



EAST AFRICAN COMMUNITY

IN THE EAST AFRICAN LEGISLATIVE ASSEMBLY (EALA)

The Official Report of the Proceedings of the East African Legislative Assembly

103RD SITTING – SECOND ASSEMBLY: THIRD MEETING – FOURTH SESSION

Monday, 31 January 2011

The East African Legislative Assembly met at 2.30 p.m. in the Old Chamber of the Parliament of Kenya, Nairobi.

PRAYER

(The Speaker, Mr. Abdirahin Abdi, in the Chair)

(The Assembly was called to order.)

PAPERS

The following Papers were laid on the Table:-

By Chairperson Committee on Regional Affairs and Conflict Resolution (Mr. Abdul Karim Harelimana):

The Report of the EAC Observer Mission to Southern Sudan Referendum.

By the Chairperson, Committee on Communication, Trade and Investment:

The Report of the Committee on Communication, Trade and Investment on the EAC Cross Border Workshop.

By Ms. Sebtuu Nassor:

The Report of Parliamentary Hearing at the United Nations “Towards Economic Recovery: Rethinking Development, Retooling Global Governance”.

By Mr. Abdul Karim Harelimana:

Report of the Study Tour of the European Parliament by Chairpersons of EALA Committees.

By Ms. Safina Kwekwe:

Report of the EU Presidency – “Uniting Parliamentary Efforts to end Violence Against Women in Africa.

MOTION

FOR CONSIDERATION AND ADOPTION OF THE REPORT OF THE COMMITTEE ON AGRICULTURE, TOURISM AND NATURAL RESOURCES ON THE REGIONAL PARLIAMENTARY SYMPOSIUM ON STRATEGIC PLANNING TO ADDRESS CLIMATE CHANGE

The Chairperson, Committee on Agriculture, Tourism and Natural Resources Ms. Safina Kwekwe (Kenya): Mr. Speaker, Sir, I beg to move:-

THAT, the Report of the Committee on Agriculture, Tourism and Natural Resources on the Regional Parliamentary Symposium on Strategic Planning to Address Climate Change be adopted.

Mr. Augustine Lotodo (Kenya): Seconded.

Ms. Kwekwe: Mr. Speaker, Sir, on 10th August, 2010 some Members of this House attended a symposium in Kampala, Uganda; that was a regional parliamentary symposium on strategic planning to address climate change. The Committee on Agriculture, Tourism and Natural Resources would like to thank the Uganda Parliamentary Forum for Climate Change for having organised such an important symposium, gathering various stakeholders on climate change. The Committee thanks the forum for having invited EALA Members to the symposium. The Committee would further like to thank the GTZ for facilitating the symposium, in partnership with the Uganda Parliamentary Forum for Climate Change, also thank, and appreciate the resource persons who accepted to share their knowledge of the climate change sector with legislators from the EAC and SADC. The Committee appreciates you, Hon. Speaker, Sir, for nomination of Members of the Committee to attend this important conference. The Committee would like to extend its appreciation to all those who availed empirical and detailed information useful to effectively plan appropriate projects that are climate responsive.

The symposium which was organized by the Parliament of Uganda was attended by Legislators from the Republic of Uganda, the EALA, representatives of civil society organizations, the academia, religious representatives, media and the development Partners. This was the first of its kind on the African Continent organized by and for parliamentarians and other stakeholders.

Mr. Speaker, Sir, there were three objectives of this symposium:

- i. Enhancing knowledge-base of participants with respect to climate change;
- ii. Strengthening synergies, collaboration, partnerships and networking between and among participants and all stakeholders in respect to climate change adaptation and mitigation at national, regional and international levels;
- iii. A platform providing for politicians, technocrats, civil society and private sectors to deliberate and designate appropriate interventions to address climate change at community, national, regional and international levels.

Mr. Speaker, Sir, there were four expected outcomes, which are enumerated on pages three and four of the report.

Mr. Speaker, Sir, climate change is a problem that is currently affecting the world with dire consequences, especially in the developing countries. African countries and particularly Uganda are projected to be the most affected by climate change in the next 20 years. According to the Intergovernmental Panel of Experts on Climate Change (IPCC) and the United Nations Framework Convention on Climate Change (UNFCCC), Africa is the most vulnerable to climate change, because of poverty, low levels of awareness; inadequate technical capacity and infrastructure; lack of appropriate technologies and inadequate funds for investment.

It is, therefore, important that developed and developing States, despite their diversity and different levels of development unite to come-up with an agreed position and action on environment and climate change. Parliamentarians have a great role to play in addressing climate change issues at community, national, regional and international levels. They need to understand the political dynamics associated with climate change at these levels and be assisted with up to date and accurate information concerning interventions for climate change in order to enhance their representation, negotiation, decision-making and oversight roles with respect to climate change.

Mr. Speaker, Sir, several presentations were presented during this symposium. This report endeavours to focus on the key observations, resolutions, recommendations and way forward in the relation to Climate Change.

On the key observations, it is evident that:

- Women and children are most affected by climate change;
- Climate change increases gender inequalities in access to education, health, water, food, sources of energy and control of resources;
- Climate change increases human costs of communities heavily dependent on natural resources, particularly the poor;
- Vulnerability to climate change occurs disproportionately;
- CDM and REDD have very stringent verification and monitoring requirements. In addition, the CDM is very bureaucratic and very expensive when pursuing funding applications. Experts for CDM and REDD certification and verification are scarce, usually very expensive to hire and are not readily afforded by the LDCs. Some countries lack transparency as to who will benefit from the CDM projects.

Therefore, climate change funding opportunities might appear attractive, but accessing them can be a nightmare.

On the key plenary discussions, suggestions, proposals and recommendations and outcomes, they are as follows:

- There are too many acronyms used in climate change discussions and negotiations. It is, therefore, important to know their meaning and there is need to create wider stakeholder understanding of the terms and acronyms applied in the climate change debates;
- The proposed regional policy on climate change needs wider consultations among the member states;
- There is need for institutional linkages and institutional partnership;
- There is need for government institutions to adopt a quarterly reporting method on performance to parliament for effective resource utilisation. There is also need for a mechanism to monitor performance of and hold technocrats accountable;
- Government departments on climate change need to be more accessible;
- There is a problem of capacity to absorb funds by some institutions and civil society organisations;
- Technical persons need to be encouraged to give information to civil society;
- The Climate Change Unit (CCU) needs to partner with other public, private and non-governmental organisations to implement some projects;
- Members of parliament need to assist in prioritising areas for climate change intervention funding;
- There is need for standing committees of parliament on climate change;
- There is need to follow-up institutions and individuals that attended the COP15 to continue to engage them in climate change discussions and debate;
- Request donors and other development partners to support parliamentarians to participate in the COP16 in Cancun Mexico;
- There is need to integrate climate change into National Development plans, budgets, policies, strategies, guidelines and education curriculum;
- As strategy towards adaptation, there is need to diversify livelihoods, develop and introduce drought and flood resistant crop varieties, enhance and foster behavioural change, among others;
- Climate change financing to be channelled as public financing through government and civil society organisations;

Mr. Speaker, Sir, the resolutions from this symposium are as follows:

- That Climate change is a significant challenge to Africa that needs concerted efforts to address it.
- There is need for coordination at national, regional and international levels on matters of climate change and other national ;
- That Regional member countries to develop national policies on Climate Change;
- Need for Harmonization of Climate Change policies and actions at the regional level;

- Find a way in which the African Union could be recognized as a party in international negotiations. This could be done through parallel secretariats;
- Link into the existing frameworks such as the CAHOSCC, AMCEN, expert groups and others;
- Need for national platforms where stakeholders regularly meet to discuss climate change;

The symposium resolved that:

- There is need for this symposium to be regular and therefore it was proposed to be a permanent event in the calendar as an annual event;
- The symposium tool kit be subjected to regional (EAC & SADC) consultation and consensus;
- There is need to develop a toolkit that will provide principles for Climate Change interventions in the region;
- The role of parliament in international negotiations on Climate Change needs to be clarified. There are opportunities for MPs to participate at technical and ministerial segments of international negotiations and side events;
- There is need to collaborate with civil society organizations;
- There is need for a funding basket to facilitate parliamentarians in the region participate in Climate Change discussions at the regional and international level;
- It is prudent that every Parliament establishes a framework for common position and feedback about Climate Change processes;

Mr. Speaker, Sir, the recommendations are that:

There is need for:

