

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 16th June 2015

The House met at 2.30 p.m.

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

PRAYERS

PAPERS LAID

Hon. A.B. Duale: Hon. Speaker, I beg to lay the following Papers on the Table of the House:-

The Ministry of Education, Science and Technology Annual Progress Report for the 2014/2015 Financial Year.

The Report of the Auditor-General on the Financial Statements of the Ministry of Energy and Petroleum for the year ended 30th June 2014 and the Certificate of the Auditor-General therein.

The Report of the Auditor-General on the Financial Statements of the Office of the Attorney-General and the Department of Justice for the year ended 30th June 2014 and the Certificate of the Auditor-General therein.

The Report of the Auditor-General on the Financial Statements of the Constituencies Development Fund for Embakasi North Constituency for the year ended 30th June 2014 and the Certificate of the Auditor-General therein.

The Report of the Auditor-General on the Financial Statements of the Constituencies Development Fund for Kibra Constituency for the year ended 30th June 2014 and the Certificate of the Auditor-General therein.

The Report of the Auditor-General on the Financial Statements of Constituencies Development Fund for Kamukunji Constituency for the year ended 30th June 2014 and the Certificate of the Auditor-General therein.

The Report of the Auditor-General on the Financial Statements of Constituencies Development Fund for Ruaraka Constituency for the year ended 30th June 2014 and the Certificate of the Auditor-General therein.

Thank you, Hon. Speaker.

STATEMENTS

ADJUSTMENTS IN 2015/2016 BUDGET ESTIMATES

Hon. Musyimi: Hon. Speaker, Speaker, you are aware that this House has been on the receiving end of much analysis in recent days. We have been accused of political tyranny, parochial vindictiveness and gangland execution of people's careers. In particular, yesterday, the Senate had a special sitting to discuss a certain amount of money that we re-allocated using our discretion, as carefully as we normally do. Therefore, on behalf of the Budget and Appropriations Committee, I wish to give this House a statement with respect to the adjustments of the 2015/16 Budget Estimates to finance the Kshs3.3 billion budget proposed by the Mediation Committee for transfers to the county governments. That proposal was adopted in good faith by this House.

Hon. Speaker, the role and mandate of the Budget and Appropriations Committee is to ensure fiscal prudence and efficiency in allocation and use of public resources. In this regard, my Committee considers every proposal submitted by the Judiciary, Parliament and the National Executive, in light of how it affects the macro-economic environment. This is important because to transform the economy into an all inclusive one, with reduced poverty and access to quality basic services by all our people, we must aim at achieving a stable economic climate.

In light of the above, as soon as this House adopted the Report of the Mediation Committee – I thank them for doing so, because failure to do so would have been absolutely calamitous – my Committee incorporated the measures into the Budget Estimates. We then had the sacred duty of looking for the Kshs3.3 billion. The Committee used the following criteria to guide its adjustments in the Budget proposals:-

1. absorptive capacity of the spending agencies;
2. targets and outputs of the year;
3. the hard Budget constraints; in other words, the need to adhere to macro-economic framework to make sure that we did not burst the spending ceilings.

Hon. Speaker, based on the above criteria, with proper justifications, we amended the Budget Estimates.

With regard to the Salaries and Remuneration Commission (SRC), the reasons that led us to adjust the institution's Estimates, or to recommend adjustments to this House, was the fact that substantial resources were voted to this Commission through the Supplementary Estimates II for the Financial Year 2014/2015. The Supplementary Estimates have yet to come to this House. The allocations to the SRC in the Financial Year 2014/2015 have been escalated by 91 per cent, from Kshs441 million to Kshs840 million. The additional funds will be used to undertake the job evaluation exercise. The bulk of the allocation for the institution for the 2015/2016 Financial Year will amount to Kshs922 million, and will be used for the same exercise. We felt that it was prudent to reduce this very generous amount by Kshs200 million. If there are going to be any problems down the track, we can always sit and provide for more resources through a supplementary budget.

With respect to the Judiciary, their absorptive capacity for the 2014/15 Financial Year was exceedingly low. As at 8th June 2015, the Judiciary had only absorbed 56 per cent of their total allocations, with the Development Expenditure having an absorptive capacity of less than 50 per cent. The Development Budget of the Judiciary for the 2015/2016 Financial Year was Kshs4.9 billion. In light of this, we proposed, and this House agreed that we reduce the Development Estimates of the Judiciary by Kshs800 million.

With respect to the National Treasury Integrated Financial Management Information Systems (IFMIS), the adjustment was made as informed by the fact that the Public Accounts Committee (PIC) is still in the process of auditing the expenses of this particular project. The function has been allocated Kshs1.9 billion. Some issues were raised here last week, by some hon. Members who are familiar with the IFMIS. We recommended a reduction of Kshs325 million.

On the Parliamentary Service Commission (PSC), which is the matter at issue, the Budget and Appropriations Committee was aware that some people had questioned why the proposed fund was needed. We do not talk much about the media but I remember agonising deeply after reading a searing editorial piece published in one of the daily newspapers, asking why we needed to give the Senate that money. In fact, I was so moved by the arguments advanced therein. I subsequently had a session with the Parliamentary Budget Office and the National Treasury. Eventually, we had to consult with the Office of the Clerk as to what we should do because there was hue and cry about the Kshs1 billion that had been allocated to the Senate.

The Committee noted that the PSC had made provisions for oversight purposes under the Senate Committee Services, which had already been sufficiently funded. May I remind us all, and the nation at large, that the mandate of the Senate, and by extension the senators, is representation of the interests of the counties as well as provide oversight over State officers. This is done through review of various reports, and not principally by carrying out oversight of projects at the county level and conducting audits. Oversight of county projects and conducting audits of county funds are principally functions of the county legislatures.

(Applause)

We may, from time to time, question their capacity but in law, that is their responsibility. We have a duty to make sure that capacity is looked at as a separate issue.

1. To that extent, it was difficult for my Committee to get answers to the following questions:-
2. What exactly will Senators use a whooping Kshs1 billion for? Why not effect a small change?
3. How will the money be accounted for?
4. How will it be disbursed and shared amongst the Senators?
5. Already, there were issues between the male and the female colleagues in the other Chamber, as hon. Members know.
6. What activities will be funded by the money and how will they differ from the current oversight activities carried out by the Senate through the committee system?

So difficult were these questions that earlier on before we found ourselves with this deficit of Kshs3.3 billion, it was the advice of the Parliamentary Budget Office and the Office of the Clerk that this money should not be allocated to the Senate. It should be kept in the Parliamentary Service Commission Vote pending the enactment of an enabling framework as per the Public Finance Management (PFM) Act. Unless there is a framework, you cannot have money allocated to you. In the process of all that, we found ourselves with a deep hole in the

Budget. Where there is a credit, there must be a debit. So, there was no framework. It is common knowledge that there are concerns about multiplicity of funds going to the grassroots under different Vote Heads and their impact on the lives of our people.

Whereas the people at the grassroots know about the Constituencies Development Fund (CDF) and the transfers to county governments, the targets of many other funds are still not clear. We held the view that this funding would have fallen into this unknown and uncheckable expenditure.

As I close, Hon. Members will be aware that a socio-economic audit exercise is just about to be completed. The preliminary report has already been given to my Committee. We are aware that even at this level, *prima facie*, in our new Constitution we created many institutions whose cost to the Exchequer outweighs the benefits of governance accruing to this nation. It is our expectation that when this independent audit is completed, these things will be clear. It is important to say that it is independent because we have not set up a committee of this House to look at how we do our work. You can never shave your own back. We have a team of independent professionals that we are working with under the Kenya National Audit Office (KNAO). When they complete their work, it will come to my Committee and through my Committee to this honourable House. Given all the talking yesterday and before, it was important that my Committee issued this Statement.

I thank you, Hon. Speaker, for indulging me. I am much obliged.

Hon. Speaker: Hon. Members, as you are aware, the House has already taken a decision on the matter. However, budget-making being what it is, it is constantly alive. I took the liberty to allow Hon. Mutava Musyimi to make that Statement also in the light of the exceptional circumstances of the explanation that he has given.

I will allow two minutes' comments on this from Hon. John Mbadi, a Member of that Committee. No debate, Hon. Members. We have already taken a decision on the matter. You cannot even revisit it. It is not possible.

Hon. Ng'ongo: Thank you, Hon. Speaker. I thank you for allowing the Budget and Appropriations Committee, through the Chairman, to bring clarity to the decision that the House made last week. I appreciate this because it has been said by Kenyans and we work on behalf of the people of Kenya. Therefore, if there are genuine questions, they need to be responded to. I know that there are people who have raised concerns with what we did purely out of malice. There could be genuine cases of Kenyans who did not understand what the Budget and Appropriations Committee did, which Parliament approved.

I do not want to go into the details, but I want to say two things. It is important for those who are in the know to tell the public the truth. I will not sit in a Budget and Appropriations Committee, and by extension the National Assembly, just to do things to hit back at any institution.

When we sat as the Budget and Appropriations Committee, we were guided by the facts when we sought the Kshs3.3 billion after it became apparent that there was need to agree with the Senate on their recommendations on the Division of Revenue Bill. We asked ourselves where we could quickly get funds to finance that deficit. As the Chairman has said, we have a public report on the Judiciary that it has only absorbed 56 per cent of its budget up to this time. The Kshs1 billion that we re-allocated was not meant for the operations of the Judiciary. So, whoever

is saying that this House is stifling the operations of the Judiciary is being economical with the truth.

The truth is that that Kshs1 billion came from the Development Vote of the Judiciary. The Judiciary has not complained about this money. Those who are outside the Judiciary are speaking louder than the Judiciary itself, especially the Senate. They should be transparent and tell Kenyans that they are hurt by the fact that Kshs1 billion has been re-allocated from their Vote to somewhere else.

Regarding the Senate, the mistake was not reallocating this money from the Senate to devolved units of the government. The mistake was to allocate this money. We must own up, as a House that, that was wrong. It is illogical to give each Senator an average of Kshs1.6 million every month to go and just sit in a *baraza* with *wazees* and buy for them sodas. That is what it translates to. That is exactly what we were about to do. I thank God that this stalemate reached this level as we were going to commit an illegality in this country. Whoever brought this stalemate on the Division of Revenue Bill has saved us. We were going to give the Senators another salary on top of what they earn. This money was not going to be spent the same way the CDF or the social affirmative action money is being spent. We were going to give each of the Senators a salary of Kshs1.6 million to move around the county.

The Senators are saying that they are going to use this money to oversee. How are they going to oversee with this money? The primary oversight role on the county governments is with the county assemblies and they have committees such as the Public Accounts Committee (PAC) and other departmental committees. The Senate's responsibility is at the secondary level. The Parliamentary Service Commission (PSC) has a Vote for Committee Services for both the National Assembly and the Senate. If the Committee on Health wants to go to Bungoma, as I saw the Senator for Bungoma doing, which was a good job, there is money for that. He went to Bungoma to see what was happening in health facilities. The Committee on Health of the Senate should move to Bungoma using the money that is allocated by the PSC to go and oversee the county governments.

(Applause)

Why should we give them a salary on top of what they are earning and they are even getting mileage? What are they collecting mileage for every week if we have to give them more money to go to their counties? You give me mileage to go to Suba. Senators get mileage to go to their counties, for example my Senator, to oversee, do whatever they want and meet their people. He again wants a salary and Kshs1.6 million. He is cheating Kenyans out there that that money is meant for overseeing. Overseeing what?

Hon. Speaker, let us not do this again. Even if they are threatening CDF, the CDF is for development. It does not go to my pockets, so that you want to threaten me that you want to take it away, because I have not given you another salary to go and waste in the counties. So long as I am still in the National Assembly, I will not support the allocation of this money, whether they negotiate with that or not. I will not vote for that money to go to the Senate. Not even a shilling.

Hon. Speaker: Hon. Members, I do not want it to be a debate. We are not in a special sitting. We have an Order Paper. We have serious business to transact.

Hon. Members, let us allow the Leader of the Majority Party to make his contribution.

Hon. A.B. Duale: Hon. Speaker, I totally agree with you that we call for special sittings of the National Assembly as per the Standing Orders on a matter of great national importance. We do not call special sittings to discuss Kshs1 billion which has no regulations and framework. We are only asking to educate the masses.

Yesterday I was shocked that from 9.30 a.m. to 6.30 p.m., the “Lower House”, which the Senators have confirmed it to be, discussed the Kshs1 billion. I said last night I have been very consistent over the last two-and-a-half years that the Senate the Kenyan people got is weak. The only people who can empower the Senate are Kenyans. The Speaker of the Senate, the Leader of the Minority Party, Hon. Moses Wetangula, Hon. James Orengo, Hon. Kiraitu Murungi, and Hon. Amos Wako were members of the Parliamentary Select Committee on the Constitution. They must blame themselves for giving themselves a weaker House.

Yesterday, in their debate, the Lord went into their hearts. At the end of the day, they created a nine-member committee to go on a fishing expedition on the Constitution and see what they can grab in terms of powers. They said that some of the things they want to get are vetting powers. We have no problem. I want to assure them that after that Committee submits its report, the National Assembly of the Republic of Kenya, and the county assemblies, will have a say on any constitutional amendment. As they move, we will wait for them.

There is information out there that we have denied that House Kshs1 billion. That Kshs1 billion was described by a Senator as *mbuzi moja*. “*Mbuzi*” in corruption terminology means “bribe”. He said that we denied them a *mbuzi*. However, the salary paid to Members of Parliament of either House is meant for oversight. The mileage you are paid to go to your constituencies is an oversight resource. The committees that are funded by this House and sit from morning to evening do oversight work. The Senate must tell the people of Kenya what they wanted to do with this Kshs1 billion. The great 47 women of this House can give serious consultancy to the Senators. For the last two years, they looked at the law, created a framework and now they have a board and are getting their money in this financial year. The 47 great women leaders of this House have Kshs2 billion.

As lawmakers, we must always respect the Public Finance Management (PFM) Act and the budget-making process within the Constitution. I saw what happened in Bungoma. I watched it on television. That is a replica of what is happening in all the hospitals in this country. The men and women who are supposed to oversee are the members of the Senate under the Constitution in Article 96. The health sector is collapsing, doctors are resigning and there is nepotism and tribalism even in the recruitment of nurses and doctors in this country. Devolution was not meant to divide us along ethnic lines. Devolution was to allow a Luo to work in North Eastern and a Somali to work in the Rift Valley. Promotions are done on ethnic basis in the counties. Over 20 governors are facing investigation by the Ethics and Anti-corruption Commission (EACC). Who is to oversee those governors and their resources?

I do not want this House to dwell so much on the Senate. The die has been cast. The Senators have realised that some of them went to a “Lower House”. As the nine members of that Committee go round the country, Members, make sure you give your valuable input. When you

meet Hon. Kiraitu Murungi, tell him how they can get more powers. However, there is a better route. The better route is for them to wait for 2017 and go back and vie as a Member of the County Assembly (MCA) or a Member of Parliament in the National Assembly.

The MCAs have serious legislative and oversight authority in the counties. We do not want to put the county into a political mood. I am sure a lot of my colleagues here, such as Hon. Cecily Mbarire, want to vie for governorship. There are many governors-in-waiting here. There are many MCAs who want to become Members of Parliament. We want to tell the Senators that they do not need the powers. The powers are in the National Assembly or the presidency. You can vie as a presidential candidate. The danger of that is if you lose, you will also go back to the streets. The safest route through which you will get assured power is to invest in being a Member of Parliament in the National Assembly, where you can reallocate billions not just Kshs1 billion.

Lastly and more fundamentally, as Hon. Mbadi said, is about the Kshs800 million that we took from the Judiciary. I saw the son of the man I had a lot of respect for from the last Parliament, Sen. Mutula Kilonzo Junior, misinforming the country that the Kshs800 million was meant for salaries, building and cleaning courts all over the country. That is why we have a Supplementary Budget. If we feel like it, we can return that Kshs800 million before the end of the 2015/2016 Financial Year. If they now engage the Budget and Appropriations Committee, we can still save them through the Appropriation Bill. The problem is that they are just talking and not reading the law.

