

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Tuesday, 31<sup>st</sup> July 2018

The House met at 2.30 p.m.

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

PRAYERS

QUORUM

**Hon. Speaker:** Can you ring the Quorum Bell?

*(Quorum Bell was rung)*

We quorate now.

### COMMUNICATION FROM THE CHAIR

#### ALTERNATIVE TABLET MOUNTINGS IN PARLIAMENT'S CHAMBERS

**Hon. Speaker:** Hon. Members, before I read out the Petition, I wish to draw the attention of the House to the fact that the Parliamentary Service Commission (PSC) has received comments from Members about the quality of the workmanship of the tablets that the person contracted fixed. Immediately after the receipt of those comments, we instructed that the contractor avails to the technical staff of the Commission alternative sets of gadgets and the mounting, so that Members can have a look at them before the Commission proceeds to order for more, so that whatever is fitted here is the quality that is commensurate with the status of the institution.

I can see that the contractor has availed one tablet, which is fitted at the Deputy Speaker's seat. Hon. Members, check it because I was informed that the contractor was instructed to provide different mountings at no extra cost to the Commission, so that the members of staff who were involved in the procurement of these tablets can only provide those which satisfy the desire of the Members of this House and the Senate. I was told that one tablet was fixed. I can see it on the Deputy Speaker's seat. Members are at liberty to have a look at it and compare it with what I am told was a *jua kali* mounting. Indeed, it looks like *jua kali* mounting that had previously been provided by the contractor. I wanted to make that Communication, so that Members can have a look at it.

## PETITION

## FRAUDULENT MEDICAL BILLING AT MP SHAH HOSPITAL

**Hon. Speaker:** Hon. Members, Standing Order No. 225(2)(b) requires the Speaker to report to the House any Petition other than those presented through a Member. I, therefore, wish to convey to the House that my office has received a Petition signed by one Mr. Stephen Mutoro, the Secretary-General of the Consumers Federation of Kenya (CFK). The Petitioner contends that the MP Shah Hospital, Nairobi, charged a medical bill amounting to Ksh860,000 on account of treatment of one Ms. Matilda Anyango, who is deceased. He alleges that the medical bills charged were fraudulent as the late Ms. Matilda Anyango was admitted at MP Shah Hospital, Nairobi, for an emergency treatment that lasted for less than 12 hours.

Hon. Members, the Petitioner, therefore, prays that the National Assembly, through the Departmental Committee on Health, investigates the matter with a view to having the hospital bill charged for the treatment of the late Ms. Matilda Anyango reviewed, and considers enacting a legislation to regulate the cost of medical treatment and procedures so as to curb the increasing cases of fraud in billing of medical services and insurance covers. Pursuant to the provisions of Standing Order No.227, this Petition is hereby committed to the Departmental Committee on Health. The Committee is requested to consider the Petition and report its findings to the House and the Petitioner in accordance with Standing Order No. 227(2).

I thank you.

I can see that Hon. John Mbadi wishes to comment on this Petition.

**Hon. John Mbadi** (Suba South, ODM): Thank you, Hon. Speaker. That Petition from my good friend, Mr. Stephen Mutoro, is timely.

Hon. Speaker, people are suffering in silence from the practice of private health providers in the country fleecing Kenyans. Not long ago, a relative of mine, and for obvious reasons I will keep the name secret because medical conditions should not be discussed publicly, was taken ill early 2016. We took my relative to a private hospital in Kisumu. For three days, the only treatment the relative received was blood which we donated. In fact, almost all of us donated blood because she was losing blood at a rate that could not be explained. The hospital could not tell us what the problem was. She spent two days in the hospital. I was advised by one doctor to take other immediate action. So, we had the option of bringing her to Aga Khan Hospital Nairobi, but that was risky because we had to fly her here. It was late in the evening and we could not get a way of flying the patient. The same doctor advised me that the other alternative was to take the patient to Tenwek Hospital, which meant we had to have seven pints of blood which we had to donate to sustain her all the way to Tenwek Hospital. Believe me, we took the second option. We arrived at Tenwek Hospital at around 11.00 p.m. and by 3.00 a.m., the bleeding had been stopped, the patient had been operated and the course of the problem had been identified. The patient was admitted at Tenwek. One week in Tenwek Hospital, we paid only Kshs42,000. But in Kisumu, I was forced to pay over Kshs600,000 in addition to the Kshs50,000 deposit I had already paid for doing nothing. I was very mad with the hospital that if my patient was not almost at the verge of death, I would not have paid that money. But, Hon. Speaker, you can see how I was held to ransom to pay over Kshs600,000. Assuming I did not have that cash or

I could not access it that evening, I would have not even been allowed to get my patient out of Kisumu.

You pay close to Kshs1 million and your patient is not even treated and you have donated blood. I asked all the relatives I knew around Kisumu, including the immediate former Governor, who volunteered to donate blood. It is a sad thing. Leading private hospitals in the country practise this and we may name some of them. The hospital in Kisumu which treated me this way is Avenue Hospital. I have learnt that some of the private hospitals are just nursing homes. The best they can do is nurse patients. I also know that there are some that do very good jobs, but let them not fleece Kenyans. Let them be reasonable. An important matter as health should not be played with.

I conclude by asking the Committee that is going to look into this matter to expand it. The Departmental Committee on Health needs to expand and look at the private hospitals. We concentrate only on public hospitals yet many Kenyans go to private hospitals where they are fleeced. It is a sad thing we should not just take lightly. The Petition by Mr. Mutoro needs to be looked into. If the lady passed on and one is asked, after just 12 hours, to pay Kshs800,000, that is very sad! For what? Is it for the death of the lady or what? What are you paying for? I cannot simply understand it. Thank you.

**Hon. Speaker:** Hon. Pukose.

**Hon. (Dr.) Robert Pukose** (Endebess, JP): Thank you, Hon. Speaker. I support the Petition by Mr. Mutoro. He will need to give more details to the Committee, whether the patient was admitted at the Intensive Care Unit (ICU) or where the patient was treated. The cost of ICU admissions in the country is exorbitant. This has made it very difficult for people to meet the cost. More often than not, Members of Parliament are called to participate in *harambees*, in funerals and for medical bills. These are grey areas that more often than not are abused. Therefore, we need to understand the issue of the high cost of ICU in the country. We need proper costing. The bills for somebody who is admitted in a private hospital in ICU and another one in an ICU in a government hospital are different. So, what is it that happens in a private institution that makes it exorbitant? The Departmental Committee on Health should also address adequately medical bills in the county. The public are being fleeced and bodies detained because relatives are unable to pay the hospital. This cost can be looked into. Thank you.

**Hon. Speaker:** Member for Kiminini.

**Hon. (Dr.) Chris Wamalwa** (Kiminini, FORD-K): Thank you, Hon. Speaker. First and foremost, I thank Mr. Mutoro for bringing the Petition. I was with him at Friends School Kamusinga. Many Kenyans are suffering because of price discrimination in private hospitals.

Private hospitals have an obligation to support the Government, particularly on universal healthcare in the Big Four Agenda. It is high time we had a framework so that we are able to charge fairly. Sometimes back, the Kenya Medical Association (KMA) had a proposal. Doctors go to the same medical school, but if you compare what they charge at Kenyatta National Hospital and Mater Hospital it is totally different. We need to have a fair distribution so that poor patients are not subjected to this. Because universal healthcare is a Government agenda, it is high

time KMA and other private medical practitioners came together to have a fair framework of charging patients. Otherwise, the Ministry should come in.

On the Petition, the relevant Committee should invite Mr. Mutoro and other stakeholders to come and enrich the findings for the benefit of Kenyans. Thank you.

**Hon. Speaker:** Finally, the Leader of the Majority Party.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Speaker, the Petition has come at the right time. Healthcare is the most expensive item in the life of Kenyans. That is why you see there is a big migration of patients to India. What one could spend in Kenya in our major private hospitals to the tune of Kshs5 million or Kshs10 million, the patient could be treated with less than Kshs1 million in India, including the airfare.

The President's Big Four Agenda includes affordable healthcare. What does that mean? With the introduction of health insurance, people are making more money because people just sign forms. There are Members here who are from the legal fraternity like Hon. Olago Aluoch, which is regulated. The Engineers Board of Kenya regulates its members. How come doctors and healthcare experts are not regulated?

The Petition has to help us to amend the health laws before the House. It is not for KMA to regulate, KMA is a union. It will defend its members. I had an incident like Hon. Mbadi's. I had a patient at Nairobi Hospital two years ago. When I was about to discharge that patient, five doctors who were coming to see my patient gave me a bill of about Kshs3 million. One of the doctors was just coming to greet my patient. He used to come in the morning. Funny enough, he knew the local language though he came from another part of Kenya. When I saw him having a bill of Kshs870,00, I walked into his office and asked him whether he was charging me for greeting the patient. He said he was standing in for another doctor.

There is a difference. I had a similar patient at Aga Khan Hospital about two weeks ago. I am not campaigning for Aga Khan, but it is better than many hospitals. When I was discharging that patient on Thursday last week, there was no bill for a doctor. I asked why and they said doctors work for that institution. So, the Bill you pay is inclusive of the doctor's service. In other hospitals, you pay every doctor who greets your patient. The bottom line is: Healthcare is expensive in Kenya. The poor Kenyans cannot access it. There is a major rip-off when it comes to insurance policies. The Departmental Committee on Health must translate this Petition into an amendment and a regulation on the fees that Kenyans are charged, for instance, in the Intensive Care Unit (ICU). Otherwise, somebody will take your patient to High Dependency Unit (HDU). When you visit doctors, there is a whole chain of marketers from pharmaceutical companies. Even the drugs doctors prescribe are not based on the patient. It is based on his relationship with pharmaceutical companies. This Petition is timely. The Committee should expedite it and bring relevant amendments to regulate how healthcare is run in our country.

**Hon. Speaker:** Sorry, Members. Because there are two other petitions and we cannot discuss it further, the Petition stands committed to the relevant departmental committee of the House to work on it within the timeliness. Hon. Omar Mohamed Maalim.

## WITHDRAWAL OF KENYA DEFENCE FORCES FROM SOMALIA

**Hon. Omar Mohamed** (Mandera East, EFP): Thank you, Hon. Speaker. This Petition is by the residents of Mandera East Constituency regarding withdrawal of Kenya Defence Forces (KDF) from Somalia and redeployment to the border.

I, the undersigned, on behalf of residents of Mandera East Constituency, draw the attention of the House to the following:

THAT, Article 241 of the Constitution establishes the Kenya Defence Forces with the mandate to, among others, defend and protect the sovereignty and territorial integrity of the Republic; and to protect and safeguard the country against external threats such as that posed by *Al Shabaab* and other terror groups.

THAT, in October 2011, the Government of Kenya launched *Operation Linda Nchi*, following repeated incursions and attacks conducted within Kenya by the *Al Shabaab* terror group.

THAT, as a result, Kenya invoked Article 51 of the United Nations Charter, which recognizes member nations' right to self-defence against external aggression.

THAT, the deployment of KDF into Somalia was meant to contain the widespread terror activities in the country and, more so, along the Kenyan/Somalia border.

THAT, despite this, the country continues to experience sporadic and sustained terror attacks blamed on the *Al-Shabaab* terror group. It is estimated to be 155 terror attacks since 2012 targeting shopping malls, police stations, police vehicles, religious gatherings and telecommunication masts.

THAT, according to data from the National Police Service, Nairobi, Garissa, Wajir and Mandera counties have borne the greatest brunt of the terror attacks, with Kenyans residing along the border, from Kiunga in Lamu County to Mandera in Mandera County, being the most affected.

THAT, those terror attacks have detriment effects including decline of the health, education, economy and living standards in those areas due to desertion by health workers, teachers and other migrant workers who have left those areas out of fear for their lives.

THAT, while acknowledging the initial intention of the Government in deploying the Kenya Defence Forces to Somalia was in the interest of peace, the ripple effects that are escalating are terror attacks on our citizens.

THAT, the Kenya Defence Forces and other security agencies also continue to suffer casualties, incidents which have tended to embolden the terrorist groups.

THAT, by deploying the Kenya Defence Forces to our borders, the Government would be able to utilize technology to augment KDF and police service efforts to deter and defeat activities within the borders;

THAT, lastly, the nature of the threat has significantly changed, with *Al Shabaab* and other terror groups now carrying out revenge attacks against KDF troops and communities along the border regions, in the belief that they are liberating their country from the KDF incursion;

THAT, efforts to have these matters addressed by the relevant authorities have been futile; and,

THAT, none of the issues raised in this Petition is pending in any court of law, constitutional or legal body.

Therefore, your humble Petitioners pray that the National Assembly, through the Departmental Committee on Defence and Foreign Relations:

- i) Causes comprehensive investigations on the adverse effects occasioned by the protracted *Al Shabaab* and other terrorist attacks on the communities residing along Kenya's border with Somalia, and recommends how those may be addressed;
- ii) Causes the Government to withdraw Kenya Defence Forces from Somalia and recommends re-deployment as well as beefing of KDF along the Kenya-Somalia border;
- iii) Causes the Government to extend the amnesty programme for Kenyan returnees to cover all affected counties and the country in general; and/or,
- iv) Makes any other direction it deems fit in the circumstance of this matter.

And your Petitioners will ever pray.

Thank you.

**Hon. Speaker.** Member for Tigania East had indicated that he had a Petition which I had approved. He is not in and, therefore, the Petition is stood down. Are there comments on this? Member for Suna East.

**Hon. Junet Nuh** (Suna East, ODM): Thank you, Hon. Speaker. I stand to support the Petition that has been presented by Hon. Omar. This Petition is very important because the KDF were sent to Somalia to capture *Al Shabaab* and come back. Even though later they metamorphosed to the African Union Mission in Somalia (AMISOM), the fact of the matter is that they are still the soldiers of the Republic of Kenya that defend the people of Somalia.

I support the Petition in the sense that we need more security at the border with Somalia than having camps inside Somalia that resemble Kahawa and Lang'ata barracks. The other day, I was informed that there is a wall that is supposed to be built across the Somalia border. Ten kilometres of that wall has already cost us Kshs3.5 billion. The distance is a 1,000 kilometres and so, it requires Kshs3.5 trillion to build the whole wall from Mandera to Kiunga.

Through this Petition, we need to rethink whether we still need to keep KDF inside Somalia or we bring them back inside Kenya so that they can protect us.

With those few remarks, I support. They are doing no business in that area other than being accused of many other things like selling charcoal, sugar and such kind of things. It is high time our soldiers returned. They have stayed there for long; they have stayed there for almost 10

years. It is high time we brought them back to our borders so that they can defend and protect us from inside the country. I know some of our people might not accept that. But, that business is now enough. Enough of it has been done. It is high time the soldiers came back to Kenya. They have done their work. Somalia is almost stable. Somalia is almost functioning as a country. They have a president and everything; they have their own soldiers now, soldiers who have been trained in our country and sent there to do their work. So, this business of sugar and charcoal must now stop and the soldiers come back to our borders.

Thank you, Hon. Speaker.

**Hon. Speaker:** Well, I just got a bit worried with your opening statement that the KDF was sent to Somalia to capture the *Al Shabaab*. Then, as you concluded, you said they have finished their work. I was wondering whether they have captured the *Al Shabaab* now that they have finished their work. If they have, where are those who have been captured?

(Laughter)

Member for Eldas.

**Hon. Adan Keynan** (Eldas, JP): Thank you, Hon. Speaker. I also want to contribute to this Petition.

There are two aspects to this Petition. One, it is good to appreciate that the KDF are in Somalia as part of the re-added AMISOM forces; they are not there purely as KDF forces. Therefore, as part of our military diplomacy, we must also appreciate the good work and the professional services offered by the members who are the great men and women who serve under the KDF under a different assignment - whether it is under AMISOM, the African Union or the United Nation (UN).

Having said that, I want to appreciate and accept what the Member for Mandera East has said. Somalia has been a source of social, political and economic turmoil since 1991. With the revolution going on in Ethiopia and the changes the whole of the Horn of Africa is experiencing, I have no doubt in my mind that, soon or later, Somalia will be a stable and functioning democracy courtesy of the support given by responsible members of the international community like the Kenya Republic. Just as the Member for Mandera East has alluded to, what is lacking is coordination between the AMISOM soldiers who have been posted to Jubaland region and our internal security agencies. Once there is that coordination along the Kenya-Somalia border which is one thing that has been lacking and this is why we have seen a number of blatant *Al Shabaab* attacks along the Kenya-Somalia border, all will be well. This is what the Member is alluding to. As much as we support the continued presence of KDF as part of the AMISOM group in Somalia, it is equally important that the same energy is directed towards the Kenya-Somalia border. That is so that the people of Mandera East, Wajir, Dadaab and Lamu get the same security benefits as the people inside Somalia are benefitting from AMISOM.

In conclusion, this Petition is timely. It gives us an opportunity to evaluate, both summative and formatively, the performance on the part of AMISOM. Indeed, I know we have made sacrifices as Kenya to support our forces there. The same benefits must be felt inside Kenya. I thank the Member for bringing this. When the relevant Committee deals with this, let them delve into the issues of how the KDF has performed and whether their services contributed to the stability in Somalia and the security stability of communities along the Kenya-Somalia border.

With this, I think the Petition is good. I hope the relevant Committee will deal with it expeditiously, understand and contextualise all issues relating to the security challenges that communities that live along the Kenya-Somalia border face.

Thank you, Hon. Speaker.

**Hon. Speaker:** The Petition is referred to the Departmental Committee on Defence and Foreign Relations. They will look at all the issues raised in the Petition. This is just to say that, indeed, a lot of work has gone in before allowing this Petition to be read out. We went into the Hansard of 2011 to see all the matters that were raised in the House and subsequent interventions even in the 11<sup>th</sup> Parliament regarding the same matter. It has been okayed so that, when the Committee looks into this matter, it should not be limited to telling the House that a decision was made in 2011. Everybody is aware of that decision. Let the Committee look into the issues which are currently being raised by Hon. Omar in that Petition in coming up with a recommendation in one way or another.

