

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Thursday, 18<sup>th</sup> February, 2016

The House met at 2.30 p.m.

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

### PRAYERS

### PAPERS LAID

**Hon. A.B. Duale:** Thank you, Hon. Speaker. I beg to lay the following Papers on the Table of the House today, Thursday 18<sup>th</sup> February, 2016:-

The Transition Authority: Justification for the extension of transitional period and mandate of the Transition Authority.

The Reports of the Auditor-General on Financial Statements in respect of the following institutions for the year ended 30<sup>th</sup> June 2012, and the certificate therein:-

- (i) The National Rainbow Coalition Kenya
- (ii) The Grand National Union Party
- (iii) The National Agenda Party of Kenya

The Reports of the Auditor-General on the Financial Statements in respect of the following institutions for the year ended 30<sup>th</sup> June 2013 and the certificate therein:-

- (i) The Democratic Party of Kenya
- (ii) The Party of Democratic Unity
- (iii) The Unity Party of Kenya
- (iv) The Progressive Party of Kenya
- (v) The Mwangaza Party
- (vi) The United Democratic Front Party
- (vii) Mwakenya Solidarity Movement.
- (viii) Mazingira Greens Party of Kenya
- (ix) New FORD-Kenya
- (x) Mzalendo Saba Saba Party
- (xi) New Democrats Party
- (xii) Maendeleo Democratic Party
- (xiii) Federal Party of Kenya
- (xiv) People's Democratic Party
- (xv) Kenya Social Congress
- (xvi) Alliance Party of Kenya
- (xvii) National Democratic Movement Party
- (xviii) National Labour Party
- (xix) Shirikisho Party of Kenya

(xx) Muungano Party  
Few of those parties have Members in this House.

*(Hon. A.B. Duale laid the Papers on the Table)*

**Hon. Speaker:** It is important to appreciate that one of the very stiff conditions for a party to qualify to be registered under the Political Parties Act is to meet the requirements of Article 91 of the Constitution. They must have operational branches in not less than 24 counties. The challenge is on those who are supposed to police political parties to see whether those offices exist.

**Hon. Midiwo:** On a point of order, Hon. Speaker.

**Hon. Speaker:** On this same one, Hon. Midiwo?

**Hon. Midiwo:** Hon. Speaker, it is interesting that the Leader of the Majority Party would mention those parties. We have never heard some of them. Should it not have been that four years after the Political Parties Act was established, the Registrar of Political Parties should have struck off these briefcase parties from the register? Today in the morning, I was listening to an FM station and I heard a certain lady calling herself a party leader. I am wondering whether the term “party leader” belongs to everybody. The political parties have become tools of trade. It would be nice for the country to do things right because that was not the objective of the Political Parties Act.

**Hon. Speaker:** It is instructive that the Reports that have been laid by the Leader of the Majority Party are the reports of the Auditor-General on the financial statements in respect of those parties as of 30<sup>th</sup> June 2013. That is instructive. I do not know who is supposed to consider these audited accounts. Maybe, the Leader of the Majority Party could shed some light. Are they supposed to go to the Public Accounts Committee?

**Hon. A.B. Duale:** Hon. Speaker, Hon. Jakoyo should be fair. I am a pastoralist. There are those who have large herds of cattle and those who have 20 goats. They are all Kenyans. I am sure one of the founder members of Mzalendo Party is behind me. Hon. Kiunjuri is one of the founder members. I am sure within the new law, all parties must send their accounts, whether they are briefcase parties or they are giants parties like the Orange Democratic Movement (ODM), United Republican Party (URP) and The National Alliance (TNA). Those are the horses! The rest are donkeys.

*(Laughter)*

The big horses are ODM, URP and TNA. The rest do not qualify to get---Hon. Wamalwa is bringing a Bill so that he gets a slice of the cake. I am very sorry. What I have tabled is audited accounts of those parties. I am happy. I want to thank them for complying. They will be sent to the Public Accounts Committee just like the CDF accounts. I am happy. I have not studied the accounts of some of them. Maybe, some of them have no money.

The route is where we are going. That is why the Jubilee Coalition wants to kill all those small briefcase parties and form one party. So, Hon. Jakoyo, if you have a problem with those small parties, you also merge so that this country can have two parties like the Labour Party and Conservative Party in the United Kingdom (UK) or the Republican Party and the Democratic Party in the USA. That is the way Kenya should go. This idea of having parties for business,

ethnicity or from your clan is not good. I am sure Hon. Jakoyo and I do not believe in that ideology; we believe in big parties.

**Hon. Speaker:** Hon. Members, I hope that the statement by the Leader of the Majority Party about “killing” is not taken literally because it would be a bit strange. Let them not be killed. There is something called *posho* principle, and Hon. Dalmas Otieno is an expert in this area. There is something he used to call the *posho* principle. The *posho* principle acknowledges that small parties could easily be swallowed by bigger ones. At appropriate time, Hon. Dalmas Otieno will tell us about the *posho* principle. He is very good at it.

Hon. Members, let me welcome to the National Assembly, students from the following institutions:-

Getarwet Secondary School from Bureti Constituency, Kericho County; Mang’u High School, Kiambu County; Prudent School, Kiambu County, Kabete Constituency and St. Mary’s Kanganga, Mbeere North Constituency, Embu County. Welcome to observe the proceedings of the National Assembly.

The Chairperson of the Constitutional Implementation Oversight Committee, Njoroge Baiya. Anybody from that Committee laying the report on his behalf? Absent not desiring to be present. Hon. ole Kenta, are you aware of the report?

**Hon. ole Kenta:** No, hon. Speaker.

**Hon. Speaker:** You are not in a position?

*(Hon. Baiya walked into the Chamber)*

Hon. Member for Githunguri Constituency, the House starts sitting at 2.30 p.m. on Thursday afternoon. You are listed as tabling some report.

**Hon. Baiya:** We were late in getting approval from the Speaker’s Office. We will table it on Tuesday next week.

**Hon. Speaker:** Very well. It has not even reached the Speaker’s Office.  
Next Order!

## STATEMENT

BUSINESS FOR THE WEEK COMMENCING 23<sup>RD</sup> TO 25<sup>TH</sup> FEBRUARY 2016

**Hon. A.B. Duale:** Thank you, Hon. Speaker. Pursuant to Standing Order No. 44(2)(a), on behalf of the House Business Committee (HBC), I rise to give the following Statement regarding the business that will appear before the House the week beginning Tuesday, 23<sup>rd</sup> February, 2016.

The HBC met on Tuesday this week at the rise of the House to prioritise the business of the House. The HBC resolved to give priority to Bills with constitutional timelines as well as Committee reports and Motions awaiting debate. The following Bills have been prioritised, should they not be concluded today:-

- (i) The Community Land Bill, National Assembly Bill No.45 of 2015.
- (ii) The Land Laws (Amendment) Bill, National Assembly Bill No.55 of 2015.
- (iii) The Energy Bill, National Assembly Bill No.50 of 2015.

- (iv) The Kenya Regiment (Territorial Force) (Repeal) Bill, National Assembly Bill No.39 of 2015.

Other important Bills that will be considered are:-

- (i) The Miscellaneous Fees and Levies Bill, National Assembly Bill No.30 of 2015.
- (ii) The Kenya Roads Bill, National Assembly Bill No.27 of 2015.
- (iii) The Public Finance Management (Amendment) Bill, National Assembly Bill No.4 of 2015.
- (iv) The Warehouse Receipts System Bill, National Assembly Bill No.12 of 2015.

Next week, the following Cabinet Secretaries (CSs) are scheduled to appear before committees on Tuesday, 23<sup>rd</sup> February, 2016.

The first one will be the Cabinet Secretary for Foreign Affairs and International Trade who will appear before the Committee on Defence and Foreign Relations at 10.00 a.m. to answer questions from Hon. Joseph Gitari, MP; Hon. Irshadali Sumra, MP; Hon. Christopher Nakuleu, MP; Hon. Robert Pukose, MP and Hon. Rose Nyamunga, MP.

Second, the Cabinet Secretary for Environment, Water and Natural Resource will appear before the Departmental Committee on Environment and Natural Resources at 10.00 a.m. to answer questions from Hon. Patrick Makau, MP; Hon. Zuleikha Juma, MP and Hon. Francis Mwangangi, MP.

Third, the Cabinet Secretary for Interior and Coordination of National Government will appear before the Departmental Committee on Administration and National Security at 11.00 a.m. to answer questions from Hon. Mohamed Diriye, MP; Hon. Roba Duba, MP; Hon. Wilberforce Otichillo, MP; Hon. Janet Nangabo, MP and Hon. Joseph Manje, MP.

Finally, the House Business Committee will reconvene on Tuesday, 23<sup>rd</sup> February 2016 at the rise of the House to consider business for the rest of the week.

The Leadership Retreat will take place for two days commencing tomorrow, Friday 19<sup>th</sup> to Saturday, 20<sup>th</sup> February, 2016. I now wish to lay this Statement on the Table of the House.

*(Hon. A.B. Duale laid the Statement on the Table)*

Thank you.

**Hon. Speaker:** Next Order.

## BILL

### *Second Reading*

#### THE LEGAL AID BILL

*(Hon. A.B. Duale on 10.2.2016)*

*(Resumption of Debate interrupted on 17.2.2016)*

**Hon. Speaker:** Order, hon. Members! Debate on this Bill was concluded yesterday. Therefore, what remains is for me to put the Question, which I hereby do.

*(Question put and agreed to)*

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

## MOTION

### APPROVAL OF THE CALENDAR OF THE HOUSE

**Hon. A.B. Duale:** Hon. Speaker, I beg to move the following Motion:-

THAT, pursuant to Standing Order No. 28, this House approves the Calendar of the House (Regular Sessions) for the Fourth Session of the Assembly, as contained in the Schedule attached to the Order Paper.

At the back of the Order Paper, which every Member of this House must be having a copy, there is a calendar of the National Assembly which, according to the Standing Orders, must be approved. It contains the sitting days, short recess and long recess throughout the year between today, if you approve, until December.

The approval of this calendar is one of the gains of the new Constitution. When I was a young man in primary and secondary school, I remember that the former President - and there were many but in this case *Baba Nyayo* - used to dissolve and send the House home anytime he felt Members had misbehaved. I am sure on Tuesday, when the House rejected the formation of the Budget and Appropriations Committee, if *Mzee Moi* was in power, he would have dissolved the House the following day and sent us on a two-month recess. It is the men and women in this House who make the calendar. I am sure that the House Business Committee (HBC), in consultation with the Clerk's Office and all the directors of the various departments under the leadership of our Speaker, presented this calendar to the HBC on Tuesday. We felt that it is in order. The HBC has approved the calendar. I urge our colleagues to please have this calendar pinned at the best parts of their offices so that they can be referring to it. You can programme yourself on how to attend to constituency work and other commitments based on this calendar. You will know, for example, that between March 25<sup>th</sup> and 4<sup>th</sup> April this year, we will have a short recess.

We have decided to align the short recess to the Easter holiday for those of us who profess the Christian faith. Even the recess is put in such a way that you will have time for your constituency and your family. Even the time when we will be sitting, May is in tandem with the budget-making process. Under the Constitution, the Public Finance Management (PFM) Act and the Standing Orders, the budget-making process has certain timelines. Therefore, while developing the calendar of the House, we took into consideration all those provisions to ensure that we do not violate our own Standing Orders, the Constitution and the Public Finance Management Act as we strive to meet the budget-making process timelines. So, it is a simple matter.

With those remarks, I beg to move and ask my colleague, the Deputy Leader of the Minority Party, Hon. Jakoyo Midiwo, to second.

**Hon. Speaker:** Hon. Midiwo!

**Hon. Midiwo:** Thank you, Hon. Speaker. I rise to second the Motion.

As it has been alluded to by the Leader of the Majority Party, this is a requirement of the law. We need to go further and alert Members that by 27<sup>th</sup> August 2016, we must have dealt with all the constitutional Bills that the Constitution of Kenya 2010 requires us to deal with. So, it will be nice at this juncture to tell the membership of this House that very soon, we will be coming back to ask for longer and more sittings because the Bills are numerous.

Again, all the Members of this House must know that there is no room for further extension. As you are aware, when you get to August, it will only be 12 months to elections. I know that many Members here have never been up for elections. I know that by Christmas, even quorum will be a bit of a problem.

Another thing which Members need to address themselves to is the issue which the public also needs to address itself to. The Constitution says that the last day of Parliament is the date of election. I have heard even some lawyers talking carelessly about Parliament going home three months before the general elections. There is nothing like that. This House must decide through its leadership on the time we think is appropriate for Members to go home before the next polls. It is good for the general public to know that it is the Members who will decide. The law says that the last day of Parliament is the date of elections. So far, it is 8<sup>th</sup> August 2017.

Hon. Speaker, you remember Parliament was prorogued for three months. Now, these Members have come here when everything is good. Members will be here until they hand over to the next persons, whether a current Member wins or loses. So, this is a good thing. There used to be a big orderly here called Mr. Wendo. I think he is in Vihiga now. I met him once in Kakamega. He would manhandle Members of Parliament on the day it was said they were going home. There was no mercy. The only way you could be allowed in that reception, as a Member of Parliament, was if you were friendly to the orderlies in the last five years or you would have to buy your way in. So, things have got better. The thing that we are debating now is just a by-the-way because it is a requirement of law. It is a very good thing. It is a milestone.

Previously, hon. Members would be here at the behest and mercy of the Executive. I am so happy that nobody can do that to us now. I know exactly the last date of my pay cheque. I am happy about it because before, it was up to somebody else to decide the last date of my pay cheque. There are many things which we must address ourselves to. Members do not want to wait until the last minute to talk about them. These are things that we must not wait until the last minute to talk about.

On the corridors, you hear contract employees talking about what will and will not happen to them beyond 8<sup>th</sup> August 2017. As the Chairman of the Parliamentary Service Commission (PSC) and the Commissioners, you must sit down and figure out what will happen to Members of Parliament in their last day here. We want to deal with it before the Budget of this year because this is the last Budget before we go for elections.

I am talking this way because I know that we will keep quiet and get scattered. You will be so bashed even where it is your rightful share or right to partake. So, with all those things, we expect the PSC to get it ready and guide us on the way forward. We do not want it to be like it used to be before. We do not want to be here at the mercy of Mrs. Sarah Serem or anybody. We want to be here as people who were elected and are representatives of the people. We must leave here in dignity.

With those remarks, I second.

*(Question proposed)*

**Hon. Speaker:** Is it the desire of the House that I put the Question?

**Hon. Members:** Yes.

**Hon. Speaker:** Hon. Members, you know that it is a very easy thing. It is a Motion just like any other. Members are at liberty to vote either way. You all know what happens after that.

*(Question put and agreed to)*

## COMMUNICATION FROM THE CHAIR

### ADMISSIBILITY OF HON. WASHIALI'S AMENDMENTS ON REPORT OF CRISIS FACING SUGAR INDUSTRY IN KENYA

Hon. Members, before proceeding to the Motion listed as Order No.10, I wish to make this Communication, as I promised yesterday. The Communication relates to the admissibility of proposed amendments by Hon. Benjamin Washiali on the Report of the Crisis Facing the Sugar Industry in Kenya and admissibility of Papers laid on the Table of the House by Hon. Jakoyo Midiwo.

Hon. Members, as you would recall, debate on the Motion for adoption of the Report of the Crisis Facing the Sugar industry in Kenya commenced on Tuesday, 16<sup>th</sup> February 2016, but was not concluded by the time the House rose at 6.30 pm on that day. Upon resumption of debate during the afternoon sitting of yesterday, 17<sup>th</sup> February 2016, the Member for Mumias East, Hon. Benjamin Washiali, moved several amendments to the Report whose notice had been published in the Order Paper.

The import of his amendments, which are also published in today's Supplementary Order Paper on pages 37 and 38, is threefold. Firstly, Hon. Members, the Member for Mumias East successfully moved the House to delete Paragraph 101 of the Report, which he justifiably claimed was inadvertently restated in the Report. It was repeating what is contained in Paragraph 92. That particular amendment was carried by the House.