- Flood risk mapping and Flood prediction;
- Financing mechanisms which are independent of the state resources e.g. financing from the Polluter fees under the Polluter Pay Principle. This will help make the agencies responsible for environment and climate change partially independent of federal funding;
- Prioritizing consumer protection, by setting an agency responsible for consumer protection;
- Strong monitoring systems of climate change initiatives e.g. for the Polluter Pays Principle;
- A work within a broad spectrum that covers strategic areas for climate change initiatives;
- Strengthening Africa's negotiating capacity at international forums on climate change. This could be achieved through establishing a secretariat within the African Union to ensure proper coordination between states, technical and political arms of government. This could take advantage of the existing coordination mechanisms.
- Strive to have the African Union recognized as a negotiating block in its own right under the UNFCCC mechanism, instead of having to rely on the G77 & China block;

- National and regional climate change and disaster risk reduction coordination mechanism be set up and enforced.
- Avail internally generated adequate Funds to adequately support Africa's negotiating teams at international levels. A basket fund for climate change needs to be established where each member state could contribute funds and where necessary, seek more opportunities for bi-lateral and multilateral funding and collaboration;
- National multi-stakeholder platforms or forums to discuss, debate and build consensus (national positions) on climate change in preparation for international negotiations;
- Regional platforms or forums to generate regional positions and enhance effective participation at international negotiations on climate change. Encourage consultations amongst member states;
- Effective integration of climate change adaptation and mitigation in all sectors of economy and development achieved e.g. integrating climate and adaptation into infrastructure planning and putting in place tools (statistical or dynamic GCC downscaling climate) at country and river basin level for accurate data, prediction/projections and development of guidelines for inclusion of risk based planning in development projects;
- Institute improved coordination of climate change response involving government, private sector, NGOs and development partners;
- Improve functionality of institutional arrangements at national and regional levels;
- Develop National climate change policies;
- Strengthen the participation of legislators in the climate change debate and negotiations at national, regional and international level. Draft a regional parliamentary action plan on climate change, one that will encourage continued parliamentary dialogue on climate change and development issues now and in the future. Enhance awareness among Parliamentarians on the effects of Climate Change and its conventions and protocols;
- Integration of climate change in school curricula
- It is extremely important to negotiate as regional block, although the interests of other nations within the regional blocks remain a big challenge. The African Union should fast-track efforts to become a party to the UNFCCC. This will enable African Union (AU) to speak on behalf of member states as does the European Union (EU). More pre-COP meetings should be organized to hammer out positions. There is also an urgent need to identify financial resources to sponsor African delegates and stop reliance on UNFCCC trust fund.

In conclusion, climate change is a problem of immense proportions that is threatening many development efforts. It is affecting everyone irrespective of nationality, political inclination, creed, social status and levels of development. Solving the problems of Climate Change requires the involvement of everybody in accordance with their "respective capabilities". This is the time to act. No action now to address climate change will be too costly in the future. The less able should be assisted to minimize impacts of adverse effects of climate change on their livelihoods.

Climate change at national, regional and international levels require political decisions. Therefore, heads of state and legislators have a major role to play in abating climate change and enhancing adaptation within their respective states and constituents. Negotiating as blocks is most effective.

Coordination and collaboration is critical in addressing climate change at national and regional level. Strong and functional institutions are critical. A prudent way to deal with Climate change, therefore, is through a portfolio of actions aimed at Mitigation, Adaptation and improving our knowledge on climate, climate variability and climate change issues.

Empirical and detailed information is critical to effectively plan appropriate projects that are climate responsive. It is also important for accurate prediction and to effectively address the likely impacts that may result from climate related event or disaster. Information is necessary to equip community members with the skills for coping or adapting to the effects/impacts of climate change.

Mr. Speaker, Sir, I beg to move.

(Question proposed)

Dr. George Nangale (Tanzania): Thank you, Mr. Speaker, Sir. First of all, I want to declare that I was part of the delegation which attended that symposium in Kampala.

Mr. Speaker, Sir, the issue of climate change is one of the priority issues in the world today. There have been a number of meetings for the past few years. Last year, I recall, on the Floor of this House we submitted a report from the Committee on Agriculture on the Copenhagen UN Climate Change conference, which was expected to come up with some positive results on how to arrest what we are told by the scientists is a disaster which will sweep the world and probably changed the lifestyles we are now enjoying; that the temperature in the next 50 years will rise above 2 degrees centigrade and that will affect most of our agricultural practices, including for example in East Africa half of the crops we are growing today not being able to grow. But also the water levels will increase thus changing the areas which people inhabit, like the small islands being submerged. Already, we have a small island in the Indian Ocean, around Pangani which is currently disappearing because of the effect of climate change.

Mr. Speaker, Sir, I want to commend the Council of Ministers for adopting an East African Climate Change Policy December last year in Arusha. This is one of the hallmarks and a way forward in which East Africa can now proceed particularly on the issue of having a climate change master-plan which we have talked about before. My appeal is to see that this climate change master-plan really materialises. I call on the Council of Ministers to push forward so that it does not take years as we all know some of the master-plans have been taking too long to materialise. The preparation of this master-plan should involve Members of this Assembly and other stakeholders.

Mr. Speaker, Sir, is endowed with yet unspoiled ecosystem resources. We all know things like National Parks, forests, water bodies, mountains and so on, which we are happy that they are still unspoilt. But due to climate change, if one has to believe what

the scientists are saying, we would not be enjoying these resources in some years to come. So, we really need to have this climate change master-plan as soon as possible so that it could guide us on how to handle these adaptation and mitigation measures which are being talked about.

Mr. Speaker, Sir, I represented the EAC at the COP 16 meeting in Cancun, Mexico last year. The negotiations at that particular meeting did come up with some positives in particular regarding East Africa where it was agreed that the Green Fund which had been advocated for many years, the developed countries will start contributing to it. My appeal is that the EAC should be very keen to ensure that these funds are used properly to support adaptation initiatives which develop from the grassroots. Our countries need to ensure that this Green Fund really benefit the people at the grassroots.

Mr. Speaker, Sir, climate change over the years has been taken more as a technical subject in which most of us are not keen to explore and get involved, yet the impact will affect all of us. I would like to appeal to all of us to take interest on the issues of climate change and not leave this issue to Ministers of Environment and a few technocrats at the university and other places.

With those few remarks, I beg to support.

Mr. Leonce Ndarubagiye (Burundi): Thank you very much, Mr. Speaker, Sir. This problem of climate change is affecting our lives. Hon. Nangale has just said that some of the islands may disappear. If those living on those islands have arms, where do you think they will go? Of course, they will go to the weaker nations and eventually take their land. They will not accept to disappear with their islands. You all know very well that in New Zealand, Australia and America there were original people. Where did they go when the invaders came in? There were over 5 million Indians in America but within a short time, there were only 60,000 people because those who came to take over their land killed them. This can happen to the weaker nations. With islands disappearing, we should not take it for granted. We must start arming ourselves now - (*Laughter*).

You may laugh here but the matter is very serious. When we talk about climate change, we talk about water. Water is life. Some rivers may dry up. If they dry up the people will disappear. We have to be very careful. The people actually want to make this climate change happen. The palace of the atmosphere that has been existing since time immemorial has changed since the rich nations industrialised themselves and the palace of the weather has changed to a palace of poisonous gases in the atmosphere. We are not responsible but we are victims. Those who industrialised their lands; when you ask them questions, what do they say? They say their great grandfathers did not know. But we have acquired such good standards of living that we cannot get away from it; you find your way. Which way? It is like telling someone to fly to Burundi without a plane! We cannot solve these problems on our own.

Mr. Speaker, Sir, when experts say that even if today we changed our way of lives, the damage done to the climate is such that it will take 50 years for the weather to come back to its natural balance. So, as Hon. Nangale said, we cannot leave this issue with the

Ministry of Environment and assume we are safe. We must all get involved. I beg to support.

Ms. Dora Byamukama (Uganda): Thank you very much, Mr. Speaker, Sir. I would like to support this Motion and to congratulate Hon. Kwekwe for bringing this report to the Floor of the House.

The issue of climate change seems removed from some of us and I am glad it has found its way to the Floor of the House. My humble view is that may be plenary should not pass without us talking about this subject. Why do I say this? When you consider issues of hunger like those cases we have been having in the region; you consider issues of floods like the ones we have been seeing in Australia and then you consider even the disappearance of snow on Mt. Kilimanjaro, which may sound very superficial, but at the same time because it is a tourist site and brings money to us, we are impoverished because of this; and the temperatures which change and farmers cannot know when to do certain things which were more systematic and orderly, then you know that climate change has come.

I would like to ask for a very simplified version – because as Hon. Nangale who also belongs to the climate parliament as I do – some of these issues seem very scientific. But we need to know very simple things. What are the causes? I hope when the Chairperson will be wrapping up, she will be able to tell us. Of course some of us know some of the causes. If you release a lot of carbon-dioxide into the atmosphere, this destroys the Ozone layer. Who is releasing the most carbon-dioxide? It is mostly the industrialised states. But even us at our own level, if you own five cars and you are driving to a nearby house for a visit, in that short drive you are emitting carbon-dioxide; and yet by a simple action like walking, you may be able to mitigate this. So, the issue of awareness for me; if I am called to the radio as a Member of EALA and they say, Hon. Member, what do you have to say about climate change, it is very important. So, I am humbly pleading that when you have some of these toolkits, it should be very simple. What are the causes, what can I do as a Member of Parliament? This is my humble plea.