Next Order.

### PAPERS LAID

**Hon. Speaker:** The Leader of the Majority Party.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Speaker, I beg to lay the following Papers on the Table of the House:

The Reports of the Auditor-General and Financial Statements in respect of the following institutions for the year ended 30<sup>th</sup> June 2017, and the certificates therein:

- (a) Golf Hotel Limited.
- (b) Media Council of Kenya.

The Reports of the Auditor-General and Financial Statements in respect of the following constituencies for the year ended 30<sup>th</sup> June 2017, and the certificates therein:

- (a) Kanduyi Constituency.
- (b) Tongaren Constituency.

The Reports of the Auditor-General and Financial Statements in respect of the following constituencies for the year ended 30<sup>th</sup> June 2016, and the certificates therein:

- (a) Kanduyi Constituency.
- (b) Navakholo Constituency.

**Hon. Speaker:** Chair of the Departmental Committee on Environment and Natural Resources.

**Hon. Kareke Mbiuki** (Maara, JP): Thank you, Hon. Speaker. I beg to lay the following Papers on the Table of the House:

The Reports of the Departmental Committee on Environment and Natural Resources on the following:

- (a) The Petition regarding the human-wildlife conflict in Mwatate Constituency.
- (b) The Petition regarding the human-wildlife conflict in Laikipia West Constituency.
- (c) The Delegation to the World Water Forum held in Brasilia, Brazil on 18<sup>th</sup> to 23<sup>rd</sup> March, 2018.
- (d) The Delegation to the Conference of Parties of the United Nations Framework Convention on Climate Change on its 23<sup>rd</sup> Session held at Bonn, Germany from 6<sup>th</sup> to 18<sup>th</sup> March, 2018.



(e) The Delegation to the Workshop on Legal Readings for Climate Finance held at the King's College, London in the United Kingdom on 9<sup>th</sup> to 11<sup>th</sup> March 2018.

I thank you, Hon. Speaker.

**Hon. Speaker:** The Vice-Chairperson of the Parliamentary Service Commission (PSC).

**Hon. (Dr.) Naomi Shaban** (Taveta, JP): Hon. Speaker, I beg to lay the following Paper on the Table of the House:

The Report of the Parliamentary Service Commission on the appointment of the Parliamentary Service Commission's commissioner who is not a Member of Parliament.

**Hon. Speaker:** Member of the Fourth Pan African Parliament, Hon. Janet Ong'era.

**Hon. (Ms.) Janet Ong'era** (Kisii CWR, ODM): Hon. Speaker, I beg to lay the following Paper on the Table of the House:

The Report of the Sixth Ordinary Session of the Fourth Pan African Parliament held in Gallagher Convention Centre, Midrand South Africa on 7<sup>th</sup> to 17<sup>th</sup> May, 2018.

Thank you, Hon. Speaker.

**Hon. Speaker:** Very well. Next Order.

## NOTICE OF MOTION

### APPOINTMENT OF MEMBER OF PARLIAMENTARY SERVICE COMMISSION

**Hon. (Dr.) Naomi Shaban** (Taveta, JP): Hon. Speaker, I beg to give notice of the following Motion:

THAT, taking into consideration the recommendations of the Parliamentary Service Commission (PSC) in their Report on the Appointment of the Parliamentary Service Commissioner who is not a Member of Parliament, laid on the Table of the House on Tuesday, 31<sup>st</sup> July 2018, and pursuant to the provisions of Article 127(2)(d) of the Constitution, this House appoints Hon. Samuel Kiprono Chepkong'a as a Member of PSC.

*(Applause)*

### REPORT OF THE SIXTH ORDINARY SESSION OF FOURTH PAN AFRICAN PARLIAMENT

**Hon. Speaker:** Hon. Janet Ong'era

**Hon. (Ms.) Janet Ong'era** (Kisii CWR, ODM): Hon. Speaker, I beg to give notice of the following Motion;

THAT, this House notes the Report of the Sixth Ordinary Session of the Fourth Pan African Parliament held in Gallagher Convention Centre in Midrand South Africa on 7<sup>th</sup> - 18<sup>th</sup> May, 2018, laid on the Table of the House on Tuesday, 3<sup>rd</sup> July 2018.

Thank you, Hon. Speaker.

## STATEMENTS

### DESECRATION OF THE QURAN BY A TEACHER

**Hon. Speaker:** Member for Lamu East, Shariff A. Ali. The Member had indicated that he has two requests for statements regarding some jetties in Lamu. It was to come at Zero Hour. Since the Member is absent, both requests are dropped.

Hon. Sophia Abdi, Member for Ijara.

**Hon. Sophia Noor** (Ijara, PDR): Hon. Speaker, I am seeking a Statement regarding the mishandling of the Holy Quran by a teacher.

Pursuant to Standing Order No. 43, I rise to make a Statement regarding an incident that took place at Junior Academy in Masalani, a private school in Ijara Constituency, Garissa County.

On Tuesday, 24<sup>th</sup> July 2018 at 11.00 a.m., a primary school teacher by the name Christopher Joseph Mwaniki, snatched the Holy Quran from a student, tossed it to the ground and stepped on it in the presence of the students, teachers and a parent. The said teacher has lived among the community since 2015 and has been an employee of the private school. This act outraged the residents of Ijara Constituency, leading to a peaceful demonstration that was held in the constituency. The public outcry was also experienced not only in Garissa County, but also in Wajir, Mandera as well as many religious organisations as a result of this evil act that was aimed at provoking religious animosity amongst the peace loving citizens. This act not only goes against what the Constitution stands for in Article 32, but offends the Islamic religion and I believe it offends Christian faith, tolerance and respect for other people's faith. It also offends the very social fabric of our great nation. If this matter is not addressed effectively, it might create religious animosity which we cannot afford as a country. I, therefore, call upon the necessary Government institution to take punitive action against the said teacher, which will serve as a warning to such disgraceful behaviour from other teachers and individuals. I also take this opportunity to thank the residents of Ijara and, more importantly, the religious leaders who encouraged residents not to take law into their hands despite being outraged. I also take this chance to commend the non-local residents of Ijara who equally were outraged by this insensitive, barbaric and primitive action. They serve as an example of solidarity and national unity in a community that has cultural practices.

Thank you, Hon. Speaker.

**Hon. Speaker:** The Statement is for Zero Hour because you claim to rise under Standing Order No. 43. The only thing is, any other Member contributing to that, you included, will speak for a maximum of only three minutes. So, you are lucky that you have taken slightly over three minutes reading it out. I have no objection, but I hope the Members listened to the issues raised. A teacher who threw the Quran... So, at 6.30, the House will adjourn to discuss that matter up to 7.00 p.m. I hope there will be enough people to discuss that. Hon. Junet and Hon. Mbui are encouraged to be present. It is not fair people to misbehave on matters religion. Initially, it had been planned that, that Statement and the other two by the Member for Lamu were each to be given 10 minutes. But you are lucky that the gentleman from Lamu East has decided to abscond. At least, you now have 30 minutes.

Next Order!

## POINT OF ORDER

### MEDIA REPORT DEPICTING PARLIAMENT AS A BRIBERY DEN

**Hon. (Dr.) Robert Pukose** (Endebess, JP): On a point of order, Hon. Speaker.

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

**Hon. (Dr.) Robert Pukose** (Endebess, JP): Hon. Speaker, I rise under Standing Order No.255 which provides for the Press representatives infringing Standing Orders or the Speaker's rules as read together with the First Schedule regarding broadcast rules. My point of order will also be drawing your attention to the precedent of this House, as contemplated under Standing Order No. 1 and 2, which provides for the precedent on matters not provided for.

Hon. Speaker, I know that the Standing Orders prohibit us from referring to newspaper articles on matters of this House. However, the matter I am about to raise relates to one headline titled, "*House of Bribes*", which was published in the *People Daily* of yesterday, 30<sup>th</sup> July 2018. The story was carried on page 6 of that newspaper under the title: "*Bribery den: When watchdogs turn predators*". The newspaper even carried your picture as if to authenticate the story. Many colleagues may not have any problem if there was any evidence or iota of proof to support the sensational story. However, it was a blanket condemnation of all the 416 Members of the National Assembly and the Senate calling them predators. This is an affront to the entire House and it is not acceptable. Even though Article 34 of the Constitution guarantees freedom of the media, that freedom must come with responsibility. Freedom on one party should not mean maligning other people. It is unfair for the newspaper to hide under parliamentary privilege which has been provided by this House to attack the same House.

I am informed that up to and until the 10<sup>th</sup> Parliament, media did not have accommodation in Parliament. It was operating under a Press Tent near the current Senate Chamber. Today Parliament, through the PSC, has provided office space, TV sets, computers, printers and other equipment to private media houses and given them almost unfettered access to parliamentary business and proceedings.

Parliament to this day uses its budget to undertake local visits and seminars with the media officers and the Kenya Parliamentary Journalists Association (KPJA). All this is aimed at opening up our proceedings and facilitating the media reporters so that they can report accurately and promptly. What do we get in return? We are called predators. We are not asking for any favours from the media. What we demand is accurate reporting.

I recall during the 9<sup>th</sup> Parliament, the late Waweru Mburu used disparaging language against Parliament in his morning show: '*Yaliyotendeka*'. The then Speaker, Hon. Kaparo, meted out sanctions against that media house, the Royal Media Services (RMS). Further, during the 10<sup>th</sup> Parliament, a popular presenter with Kiss FM similarly drew sanctions of the Speaker against her media house for maligning the House collectively. Speakers of the House, including Hon. Marende, did not hesitate to mete out sanctions against media houses whenever they went overboard. I know many media houses and reporters who are beyond reproach, but there are few whose intentions are ill-intended and will give a bad name to the entire flock.

Hon. Speaker, I humbly request you to take action against this media house immediately and also request that the relevant committee takes up the matter and gets to the bottom of it. Thank you.

**Hon. Speaker:** Do I see Hon. John Mbadi wanting to say something on this?

**Hon. John Mbadi** (Suba South, ODM): Hon. Speaker, thank you. The issue that Hon. Pukose has raised is weighty and it goes to the core of our Constitution regarding freedom of the

Press. The people of Kenya did something very positive in opening up parliamentary proceedings, whether in the plenary or committees, to public scrutiny and public coverage. But that does not give the media the ticket to scandalize Members of Parliament.

I am not denying that Members of Parliament have acted sometimes in ways that the public could question. But the media would do justice to this country if they highlighted specific, definite cases where Members of Parliament have either misbehaved or acted in a way that is against the interest of the public. When you resort to condemnation, which is based on rumours and hearsay... I did not read this newspaper. I stopped picking them because they hit your face with them on traffic lights. They give them to you for free and sometimes you get hit before you know.

Someone just read to me some excerpts from what was written, one of which is that out of three Members of Parliament, two have taken a bribe. That is an assessment that I am told that paper has carried out. I do not know where they did this opinion poll or survey. Like now, we are four here, chances are that, at least, two or three of us have actually taken a bribe. I asked myself: How factual is this? Even though there has been talk and rumour about Members of Parliament being compromised, for you to arrive at such a conclusion, it must be based on facts. Otherwise, it should also be understood that Members of Parliament have families and friends. Actually, we have voters who believe in our integrity. How do I go to my constituency to start talking about integrity, even addressing principals or project management committees of the NG-CDF and telling them how they should uphold high standards of integrity, when a newspaper has carried a story that I belong to a House whose 66 per cent of Members are corrupt and, therefore, chances of me being corrupt is higher than not being corrupt? This is really ridiculous.

Tie it to what another friend of mine has written in *The Standard*. Yesterday, it was the Judicial Service Commission (JSC) that won a case in court against the Salaries and Remuneration Commission (SRC) on whether the sittings of JSC should be restricted to eight in a month.

*(Hon. Kareke Mbiuki stood up in the gangway)*

**Hon. Speaker:** Sorry, Hon. Mbadi. This Member is in breach of Standing Order 103. You walked in at exactly 3.21 p.m.! So, you have no business coming to impede my view. Just go to where you wanted to be. The issue of your statement is gone. Go and relax where you were relaxing. The House sits at 2.30 p.m. Now you start walking at 3.21 p.m. and wasting time. If you have a matter before the House, you know the House starts at 2.30 p.m. So, if you walk in here at 4 p.m. thinking that we are waiting for you, no, forget it. It is dropped. It is gone.

Hon. Mbadi, please proceed.

**Hon. John Mbadi** (Suba South, ODM): Hon. Speaker, I was just tying it to the headline of *The Standard* Newspaper today. Yesterday, it was the JSC that actually won a case against SRC on the number of sittings that should be fixed, which I agree with, because largely you are SRC and this is JSC and you are controlling how many times they should sit. But in the

newspaper today, you would think it is Parliament that won a case, because the headline is about how Members of Parliament and MCAs are going to make millions from this ruling which is in favour of JSC. In fact, if you do not read between the lines, you would think JSC represents Members of Parliament.

I do not understand how when it comes to remuneration, it is all about Parliament. We need to ask journalists in this country to exercise professionalism. They should act like the Judiciary. They should not act out of emotions. They should be objective and assess every matter in terms of its merits, but not just sensationalizing things and making Members of Parliament look like demons. So, I think it is a matter that needs to be looked into. We want to respect freedom of the media. I would be against us acting in a way that compromises the freedom of the media. But our Constitution speaks to exercising your freedom in a manner that does not interfere with others.

Members will agree with me that when our children read some of these things about us, they get disturbed. In fact, my daughter told me: “Daddy, thank God you are not in the list of NYS.” That can just demonstrate to you the kind of fear that our children have. That is the way I want Members, before you laugh, to understand the kind of fear and trauma that our families are going through. They are not even sure of what will come out about you tomorrow. They are so scared about news that would come out about you. This is because of how the media has made us to look to the extent that someone you live with does not trust you until a matter comes out publicly that you are not... I could see my daughter had a sigh of relief that my name was not in the list, despite the fact that there were no Members of Parliament in it. She was so relieved, meaning she does not even trust me. And this is someone who should be looking up to me to set the pace in terms of integrity.

It is something that we need to address seriously with the media. We are not telling them not to cover the bad things that happen here in this House. I have spoken about some behaviour by Members of Committees, by ourselves in a way that would compromise our integrity. But that does not give them a blanket cheque to start scandalizing all the 418 of us - both Members of Parliament (MPs) from the National Assembly and the Senate. It is unfair, unjust and I do not know whether to classify that newspaper as gutter press. But if it is not, they need to exercise restraint, caution and act with less emotion.

Otherwise, I support Hon. Dr. Pukose.

**Hon. Speaker:** Well, Hon. John Mbadi raised the issue that the media have done some assessment that out of three Members walking... And I know Hon. John Mbadi when he goes out on a weekend he has several other Members with him. So, people just count and say, out of the three, two are corrupt. That is the impression that is created. Let us have Hon. Duale.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Speaker, I am laughing because Hon. Mbadi must have a very intelligent daughter who was asking him why he was not in the National Youth Service (NYS) list. He has a very intelligent daughter.

Hon. Speaker, what we are saying is that the media enjoys a space in this country and we have no intention of curtailing that space. However, they cannot be allowed to disparage and

injure the integrity of the Legislature. The media has a role to point out specific individuals, either MPs or staff of Parliament if they are found in inappropriate situation or conduct. Even the matter of salaries, for the first time, I realized that the case that was decided yesterday by the court was filed in 2014, and the court used that to gag the Salaries and Remuneration Commission (SRC). However, when the judgement was given yesterday, the interpretation was that it was talking about the chamber and committee sittings which we are not part of.

Members will agree with me that I do not care about the newspapers. My Party Leader at one point said: “*Ni ya kufunga nyama.*” I trust my Party Leader and I believe he was very correct. I did not ask him why he said that, but the President said: “*Magazeti ni ya kufunga nyama*”.

So, I tell MPs as we ask for direction that even that newspaper, I am sure right now it is somewhere in a butchery being used to wrap *mandazis* and *chapatis*. The point I am raising is that when you are within the precincts of Parliament and you have been given a privilege as a reporter... The reporters of Parliament are different from other reporters. Even in the House of Congress or the US House of Representatives, the people who report from the Legislature are people who are trained on the on-goings of the legislature such that they can even confirm... For instance, today we are going to deal with the Coast Guard Service Bill. The reporter and those who are seconded to various committees by now must have internalized that report. There is a young Indian man of American origin who reports from the US Senate often on the Cable News Network (CNN). He interviews Chairs of Foreign Relations and Public Accounts Committee; you can tell that this reporter is well-versed with topical issues.

Hon. Speaker, there is something going on there. The story of out of four, three of them are indicted; they are asking among the four who are sitting in front, between the Whip and the Leader, who is more corrupt? Unfortunately maybe, all of them are corrupt.

*(Laughter)*

So, Hon. Speaker, the Committee on Privilege must look into this matter and Members of the Fourth Estate who have been seconded here and given to cover the Legislature must cover it with facts and figures. Where they feel there is an impropriety being committed or there is indecency that touches on the integrity of an individual Member, let them mention the committee and the individual and not do a blanket condemnation on MPs.

Last week, we raised substantial issues about the Senate and the next day, the Senate wanted to reply to us. There was a Senator who graduated from being a Member of the County Assembly (MCA) to the Senate which, in my opinion, is wrong. The people of Kenya should not allow that to happen. Kenyans must allow an MCA to become a County Assembly Speaker, then a Deputy Governor then an MP, then a Senator. However, there is a Senator who graduated from an MCA directly to the Senate. So, instead of arguing on the points that we raised on the mandate between the two Houses, this Senator said he was going to bring an amendment to scrap constituencies.