Secondly, the Member also moved the House to make two observations, by way of new Paragraphs 101(A) and 101(B). In moving this second amendment, I allowed the Member to also move the third part of his proposal, which was to amend the Report by inserting three new recommendations which he rightfully claimed were corroborated by the proposed observations and were, therefore, inseparable.

Hon. Members, the Member for Mumias East concluded moving these two amendments and requested the Member for Mukurweini, the Hon. Kabando wa Kabando, to second his proposal. It was at this juncture that the Deputy Leader of the Minority Party, Hon. Jakoyo Midiwo, rose on a point of order claiming that the proposed amendments would offend the provisions of Standing Order No.48 relating to Amendment of Notice of Motion. You will recall that several other Members rose and spoke on that particular point of order. Further, the Deputy Leader of the Minority Party claimed that the Member for Mumias East has been doing business with Mumias Sugar Company Limited and as such, he ought to have declared his interest before moving the amendment.

To substantiate his claim, the Deputy Leader of the Minority Party had several papers, whose admissibility I was later asked to determine. Further and most importantly, the Member for Kisumu West, the Hon. John Olago Aluoch, also claimed that the proposed amendments would offend the provisions of Standing Order No. 56 relating to scope and relevance of amendments to a Motion. Related to this was the procedural question of the admissibility of the amendments, particularly to the extent that the House was being asked to make certain observations whose evidence was not adduced by anyone at the time of taking evidence before the Departmental Committee on Agriculture, Livestock and Cooperatives or, indeed, in the House.

In this regard, the Member sought clarification from the Hon. Speaker on whether the Member for Mumias East was in order to move his amendments and yet, he was a member of the Departmental Committee on Agriculture, Livestock and Cooperatives and, therefore, had the opportunity to dissent on record during the adoption of the Report by the Committee, or seek a minority report in accordance with the provisions of Standing Order No.199(5).

Hon. Members, I will pause here to allow Members who are standing to make their way into the Chamber, if they can do so quickly. Members making your way in, do so quickly so that we can continue.

*(Hon. Members made their way to the Chamber)*

Hon. Members, let me continue. It is indeed evident that the debate on the adoption of this particular Report is one that has elicited unique arguments which raises several key issues that the Speaker needs to make a determination on before the debate on the Report resumes. You will recall that before I deferred the debate yesterday evening, I dismissed the claim by the Deputy Leader of the Majority Party challenging the amendments on the basis of Standing Order No.48. As a matter of fact, I did say that the provisions of that Standing Order would have been applicable to the Chairperson of the Departmental Committee on Agriculture, Livestock and Cooperatives, had he chosen to move those amendments at the time he was moving the Motion for the adoption of the Report. Having said that, the issues that now remain for my determination as deduced from yesterday's debate are as follows:-

(i) Should the Speaker admit the Papers laid by the Deputy Leader of the Minority Party claiming to link the Member for Mumias East with contracts at the Mumias Sugar Company? Would they be relevant to the Motion under debate so as to obligate the Member for Mumias East to declare his interest in the Motion in keeping with the provisions of Standing Order No.90?

(ii) In light of the provisions of Standing Order No.56 and to the extent that the amendments proposed by the Member for Mumias East contain a proposal asking the House to make certain observations whose evidence was not adduced in the House or before the Committee as expressly claimed by the Chairman of the Committee, should the Speaker admit the amendments on the observations and the consequent three recommendations which flow from those observations which the Mover claimed to be inseparable?

Hon. Members, permit me now to examine each of the issues raised.

Firstly, I will answer the question on whether the Papers tabled by the Deputy Leader of the Minority Party allegedly linking Hon. Benjamin Washiali with Mumias Sugar Company are admissible.



The Papers as tabled before the House consist of copies of deposit vouchers from various banks for varying dates and amounts between the years 2011 and 2012. However, I must say, Hon. Members, after carefully scrutinizing these documents, I am unable to confirm the authenticity and genuineness of the said vouchers. As such, the vouchers as presented are in my opinion inadmissible as records of this House and I accordingly so rule.

Further, the Papers also consist copies of correspondences dated 2011, 2012 and 2013 on the letterhead of Mumias Sugar Company Limited and are addressed to M/s Warm and Barn Hill Company Limited of P.O Box 384-50102, Mumias. The correspondences seem to be award letters of contracts for grading and spot gravelling of several roads. The letters appear to bear signatures of officials of Mumias Sugar Company Limited. My decision is based on the rendition of a precedent set by my predecessor the Hon. Kenneth Marende, on September 10<sup>th</sup>, 2009, on documents tabled by then Minister for Justice, National Cohesion and Constitutional Affairs where he indicated that presence of a letterhead and signatures on a copy of a document of this nature may suffice for the purposes of admitting the document as part of the records of the House.

In this regard, copies of letters bearing the letterhead of Mumias Sugar Company Limited are inadmissible as records of this House. Hon. Members, having made that determination, the next question is whether the Papers are relevant for purposes of establishing in terms of Standing Order No. 90, whether the Hon. Member for Mumias East ought to declare personal interest on matters concerning the Report. The relevant question is one that calls into question the issue of whether the correspondence relates to the Hon. Member or whether a link either directly or indirectly exists that can be proven between the Hon. Member and the issue at hand - in this case the Motion before the House on the adoption of the Report on the crisis facing the sugar industry.

Hon. Members, as you would recall, yesterday I inquired from Hon. Benjamin Washiali whether he knew Warm and Barn Hill Company Limited to which the letters have been addressed. The Hon. Member is on record as having said that he did not know the company and had never heard of it. In view of the foregoing, the chain process is, indeed, rendered nugatory as there exists no correlation or link between the Member for Mumias East, Mumias Sugar Company and the Report before this House. To this effect, I am, therefore, of the view that in the absence of any other evidence to demonstrate the contrary, the Papers consisting the correspondences tabled before the House, though admissible as I had stated earlier, fail the relevancy test. However, it is important to note that the Member for Homa Bay Town, Hon. George Peter Kaluma, during yesterday's debate, undertook to confirm that Hon. Benjamin Washiali, indeed, does business with Mumias Sugar Company Limited.

Pursuant to Standing Order No.91(2), if a Member has sufficient reason to convince the Speaker that the Member is unable to substantiate allegations instantly, the Speaker shall require that such Member substantiates the allegations not later than the next sitting day. In this regard, and in the absence of any evidence, as clearly seen from Standing Order 91(2), I have no option but rule that, at the moment, the allegations made against Hon. Benjamin Washiali are, at the moment, unsubstantiated. I will be allowing the Member for Homa Bay Town to substantiate his allegations at a later time in this sitting. However, I must hasten to remind Members to refrain from the temptation of drifting away from the Motion before the House, which is, the Adoption of the Report on the Crisis Facing the Sugar Industry in Kenya. In this regard, I will not entertain any attempts to use the privilege of this House to casually slander the Member for Mumias East

or, indeed, any other Member of this House in the pretext of debating the particular Motion before us this afternoon, or any other business.

Hon. Members, allow me to now proceed and examine the last issue, which was whether the amendments proposed by Hon. Benjamin Washiali are indeed admissible, in light of Standing Order No.56(1).

This particular, rule of procedure states that every amendment shall be relevant to the Motion which it seeks to amend and shall not raise any question which, in the opinion of the Speaker, should be raised by a substantive Motion after notice is given.

Hon. Members, having examined the Report, it is clear that the Member for Mumias East did not sign his consent for the adoption of the Report in the Committee. However, closer examination of the Report also indicates that there is no record of the hon. Member dissenting with the opinion for the adoption of the Report. As you are all aware, failure to sign a report cannot be interpreted to simply infer a protest or dissent. Indeed, failure to sign a report is an action that can be implied or explained by various lines of thoughts, including and not limited to the Member being absent during the adoption of the report or mere acts of inadvertent omissions, unwillingness or negligence.

*(Laughter)*

Having said that, allow me to examine our Standing Orders in determining how dissent is recorded in reports.

Standing Order No.199(5) on reports of the committees provide that a report, having been adopted by a majority of members, a minority or dissenting report may be appended to the report by any member of the committee. A close reading of this provision indicates that a Member seeking to dissent or protest adoption of a report needs to make clear dissenting views which should be on record in terms of a minority report being appended to the majority report.

Hon. Members, this is also the practice in comparable jurisdictions. Indeed, referring to Erskine May on Parliamentary Practice, 24<sup>th</sup> Edition, on the issue of minority reports, it reads:-

“If a member disagrees to certain paragraphs in the report, or to the entire report, he can record his dissent by dividing the committee against those paragraphs, or against the entire report as appropriate. Members can put on record their observations and conclusions, as opposed to those of the majority, by proposing an alternative draft or minority report---”

Further, referring to Mason’s Manual of Legislative Procedure, the minority members of a committee may collectively or individually present views with the committee report. A member of a committee who does not agree with the report may be permitted to state his views following the filing of the committee report.

Hon. Members, as seen from our Standing Orders and other comparable jurisdictions, it is, indeed, clear that a Member who does not agree with a report ought to have his or her dissenting views recorded and as provided for in our Standing Orders, the protest should be in form of a minority report. Hon. Benjamin Jomo Washiali, as a Member of the Committee, therefore, ought to have had his dissenting views recorded or a minority report appended to the majority Report which is before this House. Had the Member done this, he would have been at liberty to move the House to delete the majority report so that only his minority report or views would be adopted by the House in the end.

Hon. Members, further moving on to examine the amendments by the hon. Member, what in short he is requesting this House to do is to make observations and recommendations which fundamentally alter the observations and recommendations as presented in the Report that is before this House by the Committee. It is clear from the Report and the remarks of the Committee Chairperson yesterday that no evidence was adduced in the Committee to allege the observations which the Member for Mumias East is now asking the House to make, consider and vote on. This begs the question: On what basis would the House be considering or even confirming those observations and proceed to make recommendations? On the converse, would it not have been prudent for the Committee to apply the provisions of Article 125 to require the attendance of persons before it so as to examine any evidence to support or discharge the claims which are now being offered by the Member for Mumias East? It is my view that allowing the House to involve itself in merely confirming observations that contain fundamental claims that fail the test of examination for validity and authenticity, would be a clear disregard of the very import and the power given to the Committees of this House and the House in Article 125 of the Constitution, to call witnesses before it. Under the provisions of Article 125, the House and its Committees have quasi-judicial authority to exhaustively examine witnesses as the Member would want.

In this regard, therefore, I am of the opinion that such amendments ought to have been raised as a substantive Motion for quasi-judicial examination before the Committee, or carried in a minority report to the House. Since the Member also claimed that the amendments relating to his proposed observations are inseparable from the proposed recommendations, both of which the House has not had the benefit of any report, I find that both the purported observations and the consequent proposed recommendations are inadmissible.

*(Applause)*

In summary, I hereby make the following determinations:-

1. THAT, the copies of bank deposit slips and vouchers laid before the House yesterday by the Deputy Leader of the Minority Party are not admitted as records of this House.
  2. THAT, the copies of the correspondences laid before the House yesterday by the Deputy Leader of the Minority Party, while admitted as records of this House, are not relevant to the Motion as they do not disclose any conflict of interest on the part of the Member for Mumias East.
  3. THAT, in light of the finding in (2) above, I do not see anything obligating the Member for Mumias East to declare his interest on the Motion before the House under Standing Order No. 90.
  4. THAT, the inseparable amendments proposed by the Member for Mumias East relating to the observations and the recommendations are inadmissible as they offend the provisions of Standing Order No. 56(1), and will not be entered upon by this House.
- Be guided accordingly. I thank you.

*(Applause)*

## **MOTION**

ADOPTION OF REPORT ON CRISIS FACING  
THE SUGAR INDUSTRY IN KENYA

THAT, this House adopts the Report of the Departmental Committee on Agriculture, Livestock and Co-operatives on the Crisis Facing the Sugar Industry in Kenya, laid on the Table of the House on Thursday, 12<sup>th</sup> March 2015.

*(Hon. Nooru on 16.2.2016)*

*(Resumption of Debate interrupted on 17.2.2016)*

*(Resumption of Debate on the Motion as amended)*

**Hon. Speaker** Hon. Members, debate on the Motion proceeds as amended. If you recall, Hon. Benjamin Washiali, with concurrence from the Chairperson of the Committee, successfully moved the deletion of paragraph 101. To that extent, debate proceeds on the Motion as amended.

Hon. Washiali.

**Hon. Washiali:** I want to take this opportunity, Hon. Speaker, to thank you for the ruling. Because today I am sober, I want to agree with you and step back---

*(Laughter)*

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

**Hon. Speaker:** The Leader of the Majority Party, what is your point of order?

**Hon. A.B. Duale:** Hon. Speaker, you have heard Hon. Benjamin Washiali say that today he is sober. Can he, please, tell the House and go on record what his physical and mental status was yesterday?

*(Laughter)*

**Hon. Washiali:** Hon. Speaker, I did not expect interruption from my boss, but I was eagerly waiting to see this amendment go through. I was emotionally not sober. That is why I want to declare here that I was not sober.

**Hon. Speaker:** Hon. Washiali, do I take it that you are contributing to the Motion or would you like me, as I have indicated in my ruling, to allow Hon. George Peter Kaluma to make his substantiation?

**Hon. Washiali:** I am aware, Hon. Speaker, that eventually you will have to give him an opportunity to raise his issues, but I just wanted to comment on your ruling. I am satisfied with the way you have ruled. However, I was very keenly listening to you and the issue of the owner of that company being my personal assistant. All personal assistants are Parliamentary Service Commission (PSC) staff and we have a way of establishing who is a personal assistant of a Member of Parliament and who is not. I also did my fact-finding early in the morning and I want to declare here that the director of the company in question has never been, is not and will never be my personal assistant.

**Hon. Speaker:** Hon. Washiali, my ruling has already settled that matter.

**Hon. Washiali:** You never touched on that point, Hon. Speaker.

**Hon. Speaker:** Nobody raised the issue about you being a director. I have said there is no direct connection. That rests the matter there.

**Hon. Washiali:** Okay, Hon. Speaker. Let me finalise by way of informing Members of this House that the Report we are debating today is a very unique Report. The Kenya National Assembly gave the Departmental Committee on Agriculture, Livestock and Cooperatives two sessions to write this Report. One session was at Whitesands Hotel, Mombasa, where Government money was spent. Members of Parliament in the Committee went to Whitesands Hotel and wrote a complete Report. Later on, the same Committee was at the Windsor Hotel. To have written my report was not possible because I did not know on which report I was to make my dissenting comment. We must be fair to the people of---

**Hon. Serut:** On a point of order, Hon. Speaker.

**Hon. Speaker:** Hon. Washiali, Hon. John Serut has a point of order.

**Hon. Washiali:** I thought I was on a point of order. I am on a point of order.

**Hon. Speaker:** No, you are not on a point of order, Hon. Washiali. You are contributing. Upon delivery of my ruling, there cannot be debate on it. I thought you are doing your second term.

**Hon. Serut:** Hon. Speaker, I have listened to my colleague whom I sit with in the Departmental Committee on Agriculture, Livestock and Cooperatives. I do not know the relevance of whatever he is trying to say to your ruling. After your ruling, he has nothing to offer to the House. Since he is now sober, he should be able to reason properly than do what he is doing now.

Would I be in order to say that we listen to Hon. George Kaluma?

**Hon. Ichung'wah:** On a point of order, Hon. Speaker.

**Hon. Speaker:** The Member who has just sat down was on a point of order. Hon. Washiali, let me guide the House again. We are back to debating the Report as amended by way of deleting paragraph 101. So, you can now speak in opposition to or in support of the Report. That is where we are now. Either you are supporting or opposing the Report. That is where we should be and not about the other issues.

**Hon. Washiali:** Hon. Speaker, I rise with a very heavy heart. This House must listen to all Members of this House. It is a House of representatives. The ruling on which you have based---

**Hon. Speaker:** Hon. Washiali, debate the Motion as amended. The debate is not on my ruling and so, there should be no debate on that. Just debate the Report as amended, either in support or in opposition. Those are the rules of debate.

**Hon. Washiali:** Thank you, Hon. Speaker. I rise to debate the Report as amended. The amendment was the amendment that I proposed, which was the deletion of Paragraph 101.