My second plea is; like Hon. Ndarubagiye said, some of the actions to mitigate; whether the polluter pays us to mitigate or whether we take on simple action such as planting trees or using energy savers; all these add up. But they only add up when we take on these actions systematically, consistently and in a concerted manner. So, how do we build a critical mass which will mitigate the carbon-dioxide which is being released and the simple small action which we take by either walking to a neighbour's house, planting ten trees or buying an energy saving bulb or constructing a house which does not require you to use air conditioning, thereby saving on energy? Those are the things I am looking for on how we can together in a collective way, systematically mitigate and also contribute rather than blame the polluters, and even when they pay because our systems may not work very well, this money as you know, may evaporate. So, this is a personal issue and we need to take personal responsibility.

Third and last is the issue of use of phenoms. In these scientific terms...sometimes I was looking at the paper itself and I want to thank Hon. Kwekwe for trying very hard. But when you look at some of these terms, they are a little bit frightening. So, I am looking

forward to having a better explanation and definition of some of these terms so that we can also talk about carbon credit very effectively.

I thank you very much.

Mr. Augustine Lotodo (Kenya): Thank you, Mr. Speaker, Sir. I want to contribute to this debate because first I was one of the Members who attended the workshop at Lake Victoria Serena in Kampala. If you look at the trends or the changes happening within East Africa, it really calls for us to be more serious in as far as these issues are concerned. The way in which climate change has affected the weather has been quite prominent of late. If you see from last year the issue of drought in the world and in East Africa in particular, you will find that actually citizens have lost a lot of livestock. You will also find that all governments have increased spending in as much as addressing the issue of famine in the arid areas is concerned. The issues to do with climate have actually affected day to day lives of the people. We find that forests are being destroyed day in day out and even you will realise that even in States like Burundi and Rwanda which used to get a lot of rain are getting lesser and lesser rain.

In the EAC, we have a department that deals with climate change. We really need to strengthen that department. I know that all our governments have plans to deal with climate change. But we need to increase the speed. There has been so much talk about climate change seminars. We have also had a lot of workshops not only for us but within our governments. But to get the output seems to be taking time.

Mr. Speaker, Sir, we also need to turn to clean energy. We need to start zeroing in on better fuels. During that seminar we had in Kampala, we had some solar items being exhibited to us, which will help cut on gas emissions. I remember also we had some smart *jikos*, which use less fuel. So, those are the issues which will help us take the message to our people.

Mr. Speaker, Sir, the way climate change issues are being addressed is not satisfactory. I wish the governments of East Africa could do more so as to ensure citizens take the right steps.

I beg to support.

The Speaker: I hope the Council of Ministers as well as the Secretary-General will also be ready to inform Members on what happened in the recent Summit on Food Security and Climate Change. I think this is an opportunity for all East Africans to know what happened in Arusha.

Dr. Said Bilal (Tanzania): Thank you, Mr. Speaker, Sir, for giving me an opportunity to say something about the debate on climate change. First of all, let me say that it would not be proper for me not to say anything about climate change if we consider the mathematical models that have been floated around that depict stories that among the islands that will be affected will be the island of Zanzibar; that it would disappear. If we were to take the advice of my friend Hon. Ndarubagiye, then probably we would have to identify where to go and how weak the people we have to displace are and how to arm

ourselves so that we can go there and make sure that we establish ourselves. I would have loved to go to some of our neighbours to reclaim some of our territories.

Mr. Speaker, Sir, I want to commend the Chairperson of the Committee for a good report. The issue that I want to touch on is the fact that we hear mostly the secondary effects of climate change and we seem not to address the primary effects. I would like to differ with my colleague Hon. Byamukama. I think it would be too ambitious and probably too theoretical if you were to address the effects of climate change without addressing the polluters. How are you going to mitigate a situation, which keeps on affecting your area? I want to say that to be more realistic, we need to change the way we approach climate change and address the issue of pollution. I think climate change, apart from being an issue of development is also an issue of allowing ourselves with this exquisite attitude and way of living of those in the developed world. I think we need to sit down and address that issue.

This report is full of acronyms and sometimes these technicalities tend to put aside the real issues. We do not seem to understand the technicalities, but I think we have to come down to earth and address simply those who pollute the atmosphere. We should forget this issue of diplomacy.

I thank you.

Ms. Patricia Hajabakiga (Rwanda): Thank you, Mr. Speaker, Sir. I want to thank the Chairperson of the Committee for presenting this report on our behalf. I am a Member of the Committee and issues to do with environment and climate change are really in my heart. I have on several occasions spoke on the issue of climate change. I am not going to go into the issues of why climate change is happening. But there are two issues which I want to raise which I have raised before. The issue of climate change is something probably we as Africans and East Africans alone cannot alone because the negotiations for climate change started in 1992 and they have never been concluded; they are still going on and they might go on for long; it is something we cannot control. I appreciate Hon. Bilal who wants to have the polluter pay principle applied, but that is what the international community has been trying since 1992 but it is not working.

Part of the solution is to look at the other issues, which we can manage ourselves. That is to look at mechanisms for adaptation. While we are doing adaptation as much as we can, we cannot solve the problem unless the others do mitigation as well. But there are issues such as adaptation which are within our means.

Mr. Speaker, Sir, in Bujumbura I asked a question when we were discussing the issue of climate change; that are we, as East Africans, at least trying to create a climate change fund at EAC level which will help us in adaptation? I have heard from rumours that it is being established and I would want to hear either from the Chairperson, Council of Ministers or from the Secretary-General if they can enlighten this Assembly to see if we can have this fund in place and we can all work together to see how it can be funded so that we at least deal with issues as urgently as we can. If you look at this report and the seminar, we always lament. There are things which we can do and others we cannot solve. Even the funding which is there, established at the international level, we cannot

access because of the conditionalities and expertise required. So, we need to have our own mechanism which is supported by East Africa and support this region when we have floods, famine and so on as a result of climate change. Those are the two issues I wanted to raise and I hope we will get an answer from the Chairperson, Council of Ministers or the Secretary-General to tell us the way forward after the climate change summit, the proposals and what really do we have in terms of solving the problem of adaptation.

I thank you.

Ms. Janet Mmari (Tanzania): Thank you, Mr. Speaker, Sir, for letting me add my voice to this important debate. I will start my saying that when I was growing up some 60 years ago I used to swim in a river that looked like a river. I used to see Mt. Kilimanjaro covered with snow every morning and evening. I used to look at stars in the evening and they were beautiful and countable. I could recount the seasons when it was Christmas time when I could actually look at the flowers, insects, butterflies and so on. It is unfortunate to say that today when I go the place where I came from, because I have moved to another place, the river where I used to swim is no more. You cannot even imagine that there was once a river there. There were many trees and I cannot see them now. The whole place has been planted and the problem is economics. You find people planting up to the river side because that is the only place where they can probably get water. But then the question you ask yourself is, what happened? This means the government was not accountable to the people. When people go to negotiate as was alluded to by some of my colleagues, they use very hard acronyms. The local government which could actually educate the people to know that there is something that is being done; I wonder why it never happened. You can see rivers or big trees which are grown very close to the sea. When you go there, they are being harvested and exported as logs. We are not even getting the benefits of some of those things. But then, what do we do? We said the problem is lack of accountable governments. Today we have parliaments and we are part of government and there are people who are looking at us wondering when we come and talk about it today, tomorrow; year after year, like negotiations that began since 1992 and have never been concluded and it appears there is nothing that can be done to the pollutants; because we just go there and negotiate and sometimes we ask for assistance to go and negotiate and when they are concluding we have to be out of the room to make conclusions.

Mr. Speaker, Sir, I was looking at what can be done. I was thinking we have to address from a number of ways. I will just mention three. One; we know that there is green energy. There are things that can be manufactured – we are blessed in this sub-region. We have sun throughout the year. Why do we have to build houses and use electricity that is generated using water or fuels when we can actually use the cow dung or the solar? There are many people who are manufacturing goods made of solar and what I would recommend is to ensure that government reduces taxes on anything that produces green energy or anything that is going to use solar so that those goods can become affordable.

Additionally, there are wastes that can be converted into energy. In fact in doing that we are also going to clean our environment by using the waste that we generate to generate power.