*(Laughter)*

Hon. Speaker, I feel for the great people of Kakamega. You cannot replace Hon. Bonny Khalwale with an MCA. That was the worst they could do. I am not discussing his conduct, but I am saying if you analyze him... How do you cancel 290 Constituencies through an amendment to the Constitution? That calls for a referendum because you are altering the framework of the Legislature.

**Hon. Junet Nuh** (Suna East, ODM): On a point of order.

**Hon. Speaker:** There is a point of order.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Speaker, I think he gave him the certificate.

**Hon. Junet Nuh** (Suna East, ODM): Hon. Speaker, is the Hon. Leader of the Majority Party in order to discuss the conduct and the lifestyle of the Hon. Leader of the Minority Party in the Senate who has graduated from being an MCA without bringing a Substantive Motion? Does it mean you cannot graduate from being an MCA to a Senator in this country?

*(Laughter)*

**Hon. Speaker:** Hon. Members let us desist from discussing individual Members. What is your point of order Hon. Janet Ong'era.

**Hon. (Ms.) Janet Ong'era** (Kisii CWR, ODM): Thank you, Hon. Speaker. Is the Hon. Leader of the Majority Party in order to speak about another Hon. Member who is not in this House in such a manner? In fact, I want him to further clarify. He said that his party leader said the other day that newspapers are used for wrapping meat. Can he clarify who his party leader is?

**Hon. Aden Duale** (Garissa Township, JP): Hon. Speaker, my Party Leader is the President of the Republic of Kenya who graciously, on March 10<sup>th</sup>, invited her party leader for a handshake. I was doing a comparison just like Hon. Mbadi, Hon. Junet and all those that spoke about the Senate raised the constitutional issues. I had the privilege to watch what our colleagues were saying.

They were many but after watching that Senator, I slept over it and the only thing I said was the problem is the transition. Hon. Speaker, you know in school, you cannot leave Class One and go to Form IV. From Class One you can go up to Class VIII. That is why the Jubilee Administration had made sure that transition from primary school to secondary school is free. People must go to school for you to come and debate on the Floor of the House. So, the media must be very fair to us. This House is very busy and it deals with serious business. Today we are dealing with the Kenya Coast Guard Service Bill. Once we pass this Bill and it is assented to, the problem of Migingo will end. The media can write about the Kenya Coast Guard Service Bill or go and approach the Chair of Public Accounts Committee (PAC) to provide them with audited accounts and they can analyse which public or State officer has not accounted for public resources. People should know that media practitioners even earn more than Members of Parliament. The people who interview us at night, the so called anchors, earn more than a

Member of Parliament and they do not want to be discussed. So, the media enjoys freedom in Kenya. We all respect that and we want to open the space further. Let the media be responsible, accurate and factual in everything that they say not only about Members of Parliament, but even about other public and State officers and about other incidences in the country. The evidence should be factual and it should not injure the reputation of an individual. Everybody has a family. You cannot say the whole of 349 Members of Parliament have integrity issues. We came here individually but once we entered this place, we have a collective responsibility as the leadership of the Legislature under your guidance, Hon. Speaker.

Hon. Speaker, you have given the media space and a place to operate with their laptops and everything and we ask you to provide them with more space which is more resourced. But we ask the media, who are also Kenyans, to give the country the true picture of what is going on in the Legislature. We leave this matter to be dealt with by the Committee on Powers and Privileges.

**Hon. Speaker:** Member for Nyando.

**Hon. Jared Okelo** (Nyando, ODM): Thank you, Hon. Speaker. Listening to the Leader of the Majority Party treating a fellow Member of Parliament sitting in the Senate with disdain is utterly uncalled for. If indeed his pronouncements at the Senate were not substantial, then there is no point of him belabouring on that kind of subject. But again, some of these things are God given. You can move from nothing to something. You can move from zero to hero overnight. Hon. Speaker, a practical example, if you allow me...

**Hon. Speaker:** Are you on a point of order or you are contributing to this?

**Hon. Jared Okelo** (Nyando, ODM): I am on a point of order, Hon. Speaker. As I was saying, a good example is the former President of the United States of America. He moved to the Senate, served for a paltry two years and rose to become the president of the most powerful nation in the world. Therefore, treating a fellow Member of Parliament in the Senate with such kind of disdain is not in order. Hon. Speaker, if you allow me...

**Hon. Speaker:** Very well. Let us have Hon. Keynan.

**Hon. Adan Keynan** (Eldas, JP): Thank you, Hon. Speaker. I thank Hon. Pukose for bringing this very important point of order. Just like the media has the right to inform, they are obligated, under the current Constitution, to fair hearing. Criminal responsibility is not collective. It is individual. I took a bit of interest and got the two particular newspapers on that particular day. When a newspaper comes up with such a sensational headline: "*House of bribes*", there are 416 Members! If we add the two speakers, there are 418. This is collective punishment not only to the Members of Parliament and that includes the Senate, but also everybody who reads. These days, in the era of IT and global village, this story is seen by everybody. The assumption outside there is that the representatives of the people of Kenya are corrupt. If you go ahead, it says "The house of rent seekers and spin doctors." If you go to page six, it says: "Bribery den: When watchdogs turn predators" Really! As much as the Kenyan public is entitled to the right to get information through the members of the Fourth Estate, who I consider as the fourth arm in our governance structure, they should also be fair to the Members of Parliament. Just for information, Members of Parliament are not passengers in the governance structure of the Republic of Kenya. I want to remind the Members. The opening chapter of the current reformist Constitution equates sovereignty. This is what it reads. This is why I am not ashamed of being a Member of Parliament. The most difficult job in Kenya to pursue is to be elected. You all understand how difficult it is. This is what Article 1 (1) says:



“All sovereign power belongs to the people of Kenya and shall be exercised only in accordance with this Constitution.”

Article 1 (2) says:

“The people may exercise their sovereign power either directly or through their democratically elected representatives.”

Here we are. Article 93 of the Constitution talks about the establishment of Parliament. Article 94 talks about the role of Parliament. Article 95 talks about the role of the National Assembly while Article 96 talks about the role of the Senate. Article 125 talks about the role of the Committees. More fundamentally, Article 125 of the Constitution equates the role of Committees to the High Court. Therefore, with these powers, how are the Members of Parliament expected to discharge their constitutional functions of oversight, legislation, budget-making and representation? How will they do it if they do not travel? If every meeting of a Member of Parliament is criminalized to the extent that the Member of Parliament gains certain monetary privileges, I consider that as very unfair. If there are issues, we are so many. I am not going to pretend and say we are all clean. We are too many. If there are issues that are of great concern to a particular member, whoever is reporting has a right to channel the same complaints to the Committee on Powers and Privileges, to the Ethics and Anti-Corruption Commission (EACC) and other investigative agencies that will deal with that particular individual. However, someone sitting somewhere concocting a sensational story to condemn the whole House, in my opinion, beats the very essence of having the right to inform. Therefore, I appeal to the members of the Fourth Estate. What are the options of having a democratically elected Parliament – militarism or dictatorship? We will have to live with democratically elected governance structure as long as we remain democratic. Therefore, those who wish other forms of governance can only do it in the utopian world because the Kenyan people have collectively decided when they promulgated the current Constitution that they will be governed through their democratically elected, people-centred, people-placed and people-oriented parliamentary process and here we are.

Therefore, as I conclude, I want to ask you Members: Do not shy away from discharging your constitutionally given mandate. Continue to serve the people of Kenya but as you do that, please make sure you also apply due diligence. You will be criticized because even the courts are being criticized. Everybody is being criticized. What shocked me a bit is this particular ruling that was delivered by the Judiciary yesterday, which I think was filed by a member of the Judicial Service Commission (JSC). Parliament legislates, the courts arbitrate while the Executive acts. Why will you want to interfere with what the Judiciary has done? How about if this case was ours? I think today the stories would have been different. In this story, it is not Parliamentary Service Commission that went to court. It is not a particular Member of Parliament. It is somebody through the JSC that had sought interpretation and they are entitled. We must accept the rule of law. The rule of law is to accept a different entity structure to arbitrate what you have also passed. That is what the Judiciary has done.

Therefore, I appeal to the members of the Fourth Estate as a Commissioner to say that you will remember, Hon. Speaker, under your leadership, we moved a Motion to allow the members of the Fourth Estate to have a conducive environment. Even right now, we are still thinking of modernizing the same facility. That should not be used to unfairly undermine the very institution that supports this facility. Our role should be complementary. Please, inform when you know it is right and avoid when you know it is wrong. With this, I plead that this be

referred to the relevant Committee so that, that issue is investigated and we get fair hearing as an institution because we have been condemned as an entity.

**Hon. Speaker:** Hon. Members, the issue has been well articulated, but I am not here to gag the media.

*(An Hon. Member walked in the Gangway)*

This is the problem. I do not want to say how long you have been in the House but, exactly one month from now, you will be 12 months old. By now, I expect you to be fully conversant with the rules.

Hon. Pukose raised the issue that it is a particular media house. That story must be attributed to specific reporters. I expected Hon. Pukose to give us the names. We cannot gag the media. Maybe, they have some information which would be useful to us to make sure that we also do the right things. Hon. Pukose, perhaps, you could give us the names that are available.

**Hon. (Dr.) Robert Pukose** (Endebess, JP): Hon. Speaker, the writers of that article are Anthony Mwangi and Dinah Ondari.

*(Loud consultations)*

**Hon. Speaker:** Hon. Members, as you are aware, I chair the Parliamentary Committee on Powers and Privileges. Given the nature of that complaint and the write up, I direct that the Powers and Privileges Committee convenes immediately and invites the two journalists. In keeping with my Communication last week, they should not be condemned. They must be heard, given a fair chance to explain what it is that led them to the conclusion that Parliament, in its entirety, is a bribery den and parliamentarians are predators. Those are very strong accusations, but we cannot also judge them and say they have no basis. We must allow them an opportunity to appear before that Committee.

That Committee should sit at the earliest opportunity because a matter of this nature must be disposed off with the urgency that it requires. On Thursday this week at 10.00 a.m., under the chairmanship of Mr. Kiai assisted by Mr. Mogaka, the Committee should listen to the two journalists. Please, give them a fair hearing. It may well be that they could help us in our efforts to streamline operations of ourselves and our committees. Remember, they have a right under the Constitution. They must be treated with the utmost decorum and respect but also, they must answer all questions which will help you, as a Committee, to table a report in the House, particularly on the alleged corruption. It is important that they give you this information and then you can bring it to the Floor of the House.

We will expect whatever testimony they have to also be availed to the Members so that what Hon. John Mbadi was scared of that of every three Members of Parliament, two are corrupt, could, perhaps, be investigated further. The allegations would be criminal. Should the Committee find evidence or material that requires to be taken to the relevant specialized investigatory agencies, the Committee would be at liberty to make that recommendation.

*(Applause)*

We will not go the route of saying that the journalists or the media house is banned from being in the House until such time as the Committee will make a recommendation one way or other, after hearing the two journalists.

Let us move on to the next Order.

## BILL

### *Second Reading*

#### THE LAND VALUE INDEX LAWS (AMENDMENT) BILL

*(Hon. Aden Duale on 4.7.2018)*

*(Debate concluded on 24.7.2018)*

Hon. Members, I have checked the HANSARD record and it shows that the business appearing as Order No.10 was concluded last week on Thursday, when the Leader of the Majority Party replied. Therefore, what remained was for the Question to be put for the Second Reading. Therefore, Hon. Members, including the Member who does not want to get in, please, take your seat so that we can conclude this. I appreciate that you have serious matters that you want to discuss with the Member for Mvita. You have not been told to go out.

I, therefore, rearrange business appearing in the Order Paper and go straight to Order No.10, which as I have indicated requires the Question to be put.

*(Question put and agreed to)*

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

**Hon. Speaker:** Let us move to the next Order.

## CONSIDERATION OF REPORT AND THIRD READING

#### THE PUBLIC PRIVATE PARTNERSHIPS (AMENDMENT) BILL

**Hon. Speaker:** Debate was concluded and what remained was for the Question to be put for the Third Reading.

*(Question put and agreed to)*

**Hon. Aden Duale** (Garissa Township, JP): Hon. Speaker, I beg to move that the Public Private Partnerships (Amendment) Bill (National Assembly No.53 of 2017) be now read the Third Time. I request the Chair of the Departmental Committee on Finance and Planning, Hon. Limo, to second.

**Hon. Joseph Limo** (Kipkelion East, JP): Hon. Speaker, I second.

**Hon. Speaker:** Hon. Members, including Hon. Osotsi and the Member in *buibui*, do not move around. You are in the House.

*(Question proposed)*

Hon. Members, I have confirmed that we still have quorum for me to put the Question.

*(Question put and agreed to)*

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

Next Order.

### COMMITTEE OF THE WHOLE HOUSE

*(Order for Committee read)*

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

#### IN THE COMMITTEE

*(The Chairman (Hon. Moses Cheboi) took the Chair)*

#### THE KENYA COAST GUARD SERVICE BILL

**Hon. Chairman:** Order, Hon. Members. We are in the Committee of the whole House to consider the Kenya Coast Guard Service Bill (National Assembly Bill No. 45 of 2017). For your information, Clause 8 and the First Schedule will be moved in an amended form.

Let us proceed.

*(Clause 3 agreed to)*

*Clause 4*

**Hon. Paul Koinange** (Kiambaa, JP): Hon. Chairman, I beg to move:

THAT Clause 4 of the Bill be amended—

(a) by inserting the expression “(1)” immediately before the clause

(b) by inserting the following new sub-clause immediately after the clause—

“(2) The Cabinet Secretary shall be responsible for the implementation of the Act.”

Hon. Chairman, the amendment seeks to assign ministerial responsibility for the Service to the Cabinet Secretary (CS) for Interior and Coordination of the National Government. Even though the Service will be multi-agency, it is necessary to assign ministerial responsibility to an

individual CS for the purposes of accountability and reporting to the National Assembly. The Service will be performing internal security functions. The amendment seeks to domicile the Service within the internal security docket.

Thank you.

**Hon. Chairman:** Before I propose the Question, I want to tell the Chair of the Committee to give a very brief justification of the amendment, so that we can move fast. However, on the ones that he will move in an amended form, he needs to put more emphasis for Members to be up to speed.

*(Question of the amendment proposed)*

Leader of the Majority Party.

**Hon. Aden Duale** (Garissa Township, JP): I want to support the Chair. Ideally, the amendment of the Chair means that the Service will perform multi-agency functions as stipulated in the Bill. However, for purpose of reporting and implementation, it will be under the CS for Interior and Coordination of National Government who will bring the regulations and reports to the House. Therefore, that amendment allows the CS for Interior and Coordination of National Government to take charge because the matter is about internal security and do all that is required from him by other agencies. A multi-agency institution will be formed as a result of this law.

**Hon. Chairman:** Hon. Oku Kaunya, do you want to contribute to this amendment?

**Hon. Oku Kaunya** (Teso North, ANC): Thank you, Hon. Chairman. I wanted to add that the reason behind that amendment is that in all disciplined forces and services, we usually have the command and control at the top. Although it is a multi-agency, somebody at the top must take the political and administrative responsibility.

Thank you.

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

*(Clause 4 as amended agreed to)*

**Hon. Chairman:** Who are these two unfamiliar Members who are walking in the Chamber?

*(Laughter)*

*(Clauses 5, 6 and 7 agreed to)*

I am saying that they have unfamiliar faces because they look the same. They are Hon. Kizito and another Member.

Let us proceed.

**Hon. Aden Duale** (Garissa Township, JP): On a point of order, Hon. Chairman.

**Hon. Chairman:** What is your point of order, the Leader of the Majority Party?

**Hon. Aden Duale** (Garissa Township, JP): There are also other Members who have unfamiliar faces. Do you want identification of the unfamiliar and unseen faces?

**Hon. Chairman:** I agree with you, the Leader of the Majority Party. There are more Members than we can count.

*(Laughter)*

*Clause 8*

**Hon. Chairman:** Hon. Members, this is the Clause which will be moved in an amended form. Hon. Koinange.

**Hon. Paul Koinange** (Kiambaa, JP): Hon. Chairman, I beg to move:

THAT, Clause 8 of the Bill be amended in sub-clause (1) by inserting the following new paragraph immediately after paragraph (a)—

“(ba) to enforce prevention of trafficking of the narcotic drugs, prohibited plants and psychotropic substances;

(bb) to enforce prevention of trafficking of illegal goods;

(bc) to enforce prevention of trafficking of illegal firearms.”

Hon. Chairman, the amendment seeks to enhance the functions of the Service to include prevention of trafficking of the narcotic drugs, psychotropic substances, firearms, ammunition and illegal goods. Smuggling of contrabands, firearms, ammunition and drugs is prevalent within the coastal areas, rivers and lakes which extend to Kenya’s international boundaries. It is proposed that the Service should be empowered to deal with such smuggling in order to protect vulnerable sections of the society such as the youth, promote national security and enforce custom laws.

**Hon. (Dr.) Chris Wamalwa** (Kimini, FORD-K): Hon. Chairman, Hon. Koinange is a second timer in this Parliament. It is stipulated clearly in our Standing Orders that you do not read a document, but you refer. He has been busy reading. Is he in order? He is the Chair of the Committee and he is doing his second term. Thank you.

**Hon. Chairman:** Most important, since Members have the Order Paper, it is easy for him to say that the amendment is per the Order Paper. If there are Members who feel that they are not satisfied with the explanation, they will ask. So, we should shorten it. I did not see Hon. Koinange reading. I saw him referring. He was not reading. He was referring as far as I am concerned. The only thing he needs to do is to be brief.

Proceed, Hon. Chair.