**Hon. Ichung'wah:** *(Inaudible)*

**Hon. Speaker:** That was passed.

**Hon. Washiali:** Hon. Ichung'wah, Kikuyus do not plant sugar-cane. Why are you interfering?

**Hon. Ichung'wah:** On a point of order, Hon. Speaker.

*(Loud consultations)*

**Hon. Speaker:** What is your point of order?

**Hon. Ichung'wah:** Hon. Speaker. It is shocking that hon. Washiali---

*(Hon. Washiali spoke off-record)*

**Hon. Speaker:** Hon. Washiali, you are a Deputy Whip. What are you doing now?

*(Loud consultations)*

Serjeant-at-Arms! Hon. Washiali, I direct you to get out! You must go out. I order you out of the Chamber for the balance of the day! Out!

**Hon. Members:** Out!

**Hon. Speaker:** Hon. Washiali, out of the Chamber! I am directing that you be withdrawn. Serjeant-at-Arms, can you remove him from the Chamber?

*(The Serjeant-at-Arms escorted Hon. Washiali out of the Chamber)*

*(Applause)*

**Hon. Ichung'wah:** Hon. Speaker.

**Hon. Speaker:** Yes, Hon. Ichung'wah.

**Hon. Ichung'wah:** Hon. Speaker, whereas I thank you for the firm action you have taken against hon. Washiali. I think upon his return to this House, whenever he returns, if he ever returns, he should be found to have been completely out of order by making the statement that Kikuyus do not grow sugar-cane. I was not objecting to what he was saying on the basis of being a Kikuyu or representing the people of Kikuyu or for that matter Kikuyus.

Sugar-cane is not about the Luhya nation or Luhyas as a tribe. It is a crop that is important to this country and it touches on the lives of all Kenyans. The other unfortunate statement that hon. Washiali has alluded to is the existence of two reports. We clearly know that what is before this House is one Report that you have guided us to debate the Motion as amended.

I am very annoyed because of that reference to Kikuyus not growing sugar-cane. They are there and growing sugar-cane in Mumias, Busia, Nyando and somewhere in Lamu. Therefore, heading to an election year, we cannot allow such sentiments to be coming from the Floor of this House. I will, therefore, be moving a Motion to name hon. Washiali, if he does not withdraw and apologise for making those very unfortunate statements on this Floor. We are inciting Kenyans along ethnic lines at a time when we are all clearly seeking to unite the people of this country, and debate issues with a sober mind, based on facts as I have alluded before the Committee.

In conclusion, let me say that although I am debating the Motion, the issues hon. Washiali wanted to raise in his amendments, even at the Committee stage, we guided him accordingly. I said in my fidelity to the accounting profession which I have practised that we could not allude to an interim audit report. I advised him to pursue the management of Mumias Sugar Company and KPMG to finalize the audit report, and then he could have it annexed as a

Report of this Committee. I am, therefore, asking that if you do find hon. Washiali completely out of order and he does not apologise and withdraw those statements, we name him.

Thank you, Hon. Speaker.

**Hon. Speaker:** Hon. Members, let us not debate the conduct of the member.

**Hon. Wamunyinyi:** On a point of order, Hon. Speaker.

**Hon. Speaker:** Hon. Wamunyinyi, what is your point of order?

**Hon. Wamunyinyi:** Hon. Speaker, we have all witnessed the conduct of hon. Washiali. The fact is that he was getting violent and even attempted to attack Hon. Midiwo and other hon. Members here. Then, thereafter, he was forced out by the Serjeant-at-Arms physically. It is important that you clarify to the House what actions will be taken against that hon. Member.

**Hon. Speaker:** Well, obviously, the Standing Orders are very clear on that. Hon. Kareke Mbiuki.

**Hon. Mbiuki:** Thank you, Hon. Speaker. I hope the House has appreciated what we have been going through for the last two years as a Committee. That is because we were approaching this matter in a very sober way but, unfortunately, with the likes of hon. Washiali, we could not make much progress. I am happy finally, when all is said and done, that we were able to table a very objective Report based on the evidence as adduced in the Committee.

I would like to call upon Members to debate this Report objectively so that we can move forward as a nation. We have realized that there is a serious crisis in the sugar sector as adduced in this particular Report. We have seen what is happening in Western Kenya as an extremely emotive matter. We have seen the issues of contraband imports coming into the country, including now. Hence, I would like to call upon Members to really debate this Report in a very objective way, so that we can find a lasting solution.

As I contribute to this particular debate as amended, we need to look at the cost of production. It is extremely expensive. When you look at what is happening in Western Kenya, *vis-a-vis* in Kwale Sugar Company where they are using modern technology, the cost of production is extremely low there. When you look at the cost of producing one tonne of cane in Kenya, it is almost US\$22 compared to the rest of the region, where it is US\$13. When you look at the cost of producing one metric tonne of sugar in Kenya, it is US\$870 *vis-a-vis* the rest of the region, where it is an average of around US\$400. In Brazil where we are getting some of the contraband sugar, it is less than US\$300.

As a country and House, we have a very big responsibility to ensure that the cost of production really goes down so that our sugar can become competitive. On the same length, we need to appreciate that in our country, we have sugar deficit. Our consumption is more than 800,000 metric tonnes and we are only able to produce less than 600,000 metric tonnes. Hence, we are normally required to import around 200,000 metric tonnes per year. On the sugar which comes into the country, some of it comes through the porous borders and collusion between Kenya Ports Authority (KPA) and Kenya Revenue Authority (KRA). We are happy with the measures the Government is currently taking to arrest this situation.

Hon. Speaker, the biggest challenge that this country is facing with regard to Mumias Sugar Company is importation of sugar. According to this Report, Mumias Sugar Company imported more than 10,000 metric tonnes of sugar from South Sudan in 2013. When we went to Mombasa, we realised that Mumias Sugar Company was selling both imported and local sugar. Their local sugar was far much more expensive than the imported sugar. They could not move their local sugar.

There was also purported export of sugar. We cannot blame the management of Mumias Sugar Company. On the basis of “willing buyer, willing seller” principle, the extra tonnes of sugar were bound for export. At the point of exit, there was collusion between the Kenya Revenue Authority (KRA) and those purported exporters whereby, the same sugar was being dumped back in the country.

I call upon the House to look at this Report objectively. As a Committee, we called upon Mumias Sugar Company to initiate another report so that we can find out more on the issues of export. There should be a forensic audit so that we can find out if at all the sugar really left the country or not. We cannot blame one person. That is why, as a Committee, we recommended that further investigations be carried out on KRA, the purported exporters as well as the transporters who were carrying that sugar across the country.

With those few remarks, I support the Motion as amended.

**Hon. Speaker:** Hon. Members, before we proceed with the debate, I want to make a communication for observance by the Serjeant-at-Arms, Parliamentary Police and the Clerk’s Department. Hon. Washiali, having been directed to leave the Chamber voluntarily in the first instance and failed to do so, is deemed to have been dealt with in terms of Standing Order No.107 (2)(a). But for the second occasion, he refused and had to be removed by the Serjeant-at-Arms. This was deemed to have been his second occasion. Therefore, he is suspended from the service of the House, in the Chamber, in the offices and within the precincts of Parliament for a period of three sitting days, including today.

Let us have Hon. Gladys Wanga.

**Hon. (Ms.) Nyasuna:** Thank you, Hon. Temporary Deputy Speaker. As I stand to contribute to this Report on the crisis facing the sugar industry, allow me to take great exception to the attempt by Hon. Washiali to ethnicise a very important and national industry in this country. It was very unfortunate that Hon. Washiali attempted to ethnicise the issue and feel that sugar is dearer to one community than other communities in this country. Sugar is very dear to me and other Members of this House. My father met my mother in a sugar-cane plantation while driving a tractor. That is how important sugar is to some of us.

*(Laughter)*

However, making a political attempt to ethnicise sugar is unfortunate. I wanted to make that statement and let the people of Mumias East know that Hon. Washiali’s amendment has been thrown out, not because one ethnic community is fighting another, but because he did not follow the technical procedures as have been provided for in the Standing Orders of this House. Even as he seeks *bonga* points from Mumias East Constituency, the constituents must be aware that he was in the Departmental Committee on Agriculture, Livestock and Cooperatives and he had the opportunity to write a dissenting report and present it to this House. Out of negligence, he did not do that. Therefore, the blame is squarely on him.

The Report, as has been done by the Departmental Committee on Agriculture, Livestock and Cooperatives, is quite comprehensive. They have highlighted the challenges facing the sugar industry; the key one being the indebtedness of sugar factories in this country and the level of debt. The level of debt is what has brought many of our factories to their knees. I am talking about Chemelil Sugar Company, Miwani Sugar Company, Muhoroni Sugar Company, SONY Sugar Company and several others that have been mentioned in that Report.



I want to speak specifically to the recommendation by the Committee that the Government must look at sugar just as seriously as it looks at other industries in this country such as dairy, coffee and tea. The Report has recommended tax waivers on farm inputs and implements, as far as the sugar industry is concerned. This is what we want to support. This Report must be looked at as holistically as the Departmental Committee on Agriculture, Livestock and Cooperatives has done.

I thank you for your ruling. This amendment was attempting to reduce the whole crisis in the sugar industry by narrowing it down to one individual. This House would have been so myopic if, instead of using this Report to holistically look at the sugar industry, narrowed it down to just one individual.

Thank you for the Report.

**Hon. Ekomwa:** Thank you, Hon. Speaker for giving me this opportunity. I come from Turkana where people do not imagine that we can also plant sugar-cane. That was not the issue. We are not just talking about sugar-cane, but about the sugar industry. There are those who produce sugar and those who consume it. I may not be a producer but I am a consumer. As representatives of the people of Kenya, we must ensure the law is followed in every aspect in Kenya.

I stand to support this Motion as amended. There is need for this Parliament to support every industry in Kenya. The reason why we should support every industry in Kenya is to encourage in-country value. We must encourage, support and add value to whatever is produced in our own nation and in our areas. Most of our industries have failed because we prefer foreign issues, policies and products at the expense of our own. It is high time we supported local industries. We have to support products that are produced within our nation.

I want to tell my colleagues that we should be sincere with ourselves because we represent people. We have seen in the newspapers the Ethics and Anti-Corruption Commission (EACC) acting on people who embezzled money through corruption at the National Youth Service (NYS).

Hon. Speaker, we have seen scenarios in this Report where corruption worth billions of shillings was committed. I want to tell our Members of Parliament who are here - even on the CORD side - that Kenyans are watching. Every time you point a finger at Jubilee and say those who are corrupt should step aside, they are watching. This time, if you look at this Report, it is also touching their side. So, Kenyans are watching to see whether they will deny, accept or they will be objective.

Everything we do and say in this world is recorded somewhere. One time, it will be retrieved and you will watch your own video or your own cassette. Today, I want to tell my colleagues on the other side, who I have a lot respect for, that we expect them to be in the forefront in supporting this Report, so that Kenyans will respect them for their objectivity. Whether it is CORD which has made mistakes or indulged in corruption, you have to support the Report because corruption is a disease that is affecting all of us. It is not a Jubilee or CORD disease. It is a disease which is affecting all Kenyans. So, we should all accept. When it comes to you, you should not direct your fingers at someone.

Today, I am very happy because I have seen some names here. I am not reading my own Report. I have seen some big names here like that of Anne Waiguru and Kidero.

*(Laughter)*

Kenyans are watching to see what will happen to those big names. The reason why Kenyans are interested is because those people have political ambitions. When you have political ambition, there is no way you will convince Kenyans that if you are not transparent or accountable in the office that you are now, you will be accountable or be an angel in the next office that you will be given. You cannot convince Kenyans. If you are not doing well in the current office, there is no way you will convince Kenyans that you will be good in the next one. Kenyans are very wise. They have gone to school, have experience and are watching.

So, let us call a spade a spade in this Report. Today, it is Mumias Sugar Company. Tomorrow, it will be oil in Turkana and at another time, it will be tomatoes somewhere else. Next time, it will be fish somewhere in--- I am suspecting a sack of fish somewhere. Coming from Turkana, I really support this Report. I advise my leader who has just gone outside because he is a leader of all Kenyans and he represents us as Members of Parliament. Sometimes, when we see leaders of this House, we expect them to be more organised than we Members. But we realise that, sometimes, they go out of their senses. If a leader goes out of his senses, what about a Member like me? What will actually happen?

*(Laughter)*

So, even as he goes, he is our Member. The Standing Orders will apply to him. The others must learn a lesson from that.

I support the Motion, Hon. Speaker,

**Hon. Speaker:** Hon. Johnson Naicca.

**Hon. Naicca:** Thank you, Hon. Speaker. I stand to support this amended Report. The issue of the collapse of Mumias Sugar Company has been taken lightly by this House. It is unfortunate that when the Committee wrote this Report, it included all the factories which were not as bad as Mumias Sugar Company. All the same, I want to pick Clause 113, which I agree with. The recommendation is that investigations should be carried out on Mumias Sugar Company, its agents, contractors and senior officers by then plus all the 18 contractors. The Report also says that the Committee also observed that Mumias Sugar Company did business with companies which were controversial. It means those 18 companies were suspect. There is a possibility that these companies - these names do not look like they belong to limited companies - could belong to one or two persons. There is need to investigate and find the root cause.

Also, in the Report they say that the Kenya Revenue Authority (KRA) should be held responsible for the loss of Value Added Tax (VAT) amounting to Kshs577 million for exports which were lost. The KRA was negligent. So, that money should actually be taken to Mumias Sugar Company to be part of the bail out.

Investigations should be done immediately. When we talk about management, we should not leave out the board of directors. In my opinion, even the Members of Parliament within the Mumias Sugar belt that time should be investigated. What were they doing when that factory was collapsing? They are telling us that people in Mumias are dying and they cannot pay school fees. Where were they? They are also becoming violent! We cannot accept this type of thing.

Sugar is not only consumed in our region, it is also consumed in Central Province. I suspect that it is only North Eastern that does not consume Mumias Sugar. I do not know why.

We also have to guard that. People like Hon. Duale should also tell us why his area does not consume Mumias Sugar.

Thank you.

**Hon. Speaker:** Member for Navakholo, Hon. Emmanuel Wangwe.

**Hon. Wangwe:** Thank you, Hon. Speaker for allowing me to shed light on the Report. I support this Report as amended. At the outset, I would like to classify this Report into four sections. When you look at how the Report has been given to us, it is in terms of the cane price. It has also been explained properly in terms of the factory and management. It has also been given to us in terms of the sugar pricing. I would also want to touch on the issue of the role of the Government in the management of the sugar sector.

At the outset, you see that there is a comment on the establishment of the prices. The Committee has found out that in the beginning, the cane prices were falling drastically. When you look at the Report on Note 20 which highlights the cane price as it has moved, it details that the price moved from Kshs4,911 to Kshs4,449. That kind of oscillation of prices leaves us with a question: How come the price of cane in that period was coming down whereas the price of sugar was going up.

The genesis of corruption in the sugar sector begins with the cane pricing. When you get the cane pricing wrong, it means you are paying your farmers wrong. I want to thank the Committee because that is the reality. That is the reality on the ground. I want to shed some light on that. It also goes along with the kind administration in the field, especially with the way Mumias Sugar has been doing. Most sugarcane farms are declared as measuring two acres and yet, in reality they measure one acre. So, companies give you inputs on credit and yet the estimate in terms of the input you are taking is not equivalent to the two acres. I thank the Committee for highlighting that bit. I request the Committee on Implementation to follow up and understand why there is that kind of declaration on the ground.

There is the issue of the factory and the management, which has come out very clearly in the recommendations. A company is run by a Chief Executive Officer (CEO) and the factory administration. The epicentre of mismanagement of sugar factories also ends up in the factory itself. When the farmer sends cane to the factory, the weighbridge which determines the weight against which the farmer will be paid does not determine the weight properly. The genesis of the whole trouble starts when weight is not determined properly. This is because there is a mismatch in the declaration of what has been brought in *vis-à-vis* what is going to be paid.