I want to ask my colleagues not to waste any more time in fighting the Senate. If you want to fight, there are 15 Bills which are of a money nature, which ideally should not have started from the Senate. Article 109 (5) of the Constitution says:

“A Bill may be introduced by any member or committee of the relevant House of Parliament, but a money Bill may be introduced only in the National Assembly in accordance with Article 114.”

How many money Bills from the Senate have you introduced? The Budget and Appropriations Committee must declare those Bills unconstitutional and bring the verdict here. We are the people to protect the Constitution. They brought the Potato Produce and Marketing Bill. That Bill is supposed to be enacted at the county assembly level. How does a Senate deal with a Bill about potatoes?

(Laughter)

That is a Bill of the county assemblies. They bring Bills dealing with cabbage and how to curb *Harambees*. All these Bills are of a money nature. If you recall a House to cry over Kshs1 billion or “*mbuzi moja*”, then you are missing the point.

I want to end with a parting shot. As they ask the Kenyan people to give them more powers, let them also ask the Kenyan people to choose whether they need a Senate or not. That question should also be put. They should not give the people of Kenya leading questions. Kenyans should be asked whether they want a more powerful Senate or want the Senate to be abolished completely. That is a better way.

The Budget and Appropriations Committee, its leadership and the law have given the constitutional provisions to guide the country, and the National Treasury on how things are done.

If you have referred those Bills of a money nature to the Budget and Appropriations Committee, I want to tell my colleagues in the Budget and Appropriations Committee that they do not need to look at those Bills. They need to look at Article 109. Money Bills are only allowed to originate from the National Assembly. That is because the National Assembly is the custodian of the national resources.

We are not in a special session. We have a lot of business to deal with such as committee reports and Bills. When you became a Member of Parliament, the salary you earn is for overseeing. The Constituencies Development Fund (CDF) is as old as any other institution. You cannot equate Kshs1 billion to the CDF. We do not control the CDF. It builds schools and health centres. We want to be told what the Kshs1 billion will do.

With those many remarks, I rest my case.

Hon. Speaker: Hon. Members, before we proceed, allow me to recognise the following institutions whose students and pupils are in both the Speaker's and Public Galleries:

- (a) Ruiri Girls Secondary School from Buuri Constituency, Meru County;
- (b) PCEA Imani Primary School, Kibwezi East Constituency, Makueni County;
- (c) Dagoretti Creative Best Care Primary School, Dagoretti North Constituency, Nairobi County;
- (d) Katheka Boys Secondary School, Kitui West Constituency, Kitui County;
- (e) Kalulini Boys Secondary School, Kibwezi West Constituency, Makueni County;
- (f) Gikure Secondary School, Gatundu South Constituency, Kiambu County and;
- (g) Kathiani Girls Secondary School, Kathiani Constituency, Machakos County.

(Applause)

Students and pupils from those institutions are welcome to Parliament.

I have some two requests. I have considered them and I will allow Hon. Moses Injendi to make the Statement that he has requested.

POINT OF ORDER

GAZETTEMMENT OF BASIC EDUCATION REGULATIONS 2015

Hon. Injendi: Thank you, Hon. Speaker. I rise on a point of order under Standing Order 43(2) to seek leave to raise a matter concerning the gazettement of the Basic Education Regulations, 2015 that were gazetted by the Cabinet Secretary (CS) of Education, Science and Technology, Professor Kaimenyi.

On 21st April 2015, the Chairperson of the Committee on Delegated Legislation, Hon. William Kipkorir Cheptumo, reported on the Floor of this House that his Committee was seized of the Basic Education Regulations, 2015 after Hon. Daniel Maanzo had made an inquiry of their status. On further intervention by myself into the same, you ruled that if any officer acts pursuant to those Regulations, yet they have not been passed by this House, whatever they will have done will be an exercise in futility.

I wish to report that all the County Directors of Education in the Ministry of Education, Science and Technology in the country, pursuant to the Gazette Notice, are implementing the Regulations, and have initiated processes like nominating school boards of management in all schools in the country by July 2017 in contravention of your directive.

Hon. Cheptumo, the Chairman of the Committee, committed himself to fast-tracking the consideration of these Regulations and submitting them to this House for debate. Two months have now lapsed without any report. Can the Chairman tell this House when he is likely to table the Committee's report since this matter is urgent and affects almost everyone in the country? What authority did the CS have to gazette the Regulations before they were passed in this House? Since the Regulations were annulled as per your ruling on 21st April 2015, then the CS should be compelled to degazette them.

Hon. Speaker: Is Hon. Cheptumo in the Chamber? I thought I saw him sneak out through that door. Some of you may not know that I make those observations. Be that as it may, he has a Vice-Chairperson, Hon. Member for Kirinyaga Central, Hon. Gitari. He is the Vice-Chairperson.

I have addressed this issue of subsidiary legislation and regulations. There are different categories of regulations. If you read the PFM Act, it says clearly that whether the House committee approves or does not approve the regulations, they become effective after 15 days. Depending on all the specific provisions of the enabling parent legislation, subsidiary legislation proposed by various regulation-making bodies and/or authorities could become effective unless the committee of this House responsible for their consideration follows through and makes proposals to the House.

If they do not have anything to annul in the regulations, whether in whole or in part, then the committees are supposed to communicate their decision to the Clerk who, in turn, will communicate to the regulation-making authority. If they expect the House, through a report, to agree with them, either to annul the whole or part of any regulations, then they must make their reports to the House within the stipulated times. Otherwise, it becomes difficult for even those implementing legislation out there to know when they should begin acting. Therefore, it cannot be said that what has been done by the CS for Education, Science and Technology is wrong.

It also means that the committee of this House is not doing its work. I will be consulting with the leadership, the Majority and Minority Whips. As of 3rd July 2014 when I last addressed this matter, there were 12 pending sets of regulations before that Committee. To date, there is no report that has been submitted. That means that we do not need that Committee. Maybe the people who sit on that Committee should all be removed, because they are not serving the House. You cannot keep the House waiting for that long. Today is 16th June 2015. My last communication was on 3rd July 2014. We must question whether there is need for that Committee to exist. If we think it is not necessary, then we can give that responsibility to various departmental committees and do away with that Committee. That responsibility can be passed on to other committees.

Otherwise, it is not fair for us to complain that this is being done by the Executive yet when regulations are submitted---There is absolutely nothing wrong with them being gazetted since a clear reading of the Statutory Instruments Act, 2013 shows that, that is the correct route. Once they have been gazetted, they must be tabled within seven days. That is the requirement.

My instruction on 3rd July was because it was not clear in many cases. Let us take the usual time of 20 days. From 3rd July, 2014 it has been very long. It is almost one year. You are not being fair. Unless Hon. Kajwang' wants to give an undertaking as to when they are going to table--- I hope Hon. Kajwang' is a member of the Committee.

Hon. Kajwang': Hon. Speaker, I am ashamed to be a Member of this Committee. I think I am one of those who should be bundled out of it altogether.

Hon. Speaker, I do not hold brief for the Chairman or the Vice-Chairman, but since I am a high ranking Member of the Committee, I would like to say that this Committee is very hard working. It is trying to keep up with the regulations that come up from all Ministries and all rules-making institutions.

We have since received communication from the Clerk that from 23rd to 28th June, this Committee will be considering a raft of regulations that come before it on a day to day basis. But there is one issue we need to deal with. It looks administrative, but it frustrates the process of the Committee in their work. It is the issue of clerking. This is something which is beyond the mandate of the Liaison Committee. You find a situation where a committee that is entrusted with several instruments to consider is clerked by personnel who are not up to the task. These are issues we have raised before. They are known to the Office of the Clerk of the National Assembly. The issue that we have is the inability of a Clerk to move paper work from one place to another until it reaches the committee for due consideration.

Hon. Speaker, as you know, as a Member, I am unable to convene the Committee even if I wanted to. I am unable to plan for a meeting even if I wanted to. I am unable to make preparations for a meeting, or even make reports, even if I wanted. It is all about the quality of the leadership of the committee, and how that leadership is able to push the Office of the Clerk of the National Assembly to either get that particular Clerk out altogether or get a better one.

We are going to take up the matter. I will take a copy of today's HANSARD and appear before that committee. We will find out where the problem is, so that we are not bashed on the Floor of this House anymore. This Committee has high ranking Members, and I feel pained that I am one of those who have let you down.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Members, can we ask the Committee to make sure that they give us the reports that they have considered in seven days from today? It is possible for you to meet. If you need special leave to sit whatever time of the week, it will be given.

Hon. Kajwang': Hon. Speaker, can we have up to 30th June 2015?

Hon. Speaker: Two weeks from now?

Hon. Kajwang': Yes, Hon. Speaker, because the clerk has already made arrangements for a week long retreat; it will run on a day to day basis. I suppose it will be as a result of the retreat that reports will be ready.

Hon. Speaker: On the undertaking of Hon. Kajwang', who will communicate the same to the whole Committee, the Committee should submit their reports with regard to the various regulations on or before 30th June 2015. In the meantime, Hon. Injendi, take note that the Statutory Instruments Act, 2013, provides that such instruments may take effect, and certain things may be done on the basis of the authority of those regulations. Should the Committee of the House recommend nullification of any portion of such regulations and the House agrees with

it, whatever it is that has been done will be deemed to be legal but it is after the annulment that no further action may be taken. However, no liabilities will accrue if things were done on the authority of such regulations. Therefore, in fairness, let us allow the Committee to bring their report on Tuesday, 30th June 2015.

Hon. Members, once again, this is not to re-open debate, but given the nature of the issue that Hon. Kamama wishes to address, I am quite alive to the provisions of Standing Order No. 49. This House has already resolved one way or the other. Therefore, it does not matter what anybody feels wherever he is and whenever. As you know, even Article 37 of the Constitution allows people to associate, assemble, picket and demonstrate, save that they must be unarmed. They can picket, dance on the streets and even present petitions. As long they are not armed, they will be enjoying their rights under Article 37 of the Constitution. Therefore, the House should not be concerned about people expressing themselves. It is their constitutional right.

STATEMENT

REJECTION OF APPOINTMENT OF DR. MONICA JUMA AS SECRETARY TO THE CABINET

Hon. Abongotum: Thank you, Hon. Speaker. Pursuant to the provisions of Standing Order 43(2), I wish to make a statement regarding misrepresentation of facts in respect to the rejection of the appointment of Dr. Monica Juma as a Secretary to the Cabinet.

Hon. Speaker, it can be recalled that on Thursday, 11th June 2015, the House made a decision in which it concurred with the recommendations of the Departmental Committee on Administration and National Security to reject her nomination for appointment. As a Committee, we wish to put it on record that the process of vetting nominees for appointment to public offices is thoroughly undertaken by the National Assembly. In arriving at a decision, the Committee and the House are impartially guided by the Constitution and the Public Appointments (Parliamentary Approval) Act, 2011. The guiding principle is to ensure that persons approved to hold public offices are of utmost integrity.

Hon. Speaker, it should not be lost to the public and all those interested in the rejection of the nominee that this is not the first time the National Assembly has rejected a nominee for appointment to public office. This House rejected nominees for appointed to the Parliamentary Service Commission (PSC), to the Teachers Service Commission (TSC) and to the Constituencies Development Fund (CDF) Board, among others. It is, therefore, sad that the Commission for the Implementation of the Constitution (CIC) has taken a populist position and incited the public against the National Assembly, instead of giving straightforward and objective explanations of the provisions of the law to the public. We, therefore, call upon those opposed to the decision to be objective in their vilification of the Committee and the National Assembly.

We also wish to clarify that, in accordance with Standing Order No. 49(1) and (2)(b), as you had earlier indicated, neither the Committee nor the House can re-visit this matter until the expiry of six months.

Hon. Speaker, lastly, let me take this opportunity to deny categorically that some people tried to influence the Committee in one way or another. However, anybody who has a complaint

against any hon. Member – and more so in corrupt issues – should forward it to the Ethics and Anti-Corruption Commission (EACC), who should then forward it to the Director of Public Prosecutions (DPP).

Hon. Speaker, the Committee is clean. All Members of Parliament are spotless as far as this matter is concerned. Nobody took a cent from anybody. The Member for Gatundu South, Hon. Kuria, has become a notorious rumourmonger who peddles lies and innuendo, and tries to besmirch and malign the hon. Members of this House without verifying facts. Therefore, I recommend that he be named at some stage.

Thank you, Hon. Speaker.

COMMUNICATION FROM THE CHAIR

SUSPENSION OF OPERATION OF STANDING ORDER NO.155

(Several hon. Members stood up in their places)

Hon. Speaker: Hon. Members, I wish those of you not seated would allow me to make this Communication. Unless you wish to remain standing, and you may stand for a long time, you can sit.

Hon. Members, I wish to make this Communication on the manner of considering a Presidential Memorandum on a Bill concerning county governments. You will recall that on Thursday, 11th June 2015, I indicated that I would be giving guidance on the manner of considering Presidential Memoranda on Bills considered in both Houses of Parliament. This was occasioned by the Messages received from His Excellency the President on Bills recently concluded by Parliament including the Public Procurement and Asset Disposal Bill, 2014, the Public Audit Bill, 2014 and the Public Procurement and Asset Disposal (Amendment) Bill, 2013.

The provisions of our Standing Orders are not in tandem with the expectations of the Constitution. Specifically, the provisions of Standing Order No.155 which commit Presidential Memoranda on a Bill considered by both Houses to a Joint Committee; this clearly offends the provisions of Article 115 of the Constitution. While Standing Order No.155 foresees the adoption of a report of a Joint Committee of the two Houses, Article 115 of the Constitution requires that any amendment to the President's recommendations or indeed, a total rejection of the recommendations should be supported by a vote of at least two-thirds of the Members of the National Assembly and two-thirds of the delegations in the Senate. I have put emphasis on the use of the word "and" and in the requirements provided by the Constitution.

Hon. Members, for the avoidance of doubt, Article 115(4) of the Constitution which stipulates the process for the referral of a Bill by the President states as follows:

"Parliament, after considering the President's reservations, may pass the Bill a second time, without amendment, or with amendments that do not fully accommodate the President's reservations, by a vote supported—

(a) by two-thirds of members of the National Assembly; and

(b) two-thirds of the delegations in the Senate, if it is a Bill that requires the approval of the Senate."

Yes, hon. Members. There are some delegates.

The interpretation of this, hon. Members, is that the provisions of Standing Orders become vacant in relation to the provisions of the Constitution. In the consideration of Presidential Memoranda, the Constitution provides for three possible outcomes from Parliament. These are:-

- (i) Parliament may amend the Bill in the light of the President's reservations and recommendation. This requires a simple majority of both Houses;
- (ii) Parliament may pass the Bill a second time without amendment; or,
- (iii) Parliament may pass the Bill with amendments that do not fully accommodate the President's reservations and recommendations.

The second and third outcomes require a vote supported by at least two-thirds of the Members of the National Assembly and two-thirds of the delegations in the Senate.

Having said that, Hon. Members, with regard to the consideration of a Presidential Memorandum on a Bill concerning county governments, I wish to guide as follows:-

The President's Memorandum ought to be submitted to the House that originated the Bill as happens currently.

The Presidential Memorandum review process should start in the originating House whereupon it should be read and submitted to the relevant Departmental Committee, if necessary, and thereafter considered in that House in the Committee of the whole House. At this stage, any amendment or total rejection of any of the President's reservations and recommendations should be subjected to the two-thirds majority requirement.

After passage, the Speaker of the originating House should then submit the Presidential Memorandum in its original form and any decision including any amendments or total rejection proposed by that House to the Speaker of the second House.