**Hon. Paul Koinange** (Kiambaa, JP): Thank you, Hon. Chairman. I am through.

**Hon. Chairman:** Let us move faster in the next one.

*(Question of the amendment proposed)*

Let me give a chance to Hon. (Dr.) Makali Mulu.

**Hon. Makali Mulu** (Kitui Central, WDM-K): Thank you, Hon. Chairman. I support the amendment. The amendment enriches the functions of the Service. It gives the Service more work. That is going to be good for the country. I support.

**Hon. Chairman:** Hon. (Dr.) Musimba.

**Hon. (Dr.) Patrick Musimba** (Kibwezi West, Independent): Thank you, Hon. Chairman. I support the amendment. I wish to request the Chair, because I had not done it in a normal format, to further amend (ba) to include nuclear waste as part of ....

**Hon. Aden Duale** (Garissa Township, JP): On a point of order, Hon. Chairman.

**Hon. Chairman:** What is your point of order, Hon. Leader of the Majority Party?

**Hon. Aden Duale** (Garissa Township, JP): Hon. Chairman, Hon. Musimba, the only Independent Member who has won his seat three times, and doing his second term, should know the Standing Orders. His amendment is not on the Order Paper. The procedure is that it is only the Chair of the Committee who can move a further amendment and to my knowledge and according to my records in my office, he is not the Chair of the Departmental Committee on Administration and National Security. So, he is out of order.

**Hon. Chairman:** I actually do not think so, Hon. Leader of the Majority Party because what Hon. Musimba indicated is exactly what you have said. He asked the Chair to consider proposing a further amendment. But since the Chair did not look like he was making a consideration at all, I do not think you need to realise it is a major issue.

Let us proceed. But it is good for us to hear Hon. Musimba. He has said that he would have wanted nuclear waste to be included but, of course, that is subject to discussion. Maybe what we need to do, Hon. Members, if you have such a proposal, you should approach the Chair of the Committee in advance so that he can own it. Hon. Musimba has ambushed Hon. Koinange. Let me give you an opportunity to wind up because you were supporting the amendment anyway.

**Hon. (Dr.) Patrick Musimba** (Kibwezi West, Independent): I was supporting the amendment. You know the Hon. Leader of the Majority Party was a better listener than he is at the moment, when he was my student at the university when he was undertaking his Executive MBA. I am aware of the Standing Orders and I actually gave the preamble. I said that the amendment has to be through the Chair of the Committee.

Hon. Chairman, I stand guided. I know it is an ambush on the part of the Chair of Departmental Committee on Administration and National Security. Nuclear is something the county needs to consider very closely.

Thank you, Hon. Chairman.

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

*(Clause 8 as amended agreed to)*

*(Clauses 9, 10, 11, 12, 13, 14, 15, 16 and 17 agreed to)*

*Clause 18*

**Hon. Paul Koinange** (Kiambaa, JP): Hon. Chairman, I beg to move:

THAT, Clause 18 of the Bill be amended by inserting the words “and the term shall be non-renewable” immediately after the word “years”.

The amendment is to limit the tenure of the Director-General to a fixed term of four years. The amendment also applies to the established practice within the national security sector where service chiefs serve for a fixed non-renewable term.

Thank you, Hon. Chair.

*(Question of the amendment proposed)*

**Hon. Chairman:** Let us start with the Hon. Leader of the Majority Party then I will come to Hon. (Dr.) Wamalwa.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Chairman, the amendment as proposed by the Chair concerns the position of the Director-General of the National Coast Guard Service. The person has to be from the disciplined forces and in line with what is already in law in terms of tenure of office of the Inspector General (IG). The individual, once recruited will have a tenure of four years non-renewable. I support.

**Hon. Chairman:** Hon. Wamalwa.

**Hon. (Dr.) Chris Wamalwa** (Kimini, FORD-K): Hon. Chairman, what Hon. Koinange was putting across is for purposes of consistency in the disciplined forces. The IG also subscribes to similar terms. So, there is nothing big. It is purely for purposes of consistency. I support.

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

*(Clause 18 as amended agreed to)*

*(Clauses 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30,  
31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45,  
46, 47, 48, 49, 50, 51, 52, 53, 54 and 55 agreed to)*

*Clause 56*

**Hon. Paul Koinange** (Kiambaa, JP): Hon. Chairman, I beg to move:

THAT, Clause 56 of the Bill be amended in sub-clause (1)—

(a) by inserting the following new paragraph immediately after paragraph

(a)—

“(aa) harmonise the entry level and rank for the personnel of the Service ”

(b) by deleting paragraph (f)



Hon. Chairman, the Service will draw its personnel from the national security sector and the Police Service. It is, therefore, necessary that the Cabinet Secretary develops regulations to harmonise the entry levels and ranks of its personnel. This will provide a clear framework of determining seniority and precedence within the service.

Thank you, Hon. Chairman.

*(Question of the amendment proposed)*

**Hon. Robert Mbu** (Kathiani, WDM-K): Thank you, Hon. Chairman. I support the amendment. The first thing is that Clause (f) was a repetition of (a). Therefore, that needed to go. Obviously, it makes sense to harmonise because different disciplined forces have different cadre of staff. So when they are brought together, it makes sense for them to harmonise so that we are able to know who is more senior than the other. So, this is a good amendment.

Thank you.

**Hon. Chairman:** Leader of the Majority Party.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Chairman, next time, do not allow the Chairman of the Committee to take this House for a ride. His work is being done by Deputy Minority Leader, he should have told us why he is deleting (f) but it has been explained. Basically, this is to confirm that many men and women who will work in this organisation will come from the security sector. Of course, the Public Service Commission (PSC) through the Ministry in charge of public service will also have an input in recruitment. The Chairman should tell the House why he is deleting.

**Hon. Chairman:** That is why you are very useful. Both of you are products of military barracks.

**Hon. Aden Duale** (Garissa Township, JP): On a point of order, Hon. Chairman!

**Hon. Chairman:** Out of order, Leader of the Majority Party. I did not say military barracks, I said Moi Forces Academy.

**Hon. Aden Duale** (Garissa Township, JP): On a point of order, Hon. Chairman.

**Hon. Chairman:** What is it, Leader of the Majority Party?

**Hon. Aden Duale** (Garissa Township, JP): Hon. Chairman, you are very unfair. I am the son of a peasant who has never held any post. You cannot compare me to the grandson of one of the most powerful chiefs of staff.

**Hon. Chairman:** What were you doing in Moi Forces Academy?

**Hon. Aden Duale** (Garissa Township, JP): I was part of the 10 per cent students who do not come from military background. I want to go on record that my father was a herder, a pastoralist who has never worn an army boot and I have not. For record purpose, I happen to marry the daughter of a general. By extension, my children's grandfather is also at the level of General Mulinge. He took over from General Mulinge.

**Hon. Chairman:** You see? I like the confirmation. When I said Hon. Duale is a product of military barracks having gone to Moi Forces Academy— it is within the military barracks— he has further confirmed something else which is very serious, that on top of having been in military barracks, he decided to marry a product of military barracks, which is very good. Hon. Members, let us leave that to rest.

*(Question, that the words to be inserted)*

*be inserted, put and agreed to)*

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

*(Clause 56 as amended agreed to)*

*(Clauses 57 and 58 agreed to)*

*First Schedule*

**Hon. Paul Koinange** (Kiambaa, JP):

THAT, the FIRST SCHEDULE of the Bill be amended in Part II—

(a) by deleting the word “petty” and substituting therefor the word “warrant” appearing in paragraph (1)

(b) by deleting the word “petty” and substituting therefor the word “warrant” appearing in paragraph (2)

**Hon. (Dr.) Chris Wamalwa** (Kiminini, FORD-K): On a point of order, Hon. Chairman.

**Hon. Chairman:** What is it Hon. (Dr.) Wamalwa?

**Hon. (Dr.) Chris Wamalwa** (Kiminini, FORD-K): Hon. Chairman, I have been listening carefully because this is a very important Bill. Hon. Koinange is talking about Part II. I have gone through the Order Paper but I cannot see Part II.

**Hon. Chairman:** You are wrong, Hon. Wamalwa. If you look at Page 1467, at the bottom you will see Part II headed “Ratings”. You not only look at the Order Paper, you also look at the Bill. It is in the Bill.

**Hon. (Dr.) Chris Wamalwa** (Kiminini, FORD-K): Ours was photocopied.

**Hon. Chairman:** Maybe that is where there is a small problem. I must congratulate Hon. (Dr.) Wamalwa for being keen. These are some of the times when Bills pass without proper scrutiny. It is good when we see that there are keen Members. The Chairman is doing Part II and paragraphs. Let us proceed.

**Hon. Paul Koinange** (Kiambaa, JP): Thank you, Hon. Chairman. I wish to move this in an amended form to include a new paragraph (c) which reads:

(c) by deleting the word “petty” and substituting therefor the word “warrant” appearing in paragraph (3)

The amendment creates rank of warrant officer as opposed to the petty officer. In the army, there are petty officers but in this multi-agency, we are going to have warrant officers.

Thank you.

**Hon. Chairman:** On this particular one, I will give three Members an opportunity. The Leader of the Majority Party and two other Members.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Chairman, this is why Bills are very important. I have never thought in my life, after even been part of that barrack, that there are people called petty officers in the military. But they are there. That is what the Chairman is saying. The Chairman said he is substituting petty officers with warrant officers. So, when you go to DoD and you hear “chief petty officer”, know that they exist. We need to confirm whether the chief petty officer as in the Bill exists. If they do not exist, then there was a problem with the people who formulated it. I heard the Chairman say that in the rank and file of the defence forces, the chief petty officer exists. In this case, you are substituting it because of the multi-agency nature of it with warrant officers. So, petty officers exist.

**Hon. Chairman:** Actually, the Chairman confirmed that there are three categories of petty officers: The Chief Petty Officer, Grade I ; Chief Petty Officer, Grade II; and Senior Petty Officer. Now, let us have the Member for Nandi, Hon. (Dr.) Tum.

**Hon. (Dr.) Tecla Tum** (Nandi CWR, JP): Thank you, Hon. Chairman. The word “petty” in itself is degrading and dehumanising. It makes someone have low self-esteem and performs poorly. I know this is a word which was put by colonialists in 19<sup>th</sup> Century. So, we have to replace it with “warrant” because in the disciplined forces, you have the warrant to arrest. I remember when I was serving in Eldoret Municipal Council, I used to be given petty cash.

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): On a point of order, Hon. Chairman.

**Hon. Chairman:** What is your point of order, Hon. Millie Nyasu...Odhiambo

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): I know you wanted to say Nyasuba but if that is difficult, just say *gesa gesa*, it is easier.

Thank you, Hon. Chairman. I need clarification from the Chairman of the Committee as we make this decision. My understanding is that the Chair is saying we have different ranks.

Unfortunately for me, unlike Duale, I do not come from the military background whether by marriage or otherwise. I come from a church background by marriage. But, what I understand the Chair of the Committee to be saying is that we have a rank called “Petty Officer” and then there is a rank called “Warrant Officer”. So, he is not changing the title but changing the rank. I do not know whether my understanding is correct. Those are two different issues which we need to clarify. If he is changing the rank then it means there is a rank called “Warrant Officer” which appears in every other formation. Even as I say that, we need to also remember that Duale is militant in the House except after the handshake; he has become very docile.

*(Laughter)*

**Hon. Chairman:** That is a very valid point of order. I hope the Chairman is noting that specific one. I can see the Leader of the Majority Party has something to say. I will probably be giving chance to two more Members because there seems to be an issue with that.

**Hon. Makali Mulu** (Kitui Central, WDM-K): *(Off-record)*.

**Hon. Chairman:** Hon. (Dr.) Makali, I will give you chance. For clarity, Hon. (Dr.) Makali Mulu, the Leader of the Majority Party and the Leader of the Minority Party, as per your own Standing Orders, come first. You know you pass them every beginning of the Session. Hon. (Dr.) Makali Mulu, you know you are a fairly reasonable Member of this House. Please, I am

sure you understand this one. What you are saying is that you really want to contribute. You will get it. So, relax and relax completely. Let us have the Leader of the Majority Party.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Chairman, you know Hon. Makali joined the handshake this weekend and he really wants to push Hon. Millie. She was there before you. So, if there is no seat, you stand.

I have consulted because the Bill is a Government one and it has my signature. I have consulted the ladies and gentlemen from the Department of Defence, their head of legal. There is no rank that is called “Petty Officer”. It is not there. The Chairman was wrong. I think it was a typographical error in the Bill. What is in the Bill is “Chief Petty Officer Grade 1. So, the word “Petty” is not even there in the ranks. There is no rank called “Petty”.

**Hon. Chairman:** Let us get Hon. Oku Kaunya back there. I am looking at those Members who have some background in that and then I will come to Hon. Makali and that will be it.

**Hon. Oku Kaunya** (Teso North, ANC): Thank you, Hon. Chairman.

**Hon. (Dr.) Tecla Tum** (Nandi CWR, JP): *(Off-record)*.

**Hon. Chairman:** Hon. Tecla Tum, these Members are on points of order. So, hold your horses. You were interrupted on the basis of a point of order.

*(Hon. (Dr.) Tecla Tum stood in her place)*

Resume your seat Hon. (Dr.) Tum. You will still have your opportunity. What is this correction?

**Hon. (Dr.) Tecla Tum** (Nandi CWR, JP): I want to say: “Deleting the word “Petty” and substituting the word “Warrant”. So, we are not creating any other post.

**Hon. Chairman:** You are perfectly in order Hon. (Dr.) Tum. The only thing is that the Members who are on their feet are on points of order. You were perfectly contributing. Once the points of order are through, you will have an opportunity to proceed and wind up what you were saying. So, let us have Hon. Oku Kaunya.

**Hon. Oku Kaunya** (Teso North, ANC): Hon. Chairman, I would like to just make a clarification. In the committee, the ranks that are indicated there and what our Chair pointed out is that the “Chief Petty Officer” and all the ranks in Part I and II were adopted from other practices like the US Coast Guard, the China Coast Guard and others we looked at. On that basis, the Chief Petty Officer has an equivalent rank in our military and defence forces. Since this is a multi-agency, we adopted the ranks. That should clarify.

**Hon. Chairman:** My understanding of what we have before us is that there was an amendment to this Bill. That is where there is introduction of these ranks. They could not be in the ranks as it is now. But, if the Bill went without any amendment, we would be introducing those ranks. I believe Members are able to understand that. Hon. Makali Mulu, is there anything different on this one? I think that is now flogged enough.

**Hon. Makali Mulu** (Kitui Central, WDM-K): Actually, that is why I was saying you give me chance to talk. I belong to this committee. Exactly what Hon. Kaunya has said is what I wanted to say. This is not new; we are trying to localise this Bill.

**Hon. Chairman:** That makes a lot of sense. Hon. Members, let us have Hon. (Dr.) Tum to wind up. There is nothing for the Chairman to clarify. It is already clarified.

**Hon. (Dr.) Tecla Tum** (Nandi CWR, JP): Hon. Chairman, I was saying the word “petty” dehumanises. It makes one have low self-esteem. I used to sign petty cash when I was working at

the Eldoret Municipal Council. So, if we can call people “petty”, one will not do what is required of them. We need to change that word. The right word is “warrant” because they have the powers to arrest.

Thank you.

**Hon. Chairman:** You know, Hon. (Dr.) Tum, there was this petty cash and there was a warrant voucher. You have had your say.

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

*(Question, that the words to be inserted in place  
thereof be inserted, put and agreed to)*

*(First Schedule as amended agreed to)*

*(Second Schedule, Third Schedule and Fourth Schedule agreed to)*

## Clause 2

**Hon. Paul Koinange** (Kiambaa, JP): Thank you, Hon. Chairman. I beg to move:

THAT Clause 2 of the Bill be amended

(a) by deleting the expression “(1)”

(b) by inserting the following new definition in proper alphabetical sequence—

“baseline” means the baseline set out the First Schedule of the Maritime Zones Act; “contiguous zone” means the waters contiguous to the territorial sea and extending twenty four nautical miles into the ocean from the baseline;

“inland waters” means all water masses forming part of the territory of the Republic of Kenya including lakes and rivers but excludes the territorial sea and internal waters;

“internal waters” means water on the landward side of the baseline;

“territorial sea” means part of the sea demarcated under the First Schedule of the Maritime Zones Act;

*(Hon. (Ms.) Soipan Tuyu and Hon. Kipyegon Ngeno consulted)*

**Hon. Chairman:** Order, Member for Emurua Dikirr and Member for Narok. I obviously can understand the reasons of your consultations but I do not want to divulge further than that. You know the Member for Emurua Dikirr...

What is it Hon. Leader of the Majority Party?

**Hon. Aden Duale** (Garissa Township, JP): With a lot of permission, you cannot abuse your privilege. You are on HANSARD saying you are aware of their consultations.

**Hon. Chairman:** Order, Leader of the Majority Party. You are completely out of order. Let us proceed.

*(Question of the amendment proposed)*

Hon. Millie, do you want to say something to this?

**Hon. (Ms.) Odhiambo- Mabona** (Suba North, ODM): Hon. Chairman, whereas I am supporting the proposed amendment, I am having a problem seeing the distinction between the definition of the “inland waters” and “internal waters”. If you look at the definition of “inland waters”, it means all water masses forming part of the territory of the Republic of Kenya including lakes and rivers but excludes the territorial sea and internal waters. But internal waters are on the landward side of the baseline which still includes river and lakes. Are we not being repetitive?

**Hon. Chairman:** Okay, you made your point. Let me hear from Hon. Okuome Adipo and Hon. Sophia Noor. They are not in the House, so I will proceed to put the Question.