There is also the issue of management, which has been brought out very clearly in the observations. There is an admission on Recommendation 114. It says:-

“THAT, the Kenya Revenue Authority (KRA) should be held responsible for the loss of Value Added Tax (VAT) amounting to Kshs577 million---”

Then it qualifies that statement and says:-

“--- for fictitious exports of sugar by Mumias Sugar Company (MSC).”

When a report qualifies itself on the statement then it means that there is a problem with the management because it already acknowledges the fact that there is fictitious export of sugar from MSC.

I want the Committee on Implementation to really underscore the words “fictitious exports” and tell us exactly what they mean and how much was lost. It could be more than the Kshs577 million that we have been shown. I agree with what my colleague, Hon. Kaluma, mentioned yesterday on the foundation of cooperation. Let the management understand that it is

not only the board or the management that is in charge of the management of a company. It is a joint effort between the management and the board. Therefore, these two organs should be held accountable with regard to what happened when they were signing the final returns to account for what they had done in that fiscal year.

The third point I want to talk about is on sugar pricing. As I said earlier on, there is a drop in cane pricing. This means that we should also benefit at the counter on how much we pay. However, you find that whereas there is a drop in cane pricing, there is increase in the price at the counter. That is an absolute abuse of any laid down rules of economics. When the input is lower, we expect an output to be lower too. We need to deal with that genesis of corruption.

Finally, I will talk on the role of the Government. We see the abuse of exports. The Committee has investigated the KRA officers and recommended that there was no full determination of corruption on what the KRA officials were saying and alluding to in terms of the exports. If the tax collector cannot account or show proof that those goods went out of this country then that is real corruption in practise. We want the KRA officers who were there then and who could still be there now to be held accountable and explain to Kenyans where our tax is.

In that view, I want to make a proposal. We have bodies like the Auditor-General who can go and investigate where KRA erred. We want the Auditor-General to disclose to us exactly what happened to MSC. Where is this tax leakage? What happened and who are the parties that should be held accountable? The Report says that this matter should be referred to the Ethics and Anti-Corruption Commission (EACC). Let the EACC take up the audited report from the Auditor-General with respect to this matter so that we curb any future issues arising out of that.

The Report has also alluded to the porous borders of Kenya. It is important that we let the Government know that there are porous borders. Let us have a proper understanding of why we are getting sugar from other sources other than what we grow within our borders. It beats logic. There is a petition on this Floor which an Hon. Member gave the other day seeking to protect local manufacturers. As we protect MSC and other factories, we should not allow cheap imports to come in and destabilise the local factories. Let the issue of porous borders move together with the issue of importation of sugar. The other day, we saw a lot of sugar that had been recovered from a Container Freight Station (CFS). That is not the only one. We also saw the President burning a lot of sugar. I want us to use this Report to correct what is being seen here once and for all and move on.

Just to summarise my comments on this Report, it is very unfortunate that the Member for Mumias has gone out because of struggling for this factory. This is a very dear factory to us in western Kenya. This is the livelihood of the people of Navakholo. It is not only the livelihood of the people but the true life where the people of Navakholo and Mumias can get their income and pay school fees. Once this factory is down, we run to the Government. The other day, we ran to the Government looking for Kshs1 billion. In this House, we passed a Motion to give the factory Kshs2 billion. We cannot invest money and there are one or two individuals who are taking away taxpayers' money. Let us all protect what has happened. Let us all defend what is due to the Kenyan people. Western Kenya is part of Kenya and we must move together with the rest of the country.

Thank you, Hon. Speaker. I support.

**Hon. Speaker:** Hon. Wangwe, you have raised a very important issue assuming that this Report is adopted. It is good for us to also appreciate it. The House gave itself teeth by creating the Committee on Implementation. Hon. Members, those of you who belong to that Committee

should know that, when reports like these are adopted, it is that Committee which is given the mandate to make follow-ups. That Committee should, on a daily basis, be calling the leadership of those bodies which have been told to investigate and ask them how much investigation they have done. I do not see that Committee working. It should be the one chasing those who are supposed to implement decisions of the House on a daily basis because very many reports have been passed by the House. Surely, when we created that Committee, we wanted to give the House teeth. The point raised by Hon. Wangwe is important; that it is the business of that Committee, if this Report is adopted, to make follow-ups to ensure that whatever is recommended is implemented.

Let us now have Hon. Wamunyinyi.

**Hon. Wamunyinyi:** Thank you very much, Hon. Speaker for giving me this chance to contribute. I also represent cane farmers, more particularly farmers that are producing raw cane that is delivered to Mumias and Nzoia Sugar companies. When this Report had not been presented before the House, I was also a bitter person. I was very angry because I thought some information was being hidden and that facts which ought to have been presented to Kenyans were not being given. I have looked at this Report in detail and found that it is a well thought out Report. It is quite detailed. It has covered many agencies that have been interviewed, including private auditors, KRA and all the agencies that are involved with sugar. I commend the Committee for this Report. They have given very fair recommendations. The recommendations which have been given in the Report are very fair. However, I have thought about certain areas which were not captured but before I get to that, I want to look at their terms of reference. They were to investigate and inquire into the current state of the sugar industry in the country. This is not limited to MSC but the sugar industry in the country. They were also to look into the glut in the sugar market which has, among other causes, contributed to the current crisis in the country and report their findings. Nzoia Sugar Company has been a victim. It is also on the verge of collapse. It is heavily indebted. They are not paying farmers or anybody else. It is in a bad state of affair.

I commend this Committee because it looked at the global state of the sugar industry in our country. They also went further, in view of the terms which were open, and interviewed a number of people. This is very important for us. We must follow up to find out why organisations which are respected such as KPMG have provided a disclaimer to the accuracy of their findings in their report on MSC. They conducted an audit of the company. The KPMG is a reputable organisation.

Recommendation No.20 says that Deloitte Touche is responsible for misleading the Government, other shareholders and the public on the state of affairs of MSC during the period of their engagement with the company as auditors. You can see that a number of reputable institutions have been involved.

Another important recommendation I want to draw your attention to is No.109, which reads as follows:-

“THAT, the government implements the sugar industry strategic agenda for increased competitiveness and reduction in consumer prices.”

There is need to lower production costs because they affect farmers directly. This is where the Committee did very well. They looked at the cost of sugar production. This directly affects all our farmers in the country in terms of improving extension services given to farmers, and eventually eliminating the incentives for smuggling of sugar into the country. If you run the

industry and factories well, the cost of production will reduce. Competitiveness results in low prices and farmers will enjoy the benefits. There will be no need for smuggling. So, this Report is quite good.

The Committee has also touched on importation of sugar from COMESA countries and other countries which are not members of this common market. One of the issues which they left out is the fact that the Government has failed to restructure sugar companies. I want to come back to the point that Hon. Wangwe mentioned; that there has to be a mechanism of ensuring that the resolutions passed by this House are implemented.

This House, in 2012, passed a resolution that required all sugar companies that were due for privatisation to have their financial statements restructured. This has not been done. It is quite clear and everybody is aware that this was the resolution of the House and the Government passed all the necessary papers to the Cabinet.

The second thing is that the Government has deliberately neglected the sugar factories which it owns. Mumias Sugar Company is private while Nzoia Sugar Company and others are owned by the Government. The Government keeps appointing directors and management teams. It has continuously sustained obsolete equipment. Look at Nzoia Sugar Company from the time it was established in the early 1970s when you and I were still young people. Up to now, the same machines are still there and you expect them to perform efficiently and produce optimally. Modernisation is necessary to ensure that our companies can produce competitively and compete with others.

There is also the aspect of research. We have the Sugar Research Foundation. What are they doing? In some countries, sugarcane takes eight to 10 months to mature. In our country, they take 18 to 24 months and sometimes 30 months. What kind of researchers do we have? They have not developed a variety that would ensure early maturity. By so doing, the farmers, the country, the consumers and everybody else will benefit. So, I want to appeal to the institutions concerned; the Ministry of Agriculture, Livestock and Fisheries, and the Sugar Research Foundation, to ensure that they come up with a variety which will mature early and produce enough quantity of sugar so that farmers and consumers can benefit.

Importers of Sugar have been licensed. Who has licensed them? It is the Government. The Government has given them licences. Even the most recent ones, which we have been making noise about - which is importation of sugar from Uganda - have been licensed by the Government. We all know that Uganda does not produce enough sugar for itself. When we are told that we are importing sugar from Uganda, it is unbelievable. Nobody can believe this. It is just intended to help a few businessmen and those barons whom we are talking about. They are people who are benefitting doing illegal business and are being licensed to bring sugar into this country. Unfortunately, even the Government was defending importation of sugar from Uganda. This is our Government. I do not support it many times but it is our Government. They have to consider the people of Kenya and our farmers, who are the people we represent here. I want to appeal to the Governments to reconsider its decision on this.

Hon. Speaker, coming back to Nzoia Sugar Company, the management mysteriously did not produce any sugar in spite of milling for three weeks. Apparently, no sugar was produced. Some mystery happened and the Government put a manager to do that. In the first six months, they lost Kshs500 million. Nzoia Sugar Company is in Government's books. The management, Government, Mr. Joash Wamang'oli - who is the Chairman of the Board - and a few other

politicians are in charge of the company. I would like these things to be addressed so that the farmers can be paid without delay.

With those few remarks, I support the Report.

**Hon. Speaker:** Yes, the Member for Nambale, Hon. Sakwa Bunyasi.

**Hon. Bunyasi:** Thank you, Hon. Speaker. I rise to support this Report both in its broad intention and in the form in which it is being presented. One can quibble about something that could be emphasised but the principle was right. This is the right thing to do.

Secondly, it is unfortunate that we had drama around this issue, which was in essence distracting us from the core issues that we need to deal with. I am quite happy with the recommendations for action, which touch on the entire management of the company, the Board of Directors, the management and the other associate companies that dealt with Mumias Sugar Company for over a period of six years from 2006 to 2012. I guess one can even go beyond that period but that is good enough to get to the core of the issues. In so doing, all the people involved in this mess, including those some Members are seeking to name will be included. The attempt to name some people was a tactic to win some political mileage but one does not really help to advance the course of this study.

I come from a sugar growing zone and a lot of what has been said in this Report are issues that worry us. We deal with these issues on a daily basis. First of all, the sugar industry has been left to be run by cartels. This is particularly in marketing, export, import and internal distribution. In the old days when all sugar was collected by the Kenya National Trading Corporation (KNTC) and transported to depots in Nakuru and Nairobi and then transported back, we thought that was the worst one could do. We did not realise that worse was going to come. Sugar marketing was partially managed in a way that was supposed to make money for the actors in the industry.

We have a number of issues that this Report has alluded to which when we follow through with the implementation of recommendations, hopefully will come out clearly. Let me start with licensing. On licensing of factories in the Nyando Zone, we have the old Miwani Sugar Factory, Chemelil Sugar Factory and Muhoroni Sugar Factory within a very short distance from each other. They are all struggling for the same resources.

In western Kenya, we have West Kenya Sugar and Butali Sugar factories furiously fighting for raw materials because of their proximity. Mumias Sugar Company is next door. In Busia, we have West Kenya Sugar Factory and Busia Sugar Industries 10 kilometers apart already in and out of court. This is not conducive for the development of sugarcane in that area.

In this Report, they have analysed reasonably well the institutional problems and I am going to deal with a bit of that. They have not gone deeply on the technical and scientific limitations. They have rushed to blame farmers with declining land size. Therefore, they will not be able to produce sugarcane. You do not have to use a tractor to produce sugarcane. You can still produce cane on a smaller land size. Many parts of India are producing sugarcane using buffaloes. They do not use machinery the way we do. Our production model does not suit the conditions. You are not going to change society to suit a technology. You adopt the technology to suit the preference of society. If society is subdivided, technology is what should change. When you reach a limit in the changing technology then the production of that item may cease to occur and that will not necessarily be a bad day. Something else will have taken root. We cannot say like they have said in the Report that the Government should do everything and put in place

laws and regulations on land subdivision. Land is subdivided for many reasons and not for sugarcane growing. So, this does not come out clearly.

On the issues of declining productivity, I want to use the example of Mumias Sugar Company simply because I have some idea about it. My colleagues who know other factories in detail will also help us on this one. The yield levels on the company owned land are lower than the small-holder farmer who is being accused of occupying small land and not applying fertiliser. Something is not right.

At one time, Mumias Sugar Company had a consultant from South Africa who came and told them what the problem was. That was about the soils and other aspects. They were not practising scientific farming. There is a decline there because of inadequate application of what we know could be done to increase yields. So, blaming farmers is simply blaming the voiceless. The highest yields that Mumias Sugar Company gets do not come from the land managed by the company. They come from private farmers who do not own land measuring 100 acres. As we get into this, we should realise that there are certain statements that have been believed to be true that are not necessarily true.

On the institutional side, licensing has been done in a manner that I can virtually describe as corrupt. The institutions that were responsible such as the Kenya Sugar Board did not have the authority that the law had given it. That was being usurped by other people. It has now become a pretty ugly process. I have been to court and to the National Environment Management Authority (NEMA) Tribunal a couple of times with two companies fighting with each other simply because they now anticipate that they are going to compete for resources. That is a recipe for disaster as we move forward.

We must thank the Committee for the issues they were able to collect. I want to speak from a point of knowledge. I was a member of the Board of Directors of Mumias for two-and-a-half years - close to three years - and there were many things that were not right which I captured in the minutes of the company. Many of them have also been captured here. I also felt strongly that given the background of pervasive abuse, bribes and rent seeking--- Whereas the Managing Director may personify that the issue included the management and so on, I am glad that the recommendation which seeks to get this wider follow-up has remained. If we had done anything that was being proposed, it would have been a way to subvert the process.

We have heard a lot about illegal imports. These have revenue implications and, therefore, they have also got employment implications domestically. They also have got health implications. It cannot be that this Republic is incapable of controlling illegal imports. Forget Egypt which does not produce surplus sugar. They do not have sugar to sell to us. Everybody knows where the sugar in Egypt comes from. We have left that to happen in contravention of the COMESA protocol that had been agreed on. We did not take action on that. There are inflows from the borders particularly at the Coast, North Eastern regions and the border along the sea with Somalia. We get sugar imports that are not inspected to start with. So, you cannot determine the quality of that sugar. They are, therefore, a big health risk. Some of the sugar may be completely unsuitable for human consumption. Who knows that? If you cannot monitor and control the inflow of a heavy commodity like sugar, can you control the inflow of lighter commodities like guns and explosives on these same borders? Now that we are taking tighter measures on terrorism, that should also be tightened. We should set rules which should be obeyed once we have the market.



We want a free market but even free markets must have management. That is what is lacking in this regard. It is not a light matter that the people of western region depend on sugarcane. In due course, people will diversify and go to other areas and they will no longer be a laughing stock of this country. It is very important that in the meantime to realise that, without managing the transition you are going to affect the lives of many people.

Those who do not grow sugarcane can point to the fact that sugarcane farmers have not become richer; they are getting poorer. Managing that transition is important and the Government has a role to play in the management of that transition. One of the things to do is to clamp down on mismanagement within companies. They should do the best they can with the resources they have. If we let that to go, it is a recipe for long-term disaster particularly in western Kenya where we have millions of people who depend on this crop.

With those few remarks, I beg to support the Report.

**Hon. Speaker:** Let us have the Member for Mvita.

**Hon. Nassir:** Asante sana Mheshimiwa Spika. Hii Ripoti inaonyesha wazi kuwa watu hutumia sukari kufanya mifuko yao iwe mitamu. Ninataka kuwakumbusha kwamba kuna baadhi ya Wabunge walitaja kuwa mambo ya sukari ni ya kwao, lakini kwa hekima za wakoloni, kiwanda cha kwanza kilianzishwa Kenya mnamo mwaka wa 1922 katika sehemu ya Miwani. Kiwanda cha pili kilikuwa Pwani mnamo mwaka wa 1927 kule Ramisi. Serikali zote ambazo zimepita zimedharau sekta hii. Ni hamu yetu kuwa tutaweza kuiinua sekta hii.

