

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 20th August 2015

The House met at 9.30 a.m.

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

PRAYERS

QUORUM

The Temporary Deputy Speaker (Hon. Cheboi): Order, Members! Obviously, we do not have a quorum. Therefore, I order that the Quorum Bell be rung for 10 minutes.

(The Quorum Bell was rung)

Hon. Members, we now have a quorum and, therefore, we will proceed with business.

PAPERS LAID

The Temporary Deputy Speaker (Hon. Cheboi): Do we have the Majority Whip? I see we have the Deputy Majority Whip.

Hon. Washiali: Hon. Temporary Deputy Speaker, I beg to lay the following Papers on the Table of the House, today, Thursday 20th August 2015:-

The Report of the Auditor-General on the Financial Statements of the National Youth Service (NYS) Mechanical and Transport Fund for the year ended 30th June 2014 and the certificate therein.

The Report of the Auditor-General on the Financial Statements of the Ministry of Information, Communication and Technology for the year ended 30th June 2014 and the certificate therein.

The Report of the Auditor-General on the Financial Statements of Tana and Athi River Development Authority for the year ended 30th June 2014 and the certificate therein.

The Report of the Auditor-General on the Financial Statements of the Water Resources Management Authority for the year ended 30th June 2014 and the certificate therein.

The Report of the Auditor-General on the Financial Statements of the Constituencies Development Fund (CDF), Emgwen Constituency, for the year ended 30th June 2014 and the certificate therein.

The Report of the Auditor-General on the Financial Statements of the Constituencies Development Fund (CDF), Nandi Hills Constituency, for the year ended 30th June 2014 and the certificate therein.

BILLS*Third reading*

THE INSOLVENCY BILL

The Temporary Deputy Speaker (Hon. Cheboi): Hon. Members, this was finalized. What remained was for the Question to be put.

(Question put and agreed to)

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

Second Reading

THE CONSTITUTION OF KENYA (AMENDMENT) (No.2) BILL

(Hon. Kaluma on 19.8.2015)

*(Resumption of Debate interrupted on
19.8.2015 – Morning Sitting)*

The Temporary Deputy Speaker (Hon. Cheboi): Very well. We will be resuming debate on this particular one and I do not know if there is anybody who was on the Floor. I do not see any indication. I, probably, will go straight to give opportunities to Members who have slotted their cards. We will start with Member for Igembe North. He is not there.

(Hon. M'uthari walked into the Chamber)

Member for Igembe North, I see you. Are you ready on this one or you are waiting for the next one?

Hon. M'uthari: I am waiting for the next one.

The Temporary Deputy Speaker (Hon. Cheboi): Okay. We will have Member for Makueni.

Hon. Maanzo: I contributed on this one, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Cheboi): You contributed. It is good if Members indicate just in case. Hon. Members who have contributed; you should not even think of it.

Hon. Chepkong'a, do you want to contribute to this one? Have you contributed to it?

Hon. Chepkong'a: No, I have not.

The Temporary Deputy Speaker (Hon. Cheboi): Okay. Proceed.

Hon. Chepkong'a: Thank you, Hon. Temporary Deputy Speaker. First and foremost, I would like to take this opportunity to thank Hon. Peter Kaluma for bringing this Bill. As you

know, this Bill has been scrutinized by the Departmental Committee on Justice and Legal Affairs. As you also know, Hon. Peter Kaluma is a ranking Member of that Committee, and we agreed that he sponsors this Bill with the concurrence of the Committee. So, the Committee totally supports this Bill. When it came for scrutiny, we did not have any objection at all. In fact, the only thing that we had was total support for Hon. Peter Kaluma's Bill.

This Bill is coming at a very important time in our country. The reason is that it is important to define what separation of power is. In the recent past, we have seen the Judiciary interfering with Parliament by seeking to issue injunctions against Parliament on matters under discussion and before their conclusion. This has completely interfered with Parliament and debate in the House. It has interfered with freedom of speech in this country. We have also seen courts interfering with the Senate in the famous case of Governor Wambora. Before they concluded the impeachment proceedings, the courts had stopped the process. It is important that we allow the process to play out in both Houses before the High Court intervenes.

As we pass this amendment, we should not be afraid of amending the Constitution. This is part of the 20 per cent that we all agreed during the referendum that we pass the Constitution and amend later the 20 per cent that was bad. We have now come to amend the 20 per cent that is bad.

As I rise, I totally support the Bill by Hon. Peter Kaluma and ask Members to be present to ensure that we have the two-thirds to pass this Bill. I am just hoping that the House Business Committee (HBC) will slot this amendment Bill immediately after the one by which we are seeking to extend the application of the various laws, so that we can be strategic in the manner in which we pass this Bill. This should also come together with Hon. Ochieng's Bill that seeks to move the date of the next general election to December. We hope that we will also be strategic in ensuring that all Members are present, particularly on Tuesday when most of us will have come back from upcountry.

Be that as it may, I just wanted to speak about the issues that have exercised the minds of the Senate in the past. In fact, we must allow the Senate to discuss matters unrestrained. This is part of the process of ensuring that the Senate carries on with its business without being interfered with. I read somewhere the other day that they were responding to what we said in the House on Tuesday. They are claiming that Article 125 of the Constitution allows them to do anything under the sun. If we pass this Bill, it will not be allowed for them to discuss everything, including matters that are the mandate of the National Assembly. They should restrict themselves only to matters they have been mandated to discuss under Article 96 of the Constitution.

We were even told - I read it somewhere - that they said that Members of the National Assembly are not educated. I asked myself: When did we become uneducated? When we came to this House, we were educated. If they intend to respond to us, they should not throw tantrums lest we believe that these are tantrums of old people and then we will ignore them. Let them be judicious in the manner in which they approach issues and not be abusive. You know we were raising these issues because we thought they were trespassing. You know trespassers should always be arrested; so, we were seeking to arrest them in this House. Unfortunately, as you know, we do not have police powers; the monopoly of violence is, of course, vested in the police.

With those few remarks, I support.

The Temporary Deputy Speaker (Hon. Cheboi): Very well. Let us have the Member for Kitui Central. Do you want to speak to this one?

Hon. Mulu: Yes, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Cheboi): You have confirmed that you did not contribute to it?

Hon. Mulu: Yes. I did not, Hon. Temporary Deputy Speaker. Thank you very much for giving me the chance to also contribute to this important Bill. I want to start by thanking Hon. Kaluma for bringing it to the House. The Constitution of Kenya (CoK) is very clear in terms of what the Government is comprised of. What is clear is that we have three arms of Government: The Judiciary, the Executive and Parliament, which is the Legislature. When you look at the spirit and the word of the Constitution of Kenya, it is clear that these three arms of Government should be independent in terms of how they do their work. Where the Legislature is expected to enact laws, the Executive is supposed to implement them and the Judiciary is supposed to interpret the laws.

What this Bill is trying to do is to make sure that there is no unnecessary interference, as any of the three arms of Government engages in this important exercise of discharging their constitutional mandate. Many are times when in this House I have heard hon. Members asking questions to do with: Could this matter be in court? In situations where we have confirmed that matters are in court, Parliament has taken time to say: Let us not debate this matter till the courts conclude them. To me, this Bill is trying to do the same. It is trying to tell the Judiciary that so long as any matter is being discussed by Parliament, they should allow due process to be concluded then they can take over the matter and do whatever they want to do with it. What we are trying to stop is a situation where a matter is being debated in this Chamber and then the courts stop debate on it.

Hon. Temporary Deputy Speaker, Members in this House are representatives of the people. Most of the things we say in this House are not actually our issues. They are issues that relate to the people we represent. I will be really disturbed and scared to always look behind to see who is looking at me, as I contribute in this Chamber. I want to have that freedom which is provided for in Article 117 of the Constitution.

Article 117(1) says:

“There shall be freedom of speech and debate in Parliament”.

So, we are only enforcing that Article; as Members of Parliament, this amendment is going to help us do our work without any interference, so that when it comes to debating, you debate freely. You say what you want to say so long as you are within Parliament.

The other thing which is important in this amendment is the issue of county assemblies. With the new 2010 Constitution, we have come up with devolved governments, which have Executives and county assemblies. We also want our colleagues who are elected at the county assemblies to also have the same privileges as we have, so that when they are debating within their respective chambers, they are not constrained by the fact that somebody will take them to court, or somebody will run to this judge and get these things stopped. To me, this Bill is very important. The courts should not think that we are interfering with their independence. We are only trying to make sure that we do our work without any interference. We have seen situations where even the work of Parliament is being challenged; an example is the issue of governors. There are times the Senators want to summon governors to come and follow up on their oversight responsibility, but you find they are told they cannot summon governors. Let us be allowed that freedom to do our work. So long as that happens, I do not think anybody has any reason to interfere with the way the courts are conducting their business. That is why anytime we

will say this matter is before the courts; let us not debate it here just to respect the fact that courts have a responsibility to interpret the Constitution. So, I want to support this Bill and urge Hon. Members also to support it, so that we pass this important amendment to make us free to do our work without any interference

With those remarks, I support. Thank you.

The Temporary Deputy Speaker (Hon. Cheboi): Well, let us have the Member for Turkana North.

Hon. Nakuleu: Thank you, Hon. Temporary Deputy Speaker. I wish to support the Motion by Hon. Kaluma. Indeed, it is high time Kenya exhibited separation of powers. The Constitution of this country spells out the roles of every organ of the State. It is, therefore, incumbent upon every organ to know its jurisdiction and roles. We have had cases where an issue is pending before the National Assembly or the Senate, but some people outside there tend to run very fast to the honourable courts of this country to make sure that this House, or the Senate, do not proceed with the work they are doing. This turns this country into a litigious country. Anything small that is before the Senate, or the National Assembly, the courts normally interfere with it.

Look at the case of the impeachment of the Governor of Embu, the matter was before the Senate and the Governor ran very fast to block the Senate from performing its work. This amounts to gagging this honourable House. Therefore, this House must make sure that the courts, or the Judiciary, do not interfere with its functioning.

This House is a representative of the will of the people of Kenya. Therefore, respect must be accorded at all times. Although the Judiciary is one of the arms of the Government, it does not have an express mandate of the people of this country. Therefore, from time to time, it must wait for an issue to be concluded by Parliament, and then it gives its opinion. The Judiciary must also realize that Parliament has powers equal to it and, therefore, respect must be there and the Judiciary should only come into complementary matters where issues of interpretation and advice are concerned, but express gagging of this House must be stopped forthwith.

With those few remarks, I wish to support the Motion.

The Temporary Deputy Speaker (Hon. Cheboi): Hon. Mbadi.

Hon. Ng'ongo: Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity to contribute to the amendment to the Constitution of Kenya by Hon. Peter Kaluma.

I see three proposed amendments to the Constitution. The first one is an attempt to amend Article 117 of the Constitution, which will bring clarity in terms of giving immunity to a Member of Parliament in the discharge of its functions as a legislator. A Member of Parliament will not be liable to an action, or suit, in respect of anything done or omitted to be done in good faith in the lawful performance of a function of Parliament. I know that at the moment Parliament has passed an Act of Parliament to provide immunity. However, I think this is elevating it a little further to make it constitutional, so that if you discharge your function as a Member of Parliament in good faith, then you should not be held accountable for that action, especially if you do it within the precincts of Parliament. I think that is in tandem with other jurisdictions in the world.

I agree entirely that the three arms of Government need to be allowed to discharge their functions and responsibilities without interference from another organ. I have been reluctant when I see the Judiciary sometimes interfering with the functions of Parliament and vice versa. I would not like to see Parliament, for instance, directing the Judiciary on what it should do. I have

difficulty supporting the proposed amendment to Article 165 which is provided in Clause 3 of this amendment. My difficulty is with regard to trying to solve a problem which, to me, is administrative through a serious legislation, or through an amendment to the supreme law of the country. When the people of Kenya voted for the Constitution, the understanding was that the three arms of the Government would exercise their functions and responsibilities with respect, caution and maturity. That should be done with respect to the people of Kenya, who have given us, or delegated to us, those powers. The fact that probably the Judiciary has at times waded into certain issues that were before the House, should not make us outlaw completely the High Court from giving an order or even injunctioning certain activities.

This is because if you read this proposed amendment carefully, it says in Clause 5 that we are inserting the following new paragraph immediately after paragraph (b); we are adding paragraph (c).

Reading Article 165(5) it says that:-

“The High Court shall not have jurisdiction in respect of matters—

(a) reserved for the exclusive jurisdiction of the Supreme Court under this Constitution; or

(b) falling within the jurisdiction of the courts contemplated in Article 162 (2).”

Now, I want to read the proposed amendment. It states:-

“Falling within the functions of Parliament, either of its Houses or a county assembly as provided for in this Constitution in so far as those matters are pending or undergoing consideration before Parliament, either of its Houses or a county assembly”.