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

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

*(Clause 2 as amended agreed to)*

*(Title agreed to)*

*(Clause 1 agreed to)*

**Hon. Aden Duale** (Garissa Township, JP): Hon. Chairman, you know you have not been in the Committee of the whole House for some time. You are an expert but I realised you were going to the Chairperson’s Report.

Hon. Chairperson, I beg to move that the Committee doth report to the House its consideration of the Kenya Coast Guard Service Bill and its approval thereof with amendments.

*(Question proposed)*

*(Question put and agreed to)*

*(The House resumed)*

*[The Temporary Deputy Speaker  
(Hon. (Ms.) Soipan Tuya) in the Chair]*

## REPORT

### THE KENYA COAST GUARD SERVICE BILL

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Hon. Member, I now call upon the Chairperson to Report to the House.

**Hon. Moses Cheboi** (Kuresoi North, JP): Hon. Temporary Deputy Speaker, I beg to report that a Committee of the whole House has considered the Kenya Coast Guard Service Bill and approved the same with amendments.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Temporary Deputy Speaker, I beg to move that the House doth agree with the Committee in the said Report. I request Hon. Paul Koinange, the Chair of the Departmental Committee on Administration and National Security to second the Motion for agreement with the Report of the Committee of the whole House.

**Hon. Paul Koinange** (Kiambaa, JP): I second.

*(Question proposed)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): What is your point of order?

**Hon. Aden Duale** (Garissa Township, JP): Hon. Temporary Deputy Speaker, I rise under Standing Order No. 53(3) which says:

Despite paragraph (2), the Speaker may, on the request of a Member, defer the putting of the question to the following day in which case the Speaker shall thereupon nominate a time at which the question shall be put.

I request that.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Very well, the Leader of the Majority Party. We will go by that Standing Order and the Question will therefore be put at the appropriate time. Let us move to the next Order.

## MOTION

### REPORT ON THE INQUIRY INTO FOREST RESOURCES MANAGEMENT AND LOGGING ACTIVITIES IN KENYA

**Hon. Kareke Mbiuki** (Maara, JP): Hon. Temporary Deputy Speaker, I beg to move the following Motion:

THAT, this House adopts the Report of the Departmental Committee on Environment and Natural Resources on the Inquiry into Forest Resources Management and Logging Activities in Kenya, laid on the Table of the House on Thursday, 3<sup>rd</sup> May 2018.

Logging in Kenya is an unmitigated disaster in both public and community forests as well as in the farmlands. This is attributed to inadequate capacity of the Kenya Forest Service (KFS) to enforce licensing conditions as well as eradicate abuse of licence conditions by the sawmillers and other licensees. In particular, there has been illegal logging, charcoal burning, illegal grazing, settlement encroachment and mismanagement of plantation forests and the *Shamba* system. As a result, most parts of the country have been experiencing drying of rivers, lowering of water tables and drying of wells.

The foregoing informed the decision of the committee to raise the concern in its sitting on 1<sup>st</sup> February 2018. The committee noted that there was an urgent need to address the logging menace in the country with special focus on the Mt. Kenya, the Aberdares and Mau forests, being key water towers. The committee then called for a total ban on timber harvesting and

proposed the prioritization of tree farming until challenges on timber harvesting were addressed and the KFS reformed accordingly.

However, soon after, the Executive, through the Deputy President's office, imposed a 90-day moratorium on timber harvesting. The aim of the moratorium was to allow enough time for the reassessment of the forest sector management to come up with a comprehensive recommendation on the reforms needed to enhance development of the sector in Kenya. Consequently, a taskforce comprising of 15 Members to look into the forest resource management and logging activities in Kenya was established on 26<sup>th</sup> February 2018. The move was highly welcome by the committee. Subsequently the 90-days moratorium was extended by a further 180 days, basically six months more. Rising out of the cry from the public on the drying rivers, excessive logging in the forests and key water towers and pursuant to Standing Order No. 216(5) (e) and on its own motion, the committee embarked on an inquiry on the status of logging in the country. The inquiry was guided by the following objectives; one, to investigate the extent of the effects of logging and forest degradation in the country and two, to recommend strategies of achieving 20 per cent forest cover by 2030.

You realise the Government has set 10 per cent forest cover by 2022 but as a committee we decided to raise the bar to allow 20 per cent forest cover by 2030. During the inquiry, the Committee was guided by the Constitution of Kenya, a Forest Conservation and Management Act No.34 of 2016 and the Forest (Charcoal) rules, 2009 as well as the National Assembly Standing Orders. The committee began its inquiry by scheduling visits to the Mau Forest Complex and the Aberdare Forest from 15<sup>th</sup> to 18<sup>th</sup> March, 2018 to assess the logging menace in those regions.

It also met stakeholders in the sector on various dates in an effort to get to the root of the woes afflicting the management and conservation of forests in the country. The following are the stakeholders we met: The Timber Manufacturers Association (TMA), the Community Forest Associations (CFA), the Ministry of Environment and Forestry and the management and board of the Kenya Forest Service as well as Gatsby Africa.

The committee had also an opportunity to meet and discuss issues of forest conservation and management with the governors of Nakuru and Nyandarua. This was in an effort to get to the root of the woes afflicting the management and conservation of forests in the country.

While we were meeting with the Timber Manufacturers Association, we observed the following:

1. The Association comprised of private entities situated across the country, who are licensed saw millers by KFS. The organisation was founded in 1982 and has a national membership of 862 timber manufacturers and its membership was AGPO-compliant.

2. During their presentation, the TMA members decried the negative effect on their business as a result of the ban, which included—

- (i) The timber had become an illegal commodity. No movement permits were being issued.

- (ii) There was an imminent risk of food insecurity as the farmers were unable to clear the farms of felled trees to enable replanting through Plantation Establishment and Livelihood Improvement Scheme (PELIS).

- (iii) The processed timber at yards and sawmills all over the country could not be transported, leading to stalling of construction projects and a hike in prices of timber products.



At the same time, we had an opportunity to meet the Community Forest Association members, who informed the committee of the following:

1. The communities around the forest areas were doing a lot in terms of forest conservation but their efforts were not appreciated. For instance, they signed a contract to prune forest trees but the contract was never honoured by KFS. Instead, the contract was given to casual workers, who never did the work.
2. The PELIS programme had been of help to the communities in terms of food security and improving the livelihoods of the people living near the forests. However, the CFAs got only 30 per cent allocation whereas 70 per cent of the allocation went to people who were not members of the community. They alleged corrupt dealing involving KFS officials for such skewed and opaque allocation.
3. The CFAs were also ignored even after making requests to be involved in the thinning of forests. Instead, the same was given to people who were strangers to the communities and unknown to the CFAs.
4. There was also need for revenue sharing, especially with respect to grazing rights in the forests. The situation then was that the forest guards colluded with grazers and excluded the CFAs, in a potentially opaque and corrupt dealing.

The committee also had an opportunity to meet with the CS for Environment and Forestry, Hon. Keriako Tobiko, and he briefed the committee as follows:

1. The Ministry of Environment and Forestry, through KFS, managed a total of 2.5 million hectares that is gazetted. This is in addition to 1.7 million hectares outside the gazetted forests, mainly community and private forests, giving a national total of 4.2 million hectares, which translates to 7.2 per cent of the total land area in Kenya.
2. Basically, we found out that the forest cover in the country stands at around 7.2 per cent, hence the target of the Government to achieve 10 per cent tree cover by 2022.
3. The forests provide food, firewood, water, timber and other forest products and services that are critical to rural and urban households. The role of forests in climate change mitigation and adaption has uniquely gained significance, premised on the understanding that conservation of forests, rehabilitation of degraded areas, afforestation and reforestation activities confer effective climate change mitigation while strengthening community resilience to adapt to changing climate.
4. Public plantation forest areas occupy 135,871 hectares that are distributed in 24 counties across the country. These forests generate over Kshs3 billion annually to the Exchequer in form of revenues and support the development of wood-based industry.
5. One of the key strategies being used in the forest plantation development was the *shamba* system, which had been rebranded and renamed “Plantation Establishment and Livelihood Improvement Scheme”, commonly known as PELIS. The scheme allowed forest-adjacent communities to grow food crops as KFS establishes the forest plantation. There are 23,621 hectares currently under PELIS, providing food to more than 450,000 households.
6. Logging in Kenya was in deplorable condition, both in public and community forests as well as in farmlands. This was attributed to inadequate capacity of KFS to enhance licensing conditions as well as abuse of licence conditions by saw millers and other licensees. In particular, there was illegal logging, charcoal burning, illegal grazing, settlement encroachment and mismanagement of the plantation forest and *shamba*

system. Most parts of the country were experiencing drying of rivers, lowering of water tables as well as drying of wells.

7. Some of the highlighted catchment areas with extensive rates were the Mau Forest Complex, Mount Kenya Forest Ecosystem, Embobut Forest, Mount Elgon Ecosystem as well as Nyakweri Forest.

As we debate this report, we all know what is happening in Mau Forest and as a committee we are equally seized of this particular matter and we expect the CS to appear before the committee this coming Thursday so that some of the push and pull that Kenyans are being told about can come into full light and they can know the truth, especially when it comes to issues of encroachment.

8. The CS also noted that before the moratorium was imposed, licensed saw millers were expected to carry out logging or harvesting operations in gazetted forest plantation based on the licence condition issued by KFS. The saw milling licences were issued in accordance with the Forest Act, 2016 and the Forest Management and Felling Plan. However, the Ministry had noted serious concerns and weaknesses in the plantation harvesting operations as well as major challenges facing the entire forest sector and had initiated drastic measures to address the shortcomings.
9. The CS also indicated the following specific measures had been put in place towards resolving logging issues in the country:
  - i. Declaration and compliance with the implementation of the 90-day moratorium which was subsequently extended to six months on logging and stopping of charcoal burning on 25<sup>th</sup> February 2018.
  - ii. The establishment and gazette of the task force to inquire into the forest sector management in Kenya which has since concluded its finding and shared with the Executive
  - iii. The operations planned by the KFS through zoning of the country into 10 regions based on the conservancies namely: Nairobi, Mau, North Rift, Eastern, Central Highlands, Coast, Western, Nyanza, Ewaso Nyiro and North Eastern to ensure close monitoring and supervision.
  - iv. The Ministry of Environment and Forestry launched tree planting programmes on 7<sup>th</sup> March 2018 for the entire country with the aim to fast track the achievement of the constitutional target of ten per cent forest cover by 2022 instead of 2032.
  - v. The Kenya Forest Service effected far reaching administrative and disciplinary measures against suspected errant staff. So far, 26 forest officers are under disciplinary process.

The challenges being faced on logging and charcoal burning issues include:

Inadequate forest protection and security staff shortage. The gazetted forest area in the country is 2.5 million hectares manned by only 2,500 rangers. So, this is extremely inadequate and becomes difficult for these rangers to enforce and ensure there is no logging. This translated to a low ratio of 1 ranger to 1000 hectares of forest land which is far below the international recommended ratio of 1:400 hectares. The same rangers were also manning community forests and also participate in other multi-agency assignments.

We have weak legislation. The Kenya Forest Conservation and Management Act, 2016 watered down penalties on forest offences as were previously spelt out in the defunct Forests Act, 2005. Once this Report is adopted by the House, the committee will recommend the

necessary legislation to ensure that these weak legislative areas especially the penalties are well addressed. We also have inadequate suitable vehicles and weapons for operations in forest terrain and lack of modern technology, platforms and communication equipment. While we were interrogating the KFS, we decided because there has been hue and cry... A number of KFS officers were suspended and as a committee we decided to invite them so that we could hear their side of the story because we had an engagement with the Cabinet Secretary and some board members of KFS who made the decision to suspend some officers. We met the suspended officers and in the course of the inquiry, it was brought to the committee's attention that the KFS senior officers were suspended and others were interdicted. The committee had an opportunity of meeting with the following KFS officers on 12<sup>th</sup> April 2018:

1. Mr. Emilio Mugo who was the Chief Conservator of Forests who was sent on compulsory leave;
2. Mr. Boniface Wasike Simiyu who was also sent on leave for 90 days;
3. Mr. Patrick Nyaga who was sent on leave for 90 days;
4. Mr. Francis Kariuki Kamuti;
5. Mr. Eric Chemitei Kiplagat who was interdicted; and
6. Ms. Wambui Nafasi who was also sent on compulsory leave for 90 days.

During their presentation to the committee, the officers decried lack of proper procedure in processing their disciplinary action. They alleged that they were not given a fair hearing by the former KFS Board. They also decried the fact that the Board Chairman almost acted unilaterally in implementing the disciplinary action without a decision of the Board. It was alleged that the officers' suspension was sanitised by subsequent board meetings which took place after they had been suspended.

During the meeting with the former board members, we had an opportunity of engaging two of them and they submitted that the term of the former Forest Service Board was terminated on 31<sup>st</sup> March 2018.

On human resource issues at the KFS, he stated that on 26<sup>th</sup> February 2018, the newly appointed CS of Environment and Forest Mr. Keriako Tobiko visited KFS head office. The board retreated to deliberate on HR issues at KFS and tasked the HR Committee of the board to meet and deal with the HR issues raised in their entirety.

The issues of staff in question were being investigated and related to illegal logging activities in the country. The board sought to establish the culpability among the various KFS staff.

The appointment of a new CS and the moratorium imposed by the Government largely informed the genesis of the investigations.

The staff affected had action taken against them on 12<sup>th</sup> March 2018 and they included: Mr. Boniface Wasike Simiyu, Mr. Patrick Nyaga, Mr. Francis Kariuki among others.

A meeting of the KFS full board held on 13<sup>th</sup> March 2018 asked the Chief Conservator of Forests, Mr. Emilio Mugo, to step aside and effect other changes in the management to ensure continuity despite the interdictions and compulsory leaves given to affected staff.

The Human Resources Committee of the Board then conducted visits to Mt. Kenya, Eastern, Mau and the North Rift to investigate issues of illegal logging and possible involvement of KFS staff. They prepared reports which were, however, not exhaustively discussed by the full board since its term terminated on 31<sup>st</sup> March 2018.

The suspensions and interdictions effected on 12<sup>th</sup> March 2018 were purely based on the personal decisions of the then board chairman, Mr. Peter Kinyua and were never endorsed by the

full board of the KFS. The suspensions and interdictions were largely reactionary as they were motivated by the need of the board to be seen to act in the heat of the moratorium on logging activities and the appointment of a new CS.

None of the affected officers had show-cause letters from the KFS management hence the suspensions were merely meant to facilitate investigations.

Finally, the harvesting of trees across the country was in tandem with the felling plan and therefore procedural. The said felling plan was approved by the KFS board. However, delayed rains in the country focused the country on logging activities which were blamed on the shortage of rainfall.

Hon. Temporary Deputy Speaker, having reviewed the oral and written evidence submitted to it, the Committee observed the following:

There was a major forest degradation affecting both the indigenous and plantation forests. The affected forest degradation was hugely felt at the local level. The degradation of the forests was mostly due to lack of proper and strategic forests management.

Equally, the tree felling and planting cycles were not properly co-ordinated resulting into a huge backlog and empty forest spaces. We had an opportunity to visit Mau and specifically Kuresoi North where we saw big chunks of land. We saw a clear outline and a buffer zone. Unfortunately, the areas which initially were supposed to be rehabilitated are still lying fallow. No trees have been planted. We were, therefore, at a big loss on the sort of restoration which the Ministry was doing. This is because we have big chunks of land lying fallow and a clear buffer zone which had been created but no tree planting exercise had been done. What we have been witnessing are just ceremonial tree planting exercises and not serious exercises with a good financial backup.

On the strategic forest management, it was noted that the country lacked a masterplan for natural resources and, therefore, causing improper and uncoordinated planning for the available resources. This resulted into over-exploitation of the available resources thereby causing a major conflict. For instance, the saw millers complained of imbalances in allocation of the available resources in the subsector. It was observed that Kenya had not taken advantage of the famous carbon credit claims to help in her effort in conservation of forests and the general ecosystem. Additionally, it was noted that there was lack of awareness of carbon credit programme among Kenyans. There was a wave which passed through the country about the carbon credits and unfortunately, we just lost it in a short period of time.

We also noted that availability of seedlings was a major challenge in the forest conservation. It was observed that seedling nurseries should be made available to youth and women groups if, indeed, we are to have proper collaboration between the Kenya Forest Research Institute (KEFRI) and the Kenya Forest Service. Additionally, the co-operative movement for the youth and women groups should provide the strategic intervention in providing the seedlings.

Hon. Temporary Deputy Speaker, we were extremely shocked that even under the 2018/2019 Budget, very little funding was actually provided to support even the implementation of the task force report. As a Committee, we were extremely very worried let alone the taskforce which was formed by the former Prime Minister under Mr. Noor. Even the report of the current taskforce, which has just been concluded, is gathering dust in the Government offices with no financial backup. The Cabinet Secretary has not even shared the report of the taskforce to the Committee or this House so that this House can appreciate the findings and be able to provide adequate resources.

It was observed that Karura Forest served as a recreation area earning revenue for the KFS. Similarly, as a way of promoting conservation in other conservancies, branding and establishment of recreation areas would be key management aspects of the conservation of forests. We also noted that the Timber Manufacturers Association had more than 898 members. However, there are other independent and large-scale members who are not part of the association. The Committee was concerned with the huge number of saw millers and the pressure they exerted on the forest resource.

The Committee noted that although the saw millers were engaged in legal timber trade, there were allegations of corruption in allocation of forest materials between themselves and officers in the head office. This was said to disadvantage the small-scale saw millers. We noted this with a lot of concern because the process of allocating tree plantations was not done transparently. It was being influenced by the officers at the head office. It was about who-knows-who at the head office getting allocations or the forest plantations in the country. The saw millers were also accused of exploiting the resources that had been looked after for so many years by the communities living around the forest with little or no benefit at all trickling down to the locals.

