deputy Speaker, the land issue in this country is too emotive. It is an issue which is supposed to be handled with a lot of soberness. It is a matter that should not be shrouded in politics because really, right from Independence, the agitation for land was a major issue for this country to move into *Mau Mau* and start seeking the independence of this country.

Hon. Temporary Deputy Speaker, what we have seen in the last one week or few days are people trying to play a little bit of politics other than going deep to the real problem that affects that particular land.

(Applause)

Hon. Temporary Deputy Speaker, I want, first of all, to support His Excellency the President for the move that he made. Indeed, to revoke the titles in Lamu that were given to very few individuals is a matter that is not very clear either in terms of administration of land and law. But that was a good gesture. However, at the same time, as we see the law today is that, he, personally, as the President of the Republic, cannot revoke titles directly.

(Applause)

I am happy that he directed the agencies that are required to do the necessary due diligence to make sure that those titles are revoked. However, the issue is that the two agencies that are supposed to do the same are, again, trying to wash their dirty linen in public. They are saying that, that thing cannot be done at this time and others are saying that it cannot be done another time. That is actually some way of playing politics.

If hon. Orenge, did the cancellation of titles in Lamu at that particular time when he was the Minister for Lands, then kudos to him. However, again, it is only necessary that even after doing so - and rather than playing politics now - he should have told the public at that particular time so that it does not look like he has just been woken up today.

(Applause)

Hon. Temporary Deputy Speaker, I am not trying, at any given time, to support the kind of talk that is being done by the Cabinet Secretary of Lands at the moment.

Indeed, due diligence must be done and when you say you are going to revoke the titles and yet you know precisely it is only this Parliament that has got the power even to amend the law to make her revoke--- It is the National Land Commission (NLC) that is supposed to do that job. So, it is sleeping on its job so to say.

Hon. Temporary Deputy Speaker, so, what I want to say, and we must be level-headed in dealing with this particular matter - is that there is no law, human thinking or magnanimity in someone picking 54,000 acres in an area where we know squatters are suffering. It is not necessary at all.

So, therefore, hon. Temporary Deputy Speaker, what I can recommend - and the matter has already been seized by my Committee - is that we are going deep into the matter, including naming those people who are behind those particular companies. We will not only name those particular individuals in those companies, but we are also going further to say that if nothing more has been done, we can do more as a Committee and as a Parliament to make sure that even those other areas like Uasin-Gishu, Nakuru, Mombasa, Kwale and such kind of areas that we are able to see that land is managed properly the way it is supposed to be managed by the law.

Hon. Temporary Deputy Speaker, what we are talking about right now is a matter that can bring some clashes in that particular county and we have to stop it as leaders of this country. We have to make sure that we handle it soberly and within the particular precincts of the law.

Hon. Temporary Deputy Speaker, already, my Committee has realized the kind of lacuna that is within the land statutes that are governing the country today. That includes the Land Law, the Land Registration Act and the National Land Commission Act. We have already set things in motion and engaged the gear to make sure that, if need be, amendments are done and brought to this particular House for the purposes of sprucing up or aligning everything else for the purposes of smooth running. We cannot afford to see agencies exchanging bad words and statements.

The Temporary Deputy Speaker (Hon. Kajwang): All right. Hon. Members, I will now propose the Question that the House do now adjourn.

(Question proposed)

All right Members! We are going to have a lively debate with decorum and respect as hon. Members of the National Assembly. Everyone is going to have five minutes according to the Standing Orders and bring the best argument first. The Standing Order talks about five minutes. We will keep five minutes. Bring the best arguments first, so that we are able to hear you and everybody gets his space to speak. First of all, I still see intervention buttons here. Member for Unguja, you have switched it off. Member for Ugenya what is out of order? Remember hon. Members, point of order will be point of order, not point of argument. Proceed.

Hon. Ochieng: I am not on a point of order.

The Temporary Deputy Speaker (Hon. Kajwang): Sorry, You are not on a point of order?