The second House should then consider the Memorandum in its original form together with the decision made by the originating House and, while in the Committee of the whole House, make its own resolution, including amendments or total rejection of the President's reservations and recommendations. In making the amendments or rejections, the two-thirds majority vote requirement is mandatory.

The Speaker of the second House should then convey the decision of the that House to the Speaker of the originating House indicating –

- a) the decision of the second House on the Presidential Memorandum in its original form;
- b) the decision of the second House on the amendments or total rejection proposed by the originating House; and,
- c) any new amendment, or total rejection proposed by the Second House.

The originating House will then consider the Presidential Memorandum for a second time only if there are any new amendments or total rejection proposed by the second House.

The Speaker of the originating House thereafter conveys the decision of Parliament to the President.

Hon. Members, while this considered guidance seeks to clear the lacuna at present experienced in the consideration of Presidential Memoranda to a Bill concerning county governments, a more purposeful consideration of the procedure will soon be developed during the review of our Standing Orders. In the meantime, and in exercise of the provisions of

Standing Order No.1 of the National Assembly Standing Orders, I forthwith suspend the operation of Standing Order No.155, as it clearly contradicts the provisions of Article 115 of the Constitution.

I thank you, hon. Members.

BILL

First Reading

THE COMPANIES AND INSOLVENCY LEGISLATION (CONSEQUENTIAL AMENDMENTS) BILL

*(Order for First Reading read - Read the First Time and
ordered to be referred to the relevant Departmental Committee)*

MOTION

THE SPECIAL REPORT ON RESTRUCTURING OF KENYA PETROLEUM REFINERY LIMITED

Hon. Speaker: The hon. Chairman of the Public Investments Committee (PIC).

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

THAT, this House adopts the Public Investments Committee Special Report on the Restructuring of Kenya Petroleum Refinery Limited, laid on the Table of the House on Tuesday, 29 April 2014.

Hon. Speaker, the PIC is one of the Select Committees established under Standing Order No.206, and it is responsible for examining the working of public investments. The mandate includes examining reports and accounts of public investments, examining reports, if any, of the Auditor-General (AG) on public investments and examining, in the context of the autonomy and efficiency of public investments, whether the affairs of any public investment are being managed---

*(Hon. ole Sakuda consulted loudly
while standing up in his place)*

Hon. Speaker, I plead with you to ask Members to consult in low tones.

Hon. Speaker: Exactly. Hon. ole Sakuda, since you are not very short, you occupy space for many people when you speak while standing. So, I will urge that you consult while seated and in low tones.

(Laughter)

Hon. Keynan: Thank you, Hon. Speaker. The other one is to examine, in the context of autonomy and efficiency, whether the affairs of public investments are managed in accordance with sound management or business principles and prudent commercial practice.

The Committee has a membership of 27. At this juncture, I want to thank all the Members for their determination and zeal in participating in Committee activities. Being a member of this Committee, just as in the Public Accounts Committee (PAC), is almost a full-time job. Taking into account the number of reports this Committee has produced over the last two years, I can only express my sincere gratitude to the Members, the secretariat and, more fundamentally, to your Office and that of the Clerk for the support this Committee has received. On this issue---

(Loud consultations)

I still want to plead with the Members to consult in low tones.

Hon. Speaker: The tones are now low.

Hon. Keynan: Hon. Speaker, the matter of restructuring of the Kenya Petroleum Refinery Limited (KPRL) was raised on the Floor of the House in 2013, when the Leader of the Majority Party, the Hon. Duale, alerted the House on irregularities regarding the ownership structure of the corporation. Thereafter, on 24th September 2013, the Leader of the Majority Party appeared before the Committee, as a friend of the Committee, and elaborated on certain pertinent issues regarding the ownership of the KPRL.

Allow me to give a background of the matter before the House. The KPRL was originally set up by the Shell and British Petroleum Company to serve the East African region in the supply of wide varieties of oil products in 1959. The Company was incorporated in 1960 as the East African Oil Refinery Limited (EAORL), but later changed its name to Kenya Oil Refinery Limited in 1983. KPRL's main products included Liquefied Petroleum Gas (LPG), unleaded premium gasoline, regular petrol, automotive gas oil, industrial diesel, fuel oil and specified products like bitumen and grease. Having started its operations in 1960, the Company finally stopped its operations on 4th September 2013. The Company was running inefficiently leading to the consumers of oil products being charged at an extra Kshs3.61 per litre attributed to outdated technology.

As a result of this serious challenge, a facility that was supposed to be the only oil facility not only in Kenya, but in the entire East African region - Kenya is the gateway to the East African region - finally shut down its operations on 4th September 2013 because of inefficiency, mismanagement and poor business practices. As a result of this, the Government of Kenya, as usual--- When a public entity fails to discharge its functions, the trend has been over the last few decades to shop around and find out whether there are any interested individuals or entities willing to partner with the Government in order to revitalise the operations of that entity.

Therefore, the Government of Kenya on 31st July 2009 entered into an agreement with a company called Essar Energy Overseas Limited (EEOL) - I will shortly explain the history of that company - in order to achieve a major objective of upgrading and modernising the Refinery. The agreement was signed to ensure the modernisation of the Refinery to achieve the following:

- (i) enhance the capacity of the facility;

- (ii) the contraction of residue conversion facility;
- (iii) the production of clean products; and
- (iv) the determination of products specification and minimisation of emission, and, in particular, stabilisation of electricity supply to the Refinery and basically upgrade the Refinery in terms of the agreement.

This last objective, however, was not met because of the reasons that I will explain later on. Essar Energy Overseas Limited was incorporated in Mauritius in 2007 before acquiring 50 per cent of the share capital in KPRL. The Company had aimed to diversify its current interests in KPRL as provided for in the Memorandum of Association. Though we did not go out to Mauritius, the ownership and directorship of this Company still remains suspect.

With regard to the timing, this Company was formed in 2007. The shareholding change in KPRL was implemented in 2009. There were so many allegations which we could not verify, but we have asked the Office of the Auditor-General to assist us. We will also be asking other competent Government agencies to also undertake due diligence. They need to, first of all, find out who owns this EEOL. Why was it incorporated just here in the Indian Ocean in Mauritius? Who are the directors? How did it come to Kenya and finally take over 50 per cent of shareholding of the only refinery in East Africa? These are issues that later on, once we go through the Report, Members will appreciate that the very first objective of this Company may not have been to revitalise and enhance the capacity of KPRL, but somehow to make a quick kill. This will clearly demonstrate why investments, or divestments, as they are commonly called in Kenya, have not really succeeded and have not given value to the taxpayers.

At the time of writing this Report, because you appreciate it is almost over a year, EEOL was planning to exit from this facility. Under the exit clause in the contract--- This is why I say the Government of Kenya was obligated by that agreement to refund EEOL US\$5 million. At today's rate, that is almost Kshs500 million. This was deliberately put in the agreement. The first thing you ask yourself is this: Here is a company you have handed over a facility. You have given them 50 per cent shareholding without it contributing a penny; you allow them an exit clause and US\$5 million for having done nothing. That in itself is a mystery we could not understand. It is just like allowing an individual, or an entity to come into a company, become part of the directorship and then the individual gives himself a clause that once he exits the company, even without investing a penny, will give him this amount of money. This is one thing that we found suspicious. Maybe the intention might not have been what Kenyans expected.

The management plan to upgrade and inject over Kshs100 million, at that time about US\$1,159,000, was not effected. Therefore, this company came in mysteriously, took over the ownership, changed the shareholding structure, purporting to invest over Kshs100 million and gave themselves an exit clause at US\$5 million. Later on, in our view, we realised that might have been the motivating factor in the whole thing. The exit clause between the Government of Kenya and Essar Energy was skewed in favour of Essar Energy to the extent that the Government would pay the money once Essar Energy demonstrated the willingness to exit.

We also made another very funny observation. Essar Energy Limited assumed all the rights and responsibilities of the industry's shareholders when it acquired 50 per cent. No wonder that even at a time when the price of oil internationally has been falling the same has not been demonstrated in Kenya.

The Cabinet's decision over the modernisation undertaken at the Refinery was not adhered to by the implementing agencies, the Ministries concerned and by Essar Energy. This gave an opportunity to cartels and wheel dealers to maximise on an industry that has affected lives because we know that oil and oil products play a critical role in our economy. Our farmers use it. We use it on our roads in our transport sector. We use it in almost every sector including our homes. The homes of many Kenyans who are not privileged to have electricity, use gasoline as light.

Hon. Speaker, entire operations were affected simply because of the actions or the inactions of some of our own senior Government officials and because of the greed of this briefcase company. It is a briefcase company because when we asked the manager then to demonstrate the existence of this company in Mauritius, the only thing the Managing Director said was that he was seconded from a company in India to come and supervise this particular transaction and he was given a base in Mauritius.

These are issues that some of these agencies would be interested in and may later on visit there because we did that to get facts. The delay in modernisation of the Refinery has contributed to the inefficiencies at the facility which has greatly jeopardised the regional and national economy.

As we pride ourselves as a regional economic hub, this cannot just remain on paper. We pride ourselves as the biggest economy in the region but this must be demonstrated in action. We have heard over the years countries competing and we are being overtaken. Today if a facility we put up in 1959, before Independence, can be closed in 2014, 50 years down the line, then what are we telling the current and the next generations? This is happening under our watch.

The sale and privatisation of key Government institutions in particular over the years has been shrouded in mystery. I have been on record asking: Which of the institutions the Government that has privatised over the last two decades has taken off properly? Just yesterday, we heard what happened. Two years ago we celebrated that things at Uchumi had changed, it had been revitalized and taken over by a new management but right now I have heard from the Chairperson and other Board of Directors that Uchumi is almost being put under receivership.

Hon. Speaker, we have seen what has happened to the Kenya Airways, the Kenya Railways Corporation, the Kenya Meat Commission (KMC) and a number of other Government-owned institutions. This cancer that affects any attempt to privatise or diversify Government interest in any of these institutions--- The Telkom Kenya is another good example. This issue must be properly investigated and the Government of Kenya must be properly advised so that taxpayers' interest can be taken care of.

Public participation, as required in Article 10 and Article 108 of the Constitution, may be the cure because most of these investments or privatisations were done in a manner that did not depict transparency and did not show complete openness. Maybe this is one of issues that has affected the privatisation of these entities and has not effectively contributed to the economic wellbeing of the people of Kenya.

One of the shocking observations we made was that initially there was an offer of US\$15 million by Essar Overseas Energy Group. That offer later changed to US\$11 million. It did not happen and eventually, the offer changed to US\$2million. You can ask yourself - and this is not a matter for speculation - how did the figure reduce from US\$15 to US\$2 million? Who are the

individuals who negotiated? What happened? Was this a kill or a cut? The difference between US\$15 and US\$2 million is a whopping US\$13 million. At the current exchange rate today it is Kshs1.3 billion. If an entity was willing to pay US\$15 million and within the negotiation the figure reduced to US\$2 million you can only speculate what happened to the difference of US\$13 million.

Shockingly, again Essar Energy engaged in an issue I can only describe as cheque kiting. They issued a cheque on 30th July 2009 in favour of the Kenya Petroleum Refineries Limited (KPRL). That cheque was in circulation for two good years until 30th July 2011. A cheque issued in exchange for the shareholding of this facility was in circulation within Government institutions between KPRL, the Treasury, Ministry of Energy and Essar Group for two good years until the cheque became stale. Therefore, when it was presented to the bank, the only words the bank used were Real Time Gross Settlement (RTGS) and we all know the meaning of that because we all operate accounts. Therefore, that cheque was not honoured. So, you ask yourself: one is expected to oversee a Government facility yet one allows a private company to take over the shareholding of the Government of Kenya in a very important institution. One then goes into negotiations and those negotiations start from US\$15 million until the figure reduces to US\$2 million. One is then given a cheque which one does not present for two years until it becomes stale. Eventually, that cheque was not even presented. Once that transaction was through, that briefcase company came back and said that that facility was not profitable; that facility was not productive and it was not consistent with their business principles and therefore they wanted to exit. They then handed over a demand note of US\$5 million and that is what the Government of Kenya and the taxpayers are expected to pay. If this is not fraud of the highest order, I do not know what else can fit the term “fraud”.

That is the description of the entire transaction until that goodwill--- Whether you call it cheque kiting or fraud, that is what exactly happened and the Government of Kenya did not get a penny. We lost our facility, our time was wasted and today if you visit that oil refinery, it is a dumping ground. For colleagues who come from the Coast, they will tell you that that facility today is a dumping ground. It is a shame not only to the people of the Coast but to the entire region. This is a facility that would have been the best in the entire region but today it is a shame. As legislators, we must be in a position to cure the privatisation challenges that have affected this country over the last four decades.

Another critical observation we have made in this transaction is that the Government of Kenya willingly decided to undertake a goodwill consideration on the understanding that Essar Energy would undertake modernisation. How the Government of Kenya just accepted an undertaking by a briefcase company and gave away a critical entity called the Kenya Refineries for no penny is incomprehensible. That is what exactly happened. Eventually, we lost the organisation, our time was wasted and we did not get a penny.

Further, the Government of Kenya did not commit or ask for any financial audit of the company by the Auditor-General because the shareholding of the Government and Essar Energy was 50/50. It is because of this that Part I of the Public Audit Act of 2013 and Part IV of the State Corporations Act of the Laws of Kenya ought to be amended in order to cure this challenge.

The issue of pollution is serious. Sometimes there are speculations whether the intention of those new shareholders was not to use that facility as a dumping ground or whether it was their determination to invest and modernise that facility. There are critical issues that we failed to understand.

This thing was not done under the moon. The transaction was supervised by competent Government institutions. How come the Ministry of Energy and Petroleum, the National Treasury and the Investment Department did not foresee and cure this challenge? I am told that recently the Cabinet was presented with this demand note for exit fee of US\$5 million.

I want to go on record on this that any attempt to pay that exit fee will be fraudulent and robbery on the part of the people of Kenya. Therefore, those who are interested in looking after the public coffers should be careful because history is going to haunt them. They should make sure that, that exit fee of US\$5 million is not paid at all. The entire process was fraudulent and not transparent. Therefore, that exit clause was the only thing that Essar Energy expected from the entire transaction. This particular issue has come at a time when the Kenyan nation is in a rush. Very soon, we will be joining the league of the oil producing nations. We are destroying ours yet Uganda is in the process of coming up with their own Uganda Refinery facility. Tanzania is in the process and South Sudan, who know the current challenge, is also in the process.

Hon. Speaker, this country will be forced to start again from scratch once the current oil exploration is through and we will be in a position to refine our oils. The fallacy will be a country that had a facility in 1959, in 2015 asking a neighbouring country that has just come up with the same facility to refine her oil or export her own crude oil to the Middle East or other countries for refining. For this to be cured, the Committee has made the following suggestions so that we can cure this anomaly: -

The Ethics and Anti-Corruption Commission (EACC) should investigate the circumstances under which the Cabinet decision for modernisation and refurbishment of the refinery was ignored and find out the officers who flouted the Cabinet decision.

Hon. Speaker, shockingly, the Cabinet is a key creature of the Constitution. Members of the Cabinet make critical decisions not only on behalf of the Executive, but on behalf of the people of Kenya. The Cabinet Memorandum was completely ignored. Maybe this is why the entire transaction was not carried out in a transparent manner to the extent that the taxpayers' have lost everything. Therefore, we are asking the EACC to investigate and find out why the Cabinet Memorandum was not adhered to.

We are also asking the EACC to investigate the officers who participated in the negotiation, the drafting and the signing of the share agreement. That includes the then senior officials of the Ministry of Energy and Petroleum, the Ministry of Finance and the officials of KPRL. Thirdly, we are also asking the EACC to investigate the officers who included the US\$5 million exit clause in the agreement. The inclusion of this particular clause was only meant for speculation and to ensure that the shareholders of Essar Energy, once they were prepared to exit, they got a free cheque of US\$5 million. Equally, we are asking the EACC to investigate the circumstances under which considerable payment to Government for waiver of its pre-emptive rights was reduced from US\$15 million to US\$2 million. What happened to the difference of

US\$13 million? Who pocketed it? This is the bit that we expect the EACC to do a financial tracking and ensure that we know and identify the culprits behind this fraudulent transaction.