Although the Timber Manufacturers Association was not duty bound with regard to conservation matters, it was observed that they needed to give back to the conservation effort.

The Committee observed the following on KFS:

1. The KFS received inadequate funding which resulted in inefficiency in its operations and inadequate human and equipment capacity in forest management and conservation effort.
2. The KFS had introduced an elaborate procedure in material allocation through a felling plan which was done at the local level and approved at the head office. However, there were allegations of corruption involving some of its officers and saw millers which brought about complaints from the stakeholders.
3. On the issue of good governance, the chairman of KFS board of directors was noted to have acted in contravention of the law and guiding principles such as the Mwongozo Code of Governance for State Corporations. For instance, the board chairperson suspended KFS officers without regard to KFS human resource manual, the State Corporation Act, Cap. 246 and the Forest Conservation and Management Act, 2016. He was essentially performing the duties of the organisation management and the KFS board.

The Former chairman essentially acted as if he was the executive chairman of KFS, of which he was not. Despite this Committee's recommendation and those of the task force which were extremely clear about the board's participation in matters to do with logging in the country, the same person was reappointed the chairman of KFS. It is, however, not within my mandate to question that.

The chairperson of the board unilaterally made decisions on behalf of the board and did not afford those affected by the suspension an opportunity to be heard. There was no formal board meeting that was held as required by the law and the Mwongozo Code of Governance for State Corporations before the affected senior officers were sent on compulsory leave. We are facing a very serious situation whereby once some CSs or people have been appointed to high offices and they assume office, the first thing they do is to disregard the law and start weeding out officers who are there without following the due process of the law or even the various governance codes which are supposed to guide them. Sometimes they become hysterical and

they want to be seen to be performing, but unfortunately, they affect the lives of so many other people.

The chairperson of the KFS board, while in office, unknowingly, in contravention of the law and the Code of Governance for State Corporations, exhibited conflict of interest in doing business with KFS. The chairperson of the board operated a private hotel in Karura Forest. This was an illegality in so far as collection of revenue at Karura Forest by the Friends of Karura is concerned. It was supposed to be done by the KFS. This was violation of the Public Finance Management Act, 2012.

Finally, the Committee observed there were various allegations labelled against the KFS board. Some members of the board appeared before the Committee while others did not. On the suspension of senior managers of KFS, the Committee observed that the suspension of KFS senior managers was done illegally and unprocedurally by the chairman of KFS board. Even with the purported suspension, the managers were not accorded an opportunity to be heard.

There was also conflict of mandate. It was observed that the Kenya Forest Service, the Kenya Wildlife Service and the Kenya Water Towers Agency had a shared mandate in the forest resulting in conflict of functions among the three agencies.

On commercial plantations, it was observed that countries like Uganda, Vietnam, Colombia and Uruguay had embraced private commercial plantation, which with proper enabling environment and good policies which increase the forest cover in those countries, had attracted investment from the private sector in the industry.

Finally, it was observed that one of the contributing factors to the forest degradation had been abuse of the commercial plantation under the KFS. There was need to borrow from the best practices in other jurisdictions towards conservation of the environment.

Having revealed the oral as well as written evidence submitted to it, the Committee recommends the following:

On issues to do with commercial plantation, the committee recommends that the Executive withdraws from commercial plantation and gradually converts the 134,000 hectares of commercial plantation into natural forest by restoring the cleared land with indigenous trees. Subsequently, the Executive should create new natural forest boundaries with Nyayo Tea Zones in order to create buffer zones. The Executive should provide incentives, enabling policy and other relevant interventions to provide commercial forest plantation in order to increase the forest cover and promote the timber industry.

The Kenya Forestry Research Institute and the KFS should be adequately funded and supported to develop high quality indigenous and exotic tree seedlings and nurseries in order to restore Government forest land and to promote private commercial plantation. The committee was extremely clear. All this push and pull of illegal and legal logging is because of those 134,000 hectares which are under exotic trees or the commercial plantation. We recommend that the Government does away with the commercial plantation and instead restores that land with indigenous trees and leaves the issues of commercial plantation to the private players. In Kakuzi and many other places, you will find Kenyans or commercial entities having massive plantations of exotic trees. The Government should completely move out of this business of commercial plantation.

On forest degradation, the committee recommends that punitive penalties be entrenched in law to curb forest destruction and illegal logging. The Forest Conservation and Management Act (No.134 of 2016) should be amended to provide for punitive penalties. Once this Report is

adopted by the House, the committee will present various amendments so that we can tighten the loose ends.

On the strategic forest management, the committee recommends that Kenyans should take advantage and claim carbon credit to help in efforts at forest and general ecosystem conservation. The Ministry of Environment and Forestry should create awareness on carbon credit to enable Kenyans to embrace the programme.

Secondly, tree seedlings should be made readily available to Kenyans and especially through the empowerment of youth and women in collaboration with KEFRI and the Kenya Plant Health Inspectorate Service (KEPHIS). The youth and women in this country should be encouraged to join cooperative movements in order to access cheaper seedlings due to the economies of scale.

Third, there should be inter-ministerial collaborations amongst the Ministries of Environment and Forestry, Petroleum and Mining, Water and Sanitation and Tourism and Wildlife in coming up with an all-encompassing strategy on conservation and management of forests, water and natural resources in the country. Their operations should be coordinated from the Office of the President. The Ministry of Environment and Forestry should develop the capacities of KEFRI, KEPHIS and KFS on matching seedlings to specific regions. The Ministry should also develop standards for the development of nurseries across the country.

Fourth, the Ministry of Environment and Forestry is urged to come up with a master plan on environmental conservation spanning at least 25 years in collaboration with all the stakeholders.

Fifth, the Ministry of Environment and Forestry should focus on plantation in arid and semi-arid lands (ASALs) to grow tree cover in the country in order to increase the supply of forest products since there is no competition in those areas in agriculture and human habitation. We have massive tracts of land in this country and the Government should provide an enabling environment and support the private sector to convert our ASAL areas into forests. For us to achieve that, KEFRI and KFS need to provide seedlings which are specific to various parts of the country.

Finally, the Ministry of Environment and Forestry should spearhead a regular tree planting exercise in collaboration with all Government Ministries, Departments and Agencies (MDAs), disciplined forces, donors and other stakeholders across the country.

The committee recommends the following with regard to saw millers:

The Ministry of Environment should carry out an audit of saw millers and further assessment on how to reduce them in order to ease pressure exerted on the forest.

Second, the KFS should put up a system in which the saw millers would be required to have corporate social responsibility programmes in order to give back to the community which they operate in.

On the issue to do with Community Forest Associations, the Committee recommends that the participatory forest management policy developed by the KFS should be fully implemented. The policy is to ensure that the CFAs benefit from the forest since they host and protect the forest around them. The CFAs should conduct regular elections to replace their officials to curb the situation where some CFA officials collude with forest rangers or condone malpractices. The KFS should implement the PELIS Programme in consultation with CFAs to avoid conflict within the community.

Fourth, the KFS should streamline the operation of the PELIS system to curb the abuse of forests by rangers and equally, riparian areas should be out of bounds for the PELIS system.

Fifth, the KFS should recruit forest rangers to ensure that there are adequate numbers to effectively manage and conserve the country forest resources. The recruitment should prioritise communities living around the forest.

Sixth, the KFS should transfer forest guards who stay in one area for more than two years. This will curb the habit of rangers abandoning their core business of forest conservation and management and resorting to farming under the PELIS system and other malpractices in collusion with cartels in the sector.

Finally, on issues to do with the KFS, it should streamline the allocation of forest materials through the bottom-up approach in order to mitigate the alleged corruption associated with the allocation done at the KFS headquarters.

Secondly, The Ministry of Environment and Forestry should ensure that the KFS is adequately funded to implement those activities. As a committee we are extremely worried because the KFS has been using Appropriation-in-Aid (A-in-A) out of the commercial plantations.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): What have they been using, Hon. Mbiuki?

**Hon. Kareke Mbiuki** (Maara, JP): They have been using Appropriation-in-Aid (A-in-A) from the income they normally get from the forest resources. Unfortunately, with the logging ban, the Kenya Forest Service is completely grounded. The amount of money that was allocated in the 2018/2019 Financial Year is extremely limited. They cannot operate with it. We are, therefore, calling upon the Government, which imposed the logging ban, to back it up with adequate resources.

Thirdly, the Ethics and Anti-Corruption Commission (EACC), together with the Director of Criminal Investigations (DCI), should investigate the current KFS chairman for possible conflict of interest and abuse of office, contrary to Section 101 of the Penal Code and the Public Officer Ethics Act, 2003. If found culpable, he should be barred from holding any public office.

Hon. Temporary Deputy Speaker, you have heard that I have some difficulties reading this Report because we tabled it in March. The report of the taskforce, which is made up of professionals, is also out there. The committee proposed the same recommendations with the taskforce. Unfortunately, in the wisdom of the Executive, the same person was re-appointed in the same capacity as the Chairman of KFS.

Finally, the committee found that the suspension of the KFS senior managers was done illegally by the Chairman of the KFS Board. The committee therefore recommends that the KFS senior managers be reinstated immediately. Any fresh action should to be done procedurally. On the conflict of mandate, the Executive should streamline the functions of the KFS, the KWS and the Kenya Water Towers Board in order to mitigate the perceived conflict and enhance their effectiveness.

As I conclude, I would like this House to seize the matters of conservation. There is a debate out there of the Mau Complex. This is the opportune time for the Members of this august House to seize this particular matter. As they debate this Report, they should air their issues because you have seen the push and pull. It has become a tribal contest between two communities living in the Rift Valley, which may cause a lot of issues. The issues of the Mau Complex have been politicised. We want to call upon the Government to move with speed and tell Kenyans where exactly the boundaries are and who have encroached them. The issue of the cutline, even along the Maasai Mau, which is in Narok County, should be addressed so that it becomes very clear. This is the time we can understand what has been the source of conflict in



the Mau Complex. I want to call upon Members, as they debate this Report, to share their sentiments. You have seen political careers being lost. People who have been staying together like brothers and sisters have turned against each other. We have seen communities crash. This worries the country.

With those remarks, I beg to move and request Hon. Francis Chachu to second.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Hon. Chachu.

*(Hon. Chachu Ganya spoke off record)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): We need to rectify your microphone. You are not audible, Hon. Chachu.

**Hon. Chachu Ganya** (North Horr, FAP): Hon. Temporary Deputy Speaker, I hereby second the Report of the Committee on the Inquiry into the Forest Resources Management and Logging Activities in Kenya. The committee took this initiative on its own accord. We were not petitioned by anybody. We were proactive, as a committee, when we felt that forest degradation in this country had become a national disaster. It is a reality. We read in the Press every day that forest degradation in Kenya is a national crisis. Our forest cover is disappearing at an alarming rate. As a result of this, our water towers in the Mau Complex, Mt. Kenya region, the Aberdares and other parts of this country, are disappearing. As a result of this degradation of our environmental resources, our lakes and rivers are drying up. The water table keeps on sinking. Forest species are losing their habitats in our forest ecosystem. In short, the entire forest ecosystem in this country is at an immense risk.

What necessitated this Committee to call for the total ban on logging activities in Kenya? We were not able to get what we wanted. However, we thank the Executive for allowing a moratorium on logging activities in this country for six months. The KFS, which is the custodian of our forest resources in this country, faces many critical challenges. They range from management, governance, administrative and resource challenges. The most significant one is lack of strategic directions. When we were doing our investigations, we realised that KFS lacks sound forest strategic plan for this country. In short, it lacks strategic plans that are required for us to have a thriving forest sector in this country. It is due to these challenges in the forest sector that this country, as much as we are known globally for the great strides we have achieved in natural resource management and environmental issues, has not been able to benefit from the carbon credit which comes from climate change financing and other forms of financing. This is a shame because these are resources that are available globally, which can aid and enable this sector to thrive.

When the Chairman was moving the Motion, he clearly stated something which is worth repeating. The KFS faces serious governance challenges. The operations of that State corporation are undertaken as if there is no law in this country. The chairman of the board is acting as the executive chairman of the board. He runs the day-to-day activities of the organisation as a Chief Executive Officer (CEO) or as a director while at the same time giving directions to the institution as its chairman of the board. It is unfortunate that decisions are made by the chairman of the board without any consultation with other board members and in absence of minutes that are required after convening board meetings. Critical decisions are made and followed. This is illegal and contrary to the Kenya Forest Conservation and Management Act of 2016, which was reviewed recently and established the KFS. This is also against the State Corporations Act and even the *Mwongozo* guidelines, which guide the conduct of directors of our State corporations.

It is in this spirit that we really feel that some decisions have to be made. For instance, we were told by the senior managers, including the executive director or chief conservator of that organisation, that they were suspended and sent on compulsory leave without being accorded a hearing. This is a democratic nation. Our laws are very clear. Even when you suspend somebody, the due process of the law must be followed. It is in this light that we recommended that the whole board be dissolved and a fresh one reconstituted. This has been overtaken by events, as stated by the Chairman earlier in his presentation. The board was reconstituted. That is what we asked for. We request that the activities that were stated by the executive be recommended. We also recommended that the chairman is not fit to hold public office because of many violations which we observed having consulted and heard from his colleagues who serve on the Kenya Forest Service Board.

Hon. Temporary Deputy Speaker, I want to conclude because there are colleagues from the Committee who want to contribute. We also learnt that logging activities are banned and the moratorium is in force. Last weekend, we were in Lamu following a Petition by Hon. Ruweida requesting that we suspend the moratorium especially on the mangrove forests in Lamu. While we were there, we observed that the blanket ban on logging needs to be well informed because there are small communities in small islands in the county that are really suffering. Their whole livelihood, especially for Lamu, revolves around mangrove resource. It is a source of employment, local economy, culture and the entire social economic lifestyle of the people of the Island. We were all convinced that we really need to relook at the whole issue of moratorium on logging, so that we can deal with areas such as Mau, Aberdares, Mt Kenya and others where illegal logging is happening. But where there is sustainable resource utilisation and sustainable forest management, we should relax or suspend the moratorium and enable local communities to thrive.

I second.

*(Question proposed)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Hon. Members, I can see a lot of interest on the Motion. We will have sufficient time for Members to add their voices to it. I want to remind Members that they should not imagine that you will have 60 minutes like Hon. Kareke Mbiuki. You only have 10 minutes. So, utilise your time well. I will go by the list that I have here. On top of it is Hon. David ole Sankok.

**Hon. David ole Sankok** (Nominated, JP): Thank you very much Hon. Temporary Deputy Speaker. From the outset, and because I can see Members are very much excited, I support the Report. It is good to bring ourselves to speed with the fact that Kenya sits on approximately 140 million acres of land. Out of that, only 2.5 million acres are Government gazetted forests. So, in reality, the larger chunk of our land in Kenya lies in the hands of private individuals. So, if the Departmental Committee on Environment and Natural Resources does not bring on board the private individuals, we may not do much in increasing our forest cover which at the moment is at around 1.7 per cent. If we have to conserve Government gazetted forests, we will only be able to increase it to around 2 per cent. But if we bring on board private investors,

community land and land that is in the hands of Government institutions of learning and others, then we will increase our forest cover. I support the idea of extending the banning of logging because it has destroyed our environment.

On the issue of the Mau Forest, its conservation has been politicised. Let me put it straight on record that conservation of the Mau Forest is not about a tribe, community or an individual. It is not about Raila, Ruto or Uhuru, but it is about the survival of our country or the survival of Africa and the climate, not only of East Africa, but also of countries in the far north like Egypt.

Millions of livestock quench their thirst from the water that emanates from Mau Forest. Millions of people depend on water that originates from the Mau Forest and millions of wild animals depend on rivers that emanate from the Mau Forest.

Sixty per cent of Lake Victoria water originates from the Mau Forest. Lake Nakuru and Lake Naivasha will not be there if we do not conserve the Mau Forest and other forests in our country. But we have politicised the issue of the Mau Forest conservation and reduced it to a contest between two communities. I have even heard in the media people claiming that it has claimed careers of some individuals. People claim that it claimed the career of Rt. Hon. Raila Odinga. With due respect, Raila Odinga has been on the ballot paper since 1997 and he has been perennially losing in the election. The issue of the Mau Forest came into being in 2013. So, let us not bring politics into a very important matter concerning our people. We should also ask ourselves the nucleus of the problem of conservation of our forests. How can individuals have genuine title deeds inside a forest? How can storied buildings be built in a forest under the watch of people we pay through our taxes to man the forests? How can we have schools inside a forest? It means that even the Government itself is an encroacher of our forests because we have schools and roads built by the Government in the Mau Forest commissioned by leaders of the country. So, what is the nucleus of the problem bedevilling our forests? Apart from logging, it is the land registration office, especially the district land registration offices that are involved. Narok has land registration offices which have issued title deeds to settlers and encroachers of the Mau Forest.

As an individual, would one have spiritual eyes to know which title deed from the same Government is genuine and which one is a school compound inside a forest? How will we be able to identify if the same corrupt officers from the Ministry of Lands issued title deeds and land ownership documents on behalf of the Government?

Not all Kenyans can access Government gazette notices because we understand that the encroached part of the forest was not de-gazetted.

*(Hon. Joseph Limo and Hon. Jude Njomo consulted loudly)*

Hon. Temporary Deputy Speaker, protect me from Hon. Limo. He is making a lot of noise.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Order, Hon. Limo and Hon. Njomo. We can hear what you are saying. That means you are consulting loudly.

**Hon. David ole Sankok** (Nominated, JP): Therefore, the problem originates from the land registration officers. Our Head of State ordered for a lifestyle audit on all procurement officers in his Government. He should also now order for total lifestyle audit of all registry officers and district land surveyors because they are the ones who dish out our forest land like hot cakes. You will be shocked to find an individual from northern Kenya or southern Kenya having a piece of land in the middle of Rift Valley without documentation showing how they acquired that land. They allocate themselves and their relatives land in the forests. We need to deal with land registration officers if we have to protect our environment.