This to me is too general. This is because we may even have a Motion in this House, or a report of a committee, on a matter. Just by the mere fact that, that debate is going on, cannot stop any Kenyan from enjoying his or her rights by going to court and challenge certain issues that probably Parliament is handling.

Hon. Temporary Deputy Speaker, if we make this amendment, I think as a House we may be reckless because we are going to bar the Judiciary from deliberating on any matter that is before this House. By the way all matters in this country may be in this House. This is because any issue that comes in the public domain can easily be brought to this House and by the mere fact that it is being considered by either a Committee or the plenary of this House then you are stopping the Judiciary from coming in. I think that is too pervasive, it covers almost the entire country in terms of activities and services and therefore that puts me in a position where I am reluctant and I oppose this particular amendment especially to Article 165.

I really do not know because the old Constitution was very clear, the one that the people of Kenya repealed; that a Constitutional amendment cannot be amended in the House. The current Constitution is silent on that unless I am corrected. If it is silent therefore it means we probably could amend this proposed amendment. If that is the case then I would urge this House to delete completely this Clause 3 that is amending Article 165 of the Constitution. I wanted to add also that even though we say that the three arms can operate independently without interference, at times even as Parliament we are forced to interfere with other arms of the government especially, the Executive.

If we say that we have to wait for the Executive to conclude whatever it is doing, then it means that this Parliament will not even interrogate and investigate for example a procurement process that is ongoing and I do not think that will be very good for this country. At times, even though the three arms are independent, Parliament is supposed to check the Executive and in the same token, somehow silently this Constitution gives the Judiciary the power to also check both the Executive and the Legislature. I think we need to live with it, but what we need to come out clearly and tell the Judiciary is that they should exercise their functions and responsibilities given by the people of Kenya in a way that they do not interfere with other arms of Government. But that does not mean we should pass legislation or even amend the Constitution to take away the power to check other arms of Government from the Judiciary.

Actually, I think it is the Judiciary that is given the responsibility that can check the other two arms. Otherwise, Hon. Temporary Deputy Speaker a lot of times the other arms of Government behave rogue. I am not saying Judiciary does not behave rogue, but Parliament a number of times also behaves rogue and if there is a check by the people of Kenya through the Judiciary which they have delegated power to, the better. We should not wait for the people of Kenya after five years to exercise their power to check and vet us. We should also allow another body within the five years that we are here to also check our excesses because Parliament has also exercised its excesses a number of times.

With those very many remarks, I beg to support, but with the caution on that particular amendment to Article 165. By the way, I am speaking as the Member of Parliament of Suba, because I am aware the Mover of this Bill is actually a member of my party, a very loyal, faithful and strong member. This amendment that he has proposed the party has no stand on it. At least we have not come up with a party position and therefore my contribution is on the basis that I represent the people of Suba and sit in the National Assembly of the Republic of Kenya.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Cheboi): Very well, let us have the Member for Endebess.

Hon. (Dr.) Pukose: Thank you, Hon. Temporary Deputy Speaker, for allowing me to stand and contribute to this very important Constitutional Amendment Bill No.2 of 2015. At the outset, I want to support this constitutional amendment Bill and thank Hon. Peter Kaluma for having put a lot of effort and coming up with this good Bill.

I want to disagree with the Chair of ODM because I think separation of power is quite important and the people of Kenya did not say that the Executive, Legislature or Judiciary should be above each other but rather should check on each other. When you look at this Bill in the amendment which has been brought especially on the separation of powers, we have had problems when Bills are before the House or when Reports are before Committees. You may recall the case of Embu when the Governor was being impeached; the debate was within the Country Assembly and when it moved to the Senate, the Governor rushed to the court to stop the process.

This amendment is timely because it stops individuals who do not want a certain arm of Government to subject them to certain levels of criticism or to find out how much they have violated the Constitution. This is because if an individual is before the National Assembly, the Senate or County Assembly, and his matter is being debated what will stop that individual from rushing to court to say that this process should be stopped. I think it is a law like this amendment that has been brought. That way it allows due process to be followed and above all we are also

insulating the County Assemblies which as per now are not insulated against any court process. If the County Assemblies are debating a matter before them as per today, somebody can rush to court to stop them and they will not be able to transact business?

We know that in both the County Assemblies and Parliaments is where the supremacy of the people lies because they have the mandate of the people. Everybody who is chosen here after five years will be subjected by the people to whether they were able to deliver or became rogue. So, this is a timely constitutional amendment that is trying to clean up the issues that we are talking about; the 20 per cent. When you look at the issues on matters falling within Parliament, as we speak today, the Committee on Health was discussing the issue about admissions of students by Kenya Medical Training College (KMTC). Kenya university colleges have gone to court to stop that process. What happens to these students now?

We have heard cases of recruitment of the police which went to the courts and those Kenyans were later on not taken because somebody rushed to court. So, these are issues that we must be able to address as leaders and try to come up with solutions because it does not mean that our Judiciary is perfect. The other day, the Chief Justice talked of corruption within the Judiciary which is live as per now. How are we able to control that? This is because an individual can corrupt Judiciary and stop a process that is ongoing within Parliament.

Hon. Temporary Deputy Speaker, I think this is very timely and we should all support it. I hope that we will raise the two-thirds majority to effect this important constitutional amendment.

With those few remarks, I want to support.

The Temporary Deputy Speaker (Hon. Cheboi): Very well, this is a fairly small Bill. Hon. Members would do very well if they would contribute the way Hon. Pukose has done. This is because we really do not need to repeat ourselves. I also want to recognize the other gender, who actually as per my list I am concerned are way below, but I will give an opportunity to one Hon. Tuya, Member for Narok.

Hon. (Ms.) Tuya: Thank you, Hon. Temporary Deputy Speaker, for giving me a chance to contribute in support of Hon. Kaluma's Bill. The gist of this proposed amendment to the Constitution is really the entrenchment of the idea of separation of powers which is a good practice in good governance in any jurisdiction.

We are aware that the three arms of Government are constitutionally mandated to make specific interventions in the governance of this country. The Judiciary is confined to the interpretation of legislation that emanate from Parliament. Here, we are talking about the national Government, the county assemblies and the Senate because Parliament encompasses both the National Assembly and the Senate. The Executive on the other hand is mandated or vested with the implementation aspect of policies and laws which emanate either from itself or from Parliament. For Parliament our mandate is very clear. It is oversight, legislation and representation.

Hon. Temporary Deputy Speaker, in support of this proposed amendment, we want Kenya to be in line with international customs and best practices in good governance, enhancing separation of power and making sure we do not bring confusion and limit this country in terms of effectiveness in governance aspects. Courts should be limited to their clearly mandated role of interpretation. While it looks like we are not supporting the kind of oversight that even the courts provide for the kind of work we do in Parliament, this particular amendment is to streamline

internal functionalities of each arm of Government for purposes of good governance and good orderliness in how the three arms of Government function.

With those few remarks, I wish to support the Bill. Thank you.

The Temporary Deputy Speaker (Hon. Cheboi): We are doing very well. I see the Member top on the list is Hon. M'ruaki but, obviously, I will have to cross to the left side of the Speaker. I will first give the Floor to Hon. Wanyonyi.

Hon. F.K. Wanyonyi: Thank you, Hon. Temporary Deputy Speaker for the opportunity. I am not a lawyer but I am a very practical person. I see problems in our country and, therefore, I support this Bill from my brother, Hon. Kaluma.

When I voted for the Constitution, there were noises around. There were people who were saying that the Constitution that I voted for was not 100 per cent correct. Some elements or a portion of it, about 20 per cent, was not very good for our people. Therefore, in support of this Bill, I want to make it clear that all we want to do is to save separation of powers which most Members have said and that is the truth. As Parliament, we have issues that we discuss. The courts through some busybodies out there, some of them being civil societies which I respect, normally rush to court and are given an opportunity to interfere with whatever we discuss here. That has happened many times.

This Bill has come at the right time so that we can see separation of power particularly the National Assembly, the Senate and the counties which have also had problems. I have noticed that in my county some busy body somewhere rushed to court and stopped debate thereby making things not to work. Therefore, I support this Bill. I know that we have a debate in this House where Members have said that we should have elections in December. We have supported that but somewhere you will find somebody rushing to court to stop the debate yet we have not completed debate. Because we are a law abiding House, you will find that we are not able to move.

Let the courts respect the roles demanded of this House so that they come in only after we have finished debating. I am saying this because I know for sure that courts do not have supervisory powers over this House. They do not supervise this House. All I know is that the courts are supposed to interpret the deliberations and resolutions of this House. Therefore for them to interfere in the public eye, it appears that they have a supervisory role over this House. I have heard of cases out there where a member of the public asks you what the court has said about what you have just said. The impression given out there is that the courts supervise whatever we do here. Let the courts come in at the tail end of our discussions when we have passed a resolution in this House. Let them come in at the time of implementation to interpret. They should be there to interpret whatever has happened here other than claiming a supervisory role that does not appear in the Constitution.

I support this Bill. I hope that our Whips will garner the two-thirds of Members to pass this law so that we have clear separation of power. The demarcation should be very clear to the courts, the members of the public and the busy bodies that normally come in and interfere with the operations here.

Last but not least, I also want to talk about the issue alluded to by the Mover, Hon. Kaluma. Hon. Gor Sungu, a former Member of Parliament for Kisumu East, has had problems because of the interference of the courts. Where does the boundary of this Parliament end? We should be free to do things. I have been elected to represent my people. I was not elected to be interfered with.

With those few remarks, I support this Bill. I hope Members will come out in large numbers to pass the Bill so that we can know the roles of each one of the organs of Government. Thank you so much.

The Temporary Deputy Speaker (Hon. Cheboi): Hon. M'eruaki.

Hon. M'uthari: Thank you, Hon. Temporary Deputy Speaker for this opportunity. I stand to support this particular amendment Bill. It is an important amendment Bill because it will strengthen the functions and create distinction. I describe the situation we have at the moment as a cancerous behavior which is being exploited by the Judiciary. Curtailing the work of Parliament; the National Assembly, the Senate or the county assemblies is in bad taste because of the activist behavior by the judicial arm of Government. It is important that each arm of Government plays its role.

The Government comprises of three arms. It is like one body which has different organs. When one cell within the whole organ fails to function or refuses to obey then it becomes a cancer. So, the behaviour we are exhibiting is like a cancerous behaviour that must be stopped through a proper legislative process. I thank my colleague, Hon. Kaluma, for bringing this amendment to bring some clarity. The fact that when matters are before this House or other legislative arms of the Governments and another arm of Government curtails it, it is in bad taste.

The best practice is where the Judiciary waits for the issues to be completed by this House. If there are issues around it, they can interpret and give their own advice or judgment regarding it. But when the matter is in the process or before the House and then the Judiciary stops, it is in bad taste and should be avoided at all costs. This is also in respect to other arms of Government. Without respect and harmony within the system there will be discomfort in the system that can bring the whole system to a failure.

With these few remarks, I support this amendment. I hope this can be brought in the afternoon as we consider other critical matters then we can support it.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Cheboi): Before I give this chance to Hon. Bowen, please let me give an opportunity to Hon. Wanyonyi of Westlands then I come back to him.

Hon. Wetangula: Thank you, Hon. Temporary Deputy Speaker. As I support this amendment, there is a very thin line between the doctrines of separation of powers between the various arms of the Government. The three arms of Government operate interdependent of each other but they still pull in the same direction. However, when one arm of Government tries to gag the other arm of Government from functioning normally, it disables functions of the other arm of Government and it can therefore paralyze the normal functioning of the other arm of Government.

This amendment talks about when a Member of Parliament does something in good faith, he should not be accused of violating the Constitution. On the other hand, the High Court has unlimited original jurisdiction to interpret anything done under the Constitution and anything that is suspected in contravention of the Constitution. So, if we pass this amendment, we should be careful not to gag the High Court from doing its function of interpreting the Constitution and supervision of the other arms of Government. If we let one arm of Government become big-headed, then some of them become dictatorial, including this House.

When we oversee other arms of Government sometimes we become a reactive Parliament. We react when something has been done that touches this House then we become

reactive. We rush even in trying to cut the budget of these other arms of Government because of what they are doing. So, we should be very careful when we do this amendment so that we are not seen to be doing something that is going to interfere with the functioning of the other arms of Government.

On the other hand, the courts should also be very slow in interfering with what other arms of Government are doing. For example, in Parliament if the Motion has been brought to this House, there is still room that the courts will have time to interpret the legislation passed by this House and see if it is in violation of the Constitution. That is the time when it can be determined to be either unconstitutional or within the Constitution.