We are also asking the Government to establish an import terminal and strategic petroleum reserve in the country to address the challenges in storage and enhance security of petroleum supply through the setting up of strategic petroleum reserves. This is a facility that we do not have. That is why at times we are at the mercy of what happens globally. The roles have changed. In countries like the USA, the issue of strategic petroleum reserve is taken as a critical component in the affairs of the economy of that country. In the Kenyan context, we do not have such a facility. Therefore, whenever there is a crisis in the Middle-East or in other countries from where we import crude oil, you realise the kind of turmoil that occurs in the oil industry in Kenya.

We are also asking the EACC or Essar Energy Overseas Limited to undertake an environmental clean-up and restore environment at KPRL to its original state in accordance to Section 108 of the Environmental Management and Co-ordination Act of 1999. We are also asking the National Environment Management Authority (NEMA) to assess the environmental impact in accordance with Section 58 of the Environmental Management and Co-ordination Act of 1999 and ensure that clean-up of the environment is undertaken by Essar Energy. We are also asking NEMA to carry out an environmental audit to ensure that everything that has happened and all the activities that took place at that facility do not endanger the lives and health of the people of Kenya.

We are also recommending that the Government of Kenya should not pay Essar Energy Overseas Limited any consideration during their exit since they have failed to honour their responsibilities in terms of upgrading and modernisation of the oil refinery on the basis of which the shareholding agreement was signed. This purported exit clause was fraudulently sneaked in the agreement. Since they had not done anything on the ground, our recommendation is that the Government of Kenya should not pay them a penny for this. We are also recommending that any future agreement between Essar Energy Overseas Limited and the Government of Kenya should be scrutinised thoroughly with proper due diligence being undertaken.

The exercise of privatisation was in the past done without public participation. Therefore, it is our recommendation that any future public privatisation must allow the public to participate in the process. This is the only way we can limit the creative imaginations of the greedy and the cartels who have over the years dominated our economy and in particular, who have dominated this particular sector of privatising key Government institutions.

We are also recommending that the EACC should investigate and determine the ownership of Essar Energy Overseas Limited, a company incorporated in Mauritius in the year 2007. The ownership and directorship of this particular company is suspect. It is our view that this is not an offshore company. It is an offshore company with serious Kenyan roots with the sole aim of participating and benefiting commercially and financially in this fraudulent transaction. Therefore, we are asking the EACC to unearth the faces behind this company. We are also asking the Government of Kenya to fast-track the development of new and modern refinery to cater for the refinery of crude oil for national consumption and for export. The closure of this facility has come at a time when we are gearing up for our first oil production. It will be an irony if after 50 years of Independence, our first crude oil will be exported to a third country

for refining. Before we produce our first crude oil, our suggestion is that the Government revives this institution and comes up with a modern refining facility so that we can encourage those who have invested in this vital sector.

We also recommend that the Privatisation Act be amended to ensure that the Government does not privatise or diverge from any strategic investment or parastatal without undertaking due diligence. This issue has happened. Those of you who watched television yesterday saw what has happened to Uchumi Supermarkets. Some few years back, Uchumi Supermarkets were one of the best not only in Kenya but in the entire region. The statement by the Board of Directors yesterday only confirms that Uchumi is ailing. It is ailing not because of what happened yesterday but because of the way its privatisation was undertaken. Currently, all of us are worried about the fate of the pride of Africa, Kenya Airways. Ten years down the line, Kenya Airways is today at the mercy of creditors as a result of a poorly managed and a poorly structured privatisation mechanism. Once upon a time, we used to have a giant telecommunication company called Telkom Kenya, which was an offshoot of the old Kenya Posts and Telecommunications Corporation (KPTC). Today, I am told the workers have not been paid for the last few months. I am told that once upon a time that was the richest organisation. To date the Government of Kenya does not have the audacity to ask for the asset registry of that key organisation. I am just highlighting.

The other day we were told that the Kenya Wine Agencies was just handed over to an individual through blackmail. Very soon, we will give you a report. Today, the Kenya Wine Agencies is in the hands of few wine speculators who have the resources all over. The taxpayers have lost everything. Is this the trend we want to see in this era? Is this the trend we want to see where every privatisation undertaken in the Republic of Kenya must fail at a certain time? These are the challenges we must address and this is why we are saying that the Government of Kenya or we as Parliamentarians must undertake this. I undertake that I will propose a raft of amendments on the Privatisation Act so that we can bring it in line with the current constitutional mechanism. The one we have was tailor-made, prepared and enacted with some of these issues in mind. I will not be surprised. The other day before we submitted the Report on Telkom, we asked whether the Privatisation Commission of Kenya was involved. We were told: "No". I can also confirm to you that even as late as 2009, the Privatisation Commission of Kenya was not involved in this particular transaction. Then why do we have such an entity in books? Why do you burden the taxpayers in supporting an organisation whose function we do not want to support? Why would we have a Privatisation Commission of Kenya that is toothless and just on paper? This is the reality. The reason why some of the wheeler dealers do not want the involvement of the Privatisation Commission of Kenya in some of these critical decisions is because it will interrogate and question the process. This has not happened. Therefore, we have a toothless entity called the Privatisation Commission of Kenya. Therefore, what I will do as a representative of the people of Eldas Constituency is to bring a raft of amendments on the Privatisation Act to ensure that it is in line with the current Constitution.

We also recommend that Part III of the Public Audit Act No. 12 of 2013 and Part IV of the State Corporations Act, Cap. 46 of the Laws of Kenya should be amended so that they can comply with Article 229 (5) of the Constitution to provide for express supervision for the Auditor-General to audit Government investments, including where the Government of Kenya

has shareholding that is less than 50 per cent. Right now there is a bit of confusion. This is where cartels and other corrupt elements have taken advantage because the Auditor-General only audits entities where the Government of Kenya has more than 50 per cent shareholding.

As I conclude, I just saw the Chairperson of the Committee on Implementation. I do not know whether she is still here. I saw hon. Soipan here. I plead that as we generate many reports, the reason why the framers of the current Standing Orders---

(Loud consultations)

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Order, hon. Members! Your consultations are too high. Hon. Mbadi and the team, I can hear a lot of consultations. Please make sure it is done the right way.

Hon. Keynan: I am privileged to have been part of that House that came up with these Standing Orders. The reason why the framers of the current Standing Orders chose to have a Committee on Implementation was that once a report is adopted, the work of the Committee on Implementation--- I am not in any way auditing the work of the Committee on Implementation because I can see a Motion on its Report on the status of implementation of House resolutions. This is what we want. Within two months of adoption of a report, we should get a status report from the Committee on Implementation so that we know that the reports passed or adopted in this House did not just go to waste.

The change of shareholding of this particular company has created a sad state in the entire oil refinery sector. This is something we must be prepared to cure as soon as possible. I hope that the decision makers in this particular sector, in particular the National Treasury and the Ministry of Energy and Petroleum, will go out of their way and ensure that we have a modern refinery.

At this juncture, I beg to move and invite hon. Comelly Serem to second the Report. Thank you, hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Thank you. Let us have the seconder, hon. Serem.

Hon. Serem: Thank you, hon. Temporary Deputy Speaker. I rise to second this Motion by making the following observations: Whenever this country mentions the words “Reform” or “Restructure”, it is very clear that somebody wants to make money out of this country. I become very concerned when I hear about reforms and restructuring in the media. We are not concerned about the employees that work in those institutions. This is because when these institutions go down, so many will suffer. I have looked at this Report and I have found out that so many institutions in this county let us down. The National Environment Management Authority (NEMA) did nothing to ensure that the mess would be cleaned once Essar exits. These individuals have made money, but Kenyans are suffering and are ready to quit. We have personnel that work in these institutions. The former Chief Executive Officer (CEO) of this institution is a governor. Once he exited and contested the seat of the governor, the institution went down. How many times do we have to watch a few individuals who run these institutions run away and contest seats when they have looted enough of our resources? Maybe in future we

should actually put a gag order that if you have served as a CEO of an institution, you should stay out for five or ten years before contesting for a political seat so that you can be checked.

I am very concerned that as we are working so hard to find oil, we are going to be the next Nigeria where oil will be taken to a different country for refining and be imported back into the country. If we are really seriously discussing about having oil by 2018 and the story we hear from Uganda, it will take this country five years to come up with another refinery. Definitely we are going to export crude oil and import it back as refined oil. If we are serious as a country, which we should be, we should not allow this Refinery to go down.

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

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Let me give a direction for one minute. There is a point of order from Hon. Njagagua.

Hon. Njagagua, I will not allow a point of order because there is nothing out of order as far as the Motion is concerned unless there is something unprocedural. Hon. Serem is just seconding the Motion. It is not in the hands of the House yet. Let him second, I propose and then you can bring your intervention.

Hon. Serem: Hon. Temporary Deputy Speaker, thank you for protecting me. I do not know whether he was one of the beneficiaries of the same.

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

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Let me hear what is not procedural. It should be within the Report.

Hon. Njagagua: Is the Member in order to bring in issues of a friendly nation, in particular Nigeria, about their oil industry without bringing in a substantive Motion to discuss that matter? Is he in order?

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Order! Hon. Member for Mbeere, I did it and I will repeat. You are out of order. Let us follow procedures. Allow the Member to finish seconding and then I will give the Floor to you.

Hon. Njagagua: Much obliged, Hon. Temporary Deputy Speaker.

Hon. Serem: Thank you, Hon. Temporary Deputy Speaker, for protecting me from the point of order that did not make any sense.

I did not use Nigeria in bad light. I felt that it is an example that their oil is being pumped out of the country and then it is imported as refined oil. In my view, I feel that the Government should pump more money to refine this institution than putting Kshs4 billion shillings to the Kenya Airways which we know is being run down for sure. If you discuss this matter with a few members of the Kenya Airways, they will tell you that pilots take time so that by the time they get to their destination, it will be too late for them to fly back and Kenya Airways would therefore use its money to book all their passengers in hotels. At the end of the day, we lose a lot of money.

In my view, before we inject money, let us look at what can be done to refine this institution which is very important for this country in terms of jobs for our young graduates in future. We are not going to export jobs offshore. We should know who the owners of Essar Energy Overseas Limited are. You would be surprised that these could be our own brothers and sisters who pretend to have different names for the sake of looting our economy.

Thank you and I second.

(Question proposed)

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Members, I need to remind you that this is a Report of the Public Investments Committee (PIC) that was tabled on 29th April 2014. I am sure changes have happened but we have to debate it as a House.

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

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Let us hear a point of order by Hon. Sunjeev Birdi.

Hon. (Ms.) Sunjeev: Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity. I seek your guidance. I find it surprising that voluminous reports such as this are only availed to us like an hour or two before it is discussed. I particularly have been looking for this Report since yesterday. I do not know where the rest of the Members of Parliament are getting their Report from or what they have been referring to but this is my problem and I seek your guidance.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Thank you. Hon. Members, when reports are tabled in the House, you know where to get them. We have Room No.8. The Leader of the Majority Party usually reads the outcome of the House Business Committee (HBC) meeting. He reads out what is to be debated the following week. For planning, it is important for us to follow procedures. For that matter, since today I am in my good mood, let me give the Chair of the PIC to comment on this.

Hon. Keynan: Hon. Temporary Deputy Speaker, I think you have said everything. I want to urge every Member of the House to follow deliberations and take seriously what happens on the Floor of the House. This particular Report, as you have rightly put it, was tabled on 29th April 2014. It is almost a year plus. I can also confirm that there are enough copies. We have even gone ahead to simplify the work of Members by preparing an executive summary that we have availed at the reception as you walk out just to ensure that those Members who do not have a lot of time in going through such voluminous reports have easy access to a summary of the whole thing. So, you can get one as you walk out but you can also benefit from the one I have prepared.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Thank you. I also want to remind Members that every documentation, paper work, reports and Bills are found in Room No.8. Let us not expose ourselves to the public again. We are fighting to be the upper House but we do not seem to be informed on where we are supposed to get information. Also note that the same reports are also found in our Parliamentary Website. Let us familiarise ourselves with our Parliament.

I will now get contributions as nothing is out of order. We are now in order. It is good to get information and know who goes where or who does not go anywhere. It is important for the reports to be available to Members on time so that we can debate from a point of information. Hon. Member for Rarieda, Chair of the Public Accounts Committee (PAC), you are the first on my list.

Hon. (Eng.) Gumbo: Thank you, Hon. Temporary Deputy Speaker, for giving me the opportunity. I wish to start by thanking the PIC for a job well done.

This Report by the PIC highlights some of the things that are very wrong with our country where investors come to Kenya with the promise that they are going to improve things and transfer wealth to our people but the underlying motives are to fleece our economy. It is very sad. It is sadder that this usually happens with connivance and active collaboration of our own people.

Looking at this Report, I want to believe that their recommendation particularly that the Ethics and Anti- Corruption Commission (EACC) should investigate circumstances under which the Cabinet's decision for the modernisation and refurbishment of the firm was ignored and the officers who flouted the Cabinet's decision, should be implemented.

Hon. Temporary Deputy Speaker, it is not just this one. We have many cases where officers routinely disregard Executive decisions and go ahead to get involved in the use of public resources in a manner that is totally inconsistent with the spirit of oneness of our country. I wish to urge that even as we debate this Report, we ought to realize that part of the frustration that we have had as a House is that we come up with very good recommendations and resolutions, but when it comes to their execution or implementation - which is a function of the Executive - it is very weak. We have reached a time in our country when we have to turn a bend and the only meaningful bend that we can turn as a country is to start holding people to account. Public resources are meant for public good. But the attitude of most public officers in Kenya is driven mostly by vested interests. People negotiate not to confer or transfer the greater good of the public, but only to pursue public vested interests. Look at even the way this agreement was signed. It was clearly signed with the intention of ensuring that benefits go to particular individuals. The maximization of the benefits does not go to the people of Kenya, but to particular individuals.

I am happy that the Committee, in its Report, is bold in saying in the recommendations that those who participated in the negotiations in the drafting and signing of the share agreement which, of course, included the then Permanent Secretary in the Ministry of Energy, the Investments Secretary, Chief Executive Officer Kenya Petroleum Oil Refineries Ltd (KPRL) and, of course, the current Governor should be investigated. If we continue like this, it will become an endless merry-go-round. We have people who are clearly culpable and who should be an example to others. They should know that when they are made to be in charge of public resources, they are nothing but custodians. We tend to portray an attitude that, as long as we maximize personal benefits, then everything else is immaterial. If you look at the considerations that were due to the Government in this particular arrangement, clearly, somebody was taking the people of Kenya for a ride. Honestly, this is the story of our country. This country, which has so much promise, has in more ways than one, come to stagnation merely because when we are given the opportunity to consider things on behalf of the public, we tend to put aside the public good and tend to focus more at the vested interests that derive from our positions in those offices.

I do not want to take too much time debating this Report. Once again, I commend the Public Investments Committee (PIC). As I do that, I want to also say the following. As the Chair of the Public Accounts Committee (PAC), we have many good reports which have been tabled in this House which are, in fact, intended to strengthen the management of public affairs in this country. It would be nice if we had a priority of reports - a sort of first-in-first-out mechanism - where reports that are taken in early are debated first. The impression that is created out there is

that committees of the House are not doing enough when, in fact, we have so many good reports that are here. If those reports are implemented, they could go a long way in improving the lives of the people of Kenya.

With those remarks, I wish to support and urge those responsible for execution to take the recommendations in this Report seriously so that, at long last, we can turn the final bend to show that we are willing to change our attitude with regard to the way we apply public resources.