Hon. Ochieng: I am not.

The Temporary Deputy Speaker (Hon. Kajwang’): Okay, thank you very much. So, now I will start with the leadership on my left. Can you press the intervention button so that I am able to recognize you? Member for Gem.

Hon. Midiwo: Thank you, hon. Temporary Deputy Speaker. Let me begin because of time by thanking hon. Langat and the Seconder, for bringing this issue. The land issues in our country are grave. What has happened in the last one week is the manifestation of the new Constitution causing a revolution. The President could have been well meaning. But he must begin by respecting the law. The issue of land revocation or otherwise, squarely belongs to the Land Commission. How do you revoke before you investigate? You should investigate then revoke with facts. The issues raised by hon. Langat are issues which should have come to inform the revocation. I want to agree with the Chairman of Lands Committee that we should not play around with this issue. The issue of land is not only in Lamu. If it was about security, why is it that there is no revocation in Mpeketoni where people were killed? This is a serious issue. Go to Laikipia, go to Rift Valley, the issues are all there in the Ndung’u Report and Truth and Justice and Reconciliation Commission Report. Why is it not so easy to bring the Reports here? The Ndung’u Report is here. The Ndung’u Report has so many recommendations. Look at the former Commissioner of Lands talking. The issues here are the ones that we should not---

(Loud consultations)

I did not call anybody names. The guilty are afraid. If you go to Migori, for example, people there do not have land. Land is owned by foreigners from other parts of the country. That is because it was anticipated there would be oil in Migori. Some people have title deeds in Migori. If you go to Turkana, the Ngamia fields, because of the oil, people who are even Members of this House before, are holding titles and the Turkanas are not even aware. We need to address this issue as a people. We need to be sober up because, as the Chairman of the Lands Committee has said, this thing will cause clashes. Madam Ngilu has opened a Pandora’s box and we want the purge to go on regardless of who is who. The investigations must begin from 1902 as the law said. In 1963, of course, there have been grabbers and many of them are well known. Many of them are even in the Government. But in 1902, there are people who were having 5,000 to 10,000 acres in Laikipia with one lion and they were calling themselves wildlife conservatives. Kikuyus are dying in Nyeri without land. We must address this issue. This is not an issue to play with. It is not an issue to politicize. There are people---

(Loud consultations)

We have talked everywhere that the answer to this problem---

The Temporary Deputy Speaker (Hon. Kajwang’): You know Member, shouting from where you are sitting does not help the debate. Let us have a good debate here. You may proceed.

Hon. Midiwo: So, hon. Temporary Deputy Speaker, let me make a recommendation. The Land Commission is a Commission that cannot be directed by

anybody, including this House. It is an independent Commission. Let me suggest to the Executive that is existing. One, get rid of the so called Cabinet Secretary for Lands. Let the National Land Commission do its duty independently. That road map has been spelt in law. The Cabinet Secretary who is interfering is trying to use the old powers. Let me tell you what the old Constitution said. It was the President with powers to give land, through the Commissioner of Lands. In fact, the Commissioner of Land was a representative of the President. Not even the Minister or the Permanent Secretary. As we like name-calling, let me tell you a story between me and Sen. James Orengo. I once told him----

The Temporary Deputy Speaker (Hon. Kajwang’): All right. That is all we have. The Leader of the Majority Party. I cannot see you. Can you press your intervention button?

Hon. A.B. Duale: Thank you, hon. Speaker. The matter before the House is a very sensitive matter and it is a matter that is important. It is a matter that has been used during the campaigns from both sides of the political divide. We the politicians stand up and say we are going to settle squatters. When we ascend to power, little did the squatter know that the same politicians were carrying the title deeds of their land in their pockets. The matter is so grave. When I saw last night on television, my good friend and a lawyer for many years hon. James Orengo surrounded by my good friend hon. Junet and my good friend the Senator of Kakamega I said: “You cancelled two to five acres. Why can you not allow the Jubilee Government to cancel the 500,000 acres? If we agree with you, you have cancelled two acres of hon. Kazungu Kambi. You have cancelled two acres of my Party Leader hon. William Ruto. Allow us to cancel the 500,000 acres that you and your party allocated.