This amendment is important because there are several times when important matters have come to the Floor of this House and some people have rushed to court to stop debate on any Motion before the House. That means they are trying to control the functioning of Parliament and yet Parliament is supposed to legislate. Any matter that comes to this House should be debated without fear or favour that anybody is trying to arm-twist us or micromanage what we do. We should be very careful so that we pass this amendment to make sure that the authority of Parliament is respected and the authority of other arms of Government is also taken into consideration. We should not be seen to be gagging either the High Court or the High Court to be seen to be interfering with the functions of this House.

With those few remarks, I support. I believe that we shall muster enough numbers to make sure that we pass this amendment so that we can make sure that Parliament is functioning without outside interference.

Thank you, Hon. Temporary Deputy Speaker.

Hon. Bowen: Thank you, Hon. Temporary Deputy Speaker. I stand to support the constitutional amendment by Hon. Kaluma. The Constitution is clear in the formation and functions of the three arms of Government.

We cannot say there is a Government in place if we do not have the three arms of Government. For the Government to function, the legislative work of the Government is done by this House. The work of the Judiciary is to interpret laws while the Executive implements laws. When the three arms of Government work together that is what is called Parliament,

The input of this amendment is very important. There is nothing the Judiciary can interpret if there are no laws made by this House. There is nothing the Executive can implement if this Parliament does not pass the legislation to enable the Executive function. However, some of the functions are administrative and call for mutual respect between the three arms of Government. We do not need to legislate everything. Small issues requiring just leadership of the three arms of Government to iron out do not need legislation. The Judiciary has been frustrating the efforts of this House when it is discharging its functions. We have seen quite a number of instances.

Again, I do not know if there is a clear understanding between the Judiciary and the Judicial Service Commission (JSC). This Constitution is very clear that the JSC, established under Article 171 of the Constitution, and the Judiciary, established under Article 159 of the Constitution, have clear functions. This is because there is a time when this House called the Chief Justice (CJ) to appear before a committee of this House not as a CJ of the Republic of Kenya but as the Chairman of the JSC. We have seen that when a committee of this House discharges a function, for example, when we were doing some investigations on corruption in the Judiciary, allegations pitting the JSC commissioners, the commissioners went into hiding citing

Articles 159 and 160 of the Constitution, on the independence of the Judiciary. They said that they cannot appear before this House because of the independence of the Judiciary. This is the case and yet we know very well that those are two different institutions.

We have seen the JSC use judges to frustrate the efforts of this House. If we pass this amendment by Hon. Kaluma, we will streamline these articles of the Constitution and make sure that before the Judiciary issues arbitrary orders to this House, they will allow this House to, first, enact legislation and the work of interpretation will be left to them.

Also, the amendment is very good because it will end the issue of Members of this House being gagged out there because of discharging their constitutional duty. We have seen Members of this House like a former Member who was taken to court because he was discharging his duty in this House. He touched on some people out there who took him to court. We want to put that legislation in place so that Members of this House are protected from unnecessary prosecutions while discharging their duties.

I support this amendment and congratulate Hon. Kaluma. I urge Hon. Members to support this amendment so that we can streamline the operations of the Government. Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Cheboi): Let us have Hon. Gumbo.

Hon. (Eng.) Gumbo: Thank you, Hon. Temporary Deputy Speaker for the opportunity to contribute to this Bill. In an ideal situation, Parliament is supposed to make laws, the Executive is supposed to implement and execute those laws and the Judiciary is supposed to interpret them. However, many times, we do not have an ideal situation. I thank Hon. Kaluma for coming up with this proposed constitutional amendment, which I support.

This country has suffered a lot in the hands of what I would call “judicial activism”. Judicial activism happens when the Judiciary, many times, chooses to be a player in a matter where they ought to be independent arbiters. We know the case of the Division of Revenue Bill and the problems we have now with the two-thirds gender rule. Clearly, the Judiciary opted to become players in a matter where they were supposed to be independent referees. The role of Parliament has been elaborated very much and my colleagues have spoken to it.

Article 94 says that the legislative authority is derived from the people and at the national level, it is vested and exercised by Parliament. If there is to be a clear distinction between Parliament and the other arms of Government, it has to be the fact that only Parliament discharges its functions directly on behalf of the people of Kenya. All of us who sit in this House have come to this House on the approval of the people of Kenya. That way, everything we speak here, we express it on behalf of the people of Kenya.

Article 117 of our Constitution is very clear that there shall be freedom of speech and debate in Parliament. If the principle of separation of power has to have any meaning, in my view, the same way Parliament has to keep off a matter that is before the Judiciary, so should the Judiciary keep off a matter that is expressly before Parliament. This is because the moment that borderline is allowed to be hazy, then we are facing a real situation where matters that are before this House can be enjoined by the Judiciary and the activities that go on in this House can be paralyzed. We should never allow that to happen. Of course, it is never a perfect system. Even within the fact that all of us as three arms of Government discharge our constitutional duties, it is expected that the attributes of common sense and good manners should prevail. Unfortunately, many times they do not prevail. This is an important amendment that we all should support. All

of us should come together as a House so that we are able to safeguard the independence of Parliament.

It will not be good for this country the moment we start diluting the functions of this House. It has to be recalled that there are certain functions, for example, appropriations that are only donated to this House. Honestly, if we are to leave that lacuna as it still exists in law, then we face a real situation where the activities of this House can at one point completely be brought to a halt. That can only be to the detriment of the country as a whole.

I do not want to go to issues that have been spoken to by my colleagues. I have been thinking about the provisions of Article 125 of the Constitution and what they actually mean. This is because in its express meaning and the way it is written, Article 125 (1) says:

“Either House of Parliament, and any of its committees, has power to summon any person to appear before it for the purpose of giving evidence or providing information.”

Article 125 (2) goes on to say:

“For the purposes of Clause (1), a House of Parliament and any of its committees has the same powers as the High Court.”

I have been agonizing what it means when we say that the Committees of Parliament have the powers of the High Court. Recently, we had an engagement with the---

The Temporary Deputy Speaker (Hon. Cheboi): We had made an agreement that we will make time for other Members also. So, I do not want you to think of having to finish the 10 minutes.

Hon. (Eng.) Gumbo: I just want to relate a real life situation. Recently, we had an engagement with the Public Accounts Committee (PAC) of Uganda and what they told us is that their understanding of any House of Parliament having the powers of the High Court is that when certain committees sit, especially when they are interviewing hostile witnesses, those committees also include very senior police officers, who the committee would direct to produce those witnesses without having to pass through anybody else. I do not know if this is what the intention of Article 125 is supposed to be but it is something that we have to think about.

As I conclude, I think it will be negligent of us, as Members who are sitting in the 11th Parliament, not to talk about the wars that a former Member of this House, Hon. Gor Sungu is fighting. I want to believe that the comments that Hon. Gor Sungu is about to suffer from, and he has suffered from because he has been dragged from one court to the other, were made when he was discharging his duties and constitutional mandate as a Member of this House. It would be wrong and it portrays a carefree attitude towards those of us who are still privileged to sit here that a former Member of this House in discharge of his duty is now being faced with a bill he might not be able to pay because as far as I know at the moment he is not on any salary. This is merely because he was talking about a matter that was before this House.

This House, particularly, the Parliamentary Service Commission (PSC) must find a way to help Hon. Gor Sungu on this matter that happened when he was discharging his duty; a mandate that was donated to him by this House. For us to remain silent on this matter and make it look like it is Hon. Gor Sungu's problem is wrong. Every Member sitting here is a potential former Member. In fact, all of us sitting here will be former Members at one point. When we tend not to mind about the welfare of former Members, in my opinion, it is like we are digging our own graves. What happens the day we become former Members? Will it be good for us just to suffer merely because of what we did in the discharge of our duties? It is time the PSC which

is like the executing arm of this Parliament thinks on how it can help Hon. Gor Sungu to manage these problems that he is going through because he did his duty as was mandated by the Constitution, at that time, while he was a Member of this House.

I support.

The Temporary Deputy Speaker (Hon. Cheboi): Let us have Hon. Wario. I do not think you have a lot of time. The Member for Rarieda took most of your time.

Hon. Wario: Ahsante, Mhe. Naibu Spika wa Muda.

Ningependa kuchukua fursa hii, kwanza, kumpongeza Mhe. Kaluma kwa kuleta Mswada huu ambao utaleta mwongozo na uwiano baina ya taasisi tofauti humu nchini.

Bunge lina wajibu wa utunzi wa sheria. Mahakama hutafsiri sheria na utawala hutekeleza sheria. Ni lazima kuwe na uwiano baina ya taasisi tatu za Serikali zinazohusika katika utekelezaji wa sheria. Iwapo hakuna heshima, maanake sisi kama Bunge---Katika Kanuni za Bunge ambazo zinatuongoza hazituruhusu kujadili maswala ambayo yako mbele ya mahakama. Kwa bahati nzuri au mbaya, kanuni kama hizo haziko katika upande wa mahakama.

Wakati mwingine mahakama huingilia shughuli za utunzi wa sheria na jambo hili huwa na athari kubwa. Kwa mfano, kura ya kutokua na imani kwa Gavana wa Embu. Sheria inatoa mchakato vile kura ya kutokua na imani juu ya gavana au Rais inavyostahili kupigwa. Inaanza kwa bunge la ugatuzi, halafu Senate linampa fursa.

Kuna kipengele ambacho kinapeana mamlaka mahakama kusimamia maswala haya. Ile kura ya kutokua na imani kwa Gavana wa Embu imebadilishwa na mahakama ya Kenya. Sasa tunajiuliza kama tunastahili kuwa na Bunge, hili Bunge litakuwa na kazi gani? Kuna sheria ambayo inasema wakati Kamati ya Bunge inakaa ina mamlaka sawa na mahakama kuu. Sasa mahakama itasimama kulia, kushoto na kuingilia maswala ya Bunge. Ili taasisi hizi ziweze kushirikiana na kuheshimiwa, ni vyema mahakama itoe fursa kwa Bunge, Bunge litekeleze kazi yake hata kama ni *kuimpeach* mtu. Wale ambao hawajaridhika na uamuzi wa Bunge, waende kortini. Lakini sio kusimamisha shughuli za Bunge katikati na mahakama kuchukua hatua ambayo haistahili.

Kwa hayo machache, ninaunga mkono Mswada huu.

Ahsante.

The Temporary Deputy Speaker (Hon. Cheboi): Okay. We still have two minutes which we can give the Member for Gatanga. This is because the Mover must respond at exactly 10.58 a.m.

H. K. Njuguna: Thank you, Hon. Temporary Deputy Speaker. From the outset, I would like to congratulate Hon. Kaluma for this amendment. I would also like to say that Hon. Kaluma is not re-inventing the wheel. He is talking about the separation of powers doctrine which is as old as democracy.

In the heart of the constitutional theory is the doctrine of separation of powers. We have talked about it but I would like to give the analogy of an African pot where food is prepared and you have the three stones that support the pot. This is governance issue and constitutionalism that we are talking about. We are saying that the rule of law, constitutionalism and good governance cannot be delivered until the three pillars respect each other. Some of the greatest proponents of this theory like the Montesquieu, the great French philosopher, said if you invest too much power in one of these arms, then you end up with absolute power.

In this country we experienced such a thing in the 1990s when there was too much power in the Executive. The Executive arm became law. It was interfering with the Judiciary and

Parliament. This is why in the push and pull for the new constitutional dispensation, we are asking ourselves whether we shifted the power now to the Judiciary which has become activist.

Hon. Kaluma is not re-inventing the wheel. He is just saying that in our governance issues in this country, we should respect the doctrine of separation of powers where the Judiciary is supposed to interpret the law, Parliament makes laws and the Executive plays its executive role and support governance.

I support this amendment and say that when it comes to issues of Parliament, we derive our power among other Articles. Article 1 of the Constitution talks about the sovereign authority of the Republic being vested in the people, and the people exercising that authority either through themselves or through elected representatives. This, in my opinion, is what is crucial because when you talk about elected representatives, we derive our power from the social contract theory where people have given us the power to represent them---

The Temporary Deputy Speaker (Hon. Cheboi): Your time is over the Member for Gatanga. It is now time for the Mover to respond. In the last 30 seconds, you can wrap up your argument.

Hon. H.K. Njuguna: As I conclude, I want to say that time has come when as elected leaders of this country we should provide leadership and audit the Constitution. There are very many other issues that are coming up so that for purposes of posterity, we rest these contentious issues, among them what Hon. Kaluma is saying and other constitutional matters that are of concern to this country.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Cheboi): Let us have the Mover replying.

Hon. Kaluma: Thank you, Hon. Temporary Deputy Speaker. I thank all my colleagues who have spoken to the proposed amendment Bill. I have said much that I needed to say. I am requesting the Chair to permit me to donate two minutes each to Hon. Mwadime, Hon. Manje and three minutes to Hon. Dalmas Otieno and then I conclude.