The third point is economics. We know we have mining operations. When they come they mine, they take the minerals, we get the very little percentage that we get; call it 3 per cent, but what do we remain with? Environmental degradation; those holes that cannot be filled and the land cannot be tilled; at the end of the day nothing can be done there. We sit here as Parliamentarians and we need to pass laws that will ensure that if somebody has actually destroyed any part of the environment he is going to be made responsible to ensure that at least it returns to the level that it was. We have the very good of Bamburi Cement plant in Mombasa and how they have reclaimed the sites to make it a green area that can be used again. There are many other examples that I could cite, but all we need to do is to ensure that we make our governments accountable and use all the means within us to ensure the materials used do not destroy the environment and at the end of it all, the pollutants are punished and they clean and leave the environment the way it was.

With those few remarks, I support the Motion.

Mr. Abdul Karim Harelimana (Rwanda): Thank you, Mr. Speaker, Sir, for giving me this opportunity. I rise to support the Motion because it is very important for our lives. I am not a good swimmer like Hon. Mmari because I was born in a mountainous country. In Kigali there are no rivers. However, what I saw in the early 1960s was a situation where we could have rainfall for two consecutive days. They are no longer there. Kigali was a very cold place. However, when we tell our children that it used to be like that, they just wonder and they just do not understand why all these things happened. We had no factories in Kigali by then because the first ones came in 1968. But since then, we have been suffering like the rest of the world.

Mr. Speaker, Sir, I think the conferences and workshops and lessons we are getting about climate change; I think on the level of politics and technocrats are enough. It is just time now to put it in practice. In Africa, I do not think the problem is on our side. Yes, we are suffering but our share in polluting the world is minimal. For instance, if you talk to the Chinese and Americans and the other G8 countries, they would even differ to the extent of wanting to confront each other about carbon dioxide. Is it the one that causes climate change or there is another factor? This is a scientific fact, which is known to the whole world, but for them they just decide to differ.

Mr. Speaker, Sir, even if we did our best and reforest Africa as it used to be, first of all, it would be difficult for us to achieve that because the other side of the world is doing something different. Secondly, again it would not stop polluting our side because the world has no limits. I think it is our turn to urge the G8 and other big economies to do something. This is because their politicians do not want to talk about this issue; it is only the NGOs who come to us and give us lessons. We have understood them and now it is our time to go to them and urge them to seriously consider doing something. All the indicators that climate change is causing problems to the world is seen even to them. What is happening in Australia, California, China and all of these other places; they can see it. So, it is our time to go to them and engage them seriously telling them it is time now to go back in time and stop polluting the world.

With those remarks, I beg to support.

The Chairperson Council of Ministers, Ms. Hafsa Mossi (Burundi): Mr. Speaker, Sir, I have been listening with great interest to hon. Kwekwe's eloquent and well detailed presentation on the report of the Committee on Agriculture, Tourism and Natural Resources. I applaud the Committee and the Hon. Members who participated in the forum.

Mr. Speaker, Sir, matters pertaining to the environment, including climate change, are at the base of the Partner States' general undertaking to protection of the environment, including regional climate and climate change. This undertaking is founded on Chapter 19, which efforts like those under the symposium are trying to implement.

The observations and recommendations made at the symposium on the existence and posterity of the human race pose a very serious challenge to the EAC and to the world. There is, therefore, a big challenge to us to abide by our commitments under international conventions on climate change and preservation of the environment and prevention of illegal trade on chemicals, substances and hazardous waste. It is also imperative for us as a Community to address all the issues raised and recommendations made through the Council of Ministers as a policy organ.

Mr. Speaker, Sir, on a positive note, our Heads of State had a retreat on food security and climate change on 2nd December 2010. Based on Partner States' presentations on policy, food insecurity and challenges to the negative aspects of climate change, the retreat adopted a draft action plan on climate change. I would like to assure this august House that the Council of Ministers will ensure that the follow up on this very important issue is done. The final report of the retreat and the proposed measures to be taken will be tabled before the Summit on the 19th April this year.

Mr. Speaker, Sir, let me also inform this House that the African Development Bank and the Secretary-General held a meeting in Arusha two weeks ago and agreed that the EAC would submit a proposal to the East African Development Bank to tap on the resources available under the Green Fund, which the ADB is administering.

Mr. Speaker, Sir, I beg to support.

Ms. Kwekwe: Mr. Speaker, Sir, I wish to thank you particularly and to thank the Members of this House who have overwhelmingly supported and positively contributed to the Motion on this very key issue of climate change.

The issues that have been raised, the propositions and the suggestions that have been made by Members of Parliament are all key and pertinent and they will go a long way to ensure that the debate on climate change should remain alive. This is because climate change is a phenomenon that is caused by human activity and we are part of that human race. Therefore, we as part of that human race who are also equally affected by the issue of climate change cannot rest until we take audit of all activities of our actions and ask ourselves how they contribute to aggravating or resolving the problem.

Mr. Speaker, Sir, there are small actions like for example, why would a bus leave Chester House with one MP and drive to Parliament and go back and take another two Members and go back and take another three? Those small actions are important. Hon. Byamukama

said the issues of emissions from industrial gases and motor vehicles contribute to the problem and we are part of that problem. So, the report might look like it is very technical; it is not. One thing that is for sure is that climate change is caused by human activities. Some of those activities, even us Members are culprits.

If, in the last century temperatures rose at an average of 0.8 and now we are talking about 2 per cent, what happened differently between 100 years ago and now? It is because of reckless human behaviour and un-thought through processes; it is because of the demand of the times that we need to industrialise. However, we could do so differently. One century ago there was no green energy; probably it was a dream, but now it is a reality; it can be done and you can industrialise through green energy. Therefore, the challenge to us as Members of Parliament and as East Africans is that we all have a part to play. We are all part of the problem but we can choose to be part of the solution.

I want to thank everybody for making their contribution to this Motion. I would like to say asanteni sana Messrs. Nangale, Ndarubagiye, Ms. Byamukama, Messrs. Lotodo, Bilal, Ms. Hajabakiga, Ms. Mmari, Mr. Harelimana and Ms. Hafsa Mossi.

My one plea to the Council of Ministers is this; as we move towards the Summit of 19th April, let us at least by that date have the protocol on Natural Resources and Environment having been signed. If we could report that as one of the achievements to the Summit, we shall really say that we are moving in the right direction. The Republic of Uganda has signed. What is the problem with the Republic of Kenya and the United Republic of Tanzania; the first three Partner States? I can't even talk about Rwanda and Burundi because it was negotiated by Tanzania, Uganda and Kenya. So, Hon. Chairperson Council of Ministers, my prayer to you is, let this Protocol be signed between now and April because then, the goodwill shall truly be demonstrated.

I thank you.

(Question put and agreed to)

The Speaker: Hon. Members, before I call for the next Order, I would like to urge the Committee on Agriculture, Tourism and Natural Resources to call the Council of Ministers and the Secretary-General before April so that they can at least tell East Africans what they did in Arusha. I think there was a policy that they talked about but they have not informed us what that policy is. Last week we were told they were ambushed. I think this report was handed over on Thursday and from then to-date, they would have prepared themselves to come and contribute so that we know more than just the niceties of "we support the Bill" and so on. Let us have more from the Council of Ministers, the Secretary-General – I don't want to see the Counsel to the Community just scribbling something for us to listen to. Let us have something detailed. Let us have people from the Secretariat coming here and inform this House more on what is going on. It is a very important subject and I think the Committee should call the Chairperson, Council of Ministers and the Secretary-General to tell you more about what happened in Arusha and report to this House some time in April. *(Applause)*

MOTION**FOR CONSIDERATION AND ADOPTION OF THE REPORT OF THE COMMITTEE ON AGRICULTURE, TOURISM AND NATURAL RESOURCES ON DEVELOPING MINING LEGAL FRAMEWORKS IN THE EAST AFRICAN REGION**

Ms. Safina Kwekwe (Kenya): Mr. Speaker, Sir, I beg to move:-

THAT, the Report of the Committee on Agriculture, Tourism and Natural Resources on Developing Mining Legal Frameworks in the East African Region be adopted.

Ms. Jacqueline Muhongayire (Rwanda) : Seconded.

Ms. Kwekwe: Mr. Speaker, Sir, the Committee on Agriculture, Tourism and Natural Resources has been seized with this matter for the last three years under the larger umbrella of extractive industries. This workshop was held in Bujumbura, Burundi on the 10th and 11th September 2010.

I would like to start with acknowledging the Burundi chapter of EALA for the warm welcome to the members of the Inter-Parliamentary Relations Liaison Committee on Extractive Industries. I want to thank in particular Hon. Leonce Ndarubagiye for being instrumental in the logistics and organisation of this workshop. The Committee would further like to thank the Parliament of Kenya, Tanzania and Uganda for nominating members to attend the workshop. I also want to appreciate the resource persons who accepted to share their knowledge on the field of extractive industries. In particular, I would like to single out Hon. Zitto Kabwe, a Member of Parliament of Tanzania, Mr. Amani Mustafa and Prof. Kasalas Camillus. I want to thank you, Mr. Speaker, Sir, in particular and the Assembly for facilitating the Committee and to allow it to fulfil its mandate in partnership with the National Democratic Institute (NDI), which the Committee also wishes to thank for facilitating the workshop and allowing the members of the Inter-Parliamentary Relations Liaison Committee to identify benchmarks and standards for the extractive industry, particularly for this region.