(Applause)

It is very sad that today, among the people who allocated themselves Ngamia 1 is a senior leader in this country. He is writing opinions in the newspapers. If you allow me, he can agitate. I am entitled to my five minutes. Let us call a spade a spade. Let us arrest those who allocated 500,000 so that we start the journey of reforming the land sector in our country. Once we do that, we will go back to 1901. We will go back to 1963. Hon. James Orengo, a man I respect and my colleague in the last Parliament--- I am sure he is on the HANSARD on what he said about the Ndung’u Land Report. He said it is a Report that contravenes the Constitution. The TJRC, in which I took part in forming, hon. James Orengo, and my good friend – and his other half resigned from TJRC - said that TJRC is not worth a document.

(Several hon. Members rose on points of order)

The Temporary Deputy Speaker (Hon. Kajwang’): Order! Sit down! You have a right to say what you have said except you should not make a connection when you are discussing somebody who is not in the House. Specifically, when you are talking about ladies, we want to respect ladies here. So, proceed, but paraphrase it.

Hon. A.B. Duale: Hon. Temporary Deputy Speaker, I will paraphrase it. A Kenyan Commissioner of the Truth, Justice and Reconciliation Commission (TJRC) resigned. He was related to hon. Duale. When that person resigned, hon. James Orengo said: "This is an act of impunity". Let us not politicize. The people of Lamu lost 70 per cent of their land to people who they perceived to be the advocates of land reform. They perceived them to have the answers to the land question. I want to confirm that in the Jubilee Manifesto, for those who have not read, we have an answer to the land question in Kenya. We have begun looking for the answers to the question. We want to tell the people of Coast Province that they did not vote---

Hon. Okoth: On a point of order, hon. Temporary Deputy Speaker. Would I be in order to propose that since this debate is of great national importance, we adjourn and extend time for debate until the Members have had a chance to contribute? That is because the time will not be enough? I propose that we go on until 8.00 p.m. or 9.00 p.m. This matter is important and I am sure the people of Lamu will listen patiently.

The Temporary Deputy Speaker (Hon. Kajwang'): Order! Resume your seat. You have made your point. It is before 6.00 O'clock. All you need to do is to prosecute that Motion properly, get it seconded and the Members will make a decision on it. But as far as I am concerned, right now, I have not entertained the Motion. So, can you do what is necessary? If you bring a Motion, we will entertain it.

Hon. Okoth: It is being drafted digitally and shall be presented immediately.

The Temporary Deputy Speaker (Hon. Kajwang'): So, you know what to do. So, until I see a Motion which is properly before the House, I do not have a Motion. Member for Kapenguria, what is out of order? You have your five minutes!

Hon. Chumel: Thank you, hon. Temporary Deputy Speaker, for giving me this opportunity also to add my voice to this very important issue, which affects Kenyans. I sympathize with the way we are conducting this issue here. Most of the Members do not understand the suffering that the people of Lamu are going through. This is not only in Lamu. But most Kenyans, especially from where I come from, people are seriously suffering. The poor are denied their right of having a piece of land. This is a God given House and the Members are appointed to represent the voices of the voiceless. The Members should be serious and seriously discuss the things that will relieve the sufferings of Kenyans.

I want to start by thanking the Chairman of the Lands Committee. Sometimes back, I had started developing a negative attitude towards him but today, I have forgiven him. He has done his best. There was a time when I raised a problem here and instead of the problem being solved, more problems were created. I am seeing that he is now coming up and soon, he will solve that issue. I agree that, sometimes, God can give answers through hard ways. If we start with the history of Kenya when we were fighting for Independence, many Kenyans who wanted their country to be free suffered a lot. Blood was shed and many people lost their lives. The poor were coming up but the problem is that the mighty persons who are grabbers are so guarded that the poor cannot reach them.