The Temporary Deputy Speaker (Hon. Cheboi): We will start with Hon. Mwadime. Is he in? No, he is not present. Then I will give Hon. Dawood the opportunity.

Hon. Dawood: Thank you, Hon. Temporary Deputy Speaker. I appreciate you for giving me this chance. I want to support this Bill. I think Hon. Kaluma was afraid that I would oppose this Bill and that is why he did not donate to me the one minute. I want to support this amendment.

I believe we need to separate the powers of the Judiciary, the Legislature and the Executive. Apparently, the Judiciary has conflict of interest sometimes because nobody can stop what they do for themselves. A judge could take his case to the court to stop his retirement. I believe we should have ways of knowing how these things can be sorted out. When we discuss things in Parliament or in the county assemblies, we need to be careful about this amendment so that we do not become tyrants. We want to stop tyranny. We could be doing things which we say are in the interest of Parliament or in the interest of the county assembly, and yet truly, they may not be in the interest of those institutions. So, we need to be very careful. This is a good amendment but we need to know how we can use the powers which will be allocated by the amendment Bill.

With those few remarks, I thank you.

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

Hon. Manje: Thank you, Hon. Temporary Deputy Speaker. First, I want to thank Hon. Kaluma for giving me this chance and also for bringing a very good constitutional amendment. We have emerging issues in the country. There are these human rights. Maybe that is what people do not understand. Every time there is something that goes on, somebody would rush to court and ask the court to intervene.

Currently, you hear somebody causes an accident, like Pastor Ng'ang'a's case, and that person wants to go to court to prevail upon it not to take action. If the judge, for example, is corrupt or influenced, he is likely to stop that prosecution meaning that there would be interference. To cushion against that, we need to seek that separation of---

The Temporary Deputy Speaker (Hon. Cheboi): Hon. Members, that is a matter which is alive in court. We would not like to make such kind of comments one way or the other. Proceed.

Hon. Manje: Thank you, Hon. Temporary Deputy Speaker. That is why I wanted to say that if I interfere, for example, with that case, it is the same way they interfere with our operation. I would take a position where the court continues making a judgement and Members of Parliament continue making laws. For example, if a court would stop us from operating, then it means the PAC and the PIC will not operate because in some of these cases, we summon witnesses and the court also summons the same witnesses. Also, do not forget about Article 125 of our Constitution that gives us the same power as the High Court. Therefore, we should not be stopped by any court of law from our operations.

Lastly, what is happening currently is that there appears to be collusion between the police and the courts. For example, in the last two days in my constituency, policemen went to an area in Ngong, arrested about 30 businessmen and took them to police station. Those who did not cough up Kshs1,000 were taken to court and the court asked them to pay Kshs4,000. So, we are saying that the courts are hardening Kenyans.

With those remarks, I support this amendment.

The Temporary Deputy Speaker (Hon. Cheboi): Let us have the Member for Rongo.

Hon. Anyango: Thank you, Hon. Temporary Deputy Speaker. Let me thank Hon. Kaluma for giving me the opportunity just to register my support for this good quality amendment to the Constitution. I support all the three parts. As you know, there are also good and bad judgements in the judicial process. Where there is a bad judgement, there is an appeal process through which it is corrected. There may also be good and bad laws passed by this House. Where there is any bad law, there is opportunity again for the House to amend the laws which it had made. I wish to clarify issues under these amendments that may raise questions.

Number one is with regard to Article 117. It has to be noted that we are saying "done in good faith." So, the court is still free to say we have not done it in good faith, the individual Member has not done it in good faith or was under the influence of something else. But, as long as it is done in good faith and in exercise of our legislative authority in Parliament, we should feel free to act and discharge our duties.

With regard to Article 175, it should be noted by everybody else what we are talking about in so far as the matter is ongoing in Parliament. After we are done with it, the courts are free. Anybody else is actually free.

The members of the public in following these amendments should realize that whenever we are handling an issue in Parliament, public participation is a principle that we have already started practicing with a lot of detail. We accept representations and petitions. You can even

appear before any of our committees with your lawyers so that our judgement, as Members, should be as good as the judgement of any other organ in the Executive or in the Judiciary.

Of course, what we may need to mention is that Members, in moving this amendment, should be sure that the quality of their deliberations and attendance of proceedings in committees and in the Chamber should be high. In fact, even the educational requirements must go up and maybe vetting will be required in future if Members are not careful in supporting this amendment.

With regard to the third one, just extending it to the county assemblies, again, we are going to expect high standards in the assemblies and if possible better educational standards in the county assemblies if they are going to enjoy the privileges being---

The Temporary Deputy Speaker (Hon. Cheboi): Your time is over Hon. Dalmas. Having donated eight minutes, you have two minutes Hon. Kaluma.

Hon. Kaluma: Hon. Temporary Deputy Speaker, I thank all honourable colleagues who have contributed to the proposed amendment---

The Temporary Deputy Speaker (Hon. Cheboi): Actually, you have three minutes, not two minutes.

Hon. Kaluma: If I had doubt about the need for this law, it has been clarified by the contributions made. I want to thank each and every one of us who has contributed by statements before this House and those who contributed even in silence or in the caucuses we had. So far as I have known, this would be the last House of Parliament to seek to curtail court jurisdiction. Let me make it clear again to Kenyans outside there that, that is not what Parliament is seeking to do by this law. All we seek to do is to give House immunity in the discharge of its functions. We want to make sure that the representatives of the people sitting here can go about their businesses representing the people of Kenya through legislation and other processes without fear of criminal or civil consequence. This is a facility that is available to all State officers performing important public functions. Some of us may not be aware, but even magistrates or judges are not liable either civilly or criminally for the discharge of their functions. So, it is not something we are taking from nowhere.

Lastly, we proposed this constitutional amendment to the institution of Parliament not to us as individuals. In fact, as Hon. Gumbo rightly said, we are alive to the fact that a time is going to come when Kaluma will not be in this House, but we want Parliament, as an institution, to remain an institution that can continue to discharge its functions without fear of civil or criminal consequences. I thank all Members who have contributed.

I beg to move. Thank you.

The Temporary Deputy Speaker (Hon. Cheboi): Very well. Hon. Members, under Standing Order No.53, we are not going to put the Question. It will be put at the right time. So, we will proceed to the next Order.

Hon. Members, for purposes of clarity we have concluded debate on Order No.9. Therefore, the Question that will be put will be that the Bill be now read a Second Time. So, that will be done at the right time. So, let us have the next Order. I am aware that it is Hon. Washiali who will be moving this one.

Proceed.

MOTION

ADOPTION OF MEDIATED REPORT ON THE FERTILIZERS
AND ANIMAL FOODSTUFFS (AMENDMENT) BILL

Hon. Washiali: Thank you, Hon. Temporary Deputy Speaker.

On behalf of the Mediation Committee which I was privileged to chair, I beg to move the following Motion:-

THAT, pursuant to the provisions of Article 113 (2) of the Constitution and Standing Order No. 150, this House adopts the Report of the Mediation Committee on the Fertilizers and Animal Foodstuffs (Amendment) Bill, laid on the Table of the House on Wednesday, 19th August 2015, and approves the mediated version of the Fertilizers and Animal Foodstuffs (Amendment) Bill, National Assembly Bill No.36 of 2013.

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

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

I would like to thank all the Members of the Committee for their sacrifice and commitment to the cause of the mediation process that resulted to a common ground being arrived at. I would also like to thank the Mediation Committee for electing me as the Chair, placing me among the few Members of Parliament who have had this opportunity. I would also like to thank the offices of the Speaker, the Clerk of the National Assembly and the Senate for the necessary support extended to us in the execution of this mandate.

I recall that the Committee deliberated on Clause 3(2)(c) of the Fertilizers and Animal Foodstuffs (Amendment) Bill, 2013 and unanimously agreed on the amendments that were presented by the Senate to both Houses for approval. I am aware that this Report has been presented to the Senate and it has already been approved. It is now upon this House to play its role by approving it.

We resolved to include the Director of Veterinary Services and the Principal Secretary of the State Department of Livestock as members of the Fertilizers and Animal Foodstuffs Board of Kenya. The reason why we decided to include the Director is because of the technical advice and guidance in matters of animal foodstuffs. The Committee further agreed that the Attorney-General should be excluded from being a member of the Fertilizers and Animal Foodstuffs Board of Kenya because he is generally an overall Chief Legal Advisor to the Government. Therefore, whenever legal advice is required, he can be consulted without necessarily being a member of the Board.

Secondly, the Committee also felt that the Fertilizers and Animal Foodstuffs Board of Kenya should be comprised of persons who can offer technical advice on matters of fertilizers and animal foodstuffs. The Attorney-General would not be in a position to offer such technical advice. Therefore, this is a short report that I would request the House to debate and approve.

With those few remarks, I ask my brother and friend, Hon. Peter Weru, the Member for Mathira to second. Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): The Member for Mathira second the Motion.

Hon. Kinyua: Thank you, Hon. Temporary Deputy Speaker. I rise to second this Report of the Mediation Committee. The most significant inclusion into the Board as proposed in the amendment is the Director of Veterinary Services. As the Mover has rightly put it, we want to enrich the Fertilizers and Animal Foodstuffs Board so that we ensure that technical advice and support is provided.

One, you will appreciate that the health and safety of foodstuffs and livestock cannot be separated even from human safety and health. As such, it is very important that the way foodstuffs for livestock are handled and also the residual effect of these foodstuffs is taken care of. The people with that technical capability reside within the Department of Livestock led by the Director. We have had instances where we have had foodstuffs borne diseases and outbreaks like the recent one when we had the aflatoxin issue. The person who assesses, manages and communicates the entire system for mitigation of such outbreak is the Director of Veterinary Services. So, by bringing this to the Board, it will provide that needed link between the technical expertise that handles the day to day running of livestock, health and husbandry to enable it have a proper regulation.

At the same time, we have had instances where unscrupulous traders are ready to use any means to make money. We have even had people packaging sawdust and calling it animal feed. The farmer out there does not have the technical capability and expertise of establishing what is packed. The person who is also looking at this regulation and is in charge of the day to day running of the components and ingredients that are within the foodstuffs that are in the market is the Director of Veterinary Services. So, by bringing in the Director, it means that we will at every given time be linking the happenings on the ground with what the Board needs for it to make very prudent decisions.

Hon. Temporary Deputy Speaker, in my constituency, we have solely been depending on coffee. Even after the very unfortunate intervention by the County Government of Nyeri it is almost coming to a collapse and we will be debating that in this House at a later date. However, we must look for alternative sources of income for our farmers. Mathira is known for being among the leaders in milk production. Before we talk about having more cows, chicken or any other livestock, we are also looking at how to enrich the existing resources so that we provide proper husbandry and proper foodstuffs. This has come at the right time so that we ensure that whatever is in the market is adding value.

Lastly, there is the issue of the removal of the Attorney- General (AG) from the Board. All we are saying is that the AG has a statutory right and obligation to offer legal advice to all Government agencies. So, it is not necessary to have him as a member of the Board. However, as need arises, advice could be sought from the AG and it will go in handy in ensuring that the Board also is in sync and in line with the provisions of the laws of this country.

With those few remarks, I beg to second.

Thank you.

(Question proposed)

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Members, I do have a few requests on this. As per your own resolutions Hon. Members, you have 10 minutes to debate on the same. The first one will be Hon. Yusuf Chanzu from Vihiga Constituency.

Hon. Chanzu: Thank you, Hon. Temporary Deputy Speaker. Before I support, I just want my colleagues here to join me in mourning my brother who was mysteriously found dead in his house in Kitisuru yesterday morning. My brother by the name of Isaac Chanzu was found dead in the house. So I am mourning. I have asked Members to come and join me in the evening at 5.00pm to help me organize for his burial because I would like to have him buried on Sunday.

The spirit of the mediation team that the two Speakers brought up is the spirit of the Constitution. This is so that, when there are issues which are not agreed upon by either side of the House, that is the Senate and the National Assembly Members are able to sit down, deliberate and have some mutual understanding. Just like he said, that is in Article 6 of the Constitution. So, I congratulate the mediation team that came up with this mediated version of the Bill.

What this is saying is that we must have professionalism in whatever we are doing. This is because, the stage we have reached in terms of development, we cannot continue doing things on a trial and error basis. This is the reason why the idea of talking about the Director of Veterinary Services is very important. Kenya is an agricultural country. Agriculture includes both crops and animal husbandry. So, it is very important that we have the Director as a professional who can advise on what is required in the Fertilizer and Animal Foodstuffs Bill.