The second problem is forest officers. I do not know how a school can come up in the forest and have children go through Class One to Class Eight and yet the forest officers, who are paid to take care of that forest, do not raise any alarm or close the school even with the powers given to them by the law. We are now evicting people using other forces instead of the forces we pay to man that land. If you are employed as a herder of 100 cows and then in the first day you come home minus 10 head of cattle, and the second day you come back minus another 10 cows, you will definitely be sacked. The Mau Forest has been shrinking under the hands of these rogue forest officers. They should be sacked. In fact, we should not call for a lifestyle audit on forest officers. We need them first of all to be sacked, then, we can protect the forests. Even if we evicted all the people in the Mau Forest, I am sure title deeds would still be issued to other individuals and we would still have that perennial problem repeating itself.

The Departmental Committee on Environment and Natural Resources has done a marvellous job. As I said, it is only 2.5 million acres that are gazetted Government forest yet this country has 140 million acres. Two-and-a-half million acres out of 140 million acres is a negligible amount. Please, involve the private sector. Let us commercialise tree planting so that we can have trees like bamboo which are commercially viable and our citizens can join in the conservation of forests.

Thank you. I support.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Very well, Hon. Sankok. I agree with you. The Report presented by the Chairman is very thorough. Again, it being a proactive stance from the Committee, it is commendable.

On this side, we have Otiende Amollo. I do not seem to see him. I wish Members could take out their cards when they walk out so that we can avoid confusion. Let me give the Vice-Chairperson of the Committee, Hon. Sophia, the Floor.

**Hon. (Ms.) Sophia Noor** (Ijara, PDR): Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity to talk about this important matter that is before the House. We went around this country for several days. We were forced to discuss and deliberate issues about logging. You have seen a lot of changes in our environment. We have had a lot of cycles of drought, heavy rains and floods. All these have been caused by the changes that we are experiencing in our forests. The committee went to the Mau Forest, Mt. Kenya Forest and held several meetings with various communities, conservationists and experts so that we could make a final conclusion and decision.

As a committee, we see logging in Kenya as a disaster. It is a cancer. It is happening in public and community forests as well as in farm lands. The KFS has inadequate capacity. There is also a problem with governance structures at the KFS. There have been a lot of problems particularly on the issue of licensing within the KFS. When I talk about capacity, I mean various levels of capacity. In terms of the top management, there has been abuse of office. When you come to the board, the chairman runs the KFS as a private property. In Karura Forest, which is

the pride of this country, the chairman runs a hotel. In terms of capacity again, we have very few rangers protecting our forests. We have one ranger who is supposed to protect 1 million hectares of forest land. Internationally, it should not be like that.

The issue of abuse of licences by saw millers was a very obvious thing when we went to the field. Saw millers are given licences to harvest trees in particular areas, but when you go to the site, you will be met with great destruction of forest land. You will not believe it. They have destroyed forests. We have a loophole in our legislation. We need to holistically look at the legislation in place so that we are able to close the gaps that we witnessed in the field.

When we visited various forest areas, one thing that was obvious was illegal logging. We noticed that there was a lot of charcoal burning in the settlements that have been encroached into, including the buffer zones. There has been a lot of mismanagement of forest plantations in our forest reserves. As a result, rivers and wells are drying up and water tables are getting low and all that has been caused by destruction of natural resources.

Hon. Temporary Deputy Speaker, the committee noted with concern the urgent need to address logging problems in the country, especially areas of Mt. Kenya, the Mau Forest and the Boni Forest, where I come from. People do not know that part of Boni Forest in Ijara, as a constituency, has more forest cover than the Mau Forest that we are talking about. We want to protect our natural resources. As a committee, we are determined. We have started. The 19 Members in the Committee have all started planting trees in our constituencies and beyond, so that we can increase our forest cover that has been destroyed by Kenyans. We want to be the best example as Members of this committee. I congratulate all the Members of this committee, who have taken that initiative. I know they have already started the programmes.

The KFS, on the other hand, faces a lot of challenges. One of them is which I have already told you, about the small number of rangers in the country who are supposed to protect our forests. They are few. They cannot man our forests. Also, the technologies that other countries have are not in our country. We do not have good weapons even for their own protection. If you look at the houses the rangers live in, you cannot believe they are in this country.

The other thing that they are facing is structural issues. There are serious structural issues within the KFS. There are serious governance problems in the KFS. It will not be good without us correcting that. We have given recommendations as a committee on how best to address the issues of serious managerial problems and the governance issues that have been witnessed.

There are inadequate vehicles. If the rangers have vehicles which are in good shape and could be used in areas of their coverage, that could have helped. But we have old cars that can just move 10 kilometres and they break down. Inadequate resources is another problem the KFS is facing.

*[The Temporary Deputy Speaker  
(Hon. (Ms.) Soipan Tuya left the Chair)]*

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

There is a serious capacity issue in terms of resource allocation to cover all the forests. The KFS has one helicopter, which they cannot use in all the forests. Seriously speaking, we have an issue with the KFS. As a committee, we are saying that we should look at all the

managerial, governance and resource allocation issues. There is a lot of resources that go to waste at the KFS. They get a lot of resources but misuse them.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Your time is over. Very well spoken, Hon. Member. As said by the other Temporary Deputy Speaker, we have Members who are leaving their cards here. They indicate they want to contribute. All said, and since you cannot catch my eye, the nearest, because Hon. Amollo is not in and I cannot see the Member for Kathiani, is the Member for Suba North, Hon. Odhiambo Akoth, who is very well known as Millie Odhiambo.

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Thank you Hon. Temporary Deputy Speaker for giving me this opportunity. I wish to support the Committee Report.

In supporting, I indicate that I thank the committee for the places they have visited. Even without having participated with the committee, you only need to drive just a little out of this town to see we are having a serious problem. This weekend I drove past Mai Mahiu as I was going to Nakuru to attend a *ruracio* and one thing caught my eyes. I loved this church around Mai Mahiu one time when I wanted to wed; the church that hosts eight or so people. That is the reason I did not do it because Kenya is very communal. My own community protested that they all wanted to attend the wedding and they could not all go into the small place. Because I love nature, I wanted to wed in the church and do my reception across it. It was so green and so beautiful. As I was passing there this time, you can see the forest cover has gone down terribly. There is no evidence of reforestation being done. You could see logging was going on because the land was being used to get murrum for road construction.

You see that when you drive in my own constituency in Homa Bay County. This is especially because of road construction. A lot of the counties are doing works of opening up roads because of devolution. I can say that, indeed, we have a very serious problem as a country. I refer to one of the things that the late Prof. Wangari Maathai said, that: "Nature is very unforgiving. If you attack nature, it will fight back". Some of the issues that have been mentioned by the committee in terms of climate change and all the issues that come with climate change are a consequence of nature fighting back because we are invading it. Unless we take mitigating measures, we are in for problems. That is why we have tsunamis and all other calamities related to nature.

Only yesterday, one of the girls that I mentor called Winnie Nyandiga, came back from Rwanda where she attended a meeting of the youth and she asked me: "Is it that Rwanda has only six million people that they are very strong on environmental conservation? Is it because we are many that we cannot conserve?" It is not an issue of numbers. It is an issue of impunity. We have laws, we have the Environmental Act, the Forests Act and several laws that are dealing with conservation. Other than the challenges of lack of personnel, vehicles and everything, there is also an issue of impunity. People know they can get away with disobeying the law. Most of us do not take environmental issues seriously. If you want to know, although the Environmental Act provides that one should not litter, how many times do you drive right in the centre of the city and people litter liberally? It is because they know nobody will bother them. It is more like the way city *askaris* run around chasing young men who are washing vehicles and the men know that it is just temporary enjoyment. Nobody will bother them the next week. We must move away from that culture of impunity. Even if there are a few personnel, they must be dedicated and committed to doing their work.

We must also deal with the pull factors, like the high population, which has forced people to move into forests for habitation. That is why we are having issues of the Mau Forest, which I

do not want to delve into because of the way it has been politicised. The only thing I can say in that regard is that when the weather changes, if it is extremely hot, it affects all tribes. It does not affect one tribe. Weather and climate change affects everyone. It does not affect Raila Amollo Odinga alone. As a country, we need to be serious and look at all these pull factors. Another pull factor is the use of charcoal and timber. We must find alternative sources so that we are not just talking and not providing alternatives.

The other issue I wanted to speak to is that we also need to understand why we need to conserve our forests. I am an environmental lawyer in another life and one of the things I loved is when I was doing a paper on intellectual rights on plant genetic resources. I was amazed at how much of resources we have in our forests.

In Madagascar, there is a plant called rosy periwinkle that has changed the chances of children surviving the cancer called Leukemia. In Ethiopia, there is a plant called endod that has helped them significantly. It is just a plant that women used to clean their shawls with, but now it has helped them in unclogged sewers even in the United States of America. Here in Kenya, we have the *Mwarubaini* and plants that we have not seen. Most of them are found in our forests. I want to speak to the issue of indigenous trees. Many times when I am doing access roads in my constituency, specifically Mfangano Island that has a lot of indigenous trees, I sometimes feel pain when we have to bring down a tree of over 100 years. This is because we do not have very clear regulations to guide us when we are moving in. It does not matter what amount of reforestation we do, we can never replace a tree that is 100 years old. Not in my lifetime. So, we need to take this issue seriously. I want to thank the committee for notifying the role of women and youth groups especially on issues of conservation. I want to encourage that once this Report passes, we will need to put resources into women and youth groups so that they help especially in conservation of forests.

There are areas that we need to gazette that are not already gazetted especially portions of land in Mfangano Island and other areas in my constituency that have amazing trees. When we gazette them, we need to compensate the owners of the lands. I also have another island that has amazing trees, called Atego Island. Fortunately, they are not habited, but we do not know how long before people start deforesting those islands.

Finally, I just want to challenge the Member who was making his contribution. I did not want to interrupt him because he is fairly new in the House and he will learn slowly, that Raila has not been losing perennially. Otherwise, we would not be going to the court. Even the Supreme Court had judged otherwise. Since he is new, it is okay, at least, we will get to know him. A lot of careers are built on Hon. Raila Amollo Odinga. So, we will get to know him by using Hon. Raila Amollo Odinga.

Otherwise, I support.

**Hon. Hassan Hulufu** (Isiolo North, KPP): Thank you, Hon. Temporary Deputy Speaker. I support the adoption of this Report. I am a Member of the Departmental Committee on Environment and Natural Resources. As indicated by the other Members who have contributed, we were actually moved by what is happening in the country where a lot of logging is taking place in public forests, Government forests as well community forests. Logging has been taking place for a very long time and it has had a very disastrous effect on ecosystems, especially on our water towers. You will realise that in the recent past, we have had very severe droughts which have led to massive loss of livestock and crops in farming communities. All these can be attributed to our recklessness in terms of how we manage our natural resources and specifically our forests.

When you look at the Report, you will realise that there are some issues which are contributing to illegal logging and most of it relate to corruption. There are certain situations which create a conducive environment for public officers, especially those who are mandated to take care of our forests, to indulge in corruption. One key issue which I want to highlight, and which the able Chair of the Departmental Committee on Environment and Natural Resources mentioned when he was tabling the Report is the conflict between the various agencies which have responsibility in conservation of our forests. We have the KFS, the KWS and the Kenya Water Towers. As we move forward, I think it is important for us, as a country, to have a clear framework, which will guide the role of each of these agencies. We should also have a clear framework to guide the operations of the roles of these various agencies so that there is synergy in terms of what they do to contribute towards the conservation of our forests and the flora and fauna in our forests.

Having said that, the KFS, which has the primary responsibility of protecting our forests, has its own challenges which are very well elaborated in the Report. For example, we have to appreciate that in as much as we expect a lot from it in terms of protecting forests, monitoring, licensing, controlling logging and ensuring that those who are licensed are felling trees in line with the conditions of the licences, the personnel, the number of people who are hired to take care of our forests are grossly inadequate. If we look at the current situation, the KFS has one ranger for every 1000 hectares of land against the international standards of one ranger for every 400 hectares. Therefore, manning the various conservation areas with these few rangers, who are poorly equipped in terms of vehicles and advanced equipments like aerial surveillance, becomes a very difficult task. The KFS budgetary requirement as per the Cabinet Secretary in charge, is around Kshs15 billion if they are to be effective in protecting our gazetted and non-gazetted forests. But they are allocated less than half of that. Therefore, it is very difficult for the service to carry out its mandate effectively.

Also, after the county governments came into force following the promulgation of the new Constitution and the first election under the new Constitution, forestry became a shared function. Certain functions are supposed to be performed by county governments, but the transition in terms of capacitating county governments to take over certain roles has not been easy. This has also contributed to the problem of illegal logging, poor policing of our forests among others. If you look at the old *shamba* system where communities were allowed to do farming and after certain seasons move out and plant trees on the areas they had farmed previously, it is currently called PELIS. This kind of system is poorly managed from what we have observed. Instead of helping our communities to realise food security, in some cases, rangers are allocating themselves land where they farm instead of allowing communities to farm.

Looking at the Forest Conservation and Management Act, there is provision for community forest associations. These associations are supposed to be formed by communities which are living around the forests so that they can extract some benefits from the forests and also contribute towards the conservation of the forests. If you look at the support they are getting from the KFS and other stakeholders who are extracting benefits from the forests such as the Timber Manufacturers Association, they are not getting enough support from these agencies. Therefore, the motivation to conserve forests is undermined by lack of adequate support from the stakeholders. We have also realised that CFAs have some issues.

Without clear regulations and procedures to guide the elections of CFA officials, we have situations where officials overstay in office. Therefore, they collude with forest rangers or the KFS officials and the TMA, so that instead of checking malpractices, they become part of it.



Therefore, moving forward, in line with the recommendations of the committee in this Report, it is important that the governance system of the CFAs be streamlined through regulation so that the loopholes that I have mentioned can be filled.

As a country, we have failed to take advantage of the carbon credit systems internationally, where we can plant forests which can act as sinks for carbon dioxide and other green gas houses and be entitled to claim credits from donors. Also, there is inadequate incentive provided for commercial investors in the forestry sector. When we looked at good practices from other jurisdictions, we realised that countries like Uruguay, Vietnam and even in our neighbouring Uganda, were able to meet their demands for timber and other forest products. For example, Uruguay, with less than 5 per cent forest cover, has become a net exporter of timber, which contributes to almost 6 per cent of their exports.

As I support, I would like to highlight that if we have to achieve 10 per cent forest cover as per the Constitution, we need to capacitate KFS and KEFRI, so that they can do more research and come up with suitable seedlings for different ecosystems in this country, so that we can have adequate seedlings for planting.

Hon. Temporary Deputy Speaker, I support the adoption of this Report.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Hon. Shamalla, we do not remove our cards. Every time you remove your card, it goes down, which may indicate to us that you are not ready to speak again.

**Hon. (Ms.) Shamalla Jennifer** (Nominated, JP): Thank you, Hon. Temporary Deputy Speaker. I rise to oppose this Report. I first want to declare my interest. The Chairman of KFS is my brother-in-law. That is the extent of my interest. I am not involved in any kind of logging or other forest activities or carpentry.

The reason for opposing this Report is in compliance with the Communication from the Chair last Thursday, 26<sup>th</sup> July 2018, where it was communicated to this honourable House that if a report is not based on any evidence, then it stands on quicksand. The Report has lashed out at the Chairman of KFS. It does not indicate anywhere, if he was invited to the committee and what he said. There is no primary evidence. There is no secondary evidence to be relied on.

In the rest of the Report, they are talking about the River Café, which is based in the forest in Runda area. Indeed, it is the designated committee and the forest association, working in partnership with the KFS, who entered into a contract with River Café two years before the chairman was appointed by His Excellency Uhuru Kenyatta. This appointment was renewed as recently as 6<sup>th</sup> June this year. Indeed, it was important to also include the report of the Taskforce on Resource Management on logging activities in Kenya. The taskforce prepared an adversarial report on persons. In this adversarial report by the Ministry of Environment, there is no adverse finding made against the chairman, Mr. Peter Kinyua. It is against the principle in the rules of natural justice that somebody should be vilified in this House when there is no mention of that person in this Report.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Hon. Shamalla, there is a point of order from the Member for Mwingi North. What is out of order?

**Hon. Paul Nzengu** (Mwingi North, WDM-K): Hon. Temporary Deputy Speaker, I rise on a point of order because the Member is misleading the House that the Committee on Environment and Natural Resources did not have facts to say that Mr. Kinyua has an interest in Karura Forest. I know the committee invited Mr. Kinyua and he categorically said that the owner of the hotel is his wife and that she owned the hotel two years before he was appointed, which we did not accept.

*(Applause)*

So, is it in order for the Member to mislead the House?

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Maybe you could have cited where it is in the Report. You could also be telling us those facts so that you can convince us. From where I sit, unless you convince her through the Report and the facts in the Report - because we all have the Report - she is, indeed, procedurally in order to prosecute the issue from that side.

**Hon. (Ms.) Shamalla Jennifer** (Nominated, JP): Thank you, Hon. Temporary Deputy Speaker. The Report on Page 5 says that:

“The Chairperson of the KFS Board knowingly, while in office, in contravention of the law and Mwongozo Code of Governance for State Corporations, exhibited conflict of interest in doing business with KFS. The chairperson of the board operated a private hotel at Karura Forest. There was an illegality in the collection of revenue at Karura Forest by the Friends of Karura instead of KFS.”

However, in the rest of this Report, unless I did not see it, there is no mention of the chairperson coming before the committee and being heard. That is why I am saying that it contravenes the principles of the rule of natural justice. I do not see the response of the chairperson, Peter Kinyua, in this Report.