In fact, if it was possible for people to march and get the 22 persons who took those plots in Lamu, we could not be having those problems here. Those people are guarded right from the State House all the way to where they are. Something has to take

place now. We are serious on this. When we talk about insecurity to our people, especially in places where some of us come from, namely, the Pokots, Turkanas, Karamajongs and the Sabaots, the people are dying day and night, but nobody cares about it. It is as if the security of this nation is selective. When certain people are touched, the mighty forces go to that place to protect the people, while others die like rats.

It is high time we changed and ensured that Kenyans are equal. There are no great Kenyans and lesser Kenyans. We are all the same. The Chairman of the Lands Committee should now go back and address the issue of Chepchoina. We are all now paying attention to the Lamu issue, but a serious thing is soon going to happen in those areas. We will cry and run to that place. This is a reactive Government that when something bad happens, that is when they run to that place. Do you want people to wake up through the blood of others? This is serious. We should wake up, move together and ensure that Kenyans live in peace. In every election year, people fight over land. Can we stop this?

The Temporary Deputy Speaker (Hon. Kajwang’): All right. Order!

(Hon. Ekomwa stood up in his place)

Hon. Member, you are not going to request to speak by raising your hand or even rising on your feet. Can you sit down? Order! Will you sit down? The Speaker is on his feet. Can you sit down?

Member for Lamu West, this area seems to be around where your constituency is. Can we hear you? You have disappeared again. Where are you?

Hon. Kariuki Ndegwa: Hon. Temporary Deputy Speaker, some of the Members are taking this issue as a matter of debating and yet, it is a very serious matter. The Session has been adjourned for the Lamu matters, but people are diverting attention to other areas and pursuing their interests.

(Loud consultations)

Hon. Temporary Deputy Speaker, please, protect me. I would like to make it very clear to the Members that the President did not revoke the titles. But he stopped and directed the necessary authority to investigate, verify and cancel the illegal ones. So, Members should understand that. The National Land Commission and the necessary authority will do the revocation as per the Constitution.

(Loud consultations)

Hon. Temporary Deputy Speaker, I wish you could protect me! The Members are not giving me their ears.

The Temporary Deputy Speaker (Hon. Kajwang’): Order! Everyone order! Order! Resume your seat, hon. Kariuki Ndegwa! Order! Member for Ugenya!

An hon. Member: An expert of shouting!

The Temporary Deputy Speaker (Hon. Kajwang’): Nobody here is an expert of shouting! Check your Standing Order No.107 and familiarize yourself with the Standing

Order. Do not put me in a situation that you will have to leave the Chamber or face some other harsher punishment.

Therefore, hon. Member for Lamu West will be heard for five minutes. Proceed!

Hon. Kariuki Ndegwa: Hon. Temporary Deputy Speaker, I believe some of us are very much annoyed. Besides not having the land in Lamu County, they have money in the pocket of what happened in Lamu County and we understand that. But I want to advise the Kenya National Land Authority (KNLA) not to go back but to continue. As an hon. Member of Parliament for Lamu West, I want to see the 500,000 acres coming back to the community; be it in a form of compensation or revocation.

Hon. Temporary Deputy Speaker, we cannot equalize the comfort of some individuals to the loss of lives. We have lost a number of lives because of land grabbing. When we are taking the measures, we are trying to investigate and evaluate to make sure that each and common *mwananchi* of Kenya is comfortable, some people are enjoying, laughing and making noise. This is not acceptable!

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

The Temporary Deputy Speaker (Hon. Kajwang’): Order! Yes, hon. Member for Gem. What is out of order!

Hon. Midiwo: Thank you, hon. Temporary Deputy Speaker, I will be brief.

(Loud consultations)

I am on a point of order!

The Temporary Deputy Speaker (Hon. Kajwang’): Order! Order, hon. Member for Thika Town! What is out of order, hon. Member for Gem?

(Loud Consultations)

We cannot hear!