I support.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): You support. Thank you. Well spoken.

Hon. Member for Suba Constituency, John Mbadi.

Hon. Ng'ongo: Thank you, Hon. Temporary Deputy Speaker, for giving this opportunity to also support the Report of PIC on restructuring of KPRL. First of all, I must say that I am a bit disappointed that even up to late in the day like today, we are still talking about privatisation and modernization of KPRL. Those of us, who have been in this House for some time now, have spoken to this issue a number of times. We have expressed the fear that we are likely to suffer as a country in terms of external shocks in the event that we face shortage of petroleum products in this country. We have said previously that we need to have strategic petroleum reserves to be set up to cushion this country against such eventuality and to enhance the security of the petroleum supply. What is even more worrying is that any time this country attempts to privatise and enter into negotiation and contracts with private individuals from outside this country - mostly companies that do not reside in this country - the end result has always been a raw deal to the Kenyan taxpayer. Many times, the people who are given and tasked with the responsibility to ensure that our State corporations are managed properly and that contracts signed are in the best interests of the people of Kenya end up using their positions to enrich themselves, the consequence of which the Kenyan public ends up footing, supporting and financing decisions that are not in the best of the country.

Take the example of many State corporations or companies where the Government has an interest in - like Mumias Sugar Company and Kenya airways. As a country, we are now being asked to bail out some of those State corporations just because some individuals have decided to take money from such State corporation or firms and line their pockets. Then you ask the Kenyan taxpayers to pay as if the money disappeared with some ghost. It is high time a decision was taken. The people who have been looting companies and firms where we have an interest - or the Government of Kenya has an interest - need to be held accountable. Decisive action needs to be taken against them. We should not only be talking every year when a clear case of corruption has come up and nothing happens. The individuals in the company called Essar Energy Overseas Limited, from the Report of the Committee, are known. In fact, one of the disappointments that I have with this Report is that we have not mentioned the officers by name. The Permanent Secretary and all the people who were involved in negotiating that lopsided contract which has exposed the taxpayers' money to waste must pay the people of Kenya. They must pay dearly. How on earth would you sign a contract whereby you agree with that company to pay goodwill and then the amount which was supposed to be US\$15 million is all of a sudden reduced to US\$11 million and later on further reduced to US\$2 million only? To make it worse, that company is allowed to trade for two years. It is after those two years that we are now being

paid as a country. That basically means that, that company traded with KPRL, got proceeds from it and then paid the Kenyan Government!

Hon. Temporary Deputy Speaker, that is completely unacceptable. The other question that I want to ask - and I have read through the Report - is this: Before you sign any contract between the Kenyan Government and any other entity, there is need for the Attorney-General or his Office to be involved in such a contract in terms of advice and execution of the same. From the Report, you do not see any evidence of involvement of the State Law Office. Therefore, it is very clear from this Report that some individuals who were given a responsibility by the people of Kenya to act in their best interests decided to take advantage of the people of Kenya and signed a contract that was skewed and in favour of that company. For obvious reasons, they profited out of that. This is a case where, as a country, we must force those officers to pay the people of Kenya.

They have even gone ahead to sign an exit clause in the contract conditioning and forcing the Kenyan public, in the event that we are separating with that company, the Government of Kenya must again give those people US\$5million to pay them. There is even no explanation as to what reason is informing that. We should not just be complaining as a House. If we have to exercise our oversight role properly, we must ask the Executive to act decisively on the officers who were involved. I can see that the recommendation in the Report is that the Ethics and Anti-Corruption Commission (EACC) should investigate this matter. If you ask me, there is no need even to involve EACC because we know what that institution is going through.

There is the Report of the Auditor-General on the same. I do not see why the Government machinery cannot move with speed. There is no law in this country that conditions the Director of Public Prosecutions (DPP) to only act on the report of EACC. The DPP can act on any report that has evidence that a State officer or any other public officer has acted in a manner that has compromised the integrity of that office and exposed the people of Kenya to loss through taxpayer's money. So, if you ask me, my recommendation is that as we support Mr. Keriako Tobiko to remain in that office, we want him to move and prosecute those individuals. That is because we shall not just be talking about corruption everyday and making recommendations and no one takes action.

As a matter of fact, we should ask ourselves as a country: How come you can easily jail those thieves who have stolen chicken and Kshs100? They are jailed everyday. The district magistrates are jailing them every day in the counties. However, when it comes to mega scandals in this country, there is not even one single case which has been successfully prosecuted in this country. Does it mean that evidence is only available where someone has stolen a chicken and not where even people have clearly stolen cheques? Someone just decides to steal, take money, banks it in his account and you can trace it! Then you say that there is no evidence!

There is even cheque kiting here where a cheque is drawn in favour of the Government of Kenya between the National Treasury and the Kenya Petroleum Refinery Limited and no one knows who should bank the cheque. Just imagine that! The money is written in favour of the people of Kenya to use for development and for a whole year, the National Treasury does not know where that money should be banked and then we claim to be a responsible country. Some of these things can only happen in Kenya. If such a Treasury exists in a civilised country, the

entire Treasury would be held accountable. In fact, the head of the Treasury would explain why that has happened.

So, mine is to ask the DPP this: Immediately we finish and adopt this Report, he should not wait for any investigation by EACC. Let him move with speed and arrest the culprits, charge them and escort them to jail. Thank you.

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

Hon. Wangamati: Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity to also make some remarks on this Report. One, I support the Committee and the Report that they have brought before the House. It is wonderful. They have done a good job. The Chairman has also stood before this House and explained thoroughly about the investments in our country. Even before we got Independence in this country, a petroleum refinery was very instrumental for our economic development. It is wonderful. *Mheshimiwa* Mbadi has said it. I think that this House is the only solution to reduce corruption, bad management and wastage by the officials and ministries in this country.

People just go on selling things. I do not know on what recommendations. Very valid income earning projects are just handled very badly. It is only this House and *Mheshimiwa* Mbadi has made it very clear. I do not want to waste time on it. Let us adopt this Report. We want to see the Government take action against those people because we are not going to only talk. Parliament comes after every five years. We continue talking about wastage, mismanagement and people being corrupt in all areas. Because of this, I want to remind this House that when the President came to this House, I thought that his Speech begged that the House should support him to reduce corruption in this country. I do not want to take a lot of time. Let us support this Report. It must be implemented by the Executive by all means.

Thank you for giving me this chance.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Thank you and welcome Hon. Patrick Wangamati. The Hon. Member for Limuru, Eng. John Kiragu.

Hon. J.K. Chege: Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity. I support this Report. As a matter of historical information, we know that the refinery was put up in 1960 when the Kenyan population was about 7 million only.

The primary objective of putting up that refinery was to give Kenya an opportunity to have the technology to refine crude oil and particularly to produce liquefied gas, motor fuels and heavy fuels for industrial use. We know that the technology in that refinery has become obsolete over the years. The companies that initially invested were making money because the industry was protected. For that reason, when the economy started opening up, they thought it was time for them to move out and sell their rights. It should be on record that Kenyans have over the years gained experience in the operation of the refinery and related technologies. Kenyans have even gone out of the country to serve in other refineries. For that reason, that has been a strategic industry for us. But when time came for us to look for investors, what was agreed or planned to be executed was a process of stealing funds from Kenyans. Even the negotiations that were carried out, everything was in the interest of Essar. Even in the exit clause, in case they wanted to leave, they were given a fall safe position of getting US\$5 million. It is very sad that Kenya had to get to where it is. That is because, first of all, we did not move with the technology

and the demand in the country. It is important for us to look at that industry afresh. We need to understand that it is a global industry and Kenya is also getting into the oil processing activities together with our neighbours in the region.

One of the things that we need to remember is that there are people who depended on that industry to the tune of 300. When you close down an institution like that, you are saying that all the skilled people should go out in the streets. They will not get jobs because they have specialised skills which cannot get them into other activities. That means that Kenya will lose when we come to a point where we will start our refinery afresh. This is not different from the experience that we have seen in the Kenya Railways where the previous administration handed over our railway system to people who did not know how to run a railway. They were given a 25 years concession and they sent our skilled people home.

Today, Kenya is going to spend billions of shillings in trying to revive skills related to railway operations. It is the same. We are going to require a modern refinery. I know that we will start that new refinery by recruiting people who know nothing about a refinery, when we have had a refinery in Kenya for over 40 years. I strongly believe that that facility should be converted into a storage tank firm like the ones that we have in Kipevu and in Nairobi next to the airport.

When we are discussing the storage tank firm in the country, we must remember that some of those installations were safe some 20 years ago. Today, when we design storage facilities, we must take into consideration the fact that now we have terrorism. We must make sure that even when we recommend a facility like this to be a storage facility, which it is next to a residential area, we must take into consideration the safety aspect of such an installation. This country requires facilities to store processed products. We need to enhance our capacity.

As I close, it is important for all of us to ensure that when it comes to privatisation of public and strategic organisations, we must put the interests of the country first. The short-cuts of making money from public organisations like refineries, railways, Telkom Kenya and many others must be discouraged by ensuring that the people who are responsible face the full weight of our laws. We should make sure that others learn from these lessons so that, in future, when people are given the opportunity to privatise, they will ensure that the interests of the country are taken care of. As we discuss the closure and the investigations of the various people who are involved, we should also make sure that the people who worked in that institution are not forgotten. As we continue to think about what is good for that facility, we should make sure that the skills are not lost.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Thank you. Let us have the Minority Whip. You can use the Dispatch Box.

Hon. Mwadeghu: Ahsante sana Mhe. Naibu Spika wa Muda, kwa kunipa nafasi hii ili nami nitoe mchango wangu kwa Ripoti hii ya Kamati ya Uwekezaji. Kiwanda hiki ambacho kuanzia mwaka wa 2007 - katika mahojiano na makubaliano ya Baraza la Mawaziri - ilikubalika wazi wazi kuwa kinahitaji kuboreshwa ili Serikali ya Kenya iwe na zile hisa zake theluthi hamsini na mwekezaji mpya aje achukue nafasi ya BP, Shell na Chevron, ambao ndio walikuwa wanashikilia hisa hizo nyingine.

Jambo la kushangaza ni kuwa ombi lilipotumwa kwa mashirika mbalimbali ya ulimwengu, kati ya mashirika yaliyoomba kuingia na kumiliki hizo hisa, ilikuwa kampuni ya Essar kutoka Mauritius. Madhumuni ya Essar kutoka Mauritius kupatiwa nafasi ya kuingia na

kuchukua hisa za yale makampuni mengine ya mafuta yalikuwa kwanza kuboresha kiwanda hicho ili kiwe kinasafisha mafuta ndio tupate kiwango ambacho kinahitajika cha mafuta na cha kuridhisha.

Mhe. Naibu Spika wa Muda, utaelezwa na hii Ripoti ukiisoma kwa undani kuwa waliohusika na ubinafsishaji wa kiwanda hicho, waliweka mikakati ya vile hiyo kampuni itaingia, ianze kazi, ichukue hisa na ihakikishe kuwa kiwanda kimeboreshwa kabisa na shida ya mafuta imeisha. Ilikuwa pia ihakikishe kuwa usafishaji ulikuwa mzuri, Serikali itapata faida na wafanyikazi wa kiwanda cha mafuta nao pia watakuwa wamepata nafasi. Suala likawa US\$15 milioni ndizo hela kampuni hiyo ingelipa Serikali. Baadaye, kwa sababu ambazo hazikueleweka, na mpaka sasa hakuna mtu ambaye ameeleza, ikawa hawatalipa US\$15 milioni bali watalipa US\$2 milioni. Hata hundi hiyo ya US\$2 milioni ilipotolewa, ilizungushwa kati ya Wizara ya Fedha na kiwanda hicho cha mafuta kwa muda wa miezi sita, bila ya kujua ni nani aliyepaswa kuipokea hundi hiyo mpaka muda wake wa kulipwa ukaisha. Kwa hivyo, inabainika wazi kwamba kampuni hiyo ya Mauritius haikulipa chochote kukibinafsisha kiwanda hicho.

Mhe. Naibu Spika wa Muda, katika mikataba ambayo waliweka, walikubaliana kwamba muda ukifika na watu hao washindwe kukiboresha kiwanda hicho, watalipwa US\$5 milioni na Serikali. Swali ambalo unapaswa kujiuliza ni: Kwa nini Serikali ilipe US\$5 milioni kwa mtu ambaye alikuja kununua asilimia 50 za hisa za kiwanda ambacho kinafanya kazi? Kwa nini mtu huyo, ambaye aliahidi kukiboresha kiwanda hicho, alipwe fedha hizo na kuondoka anaposhindwa kukiboresha kiwanda hicho? Hii inamaanisha kwamba nchi hii imepoteza hisa zake, US\$15 milioni, na ikapoteza muda tukitarajia kuwa kiwanda kitaboreshwa.

Tunavyozungumza, wafanyikazi hawana chochote. Kiwanda kimefungwa; hakifanyi kazi. Wafanyikazi wamepoteza ajira yao. Wakazi wa Pwani tumekuwa tukijivunia kwamba tulikuwa na mtambo wa kusafisha mafuta kule Changamwe. Mtambo huo haupo tena. Sasa imebaki fedheha. Kimekuwa kitu cha kuangalia tu. Zamani kulikuwa na mtambo wa mafuta. Sasa kilichobaki ni vyuma vinavyoshika kutu. Ardhi yenyewe inaelekea kuuzwa; ina utata. Lililobaki ni kujiuliza, je, wale waliohusika, walikuwa na madhumuni gani? Nia yao ilikuwa ni nini? Je, nia yao ilikuwa ni kukiboresha kiwanda hicho ama nia yao ilikuwa, kwanza, kwenda Mauritius na kuanzisha kampuni ya kununua hisa za kiwanda hicho? Kwa nini Mauritius? Kwa sababu Mauritius ni nchi ambayo inaficha siri za wahusika wa makampuni. Pili, Serikali ya Mauritius haitozi kodi. Tatu, wafisadi wakuu ulimwenguni huenda kujificha huko. Wahusika ni wakuu serikalini wanaoshikilia nyadhifa mbali mbali, haswa wakuu wa kitengo cha uboreshaji na ubinafsishaji wa mashirika ya umma nchini, na wakuu katika kiwanda hicho, ambao baadhi yao wao wameondoka baada ya kukipora kiwanda hicho. Baada ya kufanya hizo mbinu zote, baadhi yao wakaenda kuchukua nyadhifa za kisiasa. Je, tutaendelea na mambo kama haya nchini kwa muda gani?

Mhe. Naibu Spika wa Muda, Wizara ya Kawi ilikuwa imetuahidi kuwa kiwanda hicho kikiboreshwa, bei ya mafuta ingepungua na tungekuwa na bidhaa za mafuta za kutosha. Kama unakumbuka, kuna wakati watu walianza kupiga foleni kununua mafuta kwa sababu ya uhaba wa mafuta. Washikadau katika sekta ya mafuta nchini walikuwa wakibishana na Serikali, wakiulizana ni nani aliyepaswa kuleta mafuta yaliyosafishwa, na ni nani aliyepaswa kuleta mafuta ambayo hayakuwa yamesafishwa ili yasafishwe kwenye kiwanda hicho. Kukawa na shida ya mafuta. Wamiliki wa Kampuni ya Essar ya Mauritius walipokuja, walisema kwamba

shida ile ingeisha kwa sababu wangekiboresha kiwanda hicho ili kiweze kutoa mafuta masafi na nchi itafaidika. Tunashangaa ni masaiibu gani ambayo yameikumba nchi hii?