Mr. Speaker, Sir, the Treaty on the Establishment of the East African Community (EAC) mandates the East African Legislative Assembly (EALA) to legislate for the EAC. In respect to article 114 of the same Treaty and in line with the goals of the Inter-Parliamentary Relations Liaison Committee on Extractive Industries (IPRLC), the Committee, with the support of the National Democratic Institute (NDI), organised a two day workshop on *“Developing Mining Legal Frameworks: Lessons learned from Tanzania”*.

From the topic of this workshop, you can see that there was a lot of delving into the Tanzanian law and the lessons that can be drawn from that law; both the old and the new.

The objectives of this workshop were:

Introduce the concept of mineral value chain;

- Enhance participants understanding of ways they can utilize legislative functions to strengthen governance and improve fiscal outcomes at each state of the mineral value chain;
- Share examples of best practices in model mining legislation;
- Provide a review of Tanzania's 1998 Mining Act and reforms in 2010 Mining Act
- Assist Members of Parliaments to identify strategies to mitigate institutional, structural and resource constraints to improving parliament's engagement of the mining industry and
- Facilitate a dialogue between national and regional Members of Parliaments about the development of regional benchmarks and standards that could improve mining sector governance and management in the east African region

Mr. Speaker, Sir, as I earlier said this issue has been in the mandate of the Assembly for quite some time and, therefore, it was very imperative that we follow up on this subject and we shall continue to do so.

As far as the methodology used during the workshop is concerned, it was interactive and the Committee preferred utilization of Tanzania's 1998 and 2010 Mining Acts as case studies. It also benefited from Botswana's legal framework in extractive industry and practices already established in the form of international standards and benchmarks that guide actions and impact of extractive industries both within those particular countries, in the region and globally.

Mr. Speaker, Sir, I want to move to page five under the "Background." Members will remember that the Committee on Agriculture, Tourism and Natural Resources established a forum that we call the Inter-Parliamentary Relations Liaison Committee together with relevant committees from Partner States in February 2008. This forum provides a framework for the development of regional standards and benchmarks to improve extractive industry governance and management. The IPRLC is currently chaired by the EALA Committee on Agriculture, Tourism and Natural Resources. The implementation of the Resolution started in November 2008 with a series of site visits to gold and diamond mines both Tanzania and Uganda.

Arising from those tours and site visits reports were produced and tabled and adopted in this House. Similarly, they were submitted to the national Parliaments of both Tanzania and Uganda.

There were presentations that were made during this workshop and I will just highlight the key issues that were arising from them. The presentations dealt on:

1. Legislative Oversight of the Mineral Value Chain

Each Partner State, as we speak today has its own legal framework on extractive industry as part of economic development, though some Partner States still have to finalise their economic development strategies.

The participants were informed participants that the move from vision to development is characterized by stages known as Mineral Value Chain, starting from Stage 1, starting with Decisions to Extract, through bidding management, contracting with the companies (nature of contracts), revenue management Budgeting and expenditure management and public service monitoring.

On how to make decision to start engaging in extractive industries, it was emphasised that we need to look at the costs in the wide perspective, what he called PESTEL (political, socio-cultural, technological, environmental and legal perspectives) , meaning that the governments have to look into political issues, into existing laws on extractive industries, put in the centre of every negotiation the public interest, consider the environmental impact assessments, and the technology itself.

Mr. Speaker, Sir, as Members of Parliament, some of the key questions we should ask are: Is this in the interest of the peoples' development? If that is so, we look at the process of identifying and selecting the companies to extract.

- Were national bidding regulations and procedures respected in terms of bid evaluation and selection of the company extracting?
- How was the most qualified bidder actually selected?
- Was due diligence conducted before awarding?
- Is the chosen company technically and competent enough to implement the project?

These are the questions as Members of Parliament we should be asking ourselves during the process of identifying a selection of companies to extract.

On the content of the contract itself, Members of Parliament should also be able to ask questions regarding the nature of the contract. For instance:

What is the duration, the provisions on renewal and the termination of the contract (e.g. due to tax-non-payment or fraud)?

- What are provisions on disclosure of extraction information and data to the government.?
- In case of a dispute, how will it be settled: national or foreign law? International arbitration or local courts?

On issues of revenues and budgets, there are also things that Parliamentarians should look out for as we exercise our oversight and legislative mandate. For example:

- What is the royalty and its percentage base? Is it adjusted for any costs? Which **taxes** are applicable (e.g. income, VAT, corporate, profits, etc)?
- What banking and financial rules apply in terms of profit repatriation, project loans involved and the financial risk of exploitation to the state?
- If any, what are the exemptions from laws, customs duties, or taxes? Are exemptions for part of, or for all the project life span? What is the rationale ?
- Are there fiscal stabilization clauses in terms of, e.g. new law restriction, economic compensations, key taxes, charges and non-fiscal matters? For how long?
- What are the costs (both economic and opportunity), risks, responsibilities and dividends for co-ownership?

Therefore, the five areas that are key to all of us so that we can take them into account before stating any activity related to extractive industries are:

1. Decisions to Extract: Should Mining take place? How much?
2. Bidding Management: Does the process select the best operator or service provider?
3. Contracting with companies: Are the terms a good balance of risk and return?
4. Revenue management: Is what is owed, received? By whom? Are there any losses?
5. Budgeting: Are the plans to spend the mineral revenues focused on development and poverty reduction?
6. Expenditure Management and Public Service Monitoring: Is the money actually spent according to the plans? Is it benefiting the people?

Mr. Speaker, Sir, I am now on page nine. There were key areas that Members of Parliament need to be involved in the follow up of implementation of contracts. It is not only during the signing of contracts that Members of Parliament should be vigilant, but even on the follow up of the implementation. This is because African governments are most often losers in agreements with mining companies. This is because many of these negotiations do not take into account human values and public interest in general. Moreover, they do not have strong capacities to negotiate whereas the companies send very well equipped officers in the domain. Henceforth, the governments were requested to build the capacities of their staff working in extractive industries in order to have very strong negotiating teams capable to face the companies' teams.

We also need to be vigilant on the issues of data that is provided. For example, Members need to watch and make a day-to-day follow up in the field in order to avoid errors such as non budget revenues, as a small mistake can bring a habit and negative results

particularly when it is repeated. Revenues from mines should be used for the benefit of the people therefore Members shall lay everything out and EITI is there to assist them in this.

One of the issues that is truly eating into the core of EAC and other African countries is the issue of corruption. Why is it even more chronic is because it is sometimes embedded in our socio-cultural values of generosity and hospitality. But we need to draw the line between being corrupt and fulfilment of African traditional values of generosity, hospitality and reciprocity.

Mr. Speaker, Sir, the Committee benefited from an insight into the Tanzanian law of 1998 and the subsequent 2010 law. The 1998 law was there to sever a purpose and I will go to that very soon. However, before we do that, I want us to draw lessons from Botswana. There are key lessons that we can learn from them, both positive and negative. However, one of the positive lessons is that the Central Government equally shares revenues from diamond and other minerals, the chiefs who own the land and the local communities. So, it is 50-50. The Botswana Mining Act is very inspiring as it states that it is the responsibility of the government to build the infrastructure needed in the mining activity (road, rail, power, etc). That makes Botswana eligible to share holding, it also avoids the country-inflated figures of money when the construction of such infrastructure is left to the mining companies themselves. It creates added value. It is the responsibility of the government to build infrastructure needed in the mining activity. So, issues of road, railways, power and so on are not part of the corporate social responsibility of the mining companies. The State provides that.

We have seen that in other areas, mining companies within the region were asked to generate their own power and they benefit from tax exemptions. But in Botswana, it is the State providing. Botswana is therefore an equal shareholder and therefore creates value addition.

However, the country heavily depends on the mineral industry for revenue generation. Therefore, other sectors like Agriculture are neglected. It is now that they are trying to catch up on them. We are saying that over-dependence on extractive industry which is finite in nature is very dangerous and we should not go that way.

So, what does Tanzania teach us? The Tanzania 1998 Act had very noble intentions for both small scale and large scale mining developed side by side. It also redefined various rights and mineral trading rights. Small scale mines belonged to nationals whereas the large scale mines were for international companies. Its main characteristics were to protect investors against nationalization through stabilization of fiscal regime and the ability to transfer and mortgage mineral rights. This project of stabilisation deterred government from possible review or upward adjustment of terms in mining contracts and this jeopardised the guarantee of fiscal stability of long term mining projects.