Hon. Midiwo: If you cannot hear me, I will not always hear you. We cannot do the same.

The Temporary Deputy Speaker (Hon. Kajwang’): Order! He will be heard in silence.

Hon. Midiwo: But I want to say that the hon. Member for Lamu West, who has every right to contribute, his name has been all over the media as one of the people who was dishing out land. Could he clarify and declare his interest as one of the people when he was a councillor and now? Can he clarify if he is involved or what he has? He needs to declare his interest.

(Loud consultations)

The Temporary Deputy Speaker (Hon. Kajwang’): Hon. Member for Gem, I rule you out of order. That is not a point of order and it does not relate in any way about how hon. Members are conducting the business in the Assembly today. Yours is a question of debate and you will have time--- In fact, you had time to be able to prosecute your defense.

Therefore, I rule you to be out of order. Let us move ahead. Hon. Member for Lamu County.

An hon. Member: The hon. Member for Lamu West had not finished.

The Temporary Deputy Speaker (Hon. Kajwang’): How long would you want him to continue? Okay, give him one minute. Can you give hon. Member for Lamu West one minute? We cannot hear you. Be patient! Just give him one minute.

Hon. Kariuki Ndegwa: Hon. Temporary Deputy Speaker---

The Temporary Deputy Speaker (Hon. Kajwang’): We cannot hear you. Just be patient until we get the microphone to you.

Hon. Kariuki Ndegwa: Hon. Temporary Deputy Speaker----

(Loud consultations)

The Temporary deputy Speaker (Hon. Kajwang’): Order! He will be heard in silence.

Hon. Kariuki Ndegwa: Hon. Temporary Deputy Speaker, I believe that some people are behaving primitively by saying that a person like hon. Ndegwa, who was a mere councilor by then, could allocate land. That is being primitive.

(Loud consultations)

I fail to understand what it is. It is good to approach this matter with sober minds.

(Loud consultations)

The Temporary Deputy Speaker (Hon. Kajwang’): Order, Members! We will have silence in the Chamber and I will not entertain Members looking for me by raising hands or making funny eyes - winking at me!

(Laughter)

Order! Yes, Member for Lamu County.

Hon. (Ms.) Shakila: Hon. Temporary Deputy Speaker, I would, first of all, like to thank the Mover of this Motion for bringing this issue to the House. As you understand, Lamu has suffered big time. We have suffered because of insecurity and now we are suffering because of land. It is very unfair to mix insecurity and land issues. Land injustice did not start in 2011 or 2012 in Lamu. It started way back.

(Applause)

If this Government is willing and is ready to address the land issues in Lamu, it should not do it selectively. Rather, it should do it wholesome. There is a lot of misleading information from the Cabinet Secretary. Lamu consists of 1,605,750 acres of land. If you remove 500,000 acres, that is 30 per cent and not 70 per cent. That is already misleading information. Out of the 500,000 acres, 230, 000 acres is community land in

the sense that the ranches are owned by marginalized people like the Bonis, Ormas, Bajunis and others. Those are the titles which should not have been revoked.

Since this issue is about Lamu, it would only be fair if the leadership of Lamu was fully involved before the release of any report. It is unfortunate that the leadership of Lamu was not involved at all. When we were called at State House, we thought we were going there to discuss the insecurity issue only to realize that we were there to endorse the revocation of land and yet, we were not part of it.

Hon. Members: Shame! Shame! Shame!

Hon. (Ms.) Shakila: Hon. Temporary Deputy Speaker, there is Sheila Ranch and others like Nyongoro, Boni, Kibokoni and others. They are owned by the communities in Lamu. We want to be fully involved in this issue. We do not want to see our land taken away from our community and taken to the national Government which has no mandate in any law to own land in this country.

(Applause)

The misleading information which is being given by the Cabinet Secretary should stop because that is not doing any justice to the people of Lamu. The people of Lamu are suffering and all we want to see is the Government giving us justice in terms of security and land ownership.