Jambo la kushangaza ni kwamba watu wote wanaokuja nchini kushiriki kwenye mpango wa ubinafsishaji wa viwanda na makampuni yetu, nia yao ni kupora mali ya nchi hii. Kwa mfano, ni nani ambaye hajui kwamba Telkom Kenya lilikuwa shirika kubwa ambalo halikuwa linatingisika? Lakini limeuzwa na ukiangalia jinsi lilivyouzwa, utaona kwamba hisa zimeporwa na hivi sasa wafanyikazi wa shirika hilo hawana ajira. Shirika limechukua mkondo huo. Hivi sasa, wameshikana na shirika la Wareno, ambao wanasema wanaliboresha shirika na ndege nchini. Wamenunua ndege, lakini madhumuni yao ni nini?

Mhe. Naibu Spika wa Muda, tunakioomba Kitengo cha Ufisadi kiwachunguze watu wote waliohusika na kuwachukulia hatua. Tunawajua watu hao. Hatutalala mpaka wote wanaohusika wachukuliwe hatua ya kupelekwa kortini na wanapopatikana na hatia, warudishe pesa za hicho kiwanda na pia wafungwe jela.

Kwa hayo machache, naiunga mkono Ripoti hii.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Member for Igembe North, you have the Floor.

Hon. M'uthari: Thank you, Hon. Temporary Deputy Speaker. I rise to support this Report. In this Republic, people who have been entrusted with leadership responsibilities have abused their offices to siphon resources from public coffers for their own good. The sad thing is that those who engage in mega scandals go scot free at the expense of the majority of Kenyans. It is very easy to punish a person who has stolen a goat.

Hon. Temporary Deputy Speaker, a company was registered in 2007 and within a short period of time, it acquired massive assets. This is history that has repeated itself severally, as highlighted by other speakers. The same happened with Kenya Railways, Telkom Kenya and many other State corporations in this country. They have never improved. The oil refinery has been one of our premier projects. It did well in the past but now, it is going to the dogs. Ironically, the people who are involved in such activities end up being rewarded.

Hon. Temporary Deputy Speaker, we are surprised that such things happen in this country. We have the Office of the Attorney-General. Every Ministry has legal experts who advise them during preparation of agreements. One wonders why agreements are done in such a skewed manner such that we end up losing as a nation. Instead of the purported investors meeting their bare minimum commitments, the Kenyan taxpayer ends up paying more when such investors exit. The Government should be serious about fighting corruption. We should not just be talking. Issues should be tackled. Somebody cannot say that if you follow this kind of matter, you cannot get evidence. There are various stages involved in arriving at a decision like this one. All the people involved in this matter are there, and are known.

Hon. Temporary Deputy Speaker, the sad thing in Kenya is the glorification of material things and money such that, even if you steal and you can use the money you have stolen to make yourself clean from corruption, you may even be rewarded by the citizens of Kenya to get more responsibilities than you had before. Nobody, including the citizens, ask where the money that they are given comes from. Their need is to have the money.

In all these things, there is a responsibility. After the adoption of this Report, we should follow the recommendations and resolutions. This Report should be taken up by the House

Committee on Implementation. We want to see what will be done to the recommendations by the Public Investments Committee (PIC). We also want to see the Ethics and Anti-Corruption Commission (EACC) act. I saw an advertisement for positions in EACC. We want to see the people who are given the responsibility of investigating going ahead with their work. As Kenyans, we want to see things happening because we are tired of just talking but nothing of essence happens. To stop this, the people who are involved in the leadership - that is the Executive, the House and people who are entrusted with the responsibility - should do what they must do and make corruption a little bit more expensive than it is at the moment. When people engage in it, they must know the cost. They must take responsibility for engaging in fraudulent activities or activities that will lead to the country losing. When people know that they will get very heavy punishment if they engage in corrupt activities - as it has happened in other countries - corruption will be reduced. Corruption is very expensive. We lose assets like the ones we are losing through corruption.

Even if we make the refinery a storage facility, we do not know what could happen. We should stop the process of allowing Government's and national assets to be sold for a song as it is happening in this case. It is through this kind of mechanism that we can move forward as a country and save the resources that can be utilised. If this thing is improved, we will know that we will be on a good start as we go to the level of refining our own oil from our own land. The collapse of that oil refinery - which is supposed to have been made better - means that we are going to start again from zero rather than starting from the point where we are going forward.

With those few remarks, I support this Report. It is my hope and strong recommendation that we see heads rolling. In any case, they should have rolled even before the Report because these things should have been realised. We are discussing a Report that came out in April last year which is more than one year ago. Even if we had not discussed this information here, it is in the public domain. If action was to be taken, it should have been taken even by now. Investigations should have been carried out because the information is available. Otherwise, with those few remarks, I support.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): You support. Hon. Member for Kwanza Constituency, Hon. Ferdinand Wanyonyi.

Hon. Members, we can see the content of the Report. Let us avoid irrelevance and repetition. Let us debate the content of the Report so that we appreciate it because we are adopting the Public Investments Committee Special Report on the Restructuring of Kenya Petroleum Refinery Limited which was laid on the Table of the House on Tuesday, 29th April 2014. It is adoption of the Report.

Thank you.

Hon. F.K. Wanyonyi: Hon. Temporary Deputy Speaker, I am a Kenyan and I am proud to be a Kenyan, but we have to stop this habit. This is a very clear way of fleecing the public. You do not even have to go anywhere. I have taken about 15 minutes to look through the Report. What I had in mind has come out very clearly. I am hoping that, in all fairness to Kenyans, this House will take resolutions which must be implemented immediately and to the letter after this debate. You do not even need to go very far. In fact, maybe, after I speak, ask the Mover to reply because this is just stealing. *Ni wizi* in Kiswahili. *Ni wizi*. It is open theft and you do not even need to go anywhere to prove it.

The drafters of the negotiations made sure that it was a 50/50 arrangement so as to avoid the Auditor-General (AG). True. Who did it? From the Report here, it is very clear that the Permanent Secretary (PS) in the Ministry of Energy then, the Investment Secretary who was there and the Chief Executive Officer (CEO) should be behind bars, if this Parliament has any teeth. Of course, we have the State Corporations Department in the Office of the President that looks after all the investments and actually checks on all them. We also have the Efficiency Monitoring Unit (EMU) and yet, some crook from somewhere comes and fleeces this country. Here in Parliament, we are debating and then nothing happens at the end of it all.

From the Report, I can see that, that guy had all the connections with Kenyans. Kenyans are very good at doing that. I do not know because I am not a member of PIC. But it says that one of them is a governor. That means it is one way of making money for campaigns. That is given very clearly. You do not have to be a lawyer, a mathematician or an accountant to see that kind of thing. Clearly, Kenyans must change their mentality of doing things. Otherwise, we are in for a shock!

Yesterday or the day before, we heard that one of the State corporations, Uchumi Supermarkets, was in the Intensive Care Unit (ICU). I remember very well that the so-called Committee, Board plus the CEO were rated very highly and yet, for all the ten years, they have actually been stealing. There is no other away. Otherwise, Uchumi Supermarkets was doing very well. I even asked the Chairman: "What next?" The other one is the Rift Valley Railways (RVR). All those are corporations that you and I have seen as Kenyans, and all have gone to the dogs.

The design that people had here is very clear. It was to sell a very strategic institution and, for once, you may wake up one morning and find that you do not have fuel in and within Nairobi. What will you do? Here we are. Some guys who are so genius designed it in such a way that they made sure that you and I have nothing. At the end of the day, if we do not capture those people very fast, we will not have energy. The privatisation of such an institution - like the oil refinery in any country - is so important because we cannot do without energy. It is as good as having no Kenya Power and Lighting Company (KPLC). You can imagine that. Very soon, if we are not very careful, we will see another group coming to privatise or do whatever they may want to do with KPLC even though, of course, it is private.

There is something wrong and, as much as I am also supporting this Report to the letter, we must change the way of doing things. We are throwing this country to the dogs. To privatise the refinery--- When you go to any police station in this country, you will be told that there is no fuel. You then wonder why that is the case. An institution that has been there since you and I were born is now going to the dogs. How would somebody, for example, negotiate for goodwill of US\$5 million? The person even takes his time and, at the end of the day, he gives you US\$2 million only. He has turned you into a laughing stock. He has, in fact, taken you for a fool. Whoever did that is actually a disgrace and he does not deserve to be called a Kenyan. Therefore, the only place that he deserves to be is in jail. I am hoping that once we finish this, the Implementation Committee, whose Chairperson and Vice-Chairperson are present, will take upon itself to implement the resolution of this debate today. I have been to Mauritius. They are very hardworking fellows. Mauritius is a mixture of all nationalities. I am sure one Kenyan must have come up with the idea of fleecing this country and take us backward. The guy has gone away wherever he has gone. He has gone to Essar or whatever they call themselves. He has gone

away laughing and saying: “These are stupid Kenyans!” I want to believe that the resolutions of this House will be implemented now that I see the Chairperson and the Vice-Chairperson of the Implementation Committee here.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Member, maybe, I should also remind you that you are supposed to use parliamentary language.

Hon. F.K Wanyonyi: No! Hon. Temporary Deputy Speaker, I do not think I have said anything unparliamentary. I have simply said that those guys have gone out of their way to bring in some people to come and laugh at us.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Allow me to remind you. Let us use parliamentary language.

Hon. F.K Wanyonyi: Thank you. I support, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): I did not want to remind you about the language, but let us use parliamentary language. It was a reminder because that is part of our rules.

The Member for Malindi!

Hon. Muzee: Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to speak to this Report. I rise to support this Report. Today, I feel very sad. First and foremost, I am a member of the Departmental Committee on Energy, Information and Communications and so, I know first-hand the issues that have been raised here. That is because we made tours to the Kenya Oil Refinery in Mombasa. We met the management and staff there. We saw everything. Just like the Committee that investigated this matter, we had a chance to talk to many people who are connected to the issue of the oil refinery.

It is a sad day for Kenya because, first of all, we have lost the only oil refinery that we have from Cape Town to Cairo. If you look at the map of Africa and look at the oil refineries in the Continent from South Africa all the way to Egypt, the only oil refinery we have in between is in Mombasa, Kenya. This has been the case before those sad events happened. So, when you look at that, it tells us where our focus lies. It is sad and I think some Kenyans need to go through classes on patriotism. They need to go through that just before we take them to jail. Indeed, this is a jail case. However, before we do that, we need to teach them what it means to be patriotic. When you are signing off the wealth of Kenyans out there to speculators, you are not worth to be a Kenyan. It is the same thing when you are signing off job opportunities. When we went to Changamwe, people were crying.

Hon. Temporary Deputy Speaker, I encountered former classmates in high school and university who were working there. They were pleading with us and crying that they were losing their jobs and opportunities. They cried to us that their careers were coming to an end. We asked ourselves: “Where is patriotism?” We wondered where Kenyans’ hearts are when someone can sit down and structure something like this and ship all our wealth and opportunities away, leaving our people destitute. The people are known. I do not want to go to the story. It is there. People are just letting through some wheeler dealing and suddenly, we are left here wondering what happened. The fact is that people know that something wrong has been done, but nothing happens. Ideally, we should now be seeing people thrown in the courts and answering to charges. If you can walk away with US\$13 million easily like that; or rather a cheque can flip between

Treasury and other offices for two years and yet nothing happens, what have we become now? This is sad.

I want to thank the Chairperson of PIC for going through these issues. Like I said, our Committee investigated this matter too. We are seized of these issues. I am glad you are bold enough to name some of those people who did wrong to Kenyans. However, it should not stop there. Today, we are talking about the oil refinery. If nothing happens, this will become the order of the day. Tomorrow it is going to be another institution and we have seen it. The examples are there. In the Departmental Committee on Energy, Information and Communications, last year, we were grappling with the issue of Telkom Kenya. We had to start thinking of how to hide a hole with Kshs6 billion, which is taxpayers' money. It is happening all the time and it must stop. The way to stop it is by acting. We need to see action. We have been talking too much. The President was here and we all gave him a standing ovation when he talked strongly about corruption. This is a perfect example. However, will we see action after this, or are we just going to be a talk show, leave this thing, go home and nothing happens?

When I was a student, I went to the oil refinery to just look at how things happen there. Some of us even thought that at some point, we would work there. Well, thank God we did not end up there because we would be jobless today. You can imagine how things are there. This must stop.

I want to thank the Chairman of PIC for going through this matter. He has come up with bold recommendations. I just hope they will be followed through. I am wondering whether or not it is the Ethics and Anti-Corruption Commission (EACC) that will take up this matter because it is grappling with its own issues now. I do not know whether it is a revamped EACC that will look into this matter. I do not know where the Efficiency Monitoring Unit (EMU) was when all these things were happening. Some of the names being mentioned here are names of people from the Coast Province and they should have known better and said: "No, I am a custodian of a national institution that is taking care of the lives of so many Kenyans and, therefore, I cannot be party to some game that will ship away the opportunities available to my people and leave them destitute." Did that happen? No, it did not. After so many years, we are still wondering what really happened.

The truth should be told. If you look at the litany of names here, they belong to top Government officers who should have said no to that matter. They should have asked what Kenya's place would be in the whole deal. I am having issues even with Essar as the investor. I am sorry to say this. We invited Essar here when we were dealing with the Telkom issue to set up a business. It is called YU now, but it is the same Essar group. What are we seeing with Essar or YU for that matter? Nothing! We are still with the good old Safaricom and maybe Airtel. It is the same story. People come. Vetting is done – whether it is done at all – and suddenly we have investors who have a dodgy history. Then we start shipping our opportunities and make ourselves a laughing stock. We lose opportunities and the country bleeds. We come here and start wondering what will happen next. Instead of taking bold steps to stop this rot, nothing happens and people just laugh out there. When will we ever learn? What happened when these problems were happening? Instead of us rallying together and saying that let us see what we can do to save the oil refinery, what did we do? You know who the oil marketing companies are. They decided not to buy oil from the oil refinery. They said that they wanted to import directly

from overseas because when crude oil is refined in Mombasa, it becomes more expensive. So, the Kenyan market became expensive and as a result they would not buy from the Refinery.

Hon. Temporary Deputy Speaker, what happened to “Buy Kenya, Build Kenya”? We now had oil companies saying that they would not buy from the Refinery. Here is a national institution, the only one in the whole region, especially now that we have found crude oil in the region. That should be the institution to develop but it never happened. Instead what you hear now is that people are looking for easy answers. They say let us just transform it into some storage tank. Really? Is that the best we can do? We have oil that has been discovered in Mohima in Uganda, in Southern Sudan and in northern Kenya. We should consider it strategic and put our money where it matters.

Let us face it. We have been talking about billions for the last one week when we were discussing the Budget. What is Kshs500 million to upgrade a national institution like that? If we really feel it is strategic why can we not do that? Instead the billions are being put somewhere else and people are looking for an easy way out like making the Refinery a storage tank but that is not helping much. If it is about upgrading technology, what stops us from doing that? As we leave here, let us be clear that from South Africa to Cairo the only oil refinery we had in the entire coastline was and still is this one until we decided to be greedy and forgot about what is good for the nation and decided to put our money in our pockets and walk away. That culture must end. It cannot end by just talking. Severe action must be taken so that people know that if you do something wrong to hurt Kenyans and the opportunity of Kenyans then you will face the music.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): The House is powerful. I am sure this Report is going to be adopted. It is up to the House to do that. Yes, the Member for Kajiado North, Hon. Joseph Manje.

Hon. Manje: Thank you, Hon. Temporary Deputy Speaker, for giving me this chance to contribute to the same Motion and support the Report. I tell myself that it is a bit shocking that we can give away a company of such magnitude. We gave 50 per cent away for nothing. We live in a very awkward country. This is where the Ethics and Anti-Corruption Commission (EACC) should come out strongly and take the Report directly to court.

At the creation of this country there must have been people who had vision and who thought that at one time Kenya would have petrol and would, therefore, require a refinery. That is why they set up this Refinery as the Hon. Member has said between Cairo and South Africa. They thought where this Refinery would be when we discover petroleum. They thought this was the most strategic position.