We are trying to get rid of aspects of political expedience where we have appointed people just because of political support without taking into account the end results. So, it is important that gradually, we get aspects of political expedience out of the way. In any case, Kenya has trained many professionals in every field since Independence. In fact, there was a time when we had veterinary doctors not getting employed. This was not because we did not have job opportunities for them; rather it was because we were disorganized as a Government. We did not know what these fellows were supposed to do. The main reason was that the people who were heading these units did not know what these professionals were supposed to be doing. We have had aspects of the right hand not knowing what the left hand is doing. So, it is an aspect that we should encourage.

On the legal aspects, the Office of the Attorney-General should traverse across all the institutions and functions of Government in order to give legal advice. So, putting them there will set precedent where you have to include them in other institutions. Considering the fact that we have a number of institutions such as parastatals and all sorts of Government institutions, it will mean that the Attorney-General's Office will have to be spread out to fit in every institution that you create. It is good that they are relied on when it comes to interpretation of issues that they have to interpret. Just like in this House, the only aspect that we find we need interpretation from either the AG's Office or the Judiciary is what we take there. The other things which we are able to deal with using our own knowledge, we handle ourselves. This is also going to remove the aspect of middlemen and brokers. So, this is a commendable job.

I support.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Let us have Hon. Isaack Mwaura.

Hon. Mwaura: Thank you, Hon. Temporary Deputy Speaker. I support this mediated version of the Report. It has become very common of late for consultations to happen between the National Assembly and the Senate on various issues. We know very well that to a large

extent the Fourth Schedule of the Constitution requires that issues to do with agriculture be devolved. Therefore, there is no way the National Assembly, as much as we have the powers to oversee the national functions of the State, can do this without consulting the Senate. That kind of consultation is very important because it sets precedent in terms of parliamentary practice, so that we can have a situation where there is concurrence. However, even if the subject matter in this case is agriculture, my concern would be that more often than not--- Sometimes if you look at the end product of a mediated version of the Bill, you will find that it is agreed by some few people, say, three or so Members on behalf of the whole House. I think there is need to interrogate this practice further because in my opinion, that is not necessarily a very democratic way. You just cannot have two or three individuals deciding on behalf of the whole lot of Parliament. We need to see to it so that we enhance such a practice. When we have this mediated version of the Bill and are discussing it here, we cannot even amend it. Our work is to only concur with the Report. Therefore, in terms of value addition, it becomes extremely difficult because this is just a matter of procedure. Whatever issues we caucus around in this Report may enrich the final Bill. The crafters of the Constitution saw it wise to do so. Sometimes they say a change is as good as a rest.

Having said that, it is also good to pronounce myself on the issue that has been going on with regard to how we have a tug of war between the National Assembly and the Senate. If you look at the issues that a Bill would address, you will find that it is very difficult to process a Bill that is in itself not a money Bill. Any clause thereof may have monetary implication to the country. I do not know why those who drafted the Constitution found it wise, for lack of a better word. The Bills that emanate from the Senate need to come to the National Assembly, if they are money Bills. There is need to show some form of magnanimity on the part of the National Assembly, with regard to how we are supposed to work with the Senate. If you look at what the Constitution states with regard to our mandate and that of the Senate, you will note that the Senate would have a lot of difficulty in terms of getting work to do. Where they process Bills, it becomes extremely difficult for them to pass them because they are not money Bills. That is something that we need to do because the Senate must also remain relevant.

If the Senate has canvassed on an issue like the issue of Kenya Airways (KQ), it is very important that we take it up from there instead of saying that we want to redo the whole issue just as a way of trying to show that we want to reclaim our mandate.

Having said that, it is very important that this Report provides for representation of the veterinary profession. For a long time, veterinary services have not acquired the requisite stature that they deserve with regard to agriculture and animal farming. Having the Director of Veterinary Services sitting on this Board is a very welcome move. They are the same people who understand animal health and can inform in terms of the kind of foodstuffs that are available in the market. Right now as we look at our economy, this is one of the most liberalized sectors of our economy.

We have very many people who move from one household to another saying that they are providing veterinary services. We also have very many shops that are selling products that are supposed to be for animal foodstuffs. It is important to note that the end user of such a process is the human being. Most of the domestic animals that we keep are consumable.

This Bill is very important in the sense that if it regulates this sector of the economy, it means that we also need to interrogate whether whatever foodstuffs that animals are eating have an effect with regard to the health of human beings. Of late, there has been an increase of many

diseases especially cancer. We need to ask ourselves whether when we serve an animal some food that is not good then it will eventually come to human beings.

The other key aspect of this Bill is the issue of fertilizers. If you look at many of our farms, you will find that they are small-holder and they have been farmed for a very long time to the extent that the yields have really reduced. If you look at the period that is required for yields to mature, you will find that it is taking longer and longer and the farms are becoming smaller and smaller. Therefore, it is very important to ensure that we regulate this sector very well so that our farmers can also be monitored so that whatever they put into the soil helps in the yields. It is a very lucrative business because our economy is clearly driven to a very large extent by agriculture. We have had situations where farmers have been sold the wrong fertilizer and sometimes they do not know how to go about administering the same to the crops. This has affected their output and the level of poverty. If they depend on subsistence agriculture, it also calls upon us, as Parliament, to ensure that we protect our farmers.

There have been very many issues that have been canvassed with regard to fertilizer. Parliament has discussed the issue of Ken-Rem which seems not to have been concluded. We have discussed the issue of illegal importation of fertilizers being put in gunny bags that are from Government. These are some of the issues that we need to check. If this Bill is passed, this sector is going to be properly regulated so that we do not mortgage our farmers to the highest bidder and middlemen. It is time we looked at this section of the society.

Most Members of Parliament have been raised on these small farms. We have gone to school based on the way our parents have used money from the processing of cash crops such as maize, coffee, cotton; although it has gone down; tea and sugar. It is very important to ensure that we protect our farmers.

We also need to look at the young professionals who are coming from our universities and are studying animal health. They have been having challenges with regard to their own certification and trading with their skills. That is a big issue because you will find that older professionals do not want them into the service because they feel threatened. That is an issue that, maybe at a later date, although not directly related to this Bill, we need to canvass. They have come to my office complaining that they are told the courses they have taken are not adequate and, therefore, they do not qualify for registration as and when they graduate.

With those many remarks, I rise to support the Report of the amended version of the Bill.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Yes, Hon. Patrick Wangamati.

Hon. Wangamati: Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity to comment on this important Bill.

First, I want to thank the Mediation Committee for the work that they have done by bring this Report to this House. I also wish to commend *Mhe. Mwaura* for what he has said about this Bill. It is important because agriculture is an engine for development in our country. Economic improvement in this country depends on how well we do in agriculture.

I have been a farmer throughout my life. Our farms are now a little older. When I started farming in this country, we would get about 30 bags of maize from one acre of land. I remember I was harvesting a lot of maize. However, when you do farming these days you do not produce that much. You need to put a lot of fertilizer. This Board is very much welcomed. It is timely. It will have a lot of work in this country to improve agriculture and animal husbandry. Fertilizer is expensive, and it eats the goodness in the soil of our farms. This must be looked at. Why is this fertilizer not giving us what we require even when we use a lot? This Board will be of great help

to the farmers as many Members of Parliament have contributed. It is important that this Board starts its work immediately.

Agriculture, as some Members have said employs many of our people. It is the only way we can get food security in this country. This Board will have a lot of work to do. The Mediation Committee Report should be taken very seriously. I support this Report as a farmer. If our Government works with this Board, allocates it money and it works efficiently, we will improve agriculture in this country.

I support this Bill.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Yes, the Member for Sigor, Hon. Rotino.

Hon. Rotino: Thank you, Hon. Deputy Speaker, for giving me the opportunity to join my colleagues in supporting this Mediation Report. Being a Member of the Departmental Committee on Agriculture, Livestock and Cooperatives, I want to thank the Chair for accepting to chair that Committee that has brought up the things we overlooked, as we were discussing the Report.

I want to thank the Senate for agreeing to include what we overlooked as a Committee. Agriculture is the backbone of this nation. We need to nurture and help it grow. There is no way we can help it grow without the component of fertilizer. I would like to thank the Mover of this Bill because of creating that facility. We have been importing fertilizer for many years and several things happen on the way; not arriving at the right time and when you need Diammonium Phosphate (DAP) for top dressing, it comes when you do not need it. This is because several organizations are importing it. If we manufacture our own fertilizer, we will produce it when we need it. When can produce DAP when we want it for top dressing. We can also produce the quantity we want at the right time.

We read in today's newspapers that there was fertilizer that was imported into the country that was not of good quality. They brought fertilizer which was outdated. Such fertilizer ends up in the hands of farmers, and that is why our yields are decreasing every year.

I want to thank the Mover of the Bill. I would also like to thank the Mediation Committee for bringing up the component of veterinary services. This is because there was no way we could have a whole factory without the component of veterinary services. It is important that it is included in the animal feeds as a unit of the entire section.

We should ensure that the implementation starts as soon as possible so that the Board goes ahead and looks at all the things that surround the creation of the fertilizer unit.

With those few remarks, I support.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Yes, the Member for Ndhiwa, Hon. Agostino Neto.

Hon. Oyugi: Thank you, Hon. Temporary Deputy Speaker. I would like to support this Report. There is not much to do with this because it is fairly procedural. Even if I did not like the content of the Report, there is not much we can do because of the way the Mediation Committee is structured.

The Mediation Committee, although envisaged in the Constitution, should be used sparingly. We should not send everything else to the Mediation Committee. We should not differ over the composition of boards. The import and the thought of the Constitution on mediation issues is that, there should have been cogent and salient issues that ought to be subjected to the Mediation Committee, and not the content of the Board.

Hon. Temporary Deputy Speaker, having said that, I think the Report of the Mediation Committee is very good. I like the fact that they are talking about the inclusion of the Director of Veterinary Services. This is because, if at all you are going to talk about animals and foodstuff, there ought to be people with expertise on animal stuff and agricultural issues. It is very interesting that someone, in the drafting stage, included the Attorney-General, as a member of the Board. I think he is very busy and there is a lot for him to do as opposed to sitting in a Board for Fertilizers and Animal foodstuffs, because of the reasons that the Mediation Committee has given in this Report.

The Attorney-General is supposed to be the chief advisor of the Government on legal issues. I think the Constitution, 2010 gives a distinct role to the Attorney-General, as opposed to what was known before it. I think moving forward, whoever is proposing the composition of boards should avoid the inclusion of the Attorney-General in some of these boards. He should be free to give basic legal advice and advise Government on substantive disputes arising from the Board. This is because if at all he is a member of that Board, then his legal advice would have been part of the whole problem and, it will be difficult to get independent legal advice from him. I really think his inclusion was a fault.

Hon. Temporary Deputy Speaker, the Mediation Committee acknowledges and is of the view that the Board should comprise of persons who can offer technical advice on matters of fertilizers. Having agreed thus, you do not see the Mediation Committee putting those thoughts of a person who can give technical advice. That does not exist because they only have the person from the veterinary office. I think they should have gone ahead to put that inclusion. This is because it is something good and if at all they did not give it effect, then the reasoning of the Report faults. You have a good reasoning but it needs to be reflected in the recommendation, or the final product you have on the Bill.

Lastly, on the mediated version, I have issues with the process of picking the Chairperson. It says here that the Chairperson will be competitively sourced and appointed by the Cabinet Secretary. A blanket statement that they will be competitively sourced - whatever it means, differs from one person to another. There ought to be distinct ways on how the Chairperson of this Board is selected.

Otherwise, you will end up with a Cabinet Secretary (CS), not all of them, who would constantly give you people who favour other interests. That is fairly dangerous. There is not much we can speak to this Report because it is simply one that is procedural. We should not let loose this type of legislation in next mediation committees which I am hoping will be composed for purposes of issues that are fairly substantive.

Very lastly, the Bill that passed, because of course it is not part of this content, was to do with veterinary issues and fertilizers. Kenya is an agricultural country and 70 per cent of her income is basically from agriculture. We need to be equitable in the distribution of our fertilizers and what we do with livestock. For example, there are parts of northern Kenya that could export a lot of beef and other foodstuffs that could not only be earning Kenya lots of income but also sustaining the economy of Kenya. But because of the inequity that we have seen in the past Governments and regimes, this has not been so. You find that half of the parts of western Kenya and Nyanza that are supposed to be sufficient and agriculturally productive do not benefit from fertilizers and other productions. If we want to move Kenya forward, be food sufficient and if agriculture is at all going to be the driver of our economy, there ought to be equity. These

fertilizers ought to be provided and farmers trained so that we get the sufficient yields that we require as a country.

With those comments, I support this Mediation Report. I thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Florence Kajuju, Member for Meru County?