Hii Ripoti ililetwa katika Bunge mwezi wa Machi mwaka wa 2015. Ilipoletwa, Kenya ilikuwa na pazia ya kujisitiri na sheria za COMESA. Hizo sheria zikawa zinasitiri Wakenya kuwa hakuna sukari itakayoingia mpaka mwezi wa Februari mwaka wa 2016 na tayari tumeipita. Ndiyo maana kila siku mimi husema kwamba kuna haja ya kila tunachokizungumzia ama tunachokifanya tuangalie na tujue kwamba kuna wenzetu katika sehemu nyingine ulimwenguni ambao wanafanya mambo yao pia. Tunajadili Ripoti hizi zikiwa zimepitwa na wakati. Ninawaomba Wabunge wenzangu waniazime maskio yao.

Mwaka wa 2015, Baraza la Mawaziri liliidhinisha ubinafsishaji wa viwanda vyote vitano vya sukari ambavyo vinamilikiwa na Serikali ya Kenya. Mimi ni Mwanachama wa Kamati inayohusika na masuala ya fedha. Katika mwezi wa Aprili, 2005, Bunge hili lilipitisha Hoja ambayo ilisema kwamba kabla ya viwanda hivyo kubinafsishwa, ni lazima Serikali ilete Miswada ya uwiano na serikali za Kaunti ili tujue kwamba tunaweza kubinafsisha viwanda hivyo bila wakulima kupoteza raslimali zao. Simuoni Mwenyekiti wa Kamati inayohusika na masuala ya kilimo, ufugaji na uvuvi. Sitaki kuifanya hii kuwa hoja, lakini ninawaomba wahusika waangalie iwapo kulikuwa na makosa walipokuwa wakichapisha Ripoti hii. Wao wameandika kwamba Bunge hili lilipitisha Mswada huu Februari, 2013, lakini Hoja hiyo ilipitishwa katika Bunge na Kamati inayohusika na Fedha, ambayo mimi ni mmoja wao mnamo Aprili, 2015. Ninaomba, Mhe. Spika ukumbuke jambo hili.

Tunapojikumbusha pia tunaikumbusha Serikali umuhimu wa sekta ya sukari. Miwa nchini Kenya inakuzwa kwenye ardhi ya hektari 2,000. Zaidi ya wakenya laki tatu ni wakulima wa miwa. Sekta ya sukari kwa njia moja au nyingine inatoa ajira kwa Wakenya milioni sita. Idadi hii ni asilimia 16 ya Wakenya wote. Hii si idadi ndogo. Sekta ya sukari inachangia uchumi wa Kenya kwa kiasi cha asilimia 7.5. Ndio maana tunasisitiza kwamba Serikali ilete sheria inayoambatana na Hoja iliyoletwa hapa na Kamati inayohusika na masuala ya fedha na kupitishwa na Bunge hili. Tunataka sheria ipitishwe na Bunge hili ili wakulima wasidhoofike.

Tunayaomba mashirika husika yachunguze ni kwa nini hektari moja ya miwa nchini

Colombia inaweza kutoa tani 115 za sukari ilhali nchini Kenya hektari moja ya miwa inatoa tani 60.5 za sukari pekee. Ni lazima pia tujiulize ni kwa nini gharama ya kukuza miwa nchini Kenya ni US\$ 2.5 kwa kila tani ya sukari ilhali katika nchi jirani gharama hiyo ni US\$13 pekee kwa kila tani ya sukari. Ni lazima pia tujue ni kwa nini gharama ya kusaga sukari nchini Kenya ni US\$700 kwa kila tani kwa mkulima ambaye hakuchukua mkopo kutoka kwa benki na US\$870 kwa kila tani kwa mkulima ambaye amechukua mkopo kutoka kwa benki ilhali nchini Malawi gharama hiyo ni US\$350 kwa kila tani, nchini Zambia ni US\$400 na nchini Brazil ni US\$300 pekee. Mambo haya hayawezi kufanywa na mtu binafsi, awe ni Mbunge ama mtu mwingine yeyote. Serikali ndiyo yenye uwezo na wadhifa wa kuangazia masuala hayo.

Ningependa kuelezea tena umuhimu wa Serikali kuwa na mshikamano. Kuna ripoti ambayo ilichapishwa katika mwaka wa 2013/2014. Kila mtu anaweza kuipata na kuisoma ripoti hiyo. Kulingana na ripoti hiyo, tani 15,140.4 ziliingizwa humu nchini na kutumiwa na wakenya. Sukari hiyo ililetwa kutoka sehemu tofauti za ulimwengu. Bodi ya Sukari Nchini (KSB) haikuidhinisha kuingizwa kwa sukari hiyo nchini Kenya. Wamiliki wa kampuni tano pekee ndio walionufaika kutokana na mauzo ya sukari hiyo ilhali Wakenya wengine wakilalamika tu na kuishi katika hali ya uchungu kama shubiri. Hadi leo, hakuna mtu hata mmoja katika halmashauri ya ushuru nchini ambaye amechukuliwa hatua ya kisheria na kupelekwa mahakamani kwa sababu ya sakata hiyo. Hili suala liliangaziwa na Kamati hii. Suala hilo lilijadiliwa kwa kina na ushahidi kwamba tani 15,140.4 za sukari ziliingizwa humu nchini katika mwaka wa 2013/2014.

Ningependa kuipongeza Kamati yetu inayohusika na ukulima kwa kazi njema waliofanya. Ninaomba tena upande wa Serikali uwe mchangamfu. Suluhisho la kuboresha sekta ya sukari nchini si kufurahisha Wabunge ama watu wengine kwa kusema kuwa watatoa billioni moja kwa kiwanda kinachoanguka. Suluhisho ni kuangalia mambo haya ili kesho tusirudie kusema kwamba Wakenya wanapoteza pesa zao. Hilo ndilo suluhisho, na haya ndio matakwa ya Wakenya, ambayo tunafaa kuyazungumzia hapa Bungeni.

**Hon. Speaker:** Let us now have Hon. Birdi.

**Hon. Sunjeev:** Thank you, Hon. Speaker. I would like to thank you for giving me this opportunity.

I have been observing the way the House has been debating this Report since yesterday. I could not help thinking that the last time I saw a Report like this being brought to the Floor of this House was sometime last year. I explicitly remember asking for a bucket because I felt like vomiting. It was so sickening. I feel the same this time round. I feel like we sold our country a long time ago. At this point in time, we are trying to resuscitate the sugar industry and bring it back to life but we are finding it difficult. The burden of bringing back to life an industry that has gone to the dogs is draining our energy.

At the outset, I would like to thank the Committee for this Report. I would also like to refer to the direction given by the Speaker, in which he said that this Report should be implemented to the end so that necessary action is taken by the relevant Committees and the organizations that deal with sugar.

*(The Speaker (Hon. Muturi) left the Chair)*

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

I would like to cite an example. Recently, I heard some ladies discuss the quality of sugar being sold in the supermarkets. I heard them talk about a type of sugar which we call “*Gur*” in Hindi. It is sugar that is not processed. It used to be available long time ago, but not now. I was told that it used to be the pride of Kenya. We have somehow lost it along the way. It is about time we regained it. Importing sugar is sensitive, as we have seen. The President directed that a large amount of sugar be dumped in the ocean. I commend that action. We cannot participate in importation of illegal goods. Why do we have to incur such large wastage when there are people who can benefit from it?

Unfortunately when we have investors from around the world coming to our country, they wonder and say that we are truly living in a land of miracles because they see a lot of arable land. I really feel bad that it is the common *mwananchi* out there who is not getting the fruits of our economy. It is about time we put our political squabbles aside. If it is privatisation that this country is looking for the Government should put in place relevant structures so that we can benefit economically as a country from this very important sector of the economy not only in Africa but in the whole world.

With those few remarks, Hon. Temporary Deputy Speaker, I thank you for the chance.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): The Member for Muhoroni, Hon. Onyango Oyoo.

**Hon. Oyoo:** Thank you very much, Hon. Temporary Deputy Speaker. I want to tell this House that while people look very concerned or want to purport to be very concerned about the sugar industry, I am one person who must support this Report. I want to say loud and clear that sugar business, sugar milling and sugar growing affect my constituency more than anybody else. My good friend, the Member for Mvita, who has just left, has already informed this House that the oldest sugar milling company in this country is Miwani. This is one of the many sugar companies in Muhoroni Constituency. Mumias Sugar Company has stolen the limelight. Mumias came much later than Muhoroni Sugar Company, which is also based in Muhoroni Constituency.

This Report is good and it will help us spruce up the image of sugar farming and sugar milling in this country. I only want to take a small offence with the authors because at one stage they detoured and mistook the sugar industry for Mumias Sugar Company. The task of this Committee was to find ways of trying to remedy the crisis facing the sugar industry in this country. I am happy that most of the challenges have been well articulated in the Report, but we need to go deeper and find out that before Mumias Sugar Company was built in the 1980s, before Mumias went into problems between 2006 and 2012, Miwani Sugar Company which is the oldest sugar company had collapsed. What were the circumstances behind Miwani sugar Company’s collapse? Muhoroni which is the second oldest sugar company was on its deathbed. It had died and had been resurrected by the Government through endless receivership arrangements.

Chemelil Sugar Company which was almost the peer of Mumias Sugar Company which was always running very fast to catch up with Mumias is on its deathbed and all these companies I have mentioned were not being run by the Board of Management of Mumias Sugar Company, but by different boards of management. The boards are appointed and supervised by the Government. So, we need to go deeper and find out what is itching us. The problem in the sugar industry is that sugar is sweet and it has become a victim of high corruption. Illicit sugar deals are like any other type of corruption. For you to do corruption properly you must have godfathers

who can direct the Director of Criminal Investigation (CID) that there is illicit import coming, so he can close his eyes and let his officers allow that to happen. I have said this in interviews by television networks and I am waiting for somebody to challenge me.

Sugar is not a piece of dress that you can go to Europe and buy for your friend. The sugar glut that is messing up the sugar industry in this country is brought in big containers. They come through Kilindini Port. Some come through our porous border posts where we have policemen, Kenya Revenue Authority (KRA) officials, Kenya Defence Forces personnel and the National Intelligence Service (NIS) officials. They still find their way to Nakumatt Supermarkets in Nairobi. This brings me to the conclusion on who is importing sugar. Who is trying to run down the sugar industry? If the Government is serious, we want to know who is importing sugar. We want to know who is messing up the sugar industry. The manager for Mumias Sugar Company was sought through competitive recruitment because it was a private company, but who is running down Nzoia Sugar Company, Chemelil Sugar Company and Miwani Sugar Company? Miwani Sugar Company was a private company.

At one point, it was run down by the same owners who were persuaded to take hefty loan from the Agricultural Finance Corporation (AFC). They then ran away and left heavy debentures there. It has been the same story that it will be revived by the Government, but it has not been revived. It has now been left to the crooked Asians to loot even the land. Land which belongs to the indigenous people is being looted. The EACC, under the diligent and able leadership of PLO Lumumba arrested the same looters but you will still find them walking on the streets and visiting the high and mighty in the political arrangements in this country. I am sorry for what has bedevilled Mumias sugar growers. The bitterness could be exhibited by my colleague, the Member of Parliament for Mumias East. I sympathise with him. However, I also want him to know that while he is crying that Mumias has been mismanaged, unfortunately for me, Miwani land has been stolen by people I know and see. We have reported them, they have appeared in court but they are dodging the cases here and there.

Chemelil Sugar Company is going down and the chronology can be stated when it started going down and why. Muhoroni Sugar Company is in perpetual receivership when it was one time making enough profit. These are not in Mumias. They are not run down by the Board of Management of Mumias Sugar Company or the so-called KRA. We must, therefore, realise that there is something much more serious. I urge the Jubilee Government to be very diligent and serious with this industry. This industry employs people; this industry feeds fathers and this industry also raises taxes which the Government badly needs for developmental itinerary. So, why have they left the sugar farmer to be helpless? Why have they left, because if it is the management, save for Mumias, who are bringing down the sugar industry in Muhoroni, Chemelil, SONY, Nzoia they are appointees of the Government? If the Government is serious in reviving the sugar industry, it needs to rein in on its managers first or stop interfering with them because we know these people get instructions from high command. They are not doing it on their own. We want the Government to think about this seriously and take steps to revive these companies. It is not about waking up and saying: "We are giving Mumias Sugar Company Kshs1 billion to revive its operations." That is a drop in the ocean. More so, this money is not coming from Government coffers, but from the Kenya Sugar Board. It is got from the sugar levies that the same farmers pay for every delivery of sugarcane. A farmer pays some money called "Sugar Levy Development Fund". That is the money the Government is quietly taking and each time they want to go to Nzoia they say that they are taking some money there. This is the case and yet

it is farmers' money which is kept, and which with or without the President or the Deputy President going to Nzoia or coming to Chemelil, they should allow it to circulate through a well arranged Government programme. We want this to stop. We also want the Government to take the plight of sugarcane farmers very seriously.

Milk producers, coffee and tea farmers have already benefited immensely from the Government. The losses which were occasioned by bad weather or other economic adversities are known to have been written-off. However, to date we are yet to hear, read or see the Government of the day coming out quickly and saying that it has written-off loans because the weather was bad or there were several racketeers bringing in sugar. Even after this House passed the Bill which authorised the Government to write-off the heavy debts that sugar industries had so that they could be prepared for privatisation, to date the Government is yet to come out clearly and say that it has written-off the loans.

Farmers in my constituency who are heavily indebted by loans occasioned by bad weather and influx of sugar that is brought into the country by sugar barons are yet to benefit from Government programme of writing off loans. We want the Government to be very serious. I was not in Parliament when the Privatisation Bill went through this House. I realised that---

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Your time is over.

**Hon. Oyoo:** Hon. Temporary Deputy Speaker, allow me---

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): You had your good 10 minutes. We have many members with 13 requests. I can allow you one minute.

**Hon. Oyoo:** Thank you very much, Hon. Temporary Deputy Speaker. This thing is very sentimental to me. I am saying that there is no way we can allow few people--- Today, we know that the people who are playing around with the sugar industry are very few. When I came here I found a programme where Muhoroni and Chemilil sugar companies were being merged on account that Muhoroni does not have enough acreage of land. During Moi's regime, land that was taken away from indigenous people for purposes of running Muhoroni Sugar Company was alienated and allocated to politically-correct people and we know them. They now want to say that Muhoroni does not have enough acreage.

We reject this and want the Government to be very sincere and arraign in court people who are running down the sugar industry, the disingenuous people. That is why as much as I like this Report, I was opposed to my friend and colleague because he was cheapening this Report by bringing in his personal differences with a former senior manager in Mumias Sugar Company and not looking at it holistically.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Let us now have the "Leader of the Minority Party", Hon. Jakoyo Midiwo who is also the Member for Gem.

**Hon. Midiwo:** Thank you, Hon. Temporary Deputy Speaker. I rise to support the Report. I want to thank the Departmental Committee on Agriculture, Livestock and Cooperatives knowing that the circumstances of investigating issues of sugar are very difficult in this county. I know that when an important Report like this comes before the House, there are distractions by Members who bring their own personal issues.

I am happy that the substantive Speaker did not let political issues water down this debate. I am very disappointed by the Deputy Majority Whip who has been here for a long time. Having said that, I know the Speaker made a ruling and said that he could not ascertain the authenticity of the Papers tabled. Since he has misbehaved, next week when he is back we are going to be discussing his conduct. We will now bring authorised copies of those bank

statements and discuss him to prove the allegations we have made. This is because he was disrespectful to the Chair and yet those matters are not light. As he walked out he even accused Members of Parliament to have been bribed.

If I was taking money from people I would not be here. I am a defender of public good. That is not behavior expected from a Member of Parliament particularly from a sugarcane growing area. I have been saying time and again in funerals and rallies that we, members from sugarcane growing areas, must behave differently because the lives of our people depend on sugarcane. It is myopic for a Member who is also a Member of the Committee on Agriculture, Livestock and Cooperatives to behave as if he is the only sugarcane grower. I was schooled using sugarcane money, because my mother was a sugarcane grower. The entire region where my home is everybody plants sugarcane even now and Mumias is our factory. So, it does not belong to Washiali, and we will put him in his place next week.