We have now discovered oil in Turkana. If we have discovered it today and we sell the Refinery, what are we doing? Are we not selling the foresight of the colonial masters because they are the ones who started this company? I wish we can only sell what we have created and not what we have not created.

There are strategic Government institutions that are purely for the purpose of opening up this country. They are not necessarily for business but for opening up the country. If you look at a State corporation like the Kenya Broadcasting Corporation (KBC) which is heard throughout the country, we cannot say that they do it for profit. They do it because we want every Kenyan to

hear what the Government is saying. This is the essence of having this organisation. We have given away the Kenya Railways, the Telkom Kenya and other key Government institutions to foreigners. This is not correct. We are doing something that our forefathers did not intend.

I am sure because I have done management that the Government has no business doing business. The core function of a government is to create an environment for businessmen to do business. This is why a business like Uchumi should be sold out because this is pure business where businessmen should be given a conducive environment to do business but not for State corporations that are strategic for this country. Imagine one day, one time we go to war with another country and yet we do not have a refinery. How will we sustain that war? These are questions that we should ask ourselves today when we are selling these corporations.

We have spent taxpayers' money for 50 years. Our fathers have paid heavily. They have been taxed all along then at this particular moment, we just take all that investment and throw it away. Is that not joking as a country? Is there anybody who can hear this cry and take these people to court for the sake of our generations to come? This is not fair to us. It is not fair to every Kenyan. It is not fair to anybody in this country.

The hon. Member has talked about being patriotic. Where is patriotism in this whole game? We have the Privatisation Commission of Kenya which was not involved in this. It means that this transaction was null and void and should be avoided. Why should the Government pay for the exit clause if the contract itself is void? There is a lot.

Let me take this chance to say that we have put people in the Government strategically to sell these investments and enrich themselves because all this can go ahead and they are not held responsible. It is high time we thought wisely. If an organisation like Essar Energy Limited can come all the way and acquire such a big enterprise at a throwaway price, where are we heading to?

We have a President who has shown by action that he wants to fight corruption but are we assisting him? Are the institutions in this country assisting him? Remember the way he came here and pronounced anti-corruption measures and we all gave a standing ovation three times. After that what happened when the names were given to the EACC and the institutions we have to help fight graft in this country? Where are we now? So, we have to take the cue from our President. I take this chance to say that we have the best President for the next many years. He is somebody who is not tribalist in nature and somebody who does not look at his tribe. I am from the Rift Valley but I know that he does not look at his tribe. He is neutral to all Kenyans. We stand a better chance to fight graft at this particular moment in time if we can only support him with institutions.

Where is the Director of Public Prosecutions (DPP) if all these recommendations are there? Can he not come tomorrow, pick these people and take them to court? It can hold because the cheque was written and for two years it was not presented and when it was presented, it was not honoured. This is fraud.

I know at the end of the day that we should reduce the number of the State corporations that we have in the country. In so doing, we will reduce the corruption that is in this country. We will let businessmen do business and the Government should provide the facilities but at the same time, we should sit down and check which State corporations we should give out and which one we should not. This will also reduce the tribalism that is in the country. When

somebody gets a big position such as managing director, he tends to employ his own people. If we reduce them and remain with the necessary ones which will be facilitators for the business environment, then we would have made a point.

Lastly, I recommend that strategic institutions of security should not be sold to any other enterprise. The Government should always retain more than 51 per cent of the shares, so that the corporation is audited by the Auditor-General.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Thank you, Hon. Members. I have seven requests but in the interest of time, I need to be informed whether the requests are for the Motion on Order No.10 whose Mover is in the House. I commend the chairpersons for having turned out well.

Members want to contribute to the debate on the adoption of the Report of the PIC. Members, I must remind you that the Report was tabled in the House on Tuesday, 29th April, 2014. So, there must be many changes which could be plus or negative, but we are debating what was tabled.

In the interest of time and given the number of Bills and reports that we have before us, I assume the seven requests are on the Kenya Petroleum Refinery. The other Motion was on the Report on the Status of the Implementation of House Resolutions by the Chairperson, the Select Committee on Implementation.

In the interest of time, let us not repeat ourselves. We have a lot to transact in this House. Let us be relevant and avoid repetition. If you have something new that this House or the public needs to know, please, do it.

Yes, Hon. Gikaria.

Hon. Gikaria: Thank you, Hon. Temporary Deputy Speaker. First of all, I want to thank the PIC for the good work that it has done. I only take a few exceptions with the House Business Committee (HBC). This Report, as you have indicated, was tabled in the House in April, last year. It has taken almost 18 months to be brought here for adoption. I wish it was brought earlier so that action could have been taken against the people who are involved.

As Hon. George had indicated, the Chairperson and I are here for the implementation. We are just waiting for the adoption of the Report, so that we can take up some of these issues that have been indicated in the Report.

It is very sad that today, Kenyans are still running around the streets with jerricans to get some fuel because of the shortage which has been caused by the manipulation of cartels in the oil industry. It is very unfortunate that they tried to kill the modernisation of the oil refinery. All they were trying to do was for them to continue getting a lot of money from innocent Kenyans. This is unfortunate.

As I appreciate the good work of the Committee, I also take exceptional issues with the Committee for not naming names. I do not know whether it is unparliamentary to indicate officers like the then permanent secretaries. It is important. Just the other day, we were vetting some officers.

The Public Appointments (Parliamentary Approval) Act stipulates that if you are adversely mentioned in some reports, then you become culpable and you are not supposed to hold public office. We needed some names to be indicated here. I do not want to think that Hon. Keynan, the able Chairperson, is trying to shield anybody. It is important for the Committee to

give names of the specific persons. If it is Hon. Gikaria who was the then Permanent Secretary, Ministry of Energy and Petroleum, so be it.

An hon. Member: It was a governor!

Hon. Gikaria: Hon. Temporary Deputy Speaker, let him be mentioned so that people can know. I am being told that it is a governor. This is just an illusion because I do not know which governor it is. Tomorrow, that governor or another officer might be coming here for vetting and we should have had the names. This is very important.

The House Business Committee should have slotted this Report for debate earlier. Just the other day, we looked at the Public Audit Bill, 2014, and very good recommendations have been done by the Committee regarding the Auditor-General and where he should audit. It is a 50-50 situation. The law does not allow the Auditor-General to go anywhere close to that corporation. This should have come much earlier. I do not remember seeing some of these recommendations for purposes of amending some. They have also indicated a clause that is in contravention of the Constitution and which needs to be amended. Those are the directions that we need to take. I just wish that this Report had been brought much earlier.

There is also the issue of the Essar Company. I just wish the Committee had indicated if it still exists. I heard Hon. Kazungu say that Essar is now Yu Mobile Company. Are they the same directors? Even if we were to take action, what action will we take and against who? It is unfortunate. I wish the Committee had got a CR12 for us. I think it is not even a Kenyan company. It is a Mauritian company because it was registered in Mauritius. It is important for us to understand whether Essar is still in existence or not. If they have transformed themselves to Yu Mobile Company, then we need to tell the Government that this Yu Mobile Company, which is coming had some very dirty past with us and we would not like to be engaged with them.

Hon. Temporary Deputy Speaker, the Committee has come up with far reaching recommendations that can be taken against Essar. The only issue that I have with the Report and Recommendation No.412, which states that the Government should fast-track the development of a new and modern refinery, is that we do not know whether we have the budget or not.

The Report is here, but if the institution had appeared before the budget-making process, we could have allocated it some money. Of course, privatisation has been brought up in terms of how we can privatise and the Committee came up with a very good recommendation that the Privatisation Act should be amended to ensure public participation. It has always been what other people think, but if the public is involved in terms of giving a way forward, it will be good. The Coast people would have given a way forward. I remember Hon. Mwinyi had brought an issue to do with the same. When the Mover will be replying, he should, at least, give us specifics. When you talk about the Government, it is a big entity. So, if it is a Ministry, let it be specified that this Ministry should take this responsibility. Then when we take this up as a Select Committee on Implementation, we will not be gobbling in terms of where to go in the Government. We will see that the Committee has indicated that we are going to the Ministry of Energy and Petroleum and that is where we will put our efforts.

With those few remarks, it is important for us, as the Select Committee on Implementation, to get these facts correctly so that when this Report is adopted, and I hope it will be adopted tomorrow when the Question is put, we can take it up. I totally agree that Kenyans

have lost millions of shillings. People have now identified themselves in different names to come, swindle some money and take off again.

With those few remarks, I support the recommendations of the Committee.

Hon. (Ms.) Sunjeev: Thank you very much, hon. Temporary Deputy Speaker. From the outset, my earlier intervention was not to look down on the parliamentary system but to simply express what happened.

Hon. Temporary Deputy Speaker, I thank the Committee for this excellent Report because I have had a chance to look at it. I request you to get me a bucket because I feel like vomiting. An old man once told me that our country, Kenya, was sold long time ago.

When I look at this Report today, I feel very sick because we sold our country long time ago. How can we pick our pieces and move forward? I agree with all Members of Parliament who have spoken today because a lot needs to be done. We should pick the pieces.

One person's downfall is another person's advantage. We should always keep that in mind. We ask the following questions from this Report. Who are Essar? Where are they located, how can we get them and how can we bring them to face justice?

One point that came out startlingly and I do not think anybody has mentioned it is that there is serious pollution around the 50-acre land that belongs to the Kenya Petroleum Refineries Limited (KPRL). This is the case and yet this company does not have any legal obligation to correct it. The National Environmental Management Authority (NEMA) should take action against this company and all those people who have brought such a calamity to us. I call it "calamity" because if oil has been discovered today--- We are being told that the Lamu Port-Southern Sudan-Ethiopia Transport (LAPSSET) project is not looking into the land where KPRL is located. We are making a mistake and there is a huge loophole even as we speak.

I would like to end by saying that I find it very strange when people go out shouting on the streets they are caught and punished but when people "eat" billions of shillings, nothing is done to them. This is a classic case. We look at red tape and people shunning things done under the carpet. As Kenyans, we should not allow anyone to do that anymore. If Egypt is today opening a new Suez Canal because it is trying to develop her economy, then we, as Kenyans, should do much more. Of course, we are ahead of them.

Today, China looks at the problems as they appear and sorts them out and not 20 years down the road.

Hon. Temporary Deputy Speaker, with those many remarks, I support this Report.

Thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): I have a request from the Women Representative for Baringo County, Hon. Grace Kiptui. I am sure she must be in the consultation room.

Let us have the Member for Baringo Central, Hon. Sammy Mwaita.

Hon. Mwaita: Thank you, hon. Temporary Deputy Speaker for giving me this opportunity to support the adoption of this Report. I am a Member of this Committee. We had several sittings and what we heard was shocking. We heard evidence from different stakeholders in the oil industry. What they told us is like a thrill in a soap opera.

This strategic installation was started in pre-independence days; precisely in 1959. It has been in operation for all those years, notwithstanding that the technological evolution overtook

it. It did not mean that since technology had overtaken the facility, it should be sold for a song. When the facility closed its doors on 4th September, 2013, it was refining crude oil for the Kenyan market.

Oil is an important product and it can bring governments down. This is the case and yet we let the institution down. As colleagues have said, there was a share-agreement. This agreement was skewed in favour of this company purportedly registered in Mauritius. It gave some exit clauses allowing them to just get out at will.

If you look at the 13 observations that we made in the Committee, you will realise that one which strikes even a layman who must not be a banker or an expert in finance, is when somebody is supposed to pay US \$15 million. This amount is reduced to US \$11 million and finally to US\$2 million. How that money is paid is a mystery. It took two years for the money to move from Essar to the National Treasury. This is the case and yet there was a Chief Executive Officer at that parastatal. Why the money took that long is anybody's guess. My take is that maybe they were trying to cut deals.

Hon. Mwadeghu alluded to the fact that something must have been done. This is because there is no way you can hold a cheque and then one afternoon you say that you would pay through Real Time Gross Settlement System (RTGS). That is a problem.

Secondly, this facility has a huge storage capacity. As my colleagues have said, this country has struck oil in the North Rift. That is in Turkana to be precise. Offshore oil exploration is ongoing in Lamu area and we might strike oil in Lamu. This facility should have been modernised and upgraded as per the original recommendations so that oil which is likely to be explored in Lamu can be processed there. The second modern facility should have been developed in North Rift to take care of the oil struck in Turkana. However, we never did that.

Thirdly, this facility has 300 acres of prime land. Fortunately, when the Committee carried out investigations, it found that the land had not been grabbed but it could be grabbed. That is why we have made far and diverse recommendations. We hope that the Committee on Implementation will take up this Report once it is adopted and see to its logical implementation so that we save this facility for the current and future generations.

With those few remarks, I support.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Let us have the Member for Alego Usonga.

Hon. G.W. Omondi: Thank you very much, Hon. Temporary Deputy Speaker for the opportunity to contribute to this Report. From the outset, I strongly support this Report by the PIC. This is because it has come out very strongly in its recommendations. It has not beaten around the bush like other probes that have taken place.

All over the world, privatisation and reorganisation is supposed to increase efficiency and productivity, and move the government out of production of goods and services. However, what has happened all over the world, for example in Eastern Europe, is that there are people who have placed themselves strategically to strip the assets of the institution being privatised. This has been the case in Kenya. People have placed themselves strategically not to help the country grow economically or move forward and move the Government out of production of goods and services, but rather to strip the assets and laugh all the way to the bank.

Hon. Temporary Deputy Speaker, it is not just the oil refinery that we are talking about in this country. My colleagues have mentioned the Telkom Kenya. We also have the lined up sugar companies and if we do not watch keenly, we will see the assets of those industries being stripped. One wonders why heads are not rolling and people are not being taken to court. People have not been taken to court because the anti-corruption institutions have become an industry. This is where people go to make money. I think these people should not be sent to the Ethics and Anti-Corruption Commission (EACC). They should be taken directly to Mr. Muhoro, and as Hon. Mbadi suggested, they should be charged straight away because it is obvious theft. The EACC goes for very complicated theft but this one is straight forward. We have read in the Report that this money was supposed to be paid, it has not been paid and it is now being reduced to US\$2million. That is straight forward theft. Somebody should just be arrested by the CID and taken to court.

On investigations, why do we not recommend that the PIC goes to other institutions that have been privatized and find out who has become rich from in those institutions?

With those few remarks, I want to support the adoption of this Report and say that I do not agree with the recommendation that these people should be investigated because the investigation have already been done. These people should be taken to court and charged.

Hon. Mwadime: Thank you, Hon. Temporary Deputy Speaker. From the outset, I support the Report. It is very sad, going through the Report, to see how unpatriotic we are as Kenyans. The entire region had very high hopes in this oil refinery. Thousands of people were employed in that refinery but all their hopes and expectations were lost by few Kenyans who were greedy.

It has become a habit. It is important for the PIC to go round and investigate because we heard that Telkom Kenya had the same problems. At the moment, Uchumi Supermarket has problems. The Kenya Airways also has problems. It is better for them to be more proactive than reactive. They should be going for information earlier before bad things take place.

Kenya needs a large reserve and Kenya needed this facility because of the on-going discovery of oil. As I keep saying, Kenyans need to be patriotic. If we go on like this - like what has happened to the oil refinery - we will kill our future generations.

I do not want to say much because I do not want to repeat myself but I stand to support this Report.

Thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Thank you, Hon. Members. It is time for me to call the Mover to reply.

Yes, Hon. Keynan, the Chairperson of the PIC.

Hon. Keynan: Thank you, Hon. Temporary Deputy Speaker. I want to take this opportunity to thank all the colleagues who have contributed to this Report. The PIC is a unique Committee in the sense that it deals with historical issues. The other day, we were looking at the Report on TARDA dated 1988. I am sure there are some Members here who were not born in 1988 but these are the issues. What we are trying to do right now, as you will see in the 19th Report, is to clear the backlog so that we deal with current issues. Under Standing Orders No.206(6), this Committee has three mandates. They are to examine reports and accounts of public investment as submitted by the Auditor-General; to examine reports, if any - this is where

the issue of special reports and other reports comes in - and to look at the autonomy and efficiency in terms of investments, whether the affairs of such investments are being in a commercially viable manner.