Hon. (Ms.) Kajuju: Thank you for the opportunity to contribute to this Mediation Committee's Report, Hon. Temporary Deputy Speaker. I congratulate the Committee for arriving at a consensus and being able to bring a mediated version to this House. It is a version that is agreeable to not only the Committee but also to the National Assembly and the Senate. That is a good beginning and the way to go to ensure that our relationship with the Senate is in the best foot.

I have looked at this version *vis-a-vis* the entire Act. I find that it was important the Board becomes all inclusive. They have brought in the technical expertise but, if you look at the other members of the Board, you will find that they have taken the fact that agriculture is also a devolved function at the county level. Therefore, there is representation of the Council of Governors and devolution as a process. I have also seen that there is gender representation and representation of farmers. Looking at the composition of the Board as it were, you will find that all the interests of the key persons and stakeholders are represented.

It is clear in the minds of Kenyans that agriculture is the mainstay in this country. Therefore, we should do everything that is possible to ensure that all the relevant structures are put in place so that even as we speak about Vision 2030 and other visions we have as a country, we shall know that we are food secure. The only way we can create food security in this country is to ensure that structures and systems are properly in place so that we can take care of the situations that farmers find themselves in.

Be that as it may, I know issues of fertilizer have disturbed farmers especially in Meru County. We have fertilizers which are being sold at prices that farmers cannot afford. There are times that we have been told that prices of fertilizers have been subsidized but, when you go to the shops or retail outlets at the county level, you will find that the common ordinary farmer is not able to buy the fertilizer yet it is so important for them to get enough food for sale and their own consumption.

I have looked at Section 2(b) of this Act and I find that the functions of the Board are well enumerated. The Board is supposed to manage importation and distribution of fertilizer. If we are going to import fertilizer, we have to know the rate at which we expect it to reach the common *mwananchi* who is the consumer. The Board should look at all these issues to ensure that the farmer does not suffer in the hands of entrepreneurs.

We also have to look at the functions of the Board in as far as accessibility is concerned. Is this Board going to sit in Nairobi or is it going to ensure that it is moving within the country and counties? This is to ensure that information in as far as fertilizers and animal foodstuffs are concerned is understood and accessed by the *mwananchi*, the common person, the farmer so that they are enriched by it. That way, these people will deliver their mandate.

I also appreciate the functions of the Board because they are also supposed to advise county governments on where to purchase and to deal with the issue of fertilizer. I think those are very important roles.

Over and above everything else, what I have not seen in Section 2(b) is sensitization of the farmer. This Board must be able to go out there to farmers and advise them on how they can

access some of the facilities that the Ministry of Agriculture, Livestock and Fisheries is going to be dealing with so that the farmer is the actual beneficiary of this Board and not the middlemen and other persons who are not directly concerned with farming.

This Board is expected to do a lot because agriculture is important in Kenya and we cannot succeed if we do not put our efforts in areas and matters agriculture.

Otherwise, I support this version of the Mediation Report. I say thank you to the team that made it happen. Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): I am sure they are listening. Next is Hon. Stephen Karani, Member for Laikipia West. Is he in the House?

Hon. Karani: Thank you, Hon. Temporary Deputy Speaker. I also take this opportunity to contribute to this Mediation Committee Report. This is one of the wonderful Reports that I have ever gone through. I must declare my interest. I am a veterinary doctor. When I see that the Director of Veterinary Services has been included in this Board, this is a wonderful thing. The Director of Veterinary Services has a very important role in this country. Indeed, there are people who look upon veterinary service as a cadre that is below and not very tough but I want to let them know that people in the veterinary profession do a wonderful job for this country.

I have looked at the composition of the Board and I am very impressed. I would want to call upon the Cabinet Secretary responsible for this Ministry to appoint the right person as the Chairperson. I am very happy for the wording about the appointment of the Chairperson. It says the Chairperson will be competitively sourced and appointed by the Cabinet Secretary.

I hope the CS will take this opportunity and appoint somebody who is not necessarily a tribe's person or relative but one competent enough to handle this wonderful job.

The other thing I am happy about is that the digital Jubilee Government has gone a step farther these days. Before, farmers would just go to a shop to purchase fertilizers. They did not care to know what the composition of their soil was like. Since this Government took over, they are advising farmers to take their soil for analysis so that they use the right type of fertilizer. I also happen to represent a constituency that has so many farmers. The farmers there were obsessed with the use of Diammonium Phosphate (DAP). Any time they wanted to purchase fertilizer, they went for DAP but because of that testing, farmers are using the right type of fertilizer these days. Indeed, the production has greatly improved.

Otherwise, I support this Report. Thank you very much.

The Temporary Deputy Speaker (Hon.) (Ms.) Mbalu): The Hon. Member, Wajir North, Ibrahim Saney is next on the list .

Hon. Saney: Thank you, Hon. Temporary Deputy Speaker. The Report is straightforward. I do agree with the Senate's proposal that the Director of Veterinary Services should replace the Attorney-General. Indeed that is in order. The Director of Veterinary Services is the technical officer in charge of matters of fertilizer and animal foodstuffs. It is quite befitting. The Attorney-General can always be available to offer advisory services to Government institutions.

That aside, I am a little bit concerned with the way the Board is being constituted. Governance is the key issue in the management of our institutions in this country. It gives sweeping powers to Cabinet Secretaries just to appoint the Chair to directly source an individual. That will not be okay for this country. There must be mechanisms and systems of appointment. Boards should be independent. They represent the governance part of our institutions. The manner in which we constitute Board members and the chairs is very key in the management of

our institutions. We are in a time when our institutions must mature and they should be independent of any political manipulations and any other side shows. The appointment of the Chair is not very clear. It gives the appointment entirely to the Cabinet Secretary which means he can use the chance to suit his own individual whims.

On the membership too, there are no clear criteria on selection of Board members. It would have made better sense if the Chair is elected by the membership. What the Cabinet Secretary should be able to do is just to constitute the membership and thereafter they are the ones to appoint their chair.

That aside, this Mediated Report and the principal Bill in itself are good legislations for this country. I believe agriculture is the economic mainstay of this country. The fact that the 2010 Constitution has guaranteed the right to food security there is one mindset though, whenever we talk of animal foodstuffs, most Kenyans think that we are talking of animals under zero-grazing. We have a substantial number of livestock in Kenya's arid areas that are in free range. It is time when we toured the services to those remote parts of the country so that we can also assist those Kenyans who have been marginalized for years.

Even the principal suggests the creation of a Fertilizer and Animal Foodstuffs Authority—a State corporation. We are a little bit extravagant in legislation. Every piece of legislation is trying to come up with a structure that is too expensive. We are putting more burdens on taxpayers. It would have made some sense logically if these matters are managed within the main Ministry of Agriculture. They should be handled as a secretariat within the Ministry than coming up with structures, boards and many other staff who will burden the taxpayers more.

With those few remarks, I support.

The Temporary Deputy Speaker (Hon.) (Ms.) Mbalu): The Member for Kiminini, the Deputy Minority Whip, Hon. Chrisantus Wamalwa.

Hon. Wakhungu: Thank you, Hon. Temporary Deputy Speaker. At the outset, I want to thank Hon. Washiali who was the Chairman of Mediation Committee and myself as the sponsor of this Bill who has taken forever, I want to thank the Senate. The Senate looked at this Bill critically and it added a lot of value as far as the improvement is concerned. We do know very well that fertilizer is very critical as far as the food security in this country is concerned. I come from Trans Nzoia region. The people of Trans Nzoia particularly have really suffered because we have had a lot of Government subsidized fertilizer but it does not find its way there. Different soils require different kinds of fertilizer. When you look at soil sampling in Trans Nzoia, Ukambani and Coast, the kind of fertilizer they require is totally different. With this Board in place, it is going to ensure that is looked into.

However, in line with our Standing Orders, maybe to focus particularly on the mediated version and I am sure the able Hon. Washiali must have alluded to this, there were two critical issues. There was the issue of the Attorney-General to be on the Board *vis-a-vis* the issue of Director of Veterinary Services to be on the Board. In human medicine, the technical person is Director of Medical Services, the same way when it comes to matters of animal health because these Bill is concerning fertilizer and animal foodstuffs. When it comes to animals, the critical and technical person is the Director of Veterinary Services. In the issue of the technical aspect, we did a cost benefit analysis. I was a member of that Mediation Committee. It is obvious the Attorney-General has to play the critical role of being a legal advisor but when it comes to the technical matters it was important that the Director of Veterinary Services must be there because he is the technical person. He has done Bachelor of Veterinary Medicine. He should be there so

that whatever the animals are going to consume, they must be able to add value as far as their health is concerned.

I do not want to talk too much because many people have talked about this. It is unfortunate that the Bill has taken forever. This was my first Bill when I came to Parliament. I started by having a Motion and the Motion was passed unanimously. We came to this Bill. Unfortunately the Bill has taken forever but we do hope that it is going to find its way quickly to His Excellency the President to assent to it so that this Board can be in place immediately and it is going to add value as far as the issues of food production and matters of food security in this country are concerned. I do not want to talk too much but to thank the honourable Members for the work well done and for the support they have given. I have seen Hon. Kabando wa Kabando just come in. He was also very passionate about this Bill of fertilizer. I am hoping he will get a minute to support this now that we are going towards the end because he added a lot of value to reach where we are. Also the Member for Othaya was also passionate about the issue of fertilizer. I conclude this so that he can be able to assent quickly so that this can come in place to enhance and improve food security of this country.

Thank you and I support.

The Temporary Deputy Speaker (Hon.) (Ms.) Mbalu): The Member for Nandi Hills, Alfred Keter.

Hon. Alfred Keter: Thank you, Hon. Temporary Deputy Speaker. I really want to take this opportunity first to thank the Mediation Committee for this wonderful Report. It is going to give a solution to farmers who have really suffered for a long time. I sit in the Departmental Committee on Agriculture, Livestock and Cooperatives. We have been having a lot of challenges directly to do with fertilizer distribution. I come from a region where we utilize fertilizer a lot every year. I know the challenges that farmers have been facing. I hope this Board is going to give a permanent solution so that we can ensure that we make fertilizer distribution efficient and affordable. The cost of production at the moment in this country is really causing a lot of discouragement to those who want to produce. Agriculture employs over 60 per cent of Kenyans. If we have a Board that is going to address how we can have fertilizer that is affordable, even the question of soil testing which has been a challenge, it will be good. We normally give fertilizer sometimes in this country to the wrong places, where farmers need totally different types of fertilizer.

About the foodstuffs where animal feeds falls under, it is also very expensive. Having such a Board, it is going to advise Government as a matter of policy to address on whether to introduce subsidies and to encourage even production within this country. I would like to support other Members who have talked about having a fertilizer factory within this country. Those of us who have been in China have realized it is not rocket science to produce fertilizer. It takes the willingness of a few individuals plus the Government. We read a lot in this Mediation Report even the consensus where Senate could agree with National Assembly. It is very encouraging.

I urge and call upon Senators to really focus on issues that are devolved. When you see them discussing Kenya Airways, they sometimes miss the opportunity to really address the issues that touch on the Senate as a matter of Constitutional mandate and yet their responsibility is very clear. On the Chairperson being competitively sourced and then appointed by the Cabinet Secretary, to me we should allow Members of the Committee to elect their Chair because it happens all over, in any committee or organization and it is good practice to allow Members to have the power to elect their chairperson.

With those many remarks, thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): The Member for Sirisia, Hon. John Waluke.

Hon. Koyi: Thank you very much, Hon. Temporary Deputy Speaker for giving me a chance to also echo on this. I want to thank the Mediation Committee for bringing up this Report. Indeed, agriculture is the main economic factor of this country. On the side of crops all farms these days need fertilizer. I want to thank the Government for subsidizing fertilizer. I think this year we are going to have a bumper harvest in the Rift Valley and parts of western Kenya like Bungoma where I come from. The price of fertilizer came down and farmers are happy that at least the Government indeed tried to check on them.

Hon. Temporary Deputy Speaker, any country without food is no country, because we will be begging. I want to thank Kenyans because they are very hard working and in terms of agriculture we have done well and we will continue asking the Government to bring down the cost of fertilizer so that our farmers continue producing enough food for this country. On the side of animals in this country, we have been having cases of diseases. In Northern Eastern almost every year we have to push the Government. The Agricultural Extension Officers these days do not work like before. In past years the officers used to go round checking on farmers to see how their crops and animals were doing, but there is relaxation these days. Officers are employed and paid salaries but they are not working to benefit farmers. With devolution, the county governments are still a bit of relaxed. It is no longer like before when these people were in the Ministry. At least something must be done by the county government to push the extension officers to go round checking and helping farmers.

With those few remarks, I support.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): The last one on my request list, the Member for Mbooni, before I call upon the Mover to reply.