The problem of the sugar sector is big and we cannot be here and talk about this Report without mentioning the illegal sugar that comes into this country. There is even a United Nations (UN) Report talking about the Shimoni sugar entry point by the Kenya Defence Forces who are in Somalia and Kismayu Port. How come we never ask ourselves why even Uganda wants to export sugar to Kenya? What is this thing with Kenya and sugar? What they are doing is that they want to kill the livelihood of six million Kenyans. It is dead and it is not on its deathbed. It is buried. So, what do we need to do as Members and as Parliament? We need to change tactics.

The first thing we need to do is deal with this monkey called “privatisation”. I have attended conferences and workshops organized by the Jubilee Government where they want this Parliament to allow them to privatise sugar factories; they want Government involvement. Agriculture is a devolved function and any attempt not to transfer sugar factories to the counties is an attempt to keep milking the sugar industry. What should be done is that all sugar factories and their assets must be transferred to the counties. We need the Committee to help us. This country is simply too large and the industry is too big for us to manage from Nairobi. I want the counties to make laws to privatise these factories.

There are private companies which are functioning well in this country. There is Butali, Western, Transmara and Kibos sugar companies. It means that the Government cannot do it, but private companies can do better. Therefore, the work which should be left for Members of Assemblies and Parliament is to make laws to protect the private investors from milking and exploiting our farmers. We can do this and it happens everywhere. When the Government determines through whatever means to give lumpsum cash to sugar factories like it was done to Mumias Sugar Company the other day, I knew it was going to fail. It will be good for a Member from there to ask what that money did, who followed it and how much was accounted for.

Hon. Temporary Deputy Speaker, I am told that only Kshs200 million can be accounted for because the same crooks followed that money to Mumias and stole it. That is not acceptable. We want to change the way the Government does business with those of us from sugar-growing areas. You cannot take Kshs1 billion or Kshs2 billion and give it to a failed factory and yet in Mumias, there are people who have not been paid for cane that they delivered almost five to seven years ago. If I was in the Government and I wanted to play politics because I was looking for votes, I would have given that money to a local bank and told the farmers to walk into the bank, show proof of delivery and get paid. The Government and whoever wanted to play politics would have got a vote. The other tactic failed. It will never work.

The Government must follow the Constitution. Agriculture is a devolved function. There is no way we can follow the Sugar Development Fund from Nairobi. Who determined that? What was the logic of building the Headquarters of the Sugar Board in Nairobi other than it being easily accessible to the corrupt? It is just corruption. Why are they collecting money from innocent people and bringing it to Nairobi so that Members and leaders can come and beg for it? The factories are always constantly closed or not functioning properly.

Hon. Wafula Wamunyinyi said that Nzoia Sugar Company made a loss of Kshs600 million in the first six months of last year. In the last six months of last year, they constantly had over 40,000 bags of sugar. This is because people in the Government, and this cannot be private people, are bringing sugar into this country. They are flooding our markets with imported sugar and we cannot let them. The sugar barons are known. You cannot bring sugar into this county unless you are known to the Government. It bothers me---

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): You have one minute, Hon. Member.

**Hon. Midiwo:** It bothers me that we live in a country where people adore having a lot of money. Hon. Temporary Deputy Speaker, remember you said that I will speak in my capacity as the “Leader of the Minority Party”. It bothers me that some people work very hard but their sweat is “eaten” by just a few people. The so-called sugar barons will never even get to enjoy what they are doing to this country. This is the only country I know on earth where people adore money very much---

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Hon. Midiwo I will give you five more minutes because you are the “Leader of the Minority Party”.

**Hon. Midiwo:** Thank you. I appreciate it, Hon. Temporary Deputy Speaker.

It is only in our country where people adore money very much. The other thing they adore is land. We are not true to our calling. I watch some of my colleagues. You are aware that this guy has dealt with sugar but they are mediocre and hypocritical. Their mothers cannot afford the same sugar produced in their backyards because somebody has decided to flood our markets with imported sugar.

In this Report, the KRA, transporters and management of Mumias Sugar Company are blamed as far as the company is concerned. “Management” cannot be one person but a team of people. When surgery or investigations are recommended, the Committee should follow through. We also want the Committee on Implementation to tell us what the loopholes are, who those KRA agents are and what they are doing because this recommendation is not good enough. We do not know what KRA is doing. We do not know what the channels they were using to collude with the management of Mumias are. It is still happening. Mumias is not doing any better after being given Kshs1billion or Kshs2 billion. It is not. Nzoia Sugar Company is on its deathbed. Miwani Sugar Company is dead. Muhoroni Sugar Company is also dead. Chemelil and SONY sugar companies are dying. The only sugar companies still alive are the private ones. We request the Chair of the Committee to tell us what these loopholes are and which law or legislation we need to put in place to make sure that even if it is incremental, we seal the loopholes day by day. It is not fair.

If you went to the sugarcane-growing areas, particularly in western Kenya, and tried to grow sugarcane today, it cannot grow because the soil is exhausted. The Government has invested nothing. Only private people would be able to grow sugarcane. Once privatisation is done, do not tell my mother and father to buy shares. Tell them to farm and let the legislation

guarantee them payment on regular basis. You cannot tell people from the village to run sugar factories. Even the Government has no capacity. Only private businesspeople can engage in that kind of business.

There was a lot of pomp around the donation to Mumias Sugar Company. At that time, the Government said that it was donating Kshs2 billion. Nothing has changed and I know my friend, Hon. Ababu Namwamba, knows that. The people who said they were coming to help you and our people did so because they wanted to play politics. Those are roadside declarations.

Yesterday, I heard the Deputy President say that a certain contractor should go to a particular road tomorrow. The contractor must begin construction within three days and yet the project is not catered for in the Budget. That is as ridiculous as what they did in Mumias. The road which must have tarmac in three days is not in our current Budget.

I ask the Government to admit and recognise that the livelihood of our people depends on farming. Please let us do it right.

I support the Motion.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Let us have the Member for Busia, Hon. Florence Mutua.

**Hon. (Ms.) F. M. Mutua:** Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity.

I was part of the smaller committee that started investigations in this Report. Today is a very important day because this Report is being discussed. One of the biggest challenges we have in the sugar sector is that reforms have taken too long hence giving room to unscrupulous businessmen and businesswomen to engage in illegal imports and purported exports to ruin the local sector. This has led to a lot of suffering for our farmers.

I will talk about one of the amendments that was critical, which was brought by Hon. Washiali yesterday. That amendment was touching on the current Mumias Sugar Company management. When we did investigations, it was true that the company was at pains to give the information that was required about the sugar that was exported. It is important for this audit to be completed so that the Committee can understand what was in the ---

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Just a moment, Hon. Florence Mutua. There is intervention by the Member for Shinyalu. Is there anything out of order or do you have any information?

**Hon. Anami:** Hon. Temporary Deputy Speaker, my intervention is to request that given the interest that we have in this Report, we could reduce contribution time to five minutes. That will enable all of us to share our diverse views about the Report.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): The Hon Member for Shinyalu, we have a lot of time to discuss the same. You know the procedures of the House and the timing when you are supposed to make your request. Otherwise you are welcome. Continue Hon. Mutua.

**Hon. (Ms.) F. M. Mutua:** Thank you, Hon. Temporary Deputy Speaker. I was saying that the management of Mumias Sugar Company had an issue when it came to verifying whether indeed any sugar was exported. It was agreed that the exports made between 2006 and 2012 were fictitious. So, it is important for Mumias Sugar Company to come up with the audit that we have been waiting for a long time so that we can move on with this Report.

The sugar industry in Kenya indirectly supports six million Kenyans and contributes about 7.5 per cent of the country's GDP. I must mention that the last sugar consumption report



that was done in Kenya was done in 2010. That was a very long time ago. We have requested the Sugar Directorate to do another survey for Kenyans to know what their consumption is at the moment. Kenya's sugar production cost is very high. We spend US\$550 per metric tonne while other regions are spending US\$415 per metric tonne. This is because we are still using very archaic machinery, very old methods of planting and small uneconomic farms instead of doing large-scale farming. We are not embracing technology and planting fast-growing sugarcane. We still rely on rain-fed farming.

Lastly, we have not really utilised the by-products of sugarcane. Instead, we are only interested in sugar itself. We are very happy that the Government, as it said, bailed out Mumias Sugar Company. However, we all need to understand what that money did. There are still very many issues that are coming up. We even understand that most of the farmers were never paid. So, it is important to understand where that money went.

Modernisation of factory technology is very important. The issue of injecting fresh capital is welcome to the poor performing government-owned mills. However, it is very important for the people who are injecting this money to sit with the relevant stakeholders and prioritise what the funds will do. Our mills' machinery is outdated. This is one of the key areas which we thought any money that is brought to bail out our mills would focus on.

Also of importance is the speedy exploitation of viable options that will see the ministry fast track privatisation of the five public sector-owned sugar mills. As we do this, we need to understand that agriculture is a devolved function and we need to involve the relevant people before any decisions are taken on such issues. Privatisation should also be done in a more accountable way. County governments must be involved. All the sector players should also be involved on these issues.

The issues of machinery and ancestral land should be dealt with independently because they have been raised severally. We have had issues of COMESA for the last 13 years but nothing has been done. No concrete measures have been put in place to ensure that our sugar is competitive. We are breaking our legs in the last minute all the time trying to add another year when it comes to the issue of COMESA. Sugar business is good but not for the farmers.

The issue of illegal sugar has brought another issue in the repackaging of sugar. We see Mumias sugar being repackaged. Nowadays, most of us can attest to this fact. Supermarkets have their own sugar which they repackage. We do not know where these supermarkets get their sugar from. It is important to understand where they get their sugar from. They are repackaging their sugar nowadays.

Interestingly, none of the officers we interviewed agreed that sugar comes from Kismayu and other areas. The Committee did a lot of work. We even went as far as Msambweni and saw what happens there. However, none of the officers - even the NIS - we interviewed agreed that he or she knew of any sugar coming through those funny ports. It is very sad that the Government is not aware of what is happening. I am sure, as Hon. Midiwo has said, the barons are known. There is no way Florence Mutua can bring sugar into this country because I will be arrested the first day. So, the people who bring sugar illegally into this country are very senior and they are known.

As I finish, it is very sad to note that the amendment Hon. Washiali was moving would have actually "killed" a very key recommendation that we had. Recommendation 115 reads:-

“THAT, any officer from the board and management of MSC and KRA responsible for the fictitious exports of sugar between 2006-2012 be held responsible for abuse of procedures and abuse of office”.

It would have been very meaningless to narrow it to one person. We are happy that the Speaker has made a very good judgement on that issue.

Under our observation we got 18 companies that involved themselves in very funny sugar deals. We have requested that three of those companies be blacklisted. We hope, as a Committee that the companies that will be blacklisted will not go through the backdoor and come with another name to continue doing the funny business they are doing now.

Busia County is constructing its own sugar mills. We expect to have two if the court case we have can be done away with. We have had farmers in Busia County having sugarcane on their farms for almost 24 or more months. If this happens, the sugarcane becomes dry and useless. We hope that the sugar sector issues will be solved. We also hope that the issues in Busia County will come to an end so that our people can benefit from their own sugar mills. These mills will employ people in that county.

Thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Well spoken. The Member for Ugunja, Hon. Opiyo Wandayi, you are next on my request list.

**Hon. Wandayi:** Thank you very much, Hon. Temporary Deputy Speaker. Finally, I have been noticed. I have been in the queue since yesterday. That notwithstanding I wish to, first, state that my own constituents grow sugarcane. In fact, all of them take their cane to Mumias Sugar Company. Therefore, I was really taken aback when my colleague, Hon. Washiali was throwing tantrums as if he is the only one who has farmers who grow sugarcane. I take great exception to that unbecoming conduct.

It is important that as we debate this Report, we do not lose sight of the bigger picture. The Report is aptly titled “The Crisis Facing the Sugar Industry in Kenya”. Unfortunately, it has been reduced to Mumias and I think that is deliberate. The crisis in the sugar industry is much bigger than Mumias, granted that Mumias Sugar Company accounts for 60 per cent of local production. The fact of the matter is that, as a country, we have got sugar deficit. For a fact, this country only produces about 600,000 metric tonnes of sugar annually and yet, we are told that consumption stands at about 800,000 metric tonnes. That means, therefore, a deficit of about 200,000 metric tonnes has to be met through importation. We are told that importation has to be from COMESA countries. That is the elephant in the room that has to be addressed. The crisis in the sugar industry could have been contributed, to a small extent, by the shenanigans in Mumias.

I can say without fear of contradiction that this crisis has largely been contributed by a cartel of protected people who, under the guise of making importation to bridge this deficit, have continued to smuggle contraband sugar into this country with impunity. That is the matter that has to be addressed that the Committee was unable to unravel. You will recall that the Committee, where I sit, summoned almost every other person that we thought had authority over these matters. The Committee summoned the Inspector-General of Police, the then Director of the National Intelligence Service (NIS), the top management of the Kenya Revenue Authority (KRA) and anybody else you can imagine. What amazed us is that none of these key and high ranking Government officials could explain to us how contraband sugar gets its way into this country or who is actually involved in that smuggling. You do not have to be a rocket scientist to understand that this kind of illicit business cannot happen without connivance at the highest

possible level. We are not children to be made to believe that a common Kenyan can smuggle sugar from say Somalia and then they use the term “porous borders”. Sugar is smuggled into this country in hundreds of tonnes. There is no way you can smuggle sugar as if you are smuggling some small items. This sugar gets into the country through the Port of Mombasa and once it gets into the country, it is regularised. It floods and distorts the market and, therefore, makes the Kenyan-produced sugar too expensive to compete effectively. Until we are able, as a country, to gather the courage and confront this monster of sugar smuggling by well-connected and protected people, livelihoods of millions of Kenyans will continue to be in jeopardy.

The Committee has attempted, and I use the word “attempted” because the Committee was limited in capacity, just like any other Committee of Parliament. A Committee of Parliament cannot have the capacity to carry out forensic audit. That is why we were taken aback when the Board of Management of Mumias Sugar Company categorically refused to hand over to the Committee the final forensic audit report undertaken by KPMG. I am using the word “refuse” because they refused. This Report was tabled on the Floor of this House in March 2015. By that time, we were told that the forensic audit report by KPMG was still in draft form and that is why the Committee was unable to adopt it. I tried in vain to push for its adoption in the Committee. One year later, that Report has not been submitted to the Committee by the Board of Managements of Mumias Sugar Company. They continue to play hide and seek with the Committee. Which person or authority in this country can defy Parliament if he or she is not sure that they are under protection? Mumias Sugar Company did well by outsourcing that forensic audit with KPMG, but it was largely on the issue of the 10,000 metric tonnes of sugar that Mumias Sugar Company imported. They undertook to carry out another forensic audit on the fictitious exports. The forensic audit by KPMG revealed a lot of things. If we had the privilege of having the final report with us and have this House adopt it, perhaps, we would have gone to the root of the matter in as far as importation is concerned.

When it comes to the fictitious exports, as I speak, we are not even sure if any forensic has happened as was promised by the Board of Management of Mumias Sugar Company. So, we still have a long way to go as Parliament to get to the bottom of this matter. What we have done, as a Committee, is merely to scratch the surface. For us to get to the bottom of this matter, we shall need co-operation of everybody else, including the Board of Management of Mumias Sugar Company.

It was very sad, indeed, to see politics being brought into this matter on the Floor of the House. What my friend, Hon. Washiali, attempted to do was to bring in cheap politics into such a serious matter that affects a very big proportion of the population of this country. We are better at playing politics. We can play it better than him and his sponsors, but we cannot afford to bring politics on a matter that touches on the livelihoods of people of this country. I hope the punishment meted out on Hon. Washiali will serve as deterrence to any other Member of this House who might want to do a similar thing in future. The matter of sugar is so important and critical that we cannot afford to make it look like a joke.

Finally, we want to see a resolve of the Executive in matters to do with addressing the issue of sugar smuggling in this country. There is nothing that happens in this country without the NIS knowing. We do not need more laws. What we need is the resolve, the commitment and the goodwill of the Executive arm of the Government to rein in these rogues. The NIS cannot come before a Committee of Parliament and feign ignorance of the happenings at the Port of Mombasa. This country can do better if we are to compete in the league of civilised nations.