With those few remarks, Hon. Temporary Deputy Speaker, I oppose.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Hon. Washiali Jomo, Member for Mumias East.

**Hon. Benjamin Washiali** (Mumias East, JP): Thank you, Hon. Temporary Deputy Speaker. I rise to support the Report. For record purposes, I am a Member of this Committee. Therefore, I want to support my Chairman, Hon. Kareke Mbiuki, and the entire membership of the Committee.

Several speakers, including Members of this Committee have said that this Committee moved on its own accord. It is true that Members got information from the media and their individual experiences around the country. I want to take this opportunity to thank the Government because for the first time, immediately the committee highlighted the problem of logging around the country, the Government went ahead and gave a three-month ban, which was later extended for another three months.

Hon. Temporary Deputy Speaker, so that Parliament does not debate in vain, this was a very good move from the Government even though later on there were a few complaints from those who were working in the forests. Some materials got spoilt in the forests during the total ban. There was no movement and some of the materials that had already been harvested got spoilt.

However, what is important is that as a country...

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Order, Hon. Washiali. As per the procedures of the House and pursuant to Standing Order No.43, I interrupt the business of the House to move to the Zero Hour. Hon. Members, debate on the Report will continue. We shall allocate it time. Hon. Washiali, you will have your balance of seven minutes. You will be given priority at the start of debate on this Report.

Hon. Members, pursuant to Standing Order No.43, we move to Zero Hour. Member for Ijara, move your Zero Hour Statement.

## ZERO HOUR

### DESECRATION OF THE QURAN BY A TEACHER

**Hon. (Ms.) Sophia Noor** (Ijara, PDR): Thank you, Hon. Temporary Deputy Speaker for giving me this time. As I had indicated earlier on, there was an incident that took place in Masalani in Tawakal Junior Academy School. It is a private primary school in Masalani in Ijara Constituency in Garissa County and has employed many local and non-local teachers.

Mr. Christopher Juma is one of the employees of Tawakal Junior Academy School. He has been in Masalani from 2015 and was hosted by the community, interacted with the community and there was a lot of respect for him being a teacher to their children. He lived with the community.

Unfortunately, an ugly incident took place on 24<sup>th</sup> July 2018. Around 11.00 am, the teacher snatched the holy Quran from a student, threw it out and stepped on it. Thereafter, the community was so bitter, disappointed, shocked and could not believe what they heard. The religious leaders of Ijara Constituency were so disheartened. It was a very barbaric incident that took place in Masalani.

After the incident, the people of Masalani demonstrated peacefully and interacted with the Provincial Administration, the internal security team and Christians who live in Masalani. There were a lot of consultations across board on the incident because they could not believe that such an occurrence could occur. The people of Masalani peacefully demonstrated against the evil action

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): You have one minute. You know you only have three minutes to move your Zero Hour Statement.

**Hon. (Ms.) Sophia Noor** (Ijara, PDR): Pursuant to Standing Order No.43, I raise to make a Statement regarding an incident that took place in Tawakal Junior Academy in Masalani, Ijara

Constituency in Garissa County. On Tuesday 24<sup>th</sup> July, 2018 at 11.00 a.m., a primary school teacher by the name Christopher Juma Mwaniki, snatched a Quran from a student, threw it on the ground and thereafter stepped on it in the presence of the student, teachers and a parent. The said teacher has lived with the community since 2015 and has been an employee of the school. This act outraged the residents of Ijara Constituency leading to a peaceful demonstration being held in the constituency. The public outcry was also experienced not only in Garissa County, but also in Wajir, Mandera and many religious organisations as a result of this act that was aimed at provoking religious animosity among peace loving communities. This action not only goes against Article 32 of the Constitution, but also offends Islamic religion and the Christian faith that embrace tolerance and respect for other people's faith. It also offends the social fabric of our great nation.

If this matter is not addressed effectively, it might create religious animosity, which we cannot afford as a country. I, therefore, call upon the necessary Government institutions to take punitive action against the said teacher, which will serve as a warning to weed off such disgraceful behaviour from other teachers and individuals. I also take this opportunity to thank the residents of Ijara and more importantly the religious leaders who encourage restraint.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Your time is over for moving. It is usually three minutes. Hon. Members, the Mover of the Zero Hour Statement usually has three minutes. So, Members you have less than three minutes. We will have two minutes for every Member at my discretion. Let us have the Member for Migori County, Hon. Ochieng Awuor.

**Hon. (Ms.) Pamela Ochieng** (Migori CWR, ODM): Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity to air my views concerning that Statement. I thank my colleague for bringing it to the House. I also want to say that it is a very unfortunate thing if it happened that way.

However, I have the following to say. I join her in calling upon Kenyans of all walks to respect what I call "holy books". Her Statement concerns an incident where the teacher stepped on the Quran. To be honest, I do not think it is right. As the Departmental Committee on Education and Research, the other day we listened to very nagging stories from the same region; the northern and North Eastern, from people who go to teach there from other communities and who are Christians.

We listened to a serious story about members of the Islamic community burning Bibles belonging to Christian teachers. Why I brought up that perspective is not to demean what this current situation is talking about, but to show that something is happening in our country which if not checked, will degenerate into religious animosity, which is not necessary.

Kenyans have lived together knowing that some are Muslims, Christians and some are atheists and we have moved on as a community.

I, therefore condemn, with all strength, all acts of a religious nature. However, I would have loved my colleague to also give us, at least, some of the reasons that made this teacher do what he did.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Your two minutes are over. Hon. Members, I am following the request list. Let us have the Member for Turkana, Hon. Emanikor Akai.

**Hon. (Ms.) Joyce Emanikor** (Turkana CWR, JP): Thank you, Hon. Temporary Deputy Speaker. I rise to take side with my sister's comments about this indecent act. It was unfortunate and uncalled for. I commend the Muslims from Masalani for not taking the law into their hands as would have been expected.

*(Hon. David Mboni crossed the Floor without bowing at the Bar)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Order! There is this Member for Kitui Rural. He is the Member of Parliament of my party leader, Hon. Stephen Kalonzo Musyoka. We do not cross the Floor like that. You must go back. Of course, I say that with respect to Hon. Kalonzo Musyoka. Just do the right thing.

*(Hon. David Mboni walked to the Bar and bowed)*

Good. Thank you. Yes, Hon. (Ms.) Emanikor Akai.

**Hon. (Ms.) Joyce Emanikor** (Turkana CWR, JP): Thank you, Hon. Temporary Deputy Speaker. I was saying that I commend the Muslims from Masalani for not taking the law into their hands as would have been expected in a more charged situation like that. That was quite commendable because they just went for a peaceful demonstration. We really do not want such incidences to fuel animosity between various faiths or religious sections. So, I would really call for a deterrent action, as Hon. Sophia said. That should be identified so that this does not happen to the same community and vice versa.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Next is the Member for Njoro Constituency.

Hon. (Dr.) Otiende Amollo, Hon. Robert, Hon. Wakhungu and Hon. Seroney have left their cards here and it confuses me. It is important that we remove our cards, so that we can see who wants to speak and who is present. Member for Njoro, you have two minutes.

**Hon. (Ms.) Charity Chepkwony** (Njoro, JP): Thank you, Hon. Temporary Deputy Speaker. Since you have given me this time, I will just contribute. I had a lot of interest on matters of logging, but for the matter raised by my colleague from Ijara Constituency, I will commend what the members of the community did. They did not take the law into their hands. At least they did not accept any crime to be committed, but they took the matter to the respective office. Actually, the best thing we should do as Kenyans is to respect one another's religion and the books that we use for the respective religions. Therefore, I do not have a lot to say on this matter. Mine is just to say that we should respect the Quran and the Bible.

Thank you for the time. Actually, my interest was on the matter of logging.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): The Member for Garissa, who is also the Leader of the Majority Party in the House.

**Hon. Aden Duale** (Garissa Township, JP): Thank you, Hon. Temporary Deputy Speaker. I really want to raise my voice on this matter. We are all told in various scriptures like the Injil, Zabur, Towrat and the Quran that we must respect the holy books. We should not only respect them, but we must also love them. I think that incident is a wakeup call. Kenya is known for being a secular State that respects freedom of worship and the diversity of our religion. So, I

really thank the people of Ijara Constituency and in particular Masalani for making sure that, that individual is treated as an individual and not collective. Criminality is not a collective phenomenon. It is individual. I am sure those of us who profess the Islamic faith must also protect the holy Bible and all the other books of God. It is through the books of God that prophets were sent to various communities. Today, for example, the book of Islam, the Quran, is a way of life. It teaches you everything from economics to social issues and politics. It teaches us how to be closer to the Almighty God.

So, I really want to ask Kenyans and, more so, everyone here that despite our challenges, we must respect the holy books, whether it is the Quran, the Bible, the Injil, the Zabur or Towrat. Any scripture that was given to a prophet of God regardless of that religion must at all times be respected.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): I can add you one more minute, Leader of the Majority Party. I know the Quran means a lot to you.

**Hon. Aden Duale** (Garissa Township, JP): Thank you, Hon. Temporary Deputy Speaker. I really want to ask Hon. Sophia that even in the Quran and in our religion, the concept of forgiveness is a prime aspect. Let us forgive that individual and let us teach more about the good that the Quran teaches us.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): I know the Quran is very important to the honourable Member for Garissa Township. That is why I gave him an extra minute. The Member for Lamu.

**Hon. (Ms.) Ruweida Obo** (Lamu CWR, JP): Ahsante, Mhe. Naibu Spika wa Muda kwa kunipatia nafasi hii kuchangia. Ninaheshimu sana walimu kwa sababu wao ni kioo katika jamii. Tukiwa shuleni huwa tunaigiza walimu. Nimeshangazwa sana na mwalimu huyu. Sijui ni mfano gani anaonyesha wanafunzi. Najua Kenya tuna Wakristo na Waislamu wanaopendana. Haya mambo ambayo yametukia hayamo humu nchini. Huyu ni mwalimu na hilo kosa alilofanya ni yeye mwenyewe anafaa kuchukuliwa hatua za kisheria. Ikiwa kuna mwingine anachezea na kukosea heshima Biblia, naye pia achukuliwe hatua za kisheria. Hapa ametuudhi.

Mimi naona hivi: Wanaiga mambo wanayoona katika mitandao. Huu ni ukoloni mamboleo. Mambo haya huku kwetu Afrika hayako. Wanaiga nchi za kizungu. Mambo hayo yanafanyika huko lakini Afrika hayafanyiki. Itakuwa vizuri awe mfano kwa wengine maana ni uhalifu amefanya. Ni kama wale wahalifu wa kigaidi wanaoharibia Uislamu jina. Nimefurahi kwamba watu wa Ijara hawakuchukua hatua mikononi mwao. Naomba mwalimu huyu achukuliwe hatua za kisheria maana si mfano mzuri analeta na huenda ikaleta matatizo zaidi. Ikiwa kuna mtu pia amekosea heshima Biblia, naye pia achukuliwe hatua za kisheria.

Asante.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Hon. David ole Sankok.

**Hon. David ole Sankok** (Nominated, JP): Thank you, Hon. Temporary Deputy Speaker. For sure the country has learnt from the good people of Ijara out of their tolerance and treating a criminal as a criminal instead of evoking religious or tribal sentiments. They identified a criminal as one.

In the same breath, I ask Hon. Sophia to lead the people of Ijara in forgiving the teacher as the writings of the holy books, especially the Quran and the Bible, demand. The Bible says that you should forgive 70 times seven times. That means that you should forgive others for eternity. I ask the people of Ijara, led by Hon. Sophia, to forgive that teacher and not take any more action and educate the teacher on the importance of respecting the holy books.

Since this is Zero Hour, I want to inform the nation that there is corrective surgery being performed at the Kijabe Mission Hospital on children with disabilities, so that we do not end up having many cases of disabilities in our country.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Even for Zero Hour, the Standing Orders talk of relevance.

**Hon. David ole Sankok** (Nominated, JP): Thank you very much. With the way you are smiling, it must be a very important Motion.

*(Laughter)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): As the Speaker said, in less than two weeks, you will be one year old in Parliament. Relevance must always be a factor. We do not open up Zero Hour to everything. We must be relevant in whatever we are saying.

Let us have the Member for Kapenguria, Hon. Chumel Moroto.

**Hon. Samuel Moroto** (Kapenguria, JP): Thank you very much, Hon. Temporary Deputy Speaker. I would like to join my colleagues in congratulating the people of Ijara and their representative who is here with us. This is just one way of telling Kenyans in other parts of the country that whenever anything goes wrong somewhere, they should not condemn a community or a section of the members of the community the person who made the mistake comes from. It is good for other Kenyans to follow this. We have been complaining and blaming the Islamic community. Whenever something happens, we say that they are against Christians. Today, a Christian is the one who offended the Muslims and this other group has shown the way to go about it. It is a beginning and we want to congratulate the people.

The Government should also reward the people, not only by giving incentives, but by thanking them for what they did and letting other Kenyans see what is happening. That will bring unity among of all of us, namely, politicians, Christians, Muslims and all other religious bodies. We also want to respect the areas where African traditional religion is practised such as the mountains where they worship because God is God. You can go to the top of the tree and pray and God will answer you. You can somersault on the ground and God will answer.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Hon. Sankok has learnt how we marry our contributions so as to be relevant. I expected you to tell us that in that hospital, there is a Quran and people should respect it.

Let us have the Nominated Member, Hon. Yussuf Halima.

**Hon. (Ms.) Halima Mucheke** (Nominated, JP): Thank you, Hon. Temporary Deputy Speaker. I also rise to join my colleagues in condemning the action by the teacher who shamelessly stepped on the Holy Quran. His action was uncalled for, uncouth, ungodly and unacceptable. The action of the teacher was meant to cause so much pain to the Muslim Community. He might not be a believer, but he must respect those who confess the Islamic faith. He should learn to co-exist with others even if he does not share their beliefs. His action was regrettable and was meant to create hatred and division. I am glad the people of Ijara constrained themselves. I castigate his actions in the strongest terms possible. Wherever he is, he should feel ashamed of his action and should repent and apologise to Kenyans of all faiths.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Let us have the Member for Lamu East.

**Hon. Ali Sharif** (Lamu East, JP): Asante, Mhe. Naibu Spika wa Muda. Ningependa kuungana na wenzangu kulaani kitendo ambacho kilifanyika cha ukosefu wa nidhamu kwa dini zetu ambazo zimetambulika ulimwenguni huu.

Ingawaje pengine Mheshimiwa na watu wake wa Garissa watalisamehe jambo hili, nataka ukubaliane na mimi kwamba mhusika mkuu ndiye anapaswa kuchukue nafasi hii ya kuomba msamaha hata si kwa jamii ya Garissa, bali kwa mwenyezi Mungu. Dini zote hizi si za binadamu ni za Mwenyezi Mungu. Hajamkosea binadamu, amemkosea Mwenyezi Mungu. Dini zote zinazotambulika, hususan zile dini ambazo zimepewa vile vitabu ambavyo vinatambulika katika ulimwengu huu, ni za Mwenyezi Mungu.

Waislamu ni watu wa amani. Hatupendi vitendo kama hivi. Masikitiko yangu makubwa ni kwamba nakumbuka kunaye mama mwingine aliyefanya kitendo hiki na kukanyanga Quran. Haikupita mwezi moja wakati miguu yake yote miwili ilikuwa mikubwa na hakuweza kutembea wala kuinuka. Kwa hivyo, ni lazima tuheshimu dini zote ambazo zimetambulika na hususan ndivyo Katiba yetu inavyotuongoza kuheshimu na kutambua dini zetu.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Let us have the County Woman Representative for Tana River, Hon. Hassan Rehema.

**Hon. (Ms.) Rehema Hassan** (Tana River CWR, MCCP): Thank you, Hon. Temporary Deputy Speaker. I also stand here to condemn the satanic act taken by that teacher because when somebody takes such an act, that person is not normal. Kenya is a country where there is freedom of worship. What he did was wrong and I condemn it. At the same time, I thank the people of Ijara for not beating him up because I know how rough Muslims can be because of the Quran. We would be talking about a different story today. I pray for them. May God bless the people of Ijara.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): I cannot see the Members who had put their cards in the system. Hon. Seroney has walked out. Hon. Ochieng Awuor, Migori Woman Representative has spoken to this. Hon. Tayari Stephen is not in the House. Hon. Okuome Adipo is consulting outside. All those Members are consulting outside. I join you in saying that we need to respect the Bible and the Quran. Is the Member for Isiolo North in the House? You had spoken. I thought you were speaking to the other one. I will give you time to speak.

**Hon. Hassan Hulufu** (Isiolo North, KPP): Thank you very much, Hon. Temporary Deputy Speaker. I would like to congratulate the people of Ijara for displaying tolerance as taught by the Islamic faith that we profess.

It is important for us to realise that as a country, we are multicultural, multireligious and secular. The Constitution gives all of us the freedom to choose which faith to profess. What the teacher has done is regrettable. It is unfortunate that this particular despicable act has been committed by a teacher who is supposed to be a good role model. Teachers are supposed to be the epitome of integrity and morality because we expect them to instil a sense of religious tolerance in our children. This is not somebody who deserves to be in the teaching profession. The community has forgiven him, but it will be a disaster for this country if he continues to serve in the teaching profession. Probably, it will be good if he is deregistered so that he can do something else and not continue being a teacher.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Hon. Members, there being no other Member requesting to contributing to this Statement in the Zero Hour, we congratulate the Member who tabled the Zero Hour Statement.



**ADJOURNMENT**

Hon. Members, the time being 7.00 p.m., the House stands adjourned until Wednesday, 1<sup>st</sup> August 2018 at 9.30 am.

The House rose at 7.00 p.m.