Hon. Kisoi: Thank you, Hon. Temporary Deputy Speaker, for giving me this chance. I want on the outset to support the Report. Agriculture is one of the key sectors in this country that immensely contributes to the economy of this country especially in terms of job creation and when you come to issues of food production and sufficiency. This is a very vital Report and first I want to commend the Mediation Committee because under the new Constitution, the spirit of consensus is highly emphasized in matters where there seems to be some kind of disharmony. Therefore, our brothers and sisters in the Senate, this was actually a very good spirit.

This will give a long view of viable options in terms of how to address issues of food production, sufficiency and matters that are pertaining to this sector. You know that in this country sometimes we have been relying on very casual and short term measures of addressing certain issues. I think this Report has tried to ventilate across certain areas that are very key especially touching on issues like cost of production which will be very key when this Report is adopted. When you look at the issues that have been mentioned in that Report they are very quite significant. This is because if we are talking of the cost of production, which is quite fundamental in terms of sustaining our food sufficiency, we will take note of the advisory board. It will have a very critical function in this country in terms of giving advisory services which in turn will give proper guidance on how things ought to be administered in a proper systematic and procedural way without doing things haphazardly as we used to do in the past.

It is also quite commendable and certain recommendations that we are looking at as a country is to stop being over dependent on imports, especially in certain areas which even within

our country we have the technology that we can use to produce certain commodities like the fertilizers. I support the idea of having our own fertilizer factory that will create jobs and enhance issues to do with subsidies. That, at least farmers and those who are supposed to deal with issues of agricultural products will highly benefit from such incentives if we consider that production of fertilizer will be done in house. Therefore, this will really supplement and also complement quite a lot within the agricultural sector.

Hon. Temporary Deputy Speaker, I would like to point out what one of my colleagues has said especially on the Agricultural Extension Officers, who used to play a very critical and significant role in this country. There before they even used to travel on bicycles and food production and sufficiency was maintained at a good level. It is quite disgusting to know that we have civil servants who are employed as Agricultural Extension Officers within their certain localities but have no idea on what is going on. I want to emphasize this is one of the areas that we really need as a country to look at very analytically because unless we take proper concerns of the interest of the farmers at the grassroots level then it would be very difficult for us to know what problems ails our farmers and come up with very viable solutions on how we can address some of these issues.

Hon. Temporary Deputy Speaker, I want to support and commend the Committee on Mediation because I think this is the right way forward.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Thank you Hon. Members, as I had said after Hon. Kisoi, I will be calling the Mover to reply. Since I can see more requests, it is at the discretion of the Mover to give if he wishes to Hon. Kabando and Hon. Alice Chae, who had requested. You have 30 minutes to reply.

Hon. Washiali: Thank you, Hon. Temporary Deputy Speaker, I would want to first of all on behalf of the Mediation Committee thank all Members who have contributed to this Motion and admit, given the kind of amendments that we were looking at, I did not expect this kind of reaction. We have got quite a number of Members of Parliament who have contributed and supported it.

I am aware that we still have two other Members of Parliament who would want to contribute. Given that I have enough time to reply, with you permission, Hon. Temporary Deputy Speaker, I would request that Hon. Alice Chae is given two minutes and my brother, Hon. Kabando wa Kabando, is also given two minutes to add their voice to this Motion.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Thank you. Hon. Alice Chae, you have two minutes to make your contribution.

Hon. (Ms.) Chae: Thank you, Hon. Temporary Deputy Speaker and the Committee for the good work that you have done. I also want to add my voice that actually the backbone of this country is agriculture. If agriculture is going to get what it deserves, our country is going to have food and the people will be healthy and strong. We will then know where we are heading to as a country that is working, well fed and well taken care of in terms of fertilizers and other inputs.

I also wanted to add on the issue of the administration officers that we have in our counties who have taken the place of the Agricultural Extension Officers. They should be awake and ensure that people in their wards get what they want so that we can improve agriculture.

I do not want to go beyond the two minutes. I thank the Mediation Committee for what it has done and wish it well. I hope that as a House we are going to support this to ensure that the work is done.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): You have spent the two minutes very well. The Member for Mukurweini, Hon. Kabando wa Kabando.

Hon. Kabando wa Kabando: Thank you, Hon. Temporary Deputy Speaker and Hon. Washiali for the donation. This is one of the evidence that emerge to show the importance of people working as national leaders devoid of the grandstanding that we normally see. We waste so much time in this country grandstanding particularly between the Senate and the National Assembly. The fact that our Committee worked through the initiative of Hon. Chris Wamalwa with the Senate to mediate and bring a Bill that is synergized and is in agreement in order to help our farmers, should be an indicator of the direction we should continue taking as the National Assembly of the Republic of Kenya. We need to avoid the misconceptions out there that we are only fighting for space at the top.

Secondly is the importance of emphasis on technical people with key roles in leadership and management of institutions that are so critical for the development of this country. When we were growing up, at the level of students who are now here watching us talking, we heard every day that agriculture is the backbone of our economy. *Kilimo ni uti wa mgongo wa uchumi wa Kenya*. That song has died. We are hearing battles in the coffee industry, in the sugar industry and contest about who is going to pay how much for maize. There is also stagnation in mega irrigation schemes. Re-focus is now needed.

To finish is the emphasis on research as Hon. Kisoi said. I remember two elderly Agricultural Extension Officers who were very famous in my Rutuni village in Mukurweini walking to measure every farm, survey and test the soils on coffee planting and advising on livestock. It is not happening. The fact that we have devolved agriculture should not divest at the national level the need for us to escalate research and give adequate budgetary allocations for research and technology in our universities. Upper Kabete Campus, for instance, the branch of agriculture of the University of Nairobi, the premier university in this country, should be imbued with confidence through financial facilitation and incentives.

The 4K Club and the science congress at the high school and primary school levels are all indicators of the urge by young people to invest in research. At the national level let us encourage and motivate that in order to harvest research results that can upgrade agricultural materials.

Thank you very much.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Your two minutes are over. Let us now have the Mover, the Member for Mumias East, Hon. Benjamin Washiali to reply. You have 25 minutes.

Hon. Washiali: Thank you, Hon. Temporary Deputy Speaker. I would like to take this opportunity on behalf of the Mediation Committee to thank most sincerely the Members who have contributed to this Motion. We have had Hon. Chanzu, Hon. Mwaura, Hon. Wangamati, Hon. Rotino, Hon. Neto, Hon. (Ms.) Kajuju, Hon. (Dr.) Karani, Hon. Ibrahim, Hon. Wamalwa Chris, Hon. Keter, Hon. Waluke, Hon. Kisoi, Hon. (Ms.) Alice Chae, Hon. Kabando wa Kabando, not forgetting the seconder of the Motion, Hon. Peter Weru. On behalf of the Mediation Committee, I want to thank them for the contribution they have made.

We have taken note of the additional comments they have made. Gong to the future, if we get a chance, we will strive to do better. As a word of advice, I would like to inform the House that when you are debating a mediation report it is better you concentrate on areas that are being mediated. I heard some Members going out of the way to talk of the functions of the Board. That

was actually debating the principal report that we had already passed and taken to the Senate. This being a transition period, I am sure we will improve with time.

With those few remarks, I beg to reply.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Members, I confirm that we do not have the requisite numbers for me to put the Question. I order that the Question be put in the next sitting at the most appropriate time.

Next Order.

MOTION

ADOPTION OF SESSIONAL PAPER ON NATIONAL POLICY FOR PEACE BUILDING AND CONFLICT MANAGEMENT

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): The Chairperson of the Departmental Committee on National Security and Administration, Hon. Kamama.

Hon. Abongotum: Hon. Temporary Deputy Speaker, I beg to move that this House adopts Sessional Paper No. 5 of 2014 on National Policy for Peace Building and Conflict Management, laid on the Table of the House on Thursday, 31st July 2014.

In moving the adoption of this Motion, I just want to say that it has come at the right time when we have quite a number of conflicts in the country. We have taken too long to come up with such a Sessional Paper. From pre-independence and post-independence we have had quite a number of conflicts in this country. A policy that addresses issues of conflict management and peace building was extremely necessary as early as 1963.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Kamama, for the information of the House and for your planning while moving, the House resolved that moving of Sessional Papers would be 10 minutes.

Hon. Abongotum: Is it not 20 minutes, Hon. Temporary Deputy Speaker?

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): It is 10 minutes for the Mover and 5 minutes for any Member contributing.

Hon. Abongotum: Thank you for reminding me, Hon. Temporary Deputy Speaker.

I do not know why we Africans are prone to conflicts. We have quite a number of conflicts in this country. For example, human and wildlife conflicts are rampant in this country; there are conflicts arising from land disputes, over pasture and water and conflicts arising from cattle rustling, especially among the pastoral communities. There are also conflicts arising from boundaries and political conflicts that lead to death, destruction and displacements. I will give examples of these.

We have agro-pastoralists conflicts. This is where pastoralists drive their cows to graze on maize and sorghum belonging to crop farmers. The two groups end up killing each other, like it happened in the Tana Delta and many other places. If you travel across the breadth and length of this country, you will realize that conflict is so rampant. In the North Rift, we have problems between the Turkana and Pokot; the Pokot and Tugen or Ilchamus; the Samburu and Turkana; and the Kikuyu have problems with pastoralists. Therefore, conflicts are quite rampant in the North Rift. In the South Rift, we have problems between the Maasai and Kipsigis; the Kikuyu and Maasai, especially in Naivasha, who are quarrelling over land. In the former Eastern Province, we have issues between the Rendille and Turkana; and the Gabra and Borana having

all manner of conflicts. In the former North Eastern Province, we have conflicts between the Degodia and Garre. This year we have lost quite a number of people in that region.

The conflicts have escalated to the extent that people are using very lethal weapons to kill each other. We have problems between the Gabra and Borana. You remember the Turbi Massacre, where so many people lost their lives. In Eastern part of this country, we also have problems between the pastoralists in Tana River and the Kamba of Kitui. These are very serious issues which require a policy on peace building and conflict management.

In the Coast, we have conflict between the Pokomo and Orma over the grazing areas and boundaries; problems between Wardei of Tana River and the Giriama. These conflicts were never there. At the moment, the conflicts have escalated; pastoralists from Tana River and North Eastern are crossing to Taita Taveta. There is tension in that area because pastoralists looking for grass end up fighting with their brothers and sisters who do not care so much about cattle because they are crop farmers.

In Nyanza, we have problems between the Kalenjin and Luo over some boundaries in Nyakach and Kericho areas. There are conflicts between the Kisii and Maasai and between the Kuria and Luo as a result of cattle rustling. The list is long and that justifies why we must have a policy that addresses peace building and conflict management.

It has taken almost 10 years to formulate this policy. I do not even know why it took this long to be brought to this House. So, lack of policy guidelines to coordinate peace building and conflict management is the fundamental problem in Kenya. As a result, most actors engage on *ad hoc* basis that are reactionary in nature and duplicate interventions resulting to competition and wastage of resources that have minimal impact whenever a conflict arises.

The policy seeks to enhance the prevention, mitigation and management of conflicts. It provides mechanisms for coordination, resource mobilization and synergy among stakeholders involved in peace building and conflict management. The policy is intended to enhance consistency and efficiency with which the Government and stakeholders design and implement appropriate intervention aimed at promoting peace building and conflict management. It will guide all stakeholders in realizing synergies and achieving the desired changes. We can also call this Sessional Paper a policy that will lead to the formulation of a Bill which will be brought to this House for debate and adoption by Members.

The objectives of this policy are to propose policy options to regulate, transform and strengthen relationships between *ad hoc* interventions in different sectors and levels of society for sustainable peace. The other objective is to promote application of conflict early warning systems and response to prevent violent conflicts in collaboration with regional bodies such as the Inter-Governmental Authority on Development (IGAD), conflict early warning and early response mechanisms.

Third is to develop peace building and conflict prevention, management and resolutions strategies, structures and guidelines that promote sustainable conflict, sensitive planning, implementation, monitoring and evaluation.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): You have less than a minute.

Hon. Abongotum: So, in a nutshell, if you can give me just two minutes, the structure of this secretariat will be as follows:

We will have a National Peace Council Secretariat headed by the Council Secretary. We will have County Peace Secretariat and the National Peace Forum, which is a platform for consultation, collaboration, cooperation and coordination by all peace stakeholders. Lastly, we

will have county peace fora, which shall be convened by counties as platforms for consultation, coordination and accountability.

So, I just want to impress upon Members that we should adopt this policy. It is meant to cure and address all conflicts affecting our society, hence taking us back instead of us moving forward. I will ask Hon. Saney from Wajir North Constituency to second this Motion.

Thank you, hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Let us have the Member for Wajir to second.