With those few remarks, thank you very much.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Member for Luanda, Hon. Christopher Omulele. Hon. Millie Odhiambo, you are next.

**Hon. Omulele:** Thank you, Hon. Temporary Deputy Speaker. She actually came in when I was already seated here. I know she is my senior in the profession, but on this occasion, she will allow me to also speak on behalf of the people of Luanda.

I stand here today to say that, in my honest opinion, the work that this Committee has done is barely a scratch on the surface of the crisis that faces the sugar industry. I say this because I have looked at the terms of reference that were given to this Committee. The Committee was required to investigate and inquire into the current state of the sugar industry in the country. It was also required to investigate and inquire into the issue of cheap sugar imports and smuggling, and investigate and inquire into the alleged exports by Mumias Sugar Company.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Hon. Omulele, let me get the intervention from the Member for Baringo.

**Hon. (Ms.) Kiptui:** Thank you, Hon. Temporary Deputy Speaker. I request that when you give a chance to Members sitting on the other side, you also look at our side.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Member for Baringo, do not just tell this House that you do not know the procedure of this House. They have been sitting here for long. We have a request list and there is a way the Speaker works. We are equal Members. I appreciate your concern.

**Hon. Omulele:** Thank you, Hon. Temporary Deputy Speaker, for protecting me. When you look at this Report, I agree that it has brought out main issues that are actually of interest to the sugar industry in this country.

I dare to venture that they should have gone further. At the end of the day, I will support this Report, but the crisis in the sugar industry in this country can be captured by what is set out at Article 22 of this Report which says that it has been established by this Committee that the average cost of producing one tonne of cane in Kenya is US\$22 while in the rest of the region it is as low as US\$13 per tonne. So, when you look at this, you realise that while we produce our sugar at US\$22, the rest are producing sugar at half that price. We cannot compete like this.

This fact is further buttressed by Article 14 of this Report which finds that the average yield per hectare in Kenya is 60.5 metric tonnes while that in Colombia is 115 metric tonnes per the same hectare. So, when you look at these factors, you realise the shenanigans that Mumias Sugar Company got into when it entered the imbroglio of importing and exporting sugar into Kenya and why it engaged itself with Dantes Peak Limited. If sugar out there in the market is half the price that Mumias Sugar Company produces sugar here at home, then Mumias is a trading company that wanted to make profit. We expected this Committee to tell us---

*(Loud consultations)*

Hon. Temporary Deputy Speaker, I need protection from the Members.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Yes, you are protected. Hon. Members, please, consult in low tones. Let us respect the other Members, especially the Member who is contributing.

**Hon. Omulele:** Thank you, Hon. Temporary Deputy Speaker. Mumias Sugar Company and all these other factories are producing very expensive sugar. We have this situation where in

Kenya, we are able to only produce 600 metric tonnes of sugar. Our consumption is 850 tonnes. In the Sugar Act, there is a provision that there will be an import into the country of 250 metric tonnes of sugar, which is the deficit in the country. This is where the problem is. I want to agree with my brother, Hon. Wandayi, that the crux of this matter is in this importation of sugar under the COMESA safeguards.

I expected the Committee to go a little further in the investigations and find out how COMESA sugar is imported into this country. That sugar import window is managed by the Kenya Sugar Board. The KSB is authorised by law to auction licences to companies that have interest and have shown capacity to import sugar and have trade ties in the region with companies that produce sugar. What happens in the boardrooms of the KSB is a matter of interest. I expected this Committee to have interrogated heavily the KSB. Unfortunately, I have looked at the Report and I have not seen the presentations or the interrogations that were conducted at the KSB. The real problem that faces the sugar industry is the importation of sugar. The KSB licenses importers of sugar into this country. The Committee did not interrogate even the Managing Director of the KSB. I dare submit that if we do not look into the licences that have been issued by the KSB to sugar importers in this country, we will not find out the importers of contraband sugar into this country.

The process of licensing sugar importers has been abused by the KSB. Licences have been auctioned to the highest bidder. They are negotiated outside the criteria and the mechanism that has been set out by the Act, so that briefcase traders have accessed these licences. They have been issued with these licences. They walk out with these licences from the KSB, proceed to the sugar merchants in this country who have money and resell these licences to these people, who have now imported sugar with impunity into this country. This is what we expected the Committee to do.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): There is a point of order by the Chairman of the Departmental Committee on Agriculture, Livestock and Cooperatives. You should put up an intervention so that I can know whether you are either on a point of order or you want to contribute.

**Hon. Nooru:** On a point of order, Hon. Temporary Deputy Speaker. The Member is misleading the House and the nation as a whole that the Committee did not interrogate the management of the KSB. We interrogated and it is under Item 36 of the Report. We interrogated the management of the KSB and we have captured it in the Report. It is there.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Thank you. Hon. Omulele, you can check Item 36.

**Hon. Omulele:** Thank you, Hon. Temporary Deputy Chairman, for that information. I have seen they have put "BSM", which is the KSB. I expected a more robust interrogation of this body because it is the body that licenses sugar importers. It is mandated to keep a register of all importers of sugar into this country. This is the body that is mandated to keep a record of all the sugar that is imported into this country. It is expected to bring before this House, every year, a record showing the shortfall, the deficit and what was imported into this country by company "A," "B", "C" and "D".

They have done a good job, but it is just merely a start. We need to do a further inquiry with more clear machinery. We must know where the rain started beating us before we say that sugar is smuggled into this country.

Otherwise, I support this Report just as a start into this interrogation.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Thank you. I am sure the Chairman is listening to our contributions. I can see he is noting and I am sure everything will be heard. Hon. Millie Odhiambo, Member for Mbita.

**Hon. (Ms.) Odhiambo-Mabona:** Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity. I support this Report. Maybe to put things in perspective, there has been a bit of drama today and yesterday on this Report on the sugar sector with the Committee against the proposed amendments by Hon. Washiali. If somebody does not say it, it will give very misleading information. I know Hon. Florence has alluded to it. However, what Hon. Washiali was doing by the proposed amendment was to make one person responsible for the rot in the sugar industry in Kenya which is not only misleading, but also erroneous and would not help the industry.

We have actually broadened the scope. We have not excluded the person whom he is targeting because he was the Managing Director at around that period. By leaving the opportunity open, it means that anybody who wants to go after Dr. Kidero for the work he did around that period, is free to do so. For us to purport to say that the crisis in the sugar industry in the whole country is attributable to Dr. Kidero is a fallacy and misleading. I say so because every Member has attributed the problem in the sugar industry to cartels. Fortunately, for me, I am able to look at it with fresh eyes because I come from the fishing industry and not the sugar industry. So, I am very proud to say that I am able to look at this from a detached perspective. I have no interest in the sugar industry. I am not a sugar baron and have never traded in sugar, even one kilogramme. Because of that, I was able to look at the issue objectively. Having worked very closely on the issue of counter trafficking in persons, I can only compare this to issues of drug trafficking and trafficking of persons. That is what we have in the sugar industry. I know Hon. Omulele was a bit frustrated when he was saying that we should have done more. Even if you gave any Committee of this House the task to check on drug trafficking or counter trafficking in persons, we will only scratch the surface because of the very nature of the industry. Due to time limit, I will say some of the things that I observed.

First, on the issue of sugarcane poaching, you find that there are individual sugarcane farmers who enter into contracts with companies like Mumias Sugar Company. Once they get into these contracts, they are given inputs, so that once they have their harvest, they take it to the company between which they have a contract, for example, Mumias Sugar Company. We have companies on the side who have put absolutely no input and poach sugarcane. So, when Mumias is waiting for money that they put in, it never reaches them. How do you expect Mumias Sugar to make profit neatly under such circumstances?

Secondly, the cost of production is comparatively high. We are talking business here and we are comparing with neighbouring countries and internationally. If our cost of production, as has been indicated is comparatively high, how do we expect to compete with other countries? There is the issue of archaic machinery in some of our companies and we are expecting to compete with people who have modern machinery. The tonnage we produce in one week, somebody produces it in one hour. How do you expect us to compete?

The other issue is management and that is why we have recommended that there be further investigations. We even requested for an audit report that was done and we were never given a final one. We sent it back and it came back incomplete, but the House was also in a hurry. There were allegations that the Committee has received bribes. We did not receive bribes.

Hon. Washiali came and apologised before the Committee for casting aspersions that the Committee had received bribes. In fact, the Committee wanted him expelled.

We are all politicians in this House. I would want to be re-elected in Mbita just as much as he would want to be re-elected in Mumias East, but he cannot use the platform of the House to cast aspersions on us, so that I am not re-elected and he is re-elected. I am sure this weekend he will go to Mumias and say: "Did you see how I almost boxed Hon. Millie Odhiambo fighting for sugarcane?" It is time the country got to know the truth. Let us not use the Floor of the House for cheap politics. If he wants to get votes, let him just go directly to Mumias and ask his people to vote for him based on the work he has done, but not by besmirching the names of other Hon. Members. We need to look at the management of Mumias Sugar Company around that period, but definitely Parliament does not have that capacity.

On the issue of cheap and unregulated sugar that is flooding the market, I know, unfortunately, that even though there is a bit of politicking about the sugar that is in Mombasa especially in relation to the Governor of Mombasa, we are seeing sugar that has been found in Mombasa. If you are talking about small companies who want to compete against people who are bringing cheap imports from Brazil and other countries and purporting it to be local sugar, how do you expect us to compete?

I thank my brother, Hon. Ababu, who is sitting next to me. He was asking whether the Committee has made an earthshaking recommendation. I can say no. We have not made an earthshaking recommendation because the earthshaking recommendation is these two things. Forget the sugar industry and go for something else or deal with corruption. This is because all these things are about corruption. Cheap sugar is coming because of corruption. Mismanagement, poaching and all these things I have mentioned are due to corruption, some of which I saw as a lawyer. It is so clear. When I get into a contract with you to supply and I have given you inputs, you should supply your final produce. When these matters are taken to court, it takes many years. By the time a court decision is made, the sugar is stale.

So, the only earthshaking recommendation is forget about sugar and diversify, but if we do not want to forget about sugar because the lives of many Kenyans would be affected, then deal firmly with corruption. Until the Government gets serious about dealing with corruption, we are cheating sugarcane farmers. Some of the Members that were the most theatric in this process - we have information - are the sugar barons. They create a lot of drama in the House and they are sugar barons. We have evidence which we will be tabling next week. So, if we are serious and we want to help the thousands of Kenyans who are in this industry, we must deal with corruption.

My entire clan lives in Awendo and they plant sugarcane. Whenever I visit there for funerals or other functions, they tell me: *Mheshimiwa*, please, speak about the sugar industry". So, I have made it my business to know about what is ailing the sugar industry. For me, the only earthshaking thing is to deal very firmly with corruption. I want to challenge the presidency that I have learnt about anti-corruption strategies and until and unless there is goodwill right at the top, we will only be scratching the surface.

I support.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Let us have the Member for Emuhaya, Hon. Wilber Ottichilo.

**Hon. (Dr.) Ottichilo:** Thank you, Hon. Temporary Deputy Speaker. I have waited for too long, but thank you for giving me a chance to comment on this Report. First, I want to thank the

Committee for the good job they have done. We have waited for this Report for a long time and finally it is here. I have gone through it and generally, it is good. It has covered all the issues that are bedeviling the sugar industry. Therefore, the most important thing is that this Report should be supported, passed and its contents implemented as soon as possible, so that we can address the myriad problems in the sugar industry.

The key problem in the industry, as highlighted by Hon. Chris Omulele and Hon. Millie Odhiambo, is cost of production. Unless and until we address the issue of cost of production, I can assure this House that there will be importation of sugar and sugar barons will have a field day. As long as the cost of production of our sugar is costly, it is so easy to import sugar from the world market where sugar barons find it easy to make quick money. They will take any risk to do that. I am very happy with the Committee and I can see the Chairman is here, I congratulate him. They have found out the issues that bedevil the cost of production which are covered in Paragraphs 74 and 75. If we can address those issues, then we can fix the problem in the sugar sector and become competitive.

The other issue that I want to highlight is the issue of low byproducts utilisation. In this country, we only aim to have table sugar from sugarcane. In other countries like Colombia and Brazil, table sugar is a byproduct. There are many other products that we can get from sugarcane. For example, we can get Ethanol which can be sold at a better price. We also have molasses and bagasse. We can produce paper in this country using bagasse.

If you go to all the factories, you will find heaps of bagasse which are not being used. Bagasse can be used to produce electricity, which is not being done. We are getting very little out of our sugarcane compared to what we should get. Value addition is the sole important aspect which we are not doing. I support this Report and hope that we can all support it. Once this House passes it, the Committee on Implementation should take it up quickly and ensure that the recommendations contained therein are implemented without any delay.

Thank you and I support.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Hon. Kasuti Suleimani Murunga, Member for Kimilili.

**Hon. Kasuti:** Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to add my voice to the various recommendations that have been made by various Members.

First and foremost, I would like to say that this Report has given us recommendations that are valid, especially the ones that touch on sugar production. If those recommendations are implemented, they will help the sugar industry to move forward. In this country, we have private sugar companies and those that are run by public officers. Private sugar factories make profits and have no issues. The ones that are run by Government appointed officers have various issues. The issues are created by officers who are not patriotic. Patriotism is very important in any organisation. The issue of procurement is also vital. In most cases, the officers in charge of the procurement process inflate prices of various items and make the end produce very expensive. The machines that we are talking about were bought many years back. The people who are running the industry should know when the machines should be replaced and when they should be procured. When they procure new machines, they should ensure that the prices are not inflated. That way, they will ensure that the cost of sugar production is not as high as it is today.

If you look at the new sugar factory in Kwale, it is producing sugar at reasonable costs. That is how they are keeping their costs low. They are making more money than Mumias Sugar



Factory. Nzoia Sugar Company has machines which were procured from France many years back which are used to date. It, therefore, takes a long time before you get the real product. Eventually, nobody is able to produce sugar at realistic costs in this country.

Sugar is imported into this country at a very low cost. When contraband sugar like the one being held in Mombasa gets to the local market, it is repackaged and competes with the local sugar. The people who sell contraband sugar make huge sums of money as they lock out locally produced sugar from the market. That is why Nzoia Sugar Company has a lot of sugar in their warehouses. Locally produced sugar is not getting to the market because contraband sugar sells out very fast. Traders buy contraband sugar cheaply and release it to the market and record high profit margins. In the process, traders do not want to buy locally produced sugar because it is expensive. They go for contraband sugar because they record high profit margins from the sales. Locally produced sugar remains in the warehouses.

The problems that bedevil the sugar industry are too many for this industry to move on. Therefore, we must look at the production costs. A farmer who produces sugarcane from a one acre plot will not harvest the cane as expected by the company that contracted him. Sugar companies supply all the farm inputs to farmers to produce sugarcane. People end up spending all their money on producing sugarcane on a one acre plot. At the end of the day, a farmer receives very little money from the sugar company. In some cases, farmers' accounts reflect negative balances. The people in charge of sugar companies should go out and educate farmers. They should, for instance, bring together farmers from a certain area to form a society so as to reduce their production cost. When farmers form co-operatives, the management of sugar companies will not be dealing with individual farmers cultivating sugarcane on one acre plots. They will be dealing with groups of farmers collectively producing sugarcane on, say, 10 acre plots. That way, the cost of production will go down. The cost of tractors and farm inputs supplied by the sugar companies will not hurt individual farmers, but rather, it will be shared amongst the co-operative membership.

The public sugar companies will help farmers in terms of giving them the necessary education on sugar production as well as supplying farmers with affordable farm inputs. Therefore, farmers will not have to pay through their noses.

The bottom line is that there is hue and cry when farmers are being paid because they do not get enough money from the sugar companies. I support the Report. It will also help the public sugar companies to do better. The private sugar companies are already on course and they are doing better than the public companies.

With those remarks, I thank you.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Hon. Members, there are seven requests from Members who want to contribute to this Motion. Pursuant to our own Standing Orders, let us not repeat ourselves. If you really think what you want to say has been said, just make your contribution as short as possible, so that other Members can contribute.