The involvement of leaders in this issue is very crucial because our input will determine the rights of ownership of land and the right of revocation of land in Lamu. We want to know this: If this land is revoked, where will it go to. We need to be told because the Constitution is clear that, that land should go back to the county and community. It should not go to the national Government.

With those few remarks, hon. Temporary Deputy Speaker, I beg to support.

(Applause)

Hon. Gichigi: Hon. Temporary Deputy Speaker, thank you for giving me this opportunity to contribute to this debate. Let me begin by saying that it has been a travesty of justice that the people of the former Coast Province have stayed for all these years with all this land and the successive governments have not made attempts to survey, demarcate and allocate them their land. I think it has been very unfair and the current Government, if there is one thing that they are going to do to, at least, is to give redress to those poor people and allocate them that land so that the land grabbers from all over and especially from that same place should stop encroaching on that land. So, it is important and I ask my Government to, please, move with haste and allocate the people of Lamu, Kwale and Kilifi the land that they live on. It is important that, that is done.

I fully support the move by our President to initiate the revocation of the land that was grabbed by those amorphous fellows, some of who we do not even know. The reason that it is only seven out of the 22 companies we can trace the directors is because the land has been grabbed by the people who were in a position to influence allocations when it was allocated. That is basically the reason and everybody was in touch with what was happening in this country at the tail end of the last Government knows that the mandarins

in Ardhi House - from the very top - used to scout around for un-allocated Government land, any expired lease and the then Minister and the Commissioner for Lands were allocating themselves and their buddies that particular land. It is common knowledge and I do not think we need to hide this.

The other thing is that when it comes to the issue of land, this House and all other leaders should move very carefully. Looking at the law, the Government of the day had power to allocate land but there was a procedure, including that the Government was supposed to gazette the land that was un-allocated. It was even supposed to auction land if it was not occupied by the communities. That never used to happen and people who were occupying land would wake up one day or be woken up one day by bulldozers chasing them away from their shanties. So, it is important that this issue is redressed.

Hon. Temporary Deputy Speaker, last Friday, I was in Mombasa for the business of this House - Departmental Committee on Labour and Social Welfare - and some people who knew me as an advocate dealing with land cases approached me. What they told me is that they wanted me to help them get land that they were occupying since 1960, where the landlord was absentee. The owner was an absentee landlord. But what shocked me is when they told me that they have tried to approach the National Land Commission (NLC) to get assistance, but the NLC has asked the poor fellows from the Coast to look for a Kshs20 million bribe, to bribe the commissioners or some of the commissioners so that they can be assisted to get the land that they have been occupying since the 1960s. Those are the same people that you are saying that we should give this land to investigate and, if necessary, allocate it. I think it is important that, as we clean, the Ministry should clean the NLC.

Hon. Wandayi: Thank you very much, hon. Temporary Deputy Speaker for giving me this opportunity.

The Temporary Deputy Speaker (Hon. Kajwang’): Order! We should take one minute and say something and allow other Members to speak.

Hon. Wandayi: Hon. Temporary Deputy Speaker, I will be very brief. The land question in Coast Province is a very serious matter. Indeed, it is only in this province that we have people living as squatters in their own land. What is happening in Lamu County is just a tip of the iceberg. If you were to look at it critically - the land grabbing in Coast Province - you will not believe it. Two families own 90 per cent of the land in TaitaTaveta.

(Applause)

That is inhuman to say the least. That is the Basil Criticos family and Jomo Kenyatta family.

We must revisit the TJRC Report in this House. I now know why the Jubilee Government went ahead to doctor that Report before it was brought to this House.

Finally, when the TJRC Report came before this House, it went ahead and forced through this House to amend a clause to enable this House to amend that Report on the Floor of this House - the original report had mentioned names of the most powerful people in this country.

Hon. Members: Yes!