It is due to this that I believe that what Hon. Khalwale did in the last Parliament for the Public Accounts Committee (PAC) is what we are trying to do. This is why next time when we do the 19th Report, we would have done something in 73 State institutions. This is an attempt to clear the backlog so that those who will be privileged to be in the next Parliament, and are likely to be Members of the PIC, will deal with current reports as submitted by the Auditor- General.

Having said that, I would like to say that some of the issues were very complex because the company being mentioned has its headquarters in Mauritius. We are not sure whether this is true or not. The only confirmation that we have is that the General Manager who was seconded to the Refinery was from Essar, India. That was the only connection but I think there was a very important sentiment made by Hon. Gikaria which we need to take into account.

In the Report, those who are culpable have been mentioned. The people who participated in this have already been mentioned and there was a Permanent Secretary. There could have been only one Permanent Secretary and it would have been more prudent if the names were given. There was also one Investment Secretary because we did not have two. There was one Chief Executive Officer because we did not have two. The titles have been given but I think what he said is correct. In future, we will not only mention the titles and the names, but we will also prepare a charge sheet so that you know the issues being said against a particular office.

I am also happy to see my good sister here. That is the Chairperson of the Implementation Committee. I want to tell her that the reason why the framers of the current Standing Orders – the Implementation Committee is fairly new - decided to have it and I am a Member of that past Parliament, is that once reports are adapted by the House, the Implementation Committee should be there to circulate copies of that report to the relevant agencies and expect a feedback within a time frame. If that happens, this House will not be reduced to a conveyor belt. I am happy to see that she already has a report under item 10. Their work is easy. It is to get the reports, submit them to the relevant agencies and ask for a brief on the same within a timeline. Once that happens, the work of Committees will be very easy.

Finally, Hon. Temporary Deputy Speaker, it is difficult to have 25 Members out of 27 Members appending their signatures. Those were the Members who were around. I want to take this opportunity to once again thank the Members. It requires a lot of devotion and passion because it is one thing to be a Member of a committee and another to participate in the deliberations and report writing of a particular committee. I am proud to say that I have the most active Members of the 11th Parliament.

(Applause)

If you look at all our reports, you will see the turn out and the number of Members who participated. I am also proud to say that, so far, we have generated the highest number of reports. We want to appear in our own *Guinness* Book Record of the 11th Parliament so that by the time our term comes to an end, we will not have generated the highest number of reports but we will also have generated quality reports that would add value in safeguarding the taxpayers' money.

Hon. Temporary Deputy Speaker, I want to say one final thing which was alluded to by a Member here. I am also happy to see my good sister, Hon. Naomi, who is a senior Member of the HBC. In the past, when we had a hybrid governance system, to be a Member of the HBC used to be a privilege; once you were appointed, the only assumption was that you were waiting for a flag.

One time, two Members were appointed; Hon. Khalwale and myself. Luckily, we were not appointed Ministers. So, we remained as the two underdogs in the HBC but we changed events. That is why I am saying I want to talk to her. Please, such critical reports shall create jobs. If this Report was debated last year, maybe a lot of things would have changed. Right now I am told that the same falsified documents were presented to the Cabinet. The Cabinet might be seized of this information, but it might still be misled by the same cartels.

I read something in the newspapers that the Cabinet has approved payment of US\$5 million. It was in the newspapers but I am not sure. If that happens, that will be scandalous, unacceptable and a form of corruption. This is why this information is crucial. Hon. Naomi Shaban is here and she is a senior Member of this House. Luckily, she has been on both sides of the House. She has been a Minister and also an ordinary Back-bencher. She is now part of the leadership of the House. When such critical reports are tabled, please let them be fast-tracked because that is the only way we can safeguard our situation.

The same thing also happened to Telkom Kenya. As we waited for the debate of the Report, a number of things happened. You know Telkom Kenya was one of the richest institutions. I am told that the only thing that motivated the cartels was to be part of the many assets that Telkom Kenya had. Once they were through with the selling and whatever they wanted to do, they are now saying that this is no longer a profitable venture. Therefore, they want to go back where they came from. This is the same thing. In future, I am sure when we see such reports, Hon. Naomi will take interest and ensure that these reports are debated.

Finally, I want to thank all of you for your patience and contribution. I am sure in our next report; in particular with regard to what Hon. Gikaria who is the Vice-Chair of the Implementation Committee said--- Of course, we have the standard parliamentary report writing, but you can also deviate a bit. That is what we have attempted to do. So we will take that into account.

I beg to move, once again, and ask all of you to support this Report.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Say “you beg to reply”.

Hon. Keynan: I beg to reply and ask all of you to support this Report.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Thank you, Hon. Members. I confirm that I do not have the requisite number for me to put the Question. So, I order that the Question be put tomorrow at the most appropriate time.

REPORT ON STATUS OF IMPLEMENTATION OF HOUSE RESOLUTIONS

Hon. (Ms.) Tuya: Thank you, Hon. Temporary Deputy Speaker. I wish to start by noting that this is a special Motion on its own right.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Chairperson of the Select Committee on Implementation, just move the Motion.

Hon. (Ms.) Tuya: Thank you, Hon. Temporary Deputy Speaker. I stand guided.

I beg to move the following Motion:-

THAT, this House notes the Report of the Committee on Implementation on Status of Implementation of House Resolutions from May, 2013 to February, 2015, laid on the Table of the House on Thursday, 2nd April, 2015.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Now you can debate on it. That is it.

Hon. (Ms.) Tuya: Hon. Temporary Deputy Speaker, I was going to state that this is a special Motion on its own right. Even from its text, the Select Committee on Implementation has a very unique role it plays as a link between the legislative arm of Government and the Executive arm of Government. In that respect, our role, as a Committee, is to follow up on House resolutions as stipulated under Standing Order No.209 with the relevant arms of the Executive and report back to this House.

In that respect, the Report is for purposes of updating Members on the extent to which the business of the National Assembly is taken seriously and implemented by the Executive arm of Government.

The Hon. Chair for the PIC has just stated that the Committee on Implementation is a new Committee, but I must say that it might be a misleading statement because this Committee has been in existence in our system. It also comes with a history because I know at some point it was taken out of the list of committees of the National Assembly, but we had it in the Tenth Parliament and we are going on with it in the Eleventh Parliament.

Pursuant to our mandate, the Committee has so far received reports from various cabinet secretaries on the implementation of a total of 26 resolutions of the House. The Committee has also received reports from the Ministry of Health regarding the implementation status of the 16th Report of the PIC.

At this point, I also wish to note that the Ministry of Energy, at the time of tabling this Report in April, was yet to submit a report on the implementation status of two very critical resolutions of the House one of which is the compensation of people who have been affected by the Kenya Electricity Generation Company (KenGen) and Tana and Athi River Development Authority (TARDA). This Motion was moved by Hon. Wario. This Ministry was yet to submit a report to the House on the liberalization of power distribution in the country. The reason I point out to these two is because this is an example of feedback from the Executive which went way beyond the stipulated timeline within which the respective arms of the Executive are supposed to report back to the House on Implementation of House resolutions.

At the time of tabling the Report, we were at the verge of invoking Standing Order No.209 (3) which gives the Committee the mandate and authority to sanction cabinet secretaries who do not co-operate with Parliament in terms of reporting back to the House. As things stand right now, we got a report from this Ministry and we shelved the invocation of Standing Order No.209(3) on sanctioning the Cabinet Secretary.

I wish at this point, to acknowledge the support we have received from the Office of the Speaker and that of the Clerk of the National Assembly. They have accorded this Committee

support in terms of executing our mandate. Instructive to note is this Motion, which is a special Motion, because we are not adopting any recommendation from this Committee. Through the Office of the Speaker and that of the Clerk, we had an opportunity--- I hope this is something which will continue as a practice of this House so that the Committee on Implementation will be able to update Members in terms of the outcome of every resolution passed on the Floor of the House.

Hon. Temporary Deputy Speaker, that is the only way Parliament will cease to be like a talk shop. This will also ensure that every undertaking by the Executive, every resolution of the House and legislation passed on this Floor will be implemented to the letter. Therefore, on behalf of the Members of this Committee and pursuant to the provisions of Standing Order No.196(6), I now have the honour to present to the House the Committee's Report on the status of implementation.

I wish to start with the reports under the Ministry of Interior and Coordination of National Government. Under this Ministry, we have been able to follow up on three resolutions of the House and the first one was a resolution by Hon. Alois Lentoimaga. This resolution was made on 26th September 2013 and it touched on a very important issue. That is the review of terms and conditions for recruitment, remuneration and deployment of the Kenya Police Reservists (KPRs) in arid and semi-arid areas.

Under this resolution, the Committee notes that the concerns of the resolution were addressed subsequently under amendments to the National Police Service Act. Therefore, these provisions were made under the National Police Service (Amendment) Act of 2014. This made provision for facilitation of the KPRs in terms of remuneration and providing them with uniform and official identification.

The Committee recently made a visit to a sample county last weekend for purposes of finding out the extent to which this resolution had been implemented in ASAL counties. This also follows a series of correspondence between the Committee and the Cabinet Secretary for Interior and Coordination of National Government. It is very sad to note that this is one of those resolutions and subsequent legislations of the House which are lying pretty in our shelves.

However, during our visit to Turkana County over the weekend, we had a briefing from the county security team. What was very sad was the fact that the top security organ within the county had no idea of the existence of this legislation, let alone its implementation. This is the case and yet we are seeing escalating security situations in our arid and semi-arid areas, for example, Turkana and Baringo.

We cannot overstate the importance of the KPRs. It was just yesterday when I was watching news about the burial of a chief who was killed by bandits in Baringo and there was an imminent attack. Were it not for the intervention of the KPRs in that area maybe we would be talking of a different story. The stories that we heard in Turkana show the importance of this particular arm of the security which is the lowest devolved unit of security in this country. I, therefore, want to assure the House that we are following keenly on this resolution.

After the Turkana visit, our next stop will be the Office of the Inspector-General of Police and that of the Cabinet Secretary for Interior and Coordination of National Government as well as the National Police Service Commission. This will make sure that there is proper recognition,

remuneration and facilitation of the National Police Reservists in accordance with the House resolution as well as the law.

Of concern to us, even as we push for this resolution to be implemented, is the fact that we run the risk of having the county governments intervening to facilitate the KPRs and thus hijacking the security function of the national Government. I cannot even talk about the implications of that. We all know that security is a function of the national Government which needs to be guarded jealously for the good of Kenyans.

Hon. Temporary Deputy Speaker, the second resolution that we are following up as a Committee under the Ministry of Interior and Coordination of National Government relates to the establishment of the National Unified Identification System. This is based on a Motion by Hon. Charles Nyamae that was passed on 23rd October, 2013. The Committee notes that towards this end, the Ministry is implementing an Integrated Population Registration System whose key components include the creation of an electronic national register and the generation and assigning of the 14-digit unique identifier based on peculiar circumstances of each individual. This system has already been launched and the Committee is making periodic inquiries on its implementation.

On the third item under the Ministry of Interior and Coordination of National Government is a resolution on the establishment of a Disaster Management Authority. This is based on a Motion moved by Hon. Tiya Galgalo in July, 2013. The Committee notes that a draft policy and a Cabinet Memo have been developed towards the establishment of the National Disaster Management Authority. However, we have noted that there has been a delay occasioned by a proposal to merge the policy with the National Drought Management Authority. As we speak right now, I would like to update the report which was tabled in April but we have had a number of actions which have been coming subsequently.

As we speak right now, the National Policy for Disaster and Risk management and the Draft Disaster Management Bill are pending before the Cabinet for approval. We will follow on that and make sure that the law is subsequently passed and implemented.

On the Ministry of Devolution and Planning, we have had a follow up on one House resolution on release of funds to the National Youth Council (NYC). This is based on a Motion moved by Hon. Zulekha Juma in June, 2013. On this resolution, the Committee notes that the Kshs34.2 million as at that time had been allocated to the Council both in the 2013/2014 and 2014/2015 Financial Years.

As a Committee - while we noted that this amount was not adequate to fully operationalise the Council - we have subsequently written to the Ministry advising it to pursue additional allocation from the National Treasury. This is because of the critical importance of the NYC in providing guidance and creating opportunities for the youth of this country to realise their dreams and be part of the mainstream development agenda of the country.

Hon. Temporary Deputy Speaker, on the Ministry of Foreign Affairs and International Trade, a Motion was moved by the Deputy Speaker, Hon. Joyce Laboso on 9th July, 2013 on economic partnership agreements. On the issue of economic development dynamics, the Committee noted that efforts towards ratification of this agreement have been going on. We further noted that two contentious issues were raised in the resolution, which are yet to be

exhausted. This includes the clause on the most favoured nation and the implication of delay in ratifying the agreement given that Kenyan goods have been attracting higher import taxes.

The Committee has scheduled a meeting with the Cabinet Secretary to seek clarification on the status of this very important issue. As I will be speaking later on about some key challenges that we are facing as a Committee, despite several correspondences to the Cabinet Secretary, we have had to postpone meetings more than three times because of the unavailability of the Cabinet Secretary. We will be talking about that challenge later on as a Committee because cabinet secretaries are flouting the Standing Orders in terms of reporting back to the House. It is not just in the Standing Orders, but the requirement for cabinet secretaries to report to Parliament is a constitutional requirement under Article 153 of the Constitution. We need to create more awareness on House Resolutions. As a Committee, we feel that some cabinet secretaries are taking House Resolutions casually and as non-binding statements. This should not be the case.

On the Ministry of Education, Science and Technology, we have three resolutions which we have initiated follow up. One of them is the Resolution on establishment of girls' boarding schools for both primary and secondary schools in ASAL areas. This is based on a Motion that was moved by Hon. Hassan Dukicha on 19th June, 2013.

On this Resolution, again, a very critical one, the Committee noted that eight boarding primary schools were established in the ASAL areas in the 2013/2014 Financial Year.

Further, three secondary schools namely, North Eastern Girls, Isiolo Girls and Moi Girls, Marsabit received Kshs25 million each for infrastructure up-grading. Each girls' boarding school in the ASAL areas also benefitted from Kshs190,476 to mitigate the effects of drought during the 2013/2014 Financial Year.

However, on this, we have engaged the Cabinet Secretary to provide us with a clear statement. We noted that the information that was provided was inadequate and the funding levels were very low. When you say that each boarding school gets Kshs190,000 in the ASAL areas, that is a very minimal budget. We have, therefore, scheduled a meeting with the Cabinet Secretary, once again, to seek clarification on how the programme can be expanded to cover more pupils.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Member, I wish you can use the next one minute and the rest you can use next time so that I do not cut you short. Just plan your next one minute because of time.

Hon. (Ms.) Tuya: Thank you, Hon. Temporary Deputy Speaker. I will just finish on that particular Resolution. We are following up with the Cabinet Secretary to seek more clarification on the programme and the need to expand this programme to cover more ASAL areas, thereby targeting more pupils. I do not know how much time I have, but I can stop there. That is if you will allow me to pick it up next time.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): You are just timely. This is a House of rules and procedures. Hon. Members, I must appreciate the Report of the Committee on Implementation. How I wish all the Members were in this House. This is more of monitoring our work. It is something that all of us need to hear. This is in terms of the kind of work that we have been doing relating to Motions, Bills and Statements. That is a good Report to the House.

ADJOURNMENT

Hon. Members, the time being 6.30 p.m., the House stands adjourned until Wednesday, 17th June, 2015, at 9.30 a.m. The Hon. Member will have 39 minutes in the following sitting to continue her Motion on the Report on the Status of Implementation of House Resolutions.

It is so ordered.

The House rose at 6.30 p.m.