The Member for Budalangi.

**Hon. Ababu:** Hon. Temporary Deputy Speaker, thank you for this opportunity. I must say that I am absolutely disappointed with this Report because, first of all, this Report has taken for ever to come to this House. One would have expected that in the period that the Committee was taking to bring this Report here, they were doing a job that would for once provide the House and country with a template to fix what ails this key sub-sector of our economy. I have gone through this Report and looked at the recommendations, but I have not seen any

recommendation that one would lean on and say: “Yes, here is a platform to start fixing what ails the sugar industry.”

I believe this Committee would have done this House a favour and would have served the interest of this agenda very well if they had told the Government point-blank that the primary reason behind the woes in the sugar industry is because successive Governments in this country have not treated this sub-sector with the seriousness it deserves. That is, the kind of attention in terms of infusion of capital, support to farmers and protection in the market that is afforded to sub-sectors like tea and coffee. We have not seen similar support and seriousness extended to the sugar sub-sector. That is why you see jokes like the Government announcing a Kshs2 billion, Kshs1 billion or Kshs5 billion support to the sugar industry, then a day after or a couple of weeks later, you see volumes upon volumes of cheap, unregulated and untaxed sugar flooding the sugar market in this country. This amounts to a big joke. It amounts to cynical and callous treatment of the sugarcane farmer and the millions of Kenyans who depend on this sub-sector, by the Government. It was done by the Kenyatta regime, Moi regime, Kibaki regime and it is being done by the Jubilee regime. All these regimes in succession have not been serious about fixing what ails the sugar industry.

So, number one, I would want to tell the Departmental Committee on Agriculture, Livestock and Co-operatives to, please, say it as it is. Say it as it ought to be said. Tell the Government to wake up and get serious with the sugar sub-sector. Getting serious will mean ensuring that we deal decisively with the perennial problem of importation of cheap, unregulated and untaxed sugar. The Chairperson of the Committee knows that even as we debate this Report, there are millions of tonnes of sugar on their way into this market. He also knows that the Government, through the Kenya Revenue Authority (KRA) and other State agencies, has the capacity to stop this. I have not seen any decisive and unequivocal recommendation in this Report that bluntly tells the Government that it must fix this, not tomorrow or next year, but right now.

There is also a big problem with the Kenya Sugar Board. The KSB is a regulator. As a regulator, it also ought to be a protector of the sector. It is also a big problem in this sub-sector. The manner in which the KSB issues licences to sugarcane firms is wrong. The Member for Busia County, my sister, Hon. Florence Mutua, proudly talked about the presence of two sugar factories coming up in Busia County, but she did not disclose that the presence of those two sugar factories within such a close range with each other violates regulations that ought to govern the functioning of this industry. This matter has dragged in court *ad infinitum*. The KSB has been absolutely impotent and unable to resolve this controversy. Why would the KSB issue two licences to two rival sugar companies within a few kilometres of each other in utter violation of the regulations, aware that that action in itself would render the whole enterprise a nullity and ineffective? I do not see anything in this Report that unequivocally places responsibility on the KSB in implementing regulations and enforcing the law that would clean up the mess in the sugar sub-sector.

We know, and to be fair to the Committee, they have addressed the matter of the cost of production.

**Hon. Oyugi:** On a point of order, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Hon. Namwamba, the Member for Budalangi, there is an intervention from the Member for Ndhiwa.

**Hon. Ababu:** Hon. Temporary Deputy Speaker, with due respect.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): The Member for Ndhiwa, what is it?

**Hon. Oyugi:** Thank you, Hon. Temporary Deputy Speaker. I do not intend to interrupt my senior Counsel and Secretary-General, but I stand under Standing Order No.30 to request for the extension of sitting time, so that the Members on the queue can have ample time to contribute to this debate. I now like the tenor of the debate. It is now almost what we should have actually been debating since the beginning of consideration of this Report. Please, allow my request.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Hon. Neto, it is 6.10 p.m. As I look at your request, the Member for Budalangi can just carry on.

**Hon. Ababu:** Hon. Temporary Deputy Speaker, I really hope that this is not the end of this debate, namely, this debate is not closing in 25 minutes. If this debate is closing in 25 minutes, then it is a travesty of justice to the millions of Kenyans who have been waiting for this Report in the hope that it would provide a platform to fix these problems. So, if there is any way we could extend this debate, I would plead that we do so.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Hon. Member for Budalangi, I will add you one minute because of Hon. Aghostinho Neto, Member for Ndhiwa. Standing Order No.30(4), states that:-

(4) "A Motion under paragraph (3)(a) shall be moved at least thirty minutes before the time appointed for adjournment".

You are using the right Standing Order, but the time is already 6.00p.m.

**Hon. Oyugi:** Hon. Temporary Deputy Speaker, I was actually on intervention at five minutes to six and that is why I was trying to catch your eye.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): I can loudly confirm that is not so, Hon. Member for Budalangi

**Hon. Ababu:** Hon. Temporary Deputy Speaker, in the interest of other Hon. Members who want to contribute to this debate, I am going to conclude by saying that this Report is a disappointment. I know this may not be parliamentary, but this Report is a big joke. I do not see a solution whether short-term, interim or long-term in terms of fixing what ails this sector.

I have already mentioned it, tell the Government unequivocally, unreservedly without prevarication, that it is not serious about the sugar industry. The Government must get serious. It has the capacity to end the cyclic challenge of importation of cheap, unregulated and untaxed sugar. It is possible and it can be done. The Government can make sure that the KSB serves the best interest of the sugar industry instead of playing around with the sector and failing to enforce laws and regulations. It can be done. Management in a lot of these factories is a mess. We have to call it as it is. Instead of allowing these managers to mess up these factories, take-off and then you start chasing after them, deal with them now. These are things that can be done. Let us fix the law.

The Chairman must not be allowed to interfere with this debate. He had the opportunity to bring a serious Report here and he has brought a joke of a Report. He cannot keep on interrupting the flow of my thinking and contribution because he failed to do his job. I oppose this Report. I would actually plead with this House that this Committee be requested and ordered to go back and do a better job, because this House is definitely better than this.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Order! Member for Budalangi, there is intervention by two Members, Hon. Michael Kisozi and Hon. Member for Mandera. Chairman, are you on a point of information? You will have your time to reply at one point.

**Hon. Nooru:** On a point of order, Hon. Temporary Deputy Speaker. Having allowed the Hon. Member for Budalangi to shout, he is out of order by keeping on referring to the Kenya Sugar Board.

**Hon. Ababu:** Hon. Temporary Deputy Speaker, I am not shouting and that is unparliamentary. The Chair must withdraw that.

**Hon. Nooru:** Hon. Temporary Deputy Speaker, one Member at a time.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Order! I will make a ruling. Hon. Chairman, it is only the Speaker who can say who is shouting or not, and he is not shouting.

**Hon. Nooru:** Hon. Temporary Deputy Speaker, he is speaking in a loud voice and is out of order. I have all the right to correct him.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Hon. Chairman, nothing is out of order. Please, allow the Members to debate.

**Hon. Nooru:** Hon. Temporary Deputy Speaker, he has mentioned the Kenya Sugar Board, which is not in existence. It was repealed by this House almost three years ago and is no longer in existence. The Member for Budalangi keeps referring to it.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Chairman, there is a procedure. If you want to inform a Member, please, let me understand that you want to inform him. You should ask for permission to inform the Member and he accepts or rejects your information.

**Hon. Kisoi:** On a point of order, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. (Ms.) Hon. Member for Mbooni, is there anything out of order? We cannot keep on making corrections on the Floor of the House.

**Hon. Kisoi:** On a point of order, Hon. Temporary Deputy Speaker. I think it is fair enough to allow the Member for Budalangi to proceed with his debate, because the Chairman had the time to present the Report.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Thank you, Hon. Member for Mbooni. Hon. Member for Budalangi, just finish your debate and your time is over. You have one minute because of the disturbance we caused you.

**Hon. Ababu:** Hon. Temporary Deputy Speaker, may I conclude by pleading with this House that we have a rare and historic opportunity to finally fix what has ailed this key subsector of agriculture, the backbone of our economy *ad infinitum*. Let us seize this opportunity and not prescribe “Panadol”, a pain reliever, to cure an ailment that requires radical surgery. Let us undertake this radical surgery on this subsector that is ailing chronically. We will not do it through this kind of a joke of a Report.

Therefore, I plead with this House not to approve this Report, so that this Committee can go back and do a better job.

I oppose the Report.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Let us hear contribution from the Member for Teso South, Hon. Mary Emaase.

Hon. Members, instead of repeating yourselves, you can use the least amount of time possible, so that we can give opportunity to other Members who also want to contribute to this very important Motion.

**Hon. (Ms.) Otucho:** Thank you, Hon. Temporary Deputy Speaker for this opportunity. I speak as a sugarcane farmer because I have sugarcane farmers in my constituency. Our cane was being taken to Mumias Sugar Company even before West Kenya came into the picture.

Having said that, this is a very important Report. I am surprised that some of the Members have attempted to use this Report to settle personal scores. This Report is very important to the sugarcane growing regions and farmers across the country. I have witnessed the suffering of farmers due to delayed payments or what they refer to as a “DR” and delayed harvesting of cane. Most of the farmers, like those in my constituency, grow cane as the only cash crop. Some of them committed all their small pieces of land to cane farming. They depend on it to finance all their needs. When such an important issue is brought to the Floor of the House, Members should not use it to play politics. We have so many platforms to play politics.

The sugar industry is ailing. That is a fact that we must appreciate. The challenges that have been highlighted by the Committee on the Floor of this House are not new to us. We have discussed them in the Departmental Committee on Finance, Planning and Trade and in the Departmental Committee on Agriculture, Livestock and Cooperatives. As a country, we are not taking these challenges seriously.

As much as there are so many recommendations, I do not want to belabour some of the points. The problem is the mismanagement of the factories. The factories are good. I am even surprised that Recommendation 117 says that the Government should consider offering tax breaks to encourage new investors. We have a net surplus of investors. In Busia County, we have two factories at a distance of less than 10 kilometres. The problem is not that we do not have enough investors in the sugar industry. We have more than enough investors in the sugar industry. The real problem is mismanagement. That has been explained. The real problem is the importation of cheap and illegal sugar into the country. In Recommendation 108, the Committee recommends that we need to develop relevant laws and regulations and make them stiffer. We have sufficient laws. The problem is enforcement of those laws and regulations. Legislation will be an exercise in futility. The problem is all of us. It is the culture and the mind-set. We must address the real problems. Otherwise, we will make many laws or legislate a thousand times, but unless there is commitment to enforce these laws, we will continue to experience problems and our farmers will continue to suffer.

Hon. Temporary Deputy Speaker, let me talk about the issue of cartels. Some of our farmers are not benefitting from their cane. There are cartels that even purchase the cane before it matures. Therefore, they sell the cane to the sugar factories and take all the profits. Does that mean that we do not have regulations and laws that govern marketing of sugar?

With regard to farm inputs, sugar factories give farm inputs to farmers, but supervision by extension officers is wanting. Either there is poor application or no application of inputs at all. What is a farmer, whose farm input has been delayed and his cane is ready for harvesting, expected to do? Some of the farmers sell the fertilizer that is given to them and that affects the quality of the harvest. The expected tonnage will not be realised if this happens. So, there is a big problem than what we see.

I agree that Mumias Sugar Company has not recovered, but we must also appreciate the fact that it was in the Intensive Care Unit. When we requested the President to intervene, he did. We must appreciate that fact. The management of Mumias was changed, it is still recuperating and is coming out of the ICU. I appreciate that the Committee has tried, but more needs to be done. There is more that needs to be done than what we see. Let us take such reports seriously. Let us not try to bring politics into such very important reports that touch on the lives of Kenyans, their livelihoods and that affects the economy. When these institutions go down, most

of our people lose employment. That will not only affect the economy, but also security and stability because people will be jobless.

I take this opportunity to advise our cane farmers that it is time for us to begin thinking about diversification. We must set aside some pieces of our land to also plant some food crops besides cane. We cannot depend fully on cane. That is important. Let me stop there, so that I give the opportunity to another Member to contribute to this Motion.

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

**Hon. Shimbwa:** Thank you, Hon. Temporary Deputy Speaker. The Report we are debating is very important, but I have to summarise due to scarcity of time. All what you have heard here is an indicator that a certain organisation is failing. Without mincing words, it is the Government that is failing. We have seen research land being given out. It means that the Government is not serious on research. Farms like ADC farms where farming activities used to be demonstrated are all gone. If you go to Mtwapa, all the land that was used for research has already been allocated to people. We used to be told that agriculture was the backbone of the economy, but we do not see that anymore. We do not know what the backbone of our economy is. Maybe it is the mega projects that we have in the country.

In all developed countries, we have zoning of projects. There are areas which deal with industries while others deal with agriculture. Over the years, we have seen marginalisation of places like Ukambani where every year, people used to be given relief food. Nowadays, people are almost ready to export food to neighbouring counties. There were deliberate attempts to enslave certain areas of this nation to impoverish them and make them subservient to the political empires of this country. That should be addressed as a serious problem. As I stand here, I know very well that a single entity of a sugar factory can employ not less than 20,000 people directly and indirectly.

So, when we deliberately kill such a factory by any means like what we have been speaking about here, we are looking at 20,000 jobs lost. This trend is not just in the sugar industry. The Kenya Petroleum Refinery in Changamwe was closed and many jobs were lost. In Kilifi, the cashewnut factory was closed and jobs were lost as well. In Kwale, there was the Ramisi Sugar Factory and in Kisumu, the Kisumu Cotton Mills (KICOMI). These were deliberate attempts by the previous Governments to kill the economies of these regions to enslave them politically. Kenya has the capacity to be the powerhouse in this region, but we are now competing with countries like Ethiopia and Tanzania, which were junior members at Independence as we were taking off.

We should call a spade a spade. When the Executive is participating in business with the Government, let us not expect anything good out of it. That is why until this day, we have never seen oil prices coming down in Kenya yet we were told that refining oil at the refinery in Changamwe was making it expensive. To date, we have not seen any price difference. Certain people are engaged in importation of crude oil, just the same as sugar. In fact, sugar barons acting as cartels are fixing the price of sugar in this country. Even sugar millers wait for these cartels to fix sugar prices and then they follow suit. This means that locally produced sugar can be cheap. It is known to everybody that most sugar importers do not pay taxes. What is happening in the case of Container Freight Stations (CFS) is victimisation. There are people who are in this business, but because they are in the right side of the Government, they will never be seen.

Let me tell the Chairman of the Departmental Committee on Agriculture, Livestock and Cooperatives, who is trying to interrupt my speech, that a CFS does not clear or inspect goods. Cargo is brought there and KRA does the verification. If there is anything wrong, then the whole KRA system from Mr. Njiraini to the lowest person should go home. It is not the CFS owners for that matter. Victimisation will not take this country anywhere. The only thing that will save this country is honesty and sincerity and the Government to stop doing business. If we remember very well, those who were importing sugar into this country were the ones who were funding campaigns in previous Governments. They were exempted from paying tax. This does not augur very well. Today as I speak, parents cannot afford school fees in this country.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Order, Hon. Member! Hon. Omar, Member for Changamwe, thank you for your contribution.

**Hon. Shimbwa**: I thought I am not as angry as the Chairman of the Departmental Committee on Agriculture, Livestock and Cooperatives---

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): You are out of order. Hon. Member for Changamwe, you will have four minutes when the Motion resumes.

**Hon. Shimbwa**: I stand guided.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Hon. Members, I must appreciate the interest to contribute from the Member for Shinyalu, Member for Mbooni, Hon. Michael Kisoi, Member for Turkana Central, Hon. John Nakara, Member for Kibra, Hon. Kenneth Okoth and Member for Baringo, Hon. Grace Kiptui.

#### ADJOURNMENT

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): This is a House of rules and procedures. The time being 6.30 p.m., this House stands adjourned until Tuesday 23<sup>rd</sup> February, 2016 at 2.30 p.m.

The House rose at 6.30 p.m.