Hon. Wandayi: Hon. Temporary Deputy Speaker that is why the foreign Commissioners and Madam Betty Murungi resigned from TJRC before the Report was published. That is because of the attempt by the Jubilee mandarins to doctor the report to remove the names of those who have been responsible for all the malpractices or injustices in this country.

The question in Lamu is: If we are talking about the 22 companies, what about the 213 titles that hon. Orenge revoked in 2010? This is a demonstration that hon. Orenge was out to solve the land problem in Lamu.

Hon. Members: Shame! Shame! Shame!

Hon. Wandayi: Hon. Temporary Deputy Speaker, what is happening now is an attempt to divert attention from the real issues.

Hon. Temporary Deputy Speaker, no amount of public relations; no amount of buck passing and no amount of spin work will drive the question of land under the carpet. It is a question that the Jubilee Government must confront head on. Jubilee is the most culpable entity in land grabbing. It is true that land grabbing began in earnest in 1963.

Hon. Temporary Deputy Speaker, I want to conclude so that my friend can continue from where I left.

The question of land injustice in Coast Province and the question of land grabbing will only be solved if we put in place a Government that is responsible; a Government that is led by a coalition such as CORD, which has got a very clear roadmap on land justice.

Hon. Temporary Deputy Speaker, with all those remarks, I refuse to support this Motion.

The Temporary Deputy Speaker (Hon. Kajwang): What amuses me is that you are given a chance and then you start rhetoric. Can I hear facts? The people from Lamu County want to hear facts and not rhetoric.

Hon. (Ms.) A.W. Ng'ang'a: Thank you, hon. Temporary Deputy Speaker. I support the Motion. When hon. James Orenge was the Minister for Lands, he had a chance--- If he revoked 1,000 acres of land and decided not say that was his problem. Now, there is a Madam who has gone there as the Minister for Lands and she wants to do a proper and thorough job.

(Applause)

She has come out and shown us the way. Hon. Temporary Deputy Speaker, Jubilee, in their manifesto said that---

Hon. Members: No. No.

Hon. (Ms.) A.W. Ng'ang'a: Hon. Temporary Deputy Speaker, can I finish saying what I want to say? Do not be cowards. Cowards are the only ones who do not like people to speak. Let me say what I am saying.

Hon. Temporary Deputy Speaker, we said that we were going to sort out the land problem. A journey of a long mile starts with one step. That is where we are starting right now. Madam Charity Ngilu has sat there and because Lamu was hit recently, they wanted to know exactly what is happening there. It was revealed that most of the land in Lamu

was grabbed and that is where we are starting from. We know there are land injustices there but that is where we are starting from. We need to be given a chance.

Hon. Temporary Deputy Speaker, James Orengo said that he was not in charge. But I want to say right now as I stand here - and it is the truth - that I am the patron of the Constituencies Development Fund (CDF) in my constituency. However, if anything happened in my CDF in Thika, the person who is in charge is me. So, the person who was in charge at that time at the Ministry of Lands was James Orengo.

Hon. Temporary Deputy Speaker, the land that was issued out amounted to 500,000 acres. It means there is no way it can be issued without his consent. I know how the Ministry of Lands operates. He must have been requested and he knows it happened.

Hon. Temporary Deputy Speaker, we do not want to be taken for a ride in this nation. The Coalition for Reforms and Democracy (CORD) side should sit, relax and watch the Jubilee Government deliver its manifesto and we are doing it. I want to say that a thief is a thief and when somebody gets you stealing, you should not say that I am not a thief because other people stole before me or some things happened. If you are the one who is caught at that specific time, then you are answerable at that time. So, there is no way you can change that person from being a thief.

Land was stolen in Lamu. It was stolen by human beings and not cows. People went there and land was taken. So, when a person takes something that does not belong to him, then the name that person gets is a thief, a thief and a thief.