Hon. Saney: Thank you, hon. Temporary Deputy Speaker. This country has been prone to a vicious cycle of conflicts since Independence. Every single year so many lives, property and livelihoods have been lost to conflicts. Our vulnerability to conflict is suggestive of our instability as a nation.

We have been prone to so many types of conflicts, mostly inter and intra clan conflicts. We have also had land based conflicts and political conflicts. With that immense challenge, it is unfortunate that there has been no policy guideline to handle conflicts in this country except for the National Steering Committee on Peace Building and Conflict Management that was developed in 2001 that was mainly the brain child of civil society organizations.

Hon. Temporary Deputy Speaker, I acknowledge that security is one of the main pillars of our Vision 2030. With that background, there have never been any serious policy guidelines to guide Government institutions and other stakeholders in peace building and conflict management. This policy paper emphasizes on aspects of coordination, resource mobilization and synergy between different actors in peace building and conflict resolution. Moreover, this policy paper emphasizes on consistency and efficiency of Government institutions and other stakeholders in resolving conflicts.

As the Mover alluded, with that serious challenge, it is lamentable that this policy paper was developed five years ago and has not been adopted despite its significance and the fact that Kenya is divided along ethnic lines. The lack of a policy paper has had adverse effects on how institutions manage conflict and peace building. I believe this policy paper will resolve most of those issues and challenges. That explains why the National Steering Committee on Peace Building and Conflict Resolution could not achieve its mandate just because it was not anchored on any legal framework. The proposed policy envisions a peaceful and stable Kenya and proposes a comprehensive framework to streamline peace and conflict mitigation activities unlike in the past where there has been some discordant and different actors pulling these issues in different directions.

This policy clearly brings out collaborative approach to matters of peace building. It envisions the engagement of Community Based Organizations (CBOs) right from the grassroots to the national level. There will be a more elaborate engagement of stakeholders up to grassroots communities on matters of peace and public resolution. One more important aspect in this policy is the creation of a mediation support unit which will be handling peace issues at the regional level up to the Inter- Governmental Authority on Development (IGAD) level. This policy paper notes aspects of continuous capacity building of community institutions and takes note of traditional conflict resolution mechanism.

In summary this policy paper emphasizes on post conflict recovery and stabilization, matters of socio-economic restoration, reconciliation of broken relationships and rebuilding. With all those challenges, I believe for us to achieve stable security, we have to address the

underlying causes of insecurity beyond this policy. This includes what causes insecurity like historical land injustices, livelihood challenges and---

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

(Question proposed)

Hon. Members, we have a number of requests. As a reminder and following the resolutions that were made in this House on Wednesday 29th July 2016, the Mover will have 10 minutes, and each Member will have five minutes to contribute. The debate will last for exactly 60 minutes. That is good guidance so that we try to avoid repetition and be relevant. The first one is the Member for Samburu North.

Hon. Lentoimaga: Thank you very much, Hon. Temporary Deputy Speaker. I want to support this Sessional Paper No. 5 of 2014. It is very important and it has come at a right time. It is very crucial because our country is bleeding in terms of conflict. We have not had enough policies or even laws to address this issue.

Where I come from, there is a serious problem on cattle rustling; a conflict that results in livestock cattle rustling. This issue has really affected our people. It has led to serious displacement of people, death, and trauma. In most cases people who are affected are traumatized. If you lose your family members, you lose all your livestock and you are actually left in abject poverty. You are also displaced. This policy will address this issue. It will go a long way to reduce this kind of trauma and displacement. In the past, Government has done very little due to lack of that policy.

The Government does not even understand some of these issues that affect our people in the northern Kenya. It is like we have been looked at as if this is just cultural. It is like what we are doing is just part of our culture. This is embedded in the minds of previous Governments and even the current Government. We still think that something has to be done. It will be done through this policy because it says that they will address this issue.

The issue is that early warnings systems must be put in place. In most cases, we are too much reactive. We deploy security personnel only when an incident happens, say, when a raid is done or when a conflict occurs. We only deploy at that time and it takes so long for the security forces to arrive. It takes so long. It could take a week, two weeks or sometimes there is no deployment at all. They are not enough even to address that issue on the ground. This policy addresses that issue and says that they will deploy permanent security officers on the ground so that they are able to react as fast as possible when an incident happens.

With regard to the issue of community sensitization, there is serious ethnic hatred because of this trauma, displacement, death *et cetera*. There is serious ethnic hatred. Again, the policy addresses that they will have to sensitize the communities. It will go a long way to reduce that ethnic hatred that has developed over time. So, this policy is important if it addresses those issues. We need to live together as different communities in different counties even though we are from different ethnic groups. Our Constitution provides that we can live anywhere in Kenya so long as we agree on the cultures and how we can work together. So, this policy will go a long way to assist in ensuring that our people live together and reduce conflicts because of ethnic hatred.

The other issue that I see this policy addressing is the issue of upholding the rule of law. In many cases, no law has actually been enforced in some of these areas. When people fight,

hardly do we restore law and order in terms of arresting culprits. People walk around. If you kill, you are seen again walking around. If you steal, nothing is done to you. In fact, it encourages impunity. This policy addresses the issue of upholding the rule of law and this is very good.

Because my time is over, I support this policy. We need to translate it to a law and provide reconciliation in areas that have been affected by conflict.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Thank you. From the other gender, let us have Member for Nyandarua, Hon. Wanjiku Muhia.

Hon. (Ms.) Muhia: Thank you very much, Hon. Temporary Deputy Speaker. I am glad because this Sessional Paper fits me because I am a member of Departmental Committee on Administration and National Security.

Peace building is the foundation of any society. All these conflicts that are listed here are a tragedy to any society. In fact, where we have seen continuous conflicts for instance in areas where we have pastoralists and bandits, the society tends to change. They take this as a way of life. Though my county is not listed as one which suffers from human/wildlife conflicts, I come from Nyandarua County where we suffer a lot. Animals are always in conflict with people. The farmers plant their crops and then animals destroy them. Time and again, hippopotamuses come from Lake Ol Bolossat. For the information of this House, it is good to mention that Nyandarua County is the only county with a fresh lake in Central Kenya. The hippopotamuses either bite old men or young children. The Kenya Wildlife Service (KWS) rarely compensates these people properly. So, as a way of life, the society tends to think that they can also take law into their own hands. In the long run, they also go for these animals. Conflict is key and fundamental to any society. Though we are going to make the policy, it can never be final because it is also a way of life.

The leadership also contributes to the conflicts in many areas. We are aware of the tribal conflicts in many regions. As we speak of a better policy which can improve this, I hope that people will not see the policy as the final solution. I pray that people will see it as a continuous process where they try to think positively, change their attitudes and wish to have peace in all capacities.

I wish that the education system could be the key to addressing some of these issues. Some conflicts come again as a result of way of life. If it is part of the education system and the children grow knowing that conflict is a tragedy to our life, then the conflict management would be better. So, the education system, hand in hand with the policy that would be made, has to work together so that it is like a culture. Time and again, society lives by way of culture. So, this culture of conflict is there when one is born. If it is a pastoral area, the children grow seeing animals being stolen and there is no law in force. So, it is time even the security system has to come up with clear decisive measures particularly in pastoralist areas. If animals are stolen, they have to be returned and the law has to take course. Otherwise, the young generation will grow knowing that you do not necessarily need to work. You can go to the neighbour, get 10 cows and then go with them. As a result, this conflict remains forever.

I see that this is a very comprehensive Sessional Paper which is speaking of land issues. Again, we are all aware of the land conflicts which have always been there not necessarily in the neighbourhoods but even in the family aspect where you find sons and daughters also in conflict. So, I want to support it. For interest of time, I want to ask Members to support it. I know it will be a saviour for our country. Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Agostinho Neto, Member for Ndhiwa is the first one on my list.

Hon. Oyugi: Thank you, Hon. Temporary Deputy Speaker. Listening to the Chairman of the Departmental Committee on Administration and National Security, Hon. Kamama, I would like to support the adoption of this Sessional Paper. However, I think that it needs review even before we adopt it. Like he said, it is long overdue. It has been developed over time. Some of the things it speaks to do not respond to the current Kenyan conflict scenario. So, even before we adopt it, there ought to be a thought in terms of how to review it.

The forward of this particular policy paper is very well --- The former Cabinet Secretary (CS) for Interior and Coordination of National Government had very interesting thoughts. He said that with the devolved system of governance under the Constitution 2010 dispensation, most of these threats and challenges to peace and security are likely to increase which is also true.

You find that hitherto areas where there was already relative calm, the new devolved units of Government also create issues that are fairly conflict-related. The devolved unit should be used in a manner that would harness peace. This is so that we do not just talk about the devolved units being possible insecurity-rising scenarios. We need to see how best to use them in terms of creating security issues.

The vision of this particular policy paper has been well thought out. It enhances co-ordination, prevention, mitigation and management of conflicts. That vision speaks fairly well. If you look at the first objective which speaks to developing conflict prevention strategies and structures to address root causes of internal and cross border conflicts I think that both the vision and the first objective having been thought out properly, the rest of the body of the policy then does not speak to issues that would be towards conflict prevention.

If you look at bullet 1.16, it talks to the issues that cause insecurity, that is, factors such as poor governance, poverty, competition for scarce resources and identity-based rivalries as some of the factors that push for conflict. Nothing in this policy paper shows how issues of poor governance, poverty and competition are addressed. So then, whereas you want to mitigate, which is the initial objective of this policy paper, you do not have a steady stream in terms of how those challenges are being addressed.

The problem statement of this policy is very good. The fact that there has not been a co-ordination forum for peace building and conflict management means that people have been doing haphazard things. There have been various interventions. It is true that there ought to be need to find out how to carry out peace and conflict management issues in an organized and structured manner. To the extent that they are establishing a secretariat, that is good enough. However, it says that the role of the National Peace Council Secretariat that they are creating is going to be similar to that of the National Security Council. So, where in the policy is a clear distinction between the various secretariats of the National Peace Council and that of the National Security Council? That is what I would want them to respond to.

The strategic focus says that it hopes to make Kenya a just and cohesive society with equitable socio-economic development. That is a very good thing because it is borrowed directly from the aspirations of Vision 2030. We are hoping that such a thing will help respond to Vision 2030. However, I have a problem with the dimension of the policy which says:

“To promote sustainable peace through collaborative institutional framework between state and non-state actors.”

I highlighted the causal issues of conflict which are poor governance, poverty and competition. To have a mission that says you are going to have a collaborative institutional approach, that does not address the conflict issues. It does not adequately respond because that window dresses the issues of conflict. We need to be looking at issues such as poor governance, iniquities, the competition for scarce resources and how this policy particularly responds to that. I am getting worried because these five minutes are never enough.

Lastly, even the legislative framework that they propose in the policy does not address the issues that are highlighted. So, whereas it is a good policy, long overdue, and well thought out, I really think there is reason for review before we can adopt it.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Your time is over. Let us have Hon. Ferdinand Wanyonyi. Hon. Wanyonyi, you have two minutes. You will have your balance of three minutes in the next sitting.

Hon. F. K. Wanyonyi: Hon. Temporary Deputy Speaker, this is a very important policy paper. We should have been given more time to deliberate on it. Conflicts have been there for quite some time. I have been involved in conflict resolution in my area between the people of Trans Nzoia and West Pokot. Because of collaboration and regular meetings, we have been able to resolve the conflict. This policy paper is very important and it has come at the right time. However, I am afraid we may not be very exhaustive in our presentation.

However, for us to attain peace, we must eliminate corruption in the police service. Two, because most of these conflicts are as a result of the scarcity of resources such as water and pasture, those resources should be provided by the Government.

The other thing is disarmament. In most cases, one community is armed while the other community is not. Those who are heavily armed win the wars. Therefore, we should have proper ways and means of disarming people who are in conflict. In my area, the Pokot and the Turkana are in conflict.

The other thing is that the police stations are scattered all over the place, but---

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Ferdinand Wanyonyi, you will have your three minutes in the next sitting to contribute on this Sessional Paper.

Hon. Members, let me appreciate your interest to contribute to this Sessional Paper. There is a lot of conflict in most areas that you represent. This is shown by the number of requests to contribute. It has been mentioned that Kitui is one such place with a lot of conflict. Hon. Rachel Nyamai, the Member for Kitui South, you will get your time. Dr. Susan Musyoka, Hon. Chachu Ganya, Hon. Kamanda and Hon. Michael Kiso, you will get time to contribute. The Motion has a balance of 28 minutes and I am sure most of you will get time to contribute.

ADJOURNMENT

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): The time being 1.00 p.m., this House stands adjourned until this afternoon, at 2.30 p.m.

Thank you all.

The House adjourned at 1.00 p.m.