The Act allowed the repatriation of capital and profit directly related to mining, a 100 per cent foreign ownership of the companies, designation specific areas for Small – scale mining, possibility of upgrading Mineral Rights, allowed procurement of locally

available goods, provided generous tax incentives and hidden subsidies in the name of attracting investment and such similar advantages to mining companies to the big losses on behalf of the government. In a few words, the act gave the holder of the mine many rights and virtually no obligations whereas it demanded the government many obligations and virtually no rights.

Mr. Speaker, Sir, we realised that there had been positive developments but the 1998 law on page 13, you will see the kind of regime that was in place; 3% on gold and gemstones and 5% on diamond. The Mining Companies, as pointed out in the previous presentation, enjoy a lot of advantages namely having a 100% transferability of profits to overseas accounts, paying stamp duty of 0.3 compared to 4% paid by other companies to the great losses of the government. So, you can see all these loopholes that an audit that was done revealed that there had been a loss of revenues of These range from lack of capacity in the oversight bodies, malpractices in enforcement, corruption, tax evasion and hidden subsidies at the expense of general economy. Audit has come out with a loss of revenues of over US\$132.5 million. That is a lot of money.

The economic equilibrium clauses that were in that Act hampered the economic growth by requiring the government to compensate the investor whenever government enacted legislation or took any administrative measures which aggravated the costs of the project thus restricting the scope of subsequent legislation and mitigated its impacts on existing contracts. But these were kind of cured by the Tanzanian Mineral law of 2010 which addressed all these concerns that I have talked about.

Now, the new Act allows for a review of the performance of contracts and Mining Development Agreements every 10 years. Therefore, if it is a 50-year project, it will be viewed five times; and local content in procurement of services in every mining company should not be less than 30%. So, there is a minimum that has been set as local content.

Therefore, Tanzania's Mining Act 2010 makes comprehensive provisions for every stage of the mining industry from prospecting to mining, processing and dealing in minerals to the granting, renewal and termination of mineral rights, to payment of royalties, fees and other charges and any other relevant matters. Its main highlights are the following:

- ▶ It makes gemstone mining the preserve of Tanzanians. Therefore, Tanzanite as a gemstone is a preserve of Tanzanians.
- ▶ it has increased the rate of royalty paid on minerals (e.g. gold) from 3% to 4%
- ▶ it requires government to own a stake in future mining projects
- ▶ it has changed the method of calculating royalties by using the gross value of minerals instead of the net value
- ▶ it requires mining companies to list on the Dar-es-Salaam Stock Exchange

These are some of the improvements that the new law has brought. So, how can Parliamentarians play their role? We need to look at the excess powers given to government commissioners and ministers of minerals and energy, play our oversight role bisecting information on the sector, advocate for establishment of a team of patriotic East

Africans who understand the transactions in the extractive industry, advocate for greater involvement of the local communities in the mining process away from the centralisation of mining authorities that alienate local authorities. The law also provides for amendment of local committees which, as Parliamentarians should take advantage of, which supervises the management of mines as proposed by the Bomani report.

The Committee also looked the existing international benchmarks and standards within the region and also within the globe. These include the Extractive Industry Transparency Initiative (EITI) which Tanzania has applied for, governance and accounting standards, voluntary principles on security and human rights which look at the human rights standards including labour laws, strategic environmental assessments which look at environmental benchmarks and IFC performance standards on social and environmental sustainability which are performance standards including corporate social responsibility. So, there already exist international standards within the globe. Our task is to see how we can best domesticate them in our region.

Mr. Speaker, Sir, mining greatly contribute to the economies of countries like Tanzania, which was a case study in our case where production of gold account for 44 per cent of the value of export in 2007 and the contribution of diamond has been climbing steeply since the 1990s. So, in many cases, extractive resources transcend national boundaries and become trans-boundary in nature, hence needing a supra-national framework governing both extraction and governance structures and the need for equitable, transparent and accountable revenue collection and expenditures arising therefore. Therefore, regional benchmarks and standards of mining are important both for equitable development and for peace and security within our region.

The recommendations are as follows:

The Committee recommends that:

1. Governments be guided by holistic perspective view before engaging in Extractive industries , that is to take the decision to extract after having looked at the existing laws, environmental impacts, after considering the public interest, the most appropriate taxation process, the costs involved and the technology which will be used by the mining companies;
2. Parliaments of East African Partner States should scrutinize the mining contracts before governments engages in tendering and bidding process through the use of well constituted negotiating teams with strong knowledge in the area of minerals;
3. Governments should avail information to Members of Parliament to allow them scrutinize contracts and agreements and safeguard the interests of the people of their constituencies including interests of the people living in and making a living from mineral rich lands.
4. Governments should exercise due diligence in selection of companies during bidding exercise to avoid loses arising from the incompetence of the chosen companies.

5. Governments should plan properly the use of mineral revenues and ensure that the plans are focused on development and poverty reduction;
6. Members of Parliament should be more engaged in the oversight of revenues for mines at every stage of the value chain.
7. Members of Parliament and Governments should fulfil their responsibilities by constructing needed infrastructure instead of leaving it to the mineral companies who can construct infrastructure projects of little priority to given areas.

In conclusion, this workshop was a success as it gave Members of Parliament the guidance on the types of techniques of oversight that Members of parliaments can utilize to address the questions and factors raised in relation to each stage of the Mineral value chain. Although the case study focused on the Tanzania Mining Acts, Members of Parliament can apply the guidance they offer to any Mining country.

Mr. Speaker, Sir, I beg to move.

(Question proposed)

Dr. George Nangale (Tanzania): Thank you, Mr. Speaker, Sir, for giving me this opportunity to contribute to this Debate. First of all, I should say that I was one of the delegates who attended this workshop in Burundi. This workshop brought together Members of EALA from the Committee and other Committees. It also brought together Members from the National Assemblies of Partner States. You can see the recommendations put forward by this workshop actually goes in line with what the Committee put forward two years ago when it toured Tanzania and Uganda mineral and petroleum resources. You will recall that some quarters of the Council of Ministers were not happy with our recommendations, but you can see this report, which involved Members of the National Assemblies of Partner States, is in line with our recommendations. In fact, if you go through the 2010 Mining Act of Tanzania, which came after our visit, some of the issues adopted by this House then are incorporated.

Mr. Speaker, Sir, the fact remains that Members of Parliament, both at the regional and national levels are not fully engaged in the oversight of this area. This area is regarded by the Executive as a no-go area for Parliamentarians. Probably from now after the adoption of this report, the Council of Ministers should ensure that Members of this Assembly as well those of the National Assemblies in the region are given their due role of oversight in all areas, including this particular area, which is very important to our region. If you happen to go outside of this region, people make mock you that your countries are rich in minerals and you are still begging for money all around the world; that your counterparts in the Middle East who have oil are not beggars as you are. I think we need to ensure that these resources help us to improve our livelihood.

On the issue of infrastructure, the report has recommended that governments should take the responsibility of building this infrastructure where the mining sites are. In some areas

in the region, you find mining companies are asked to construct things like power lines to their sites. For example, when we went to Kahama, we realised that the company has constructed a water pipeline from Lake Victoria to the site. But if you go along that pipeline, there are a number of villages which are not tapping this water. The same applies to power lines in some areas. Therefore, it is important that the government takes the responsibility of constructing infrastructure for the people.

Mr. Speaker, Sir, finally I would like to talk about the policy governing trans-boundary resources. I would like to urge the Council of Ministers to ensure that we have policies, which govern trans-boundary resources. We know, for example, that between Tanzania and Burundi, there is a huge mineral resource there. If we do not have policies governing this, either we will end up in war or we are not going to exploit it. Therefore, these are the issues the Council of Ministers should address and bring to this House.

With those few remarks, I beg to support.

Mr. Clarkson Otieno-Karan (Kenya): Thank you, Mr. Speaker, Sir, for giving me this opportunity also to make some observations on this Motion. But before I do that, being the first time I am speaking on the Floor of this House since we came to Nairobi, allow me also to thank the Speaker of the Kenya National Assembly for allowing us to use this Chamber. I also wish to thank His Excellency the President for his comments when he opened this Assembly, and the offer of the cocktail party.

Mr. Speaker, Sir, I want to declare that I was one of the Members who attended this workshop. In a nutshell, what this workshop was all about is build the capacity of Members so that they can take their responsibility seriously. There is one challenge which has been there. In most of the Partner States where these minerals are being mined, if you look at the welfare of the people, you will never see any difference that reflects the natural resources they have. This means that these natural resources have not improved the lives of the people of the countries where these minerals are. This is the responsibility of government. Surely, if God gave these countries mineral resources for them to be able to benefit and you are a government put in place to be responsible for the mining of those minerals for the benefit of the people, and for years you have never changed the lives of your people, do you have any authority to remain in the business of looking after the welfare of the people? It is the role of the Members of Parliament as the peoples representatives to ensure that the Executive is doing the right thing.

Mr. Speaker, Sir, now there are problems all over the world. Populations are rioting in the Arab world. These are some of the reasons which can make the populations rise. If they become aware that they are endowed with mineral resources, they have voted a government to look after their welfare and this is not translating into their lives, what do you expect people to do after about 50 years of such happenings? You should wake up. Whatever is happening should be a wake-up call so that any country that has minerals must ensure those minerals reflect on the lives of the people. For a number of years, these mining contracts have been quite opaque. You find in a number of countries, Members of Parliament do not know exactly what is happening. It is within the domain of the Executive and they do it with impunity, sign the contract; perhaps only one individual is

benefiting, and the people who have been displaced for that mining do not see any sense in it.

We had a tour of a number of places within East Africa and we realised that there is a serious problem that has to be corrected. That is why this workshop was necessary so that the capacity of Members of Parliament could be built so that they take their oversight role seriously. If the Executive becomes opaque with the contracts and Members of Parliament who are the representatives of the people also do not know what is happening, who will help the people?

I want to urge the Council of Ministers that on behalf of the people of East Africa, you should take these recommendations seriously so that our governments can do things in the correct way.

When we visited Uganda near Lake Albert, the information we got was that whatever mineral which was there; the oil is even on the other side of Lake Albert. That is why it is important that we must have a regional law that governs mining within the East African region so that we can minimise conflict.

Mr. Speaker, Sir, when we visited the mining areas in Tanzania, you could see that nothing is happening. People were displaced; they did not know where the minerals that were being extracted from their place were being purified. They did not know their rights. In a number of places, there were no social amenities, which were put in place for the people. The local authorities were equally ignorant. I think the era in which you can manage the affairs of our countries in such opaque manner is gone. That is why we should take the recommendations of this workshop seriously and take our governments to stop being opaque, involve Members of Parliament in the working of the contracts because when you involve the Members of Parliament, you are in essence involving the population of those particular States, so that they know what is happening, so that they become responsible and they know what to expect. I heard Hon. Nangale say that whenever he goes outside Africa, he becomes a laughing stock; being mocked about having minerals and going around being for money. I don't think that is what our governments want to subject us to. I don't think the people's representatives would also want to be a laughing stock the same way Hon. Nangale has been. So, I want to urge Members of Parliament to wake up and take our responsibility so that we educate the people and force the Executive to do what is right for the people. If we do that, we will be stopping the ability to have conflict in our regions as well as stopping the temptation of having individuals enriching themselves through these mineral resources at the expense of the population.

Mr. Speaker, Sir, I support the Motion and I want to urge my colleagues who never attended this workshop to take this report seriously, read it and when we go back, we ensure we discuss with the Members of our National Assemblies. For the Council of Ministers, please save us the embarrassments that Hon. Nangale has alluded to.

I beg to support.

Mr. Leonce Ndarubagiye (Burundi): Thank you very much, Mr. Speaker, Sir, for giving me the Floor. Having minerals in one's country can be both a blessing and a curse depending on the economical, political or social management of the mines. When you look at countries in Africa like Gabon; it has been exploiting petrol for the last 50 years, yet Gabon still has people living in abject poverty; walking barefoot and living in shanties. You wonder what that petrol has done to the people of Gabon.

Mr. Speaker, Sir, there was a politician called Mao Tse Tung. He said that we should learn not only from the success of others but also from the failures or mistakes of others so that we do not do the same mistake. If you may allow me, Sir, let me give two examples of bad behaviour. One day I was in Bukavu and speaking to a man from Switzerland. I told him this country; DRC Congo (Zaire at that time) is very rich. He looked at me with pity, laughed at me and said, how come you are so old yet you don't know the truth of the matter? Those minerals belong to those with the technology to exploit it, not to the Congolese. It was very insulting, honestly, but in fact, that is the reality. People in the Congo are sitting on everything that you can imagine in terms of minerals, yet they are miserable. Why? As I said, because of the management of the country. Another example; one man came from South Africa to Burundi, acquired the rights of mining in one region; Cyangugu. He ganged up with two Burundians. What happened? They did not have the technical capacity nor the financial capacity. They kept it that way for one and half years and sold it to those who have capacity to exploit for US\$2 million. They got that money for free; it did not go to Burundi. It went to that white man from South Africa who never came back; he just sent a letter that he had sold his mine to so and so. He acquired the mine and sold it to someone else. Burundi did not get one single cent. This is not the lesson Mao Tse Tung taught us.

Mr. Speaker, Sir, what I am emphasising here is the importance of the contract. One white man from Belgium came and made a contract with Burundi 50 years ago. Recently, his children went to court to sue Burundi and in the case whose judge was one of their cousins, Burundi lost and we paid millions of Francs; 50 years later. That is the importance of a contract. It is extremely important for a contract to be signed in good knowledge with the interest of the people. I just wanted to emphasise this because it is very important.

Mr. Speaker, Sir, the Swahili have a saying that when the Hyena is a judge, the lamp will never get justice. That is the tragedy of the countries of Africa. They will always be taken to court in Switzerland or wherever in Europe and they always lose. That is why we have to make sure that those judges come from the region so that we do not become lamps there.

I beg to support.

Dr. Aman Kabourou (Tanzania): Thank you, Mr. Speaker, Sir. I also take this opportunity, as my brother Hon. Karan did, to thank the Speaker of the Kenya National Assembly and the Government of Kenya in general for availing us the facilities to do our work.

Mr. Speaker, Sir, I stand up here to say I am in agreement with this report. I may have some misgivings, but generally I think it is a good report. I want to begin on page 15, just before the recommendations; this might be the conclusion. If you allow me to quote: "In many cases, extractive resources transcend national boundaries and become trans-boundary in nature, hence making it necessary to have supra-national frameworks governing both their extraction and the governance structures and the need for equitable, transparent..." I am in total agreement with this conclusion because it reminds me of Mwalimu Nyerere's common points. Whenever he went to Europe or even America, the people there asked him, how is Africa? They never really asked him about Tanzania or Kenya; but about Africa. To the Europeans, Africa is still one. What interests them are the natural resources they can get from here. They could be solid matter or even liquid gas, minerals, Tanzanite, Uranium. They are all found in Africa in large quantities. I think 50 per cent of all minerals in the world are found in Africa. The Europeans came here because they wanted resources at the time. Back in the 1400s, they were merely interested in labour and so they started slavery. They used to exchange a horse for 15 men in West Africa. After that, they industrialised and moved on to palm oil. They did not have petroleum. You know, petroleum was not discovered until 1859 in Oklahoma in the United States. So, they moved to palm oil and eventually to ivory and so on, most of which came from Africa.

Mr. Speaker, Sir, the mining law of Tanzania of 1998 has been mentioned here. It should be of interest to us in the Assembly to know that in 1998, there was no East African Community; so the law was a Tanzanian law. It might have a lot of deficiencies because there was no cooperative effort by all the five Partner States coming together to say what might or might not be good. This led to the 2010 mining law and I have heard some of the improvements they have made, but still, this is only a Tanzanian opinion over trans-boundary resources. Now, it has been said and of course we know even Iraq under Saddam Hussein invaded Kuwait because he claimed that Kuwait was stealing oil from his country under-ground. So, these trans-boundary resources are all over in East Africa and surely, if we are to think ourselves as national governments; the same boundaries that Europeans created and which they are saying they don't recognise because they only recognise Africa, then we are just wasting time.

Mr. Speaker, Sir, what I wanted to mention apart from this net versus gross profit business margins; these are all legal terminologies that most of us don't even understand. Now, there are people, lawyers perhaps who understand this, but I would care less. To me, what would be a good classification would be; what is the ratio of technical versus legal understanding of these matters? This report talks about everything else; the Botswana experience, this or that, but nowhere here have I found any reference to an excellent mining college where you can have mining engineers perhaps trained with money from these very minerals that we are busy extracting.

Mr. Speaker, Sir, when we get into law and contracts – Hon. Ndarubagiye has already said here that we are taken to these international courts where an uncle might actually be sitting in judgement in the interest of a cousin, all the mining laws seem to be caught in the so-called universal jurisdiction. You come to mine in my country, something goes wrong, we are back in Switzerland. I have never really had an opportunity to hear or

know of a case a French company or a Gabonese company was involved in extracting any minerals in the United States and they did not agree and the case is being heard in Dar-es-Salaam. It is always in the United States. Where does this universal jurisdiction over African mining resources come from? Who agreed?

Mr. Speaker, Sir, we are all aware that much of the troubles that Africans find themselves in are literally by the same people who want to come and exploit us. We know in the 1980s, for example, there were quite a few programmes called Structural Adjustment Programmes. Every country was forced, especially in Africa, to have Structural Adjustment Programmes. These programmes did not work and as a result, Africans were forced to write Poverty Alleviation Strategy Papers. They had become poor because they had fallen for advice which did not work. Suddenly, they were writing Poverty Alleviation Strategy Papers to the same institutions that had told them to come up with these Structural Adjustment Programmes! What do we have after the 1980s? We now have the Tanzanian mining law which says what they are really looking for is the stabilisation of fiscal regimes. Suddenly, they have been un-stabilized and now they want to stabilize. What do they do to stabilize? They become very sheepish when faced with this European law firms and law regimes and now they allow anything and everything to take place and actually allow themselves to be taken to Europe for adjudication.

What I am saying is that I don't like what is happening. I hope that with the adoption of these recommendations, we also try to see how we can bring about the technical aspect into these legal manoeuvres that we are constantly being exposed to. I think once we acquire the technical capability or competence, then some of these problems will also be diminished.

I beg to support.

Dr. Lwanyantika Masha (Tanzania): Mr. Speaker, Sir, I am not a Member of the Committee and, therefore, allow me to perhaps address things which might have been addressed in the course of the preparation of the report.

Let me start with the recommendations. Even though I have heard a lot of people say they are wonderful, I don't see much in them. They are written in a language which is very circumspect – I am not sure these recommendations will help get to the problems identified. Indeed, the report doesn't seem to have identified the problems. It is rather a write up of the process of the workshop until it gets to recommendations – recommendations on what problems? The problems are not clarified. They appear in the course of the write up but not with clarity. No wonder the recommendations also, in my view, are not that clear.

What is part of the problem on minerals? In my judgement, our countries have a lot of minerals including some the world is scared of; Uranium. We have oil and all these wonderful minerals. Unfortunately, all the minerals we have are not listed in here, but we have a lot of minerals. The minerals are in East Africa. What we may not have is the expertise and the capital to develop them. So, you have three elements; you have the minerals, you need the expertise and you need the capital to develop them. What has happened in our countries in most of the contracts which I have heard about, we have

tended to hand over the ownership of these minerals to the experts and those who have capital, and then we beg from them to give us something. It is very funny. I was looking for the best example of a contract but I could not find it here despite the reference to Botswana. If you own something and you don't have the capital or the expertise to explore, you don't turn over what you own and then start begging. You can borrow the capital and pay the expertise and you retain your ownership. This is what the Arab world has done in terms of the oil. Some of these oil contracts are not secret. They are available even through the internet. We have models of what kind of contracts we can do without handing over the ownership of our minerals. For heavens' sake, let us make sure we are not doing that again.

The other problem, which has been well elaborated by Hon. Karan, is that you find minerals in a region, there are people who have lived there for years perhaps in ignorance but nonetheless they protected those minerals. The problem for these people; one is that our land laws in some of our countries where you say you don't own the land and you can be shifted out if we find something that we want as a government. The poor folks are removed from these areas because they are told they don't own the land and they end up paupers not with perhaps puny compensation for wherever they are going to relocate. First we should change the land laws with respect to the areas where these minerals are found. Then, we should insist that whatever extraction takes place, they should retain a certain portion of the ownership of that so that they can continue to draw from the wealth that they protected all their lives. That is the only way what Hon. Karan was talking about, will happen.

In these contracts, I realised that some of our people are not yet either familiar with these matters or they don't know what they own or they don't have the means to participate in the extraction of this wealth. It is my view that the governments should insist that there ought to be a share reserve for the people who are displaced that is held either by the Government or the Government should loan it to them so that they are not denied wealth which they own or they have only because they don't have the capital to put in. If that is not possible, then these contracts should have some clause which puts reserve of some shares under the government for future passing over to the people who are displaced as well as putting them on the market as one of the advises being done here in the Tanzanian case that these companies should list on the Stock Exchange to make it possible for the general public to own them. But the people who have lived in these areas should be protected by the government for as long as that wealth is still being extracted.

Mr. Speaker, Sir, the absence of a good example of a contract is making us think that Tanzania's example has been very good. I am taking this opportunity as an advice to the Tanzanian government and one of the Ministers is here. I read on page 14; I reviewed the contract and to improve it, you from a royalty of 3 per cent to 4 per cent. That is what I am reading on page 14. I do not think there is a problem of lawyers – we have wonderful lawyers in Tanzania; very able lawyers. I do not know how that kind of thing can go through them. The problem has always been the capital required for the initial exploration, not for the ultimate extraction. It is the capital required as well as the know-how, but all these can be done with an arrangement whereby the owner of the minerals does not hand over to those who are coming to do the exploration as we have tended to

do. The training of our people in this mineral exploration is lacking. I know we have the department of mining at the University of Dar-es-Salaam. We have had the College of Mines and Mineral Training in Dodoma for years. I don't know what it is they learn. If they have been doing a good job, then we should not be having a problem of expertise since we train mineral engineers. Our problem should only be the question of capital. May be we should advise our governments to focus on proper training required for the variety of minerals that our countries have.

Mr. Speaker, Sir, let me end by suggesting that our governments – despite whatever we may say about Zimbabwe, it was re-awakened to its problems in the mining sector and I have been reading in the last few months that Zimbabwe now is insisting on a certain percentage of government ownership of the shares in all mining companies. I think we should copy that example because it is good for our people.

Mr. Speaker, Sir, I see this report as a beginning of our interest in this wonderful area of mining. I see it as an in-road for the Assembly to advice governments, but the report is incomplete. It is just scratching the surface. Even the recommendations as they are, are rather too weak. Anybody who wants to ignore this might just do it. But let us keep engaged as has been recommended and use this as a start for our governments to wake up on this wonderful wealth we have.

I beg to support.

Major-General. Mugisha Muntu (Uganda): Thank you, Mr. Speaker, Sir. Let me try and build on what Hon. Masha has just talked about. But let me first thank the Committee for organising the workshop on extractive industries and the recommendations that have been made. I notice that they dealt with the technical, financial and legal aspects of this sector. But I would like to make an observation that there is another aspect that we need to focus on as countries and as a people, not only in this region as East Africa, but also in the Continent.

I would like to propose that if it is possible, next time this Committee organises a workshop, they should focus on the mindset aspect in terms of the extractive industries or areas which they have talked about; the bidding processes, the management of the proceeds, the budgeting and ask ourselves, at the end of it all, the revenues that accrue out of these industries, how are they utilised? I think hopefully they can get funds; may be the Committee could go and visit other countries that have been involved in the extractive industries for a long time and yet there is nothing to show for it. I would propose that Members of that Committee should be assisted to go to Nigeria, Angola – Botswana has certain positive aspects, but there are also negative aspects because it seems they wholly depend on revenues from extractive industries. They seem not have shifted their mindsets to know first that they have exhaustible resources. If, within the next five years diamond, gold and the other natural resources in Botswana dried up, Botswana could easily become a basket case like the rest of the African countries. It shows that over this period that they have been getting diamond and gold, they never diversified. They are dealing with an exhaustible resource. We need to look at these issues. The danger of these industries is that at times they undermine the very existence of some of the societies. Look at Nigeria. Before Nigeria got oil, it was a net exporter of

palm oil and other agricultural products. When they got oil, they sat back and they started using oil revenues not only for capital but also for recurrent expenditure in their budgets, but worse still, it completely almost eliminated the industrial production. Right now, Nigeria imports palm oil from Malaysia. When Malaysia was starting its palm oil industry, they got some seeds from Nigeria. Now, Malaysia is a net exporter of palm oil. If we don't address that aspect, we will be dealing with half the story. I think that is the worst nightmare for us as an African people. There is something deeply engrained in our thinking that has entrapped us. Until we break out of that trap, you can complain from morning till evening, day after day, week after week, month after month, year after year, decade after decade and we will remain the same as we are now. The development process has never been because of the resources that a country has; natural or whatever other capital if they borrow. It is the mindset. We need to focus on that. We rarely do. There are many stories we could talk about. They are recited in books, periodicals and magazines; they are talked about in conferences. They keep talking about Malaysia, Singapore; that we were at the same level in the 1960s, they are now up there – Singapore is now in the First World. We are still stuck where we are. Why? Singapore doesn't have any resources at all; it is an island of about 5 million people. They have no mineral resources; they have nothing. Japan has no mineral resources. By the time they started their development process, they were only exporting rice. They had forests and they could only capture fish in water; nothing else. But they had what is critical in terms of the development process of all human beings wherever you find them – the human resource; the mindset. That is what is required; whether you go to Alaska, South America, China or Russia. That is what is at the centre of the development process; the human mind, nothing else. We have to address that. If we do not address it, we could cry until Kingdom come, but