Hon. Temporary Deputy Speaker, I was wondering what this thing about a referendum is all about and yet, we came from elections last year. I was trying to understand what is going on but it has come to my realization and understanding that referendum was all about camouflaging what those people did when you were in the Opposition. They were just camouflaging. They do not want Kenyans to realize what is happening. They want to camouflage their deeds. I pity the people of Coast Province because they were told that they will be given land but, instead, the land was taken away from them by the same people who told them to vote for them. So, they took their land and got their votes. The Coast people should know that those people went there, cheated them and then took their votes and land.

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

Hon. (Ms.) A.W. Ng'ang'a: Hon. Temporary Deputy Speaker there is nothing out of order. I am stating a fact. There is nothing out of order. Relax so that I finish. I only have a second. Let me finish. Let us be told the truth of exactly what happened.

Hon. Temporary Deputy Speaker, Madam Charity Ngilu should be given a chance to do a thorough clean-up of the Ministry of Lands.

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

Hon. Ng'ongo: Thank you, hon. Temporary Deputy Speaker.

(Hon. (Ms.) A.W. Ng'ang'a engaged with hon. Members across the Floor)

The Temporary Deputy Speaker (Hon. Kajwang'): Order. Actually, Member for Thika Town, what was out of order is for you engaging across the Floor. You are just supposed to debate and leave it at that. Okay. Proceed.

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

The Temporary Deputy Speaker (Hon. Kajwang’): I will not entertain points of order. I want you to debate. No. I will not.

Hon. Ng’ongo: Thank you hon. Speaker, I also want to thank the Mover of this Motion hon. Benjamin Langat – and he was my junior in campus - for bringing such a Motion. I will not repeat. It has been said that land is emotive and surely it is. A lot of problems in this country have come as a result of land. I want just to put two issues in perspective. One, before the promulgation of the 2010 Constitution, the power to allocate land and to revoke titles was with the President of the Republic of Kenya, which power, he donated to the Commissioner of Lands. Before 2010, the Minister for Lands, could initiate revocation of land title, the President could do the same, but with the coming into force of the current Constitution, I want to quickly read Article 67(2) (e), and I would urge the Jubilee side, especially the Leader of Majority, my friend hon. Duale, to do this, if he want to help and advice the President to do this. The National Land Commission has the powers to initiate investigations on its own initiative or on a complaint - including a complaint from the Head of State - into present or historical injustices and recommend appropriate redress. Therefore, the people of Kenya took the power to investigate land allocations and land revocations to the National Land Commission. One would have expected that is what should have been done. I just want to urge that two things need to done and the Jubilee side needs to listen to this. We cannot trust a Cabinet Secretary, especially the one who was even defeated to run the Ministry of Water and could steal water pipes.

(Laughter)

Such is a person we cannot trust with revocation of land. If managing mere water pipes could defeat this lady, how do we entrust such a lady to talk about thousands and thousands of acres of land. Before the Jubilee side talks about Lamu, we have said it. The Jubilee side should advice the President to do the simplest thing. There are huge trucks of land owned by his family. He should surrender those pieces of land to the landless and having said that---

(Loud consultations)

And having advised Jubilee to go and advice their President to surrender the 70 percent of the land he owns in Taita Taveta, I would like to ask hon. Ochieng to give you information. The Deputy President should equally surrender the land in Karen. The Deputy President, someone who can even steal---

(Loud consultations)

The Temporary Deputy Speaker (Hon. Kajwang’): Order! Can you all sit down? Member for Kibra Order! Member for Suba, do you want information from Member for Ugenya?

Hon. Ng'ongo: I want to first of all table the Truth Justice and Reconciliation Report and urge that they advise them

(Loud consultations)

The Temporary Deputy Speaker (Hon. Kajwang’): Order! Order! Order! Member for Kibra, out at once before we go there. Get out of the Chamber for the rest of the day.

(Hon. Okoth withdrew from the Chamber)

ADJOURNMENT

The Temporary Deputy Speaker (Hon. Kajwang’): Order, Members!
The time being 6.30p.m., this House stands adjourned until tomorrow Wednesday, 6th August, 2014 at 9.30 am. It is so ordered.

The House rose at 6.30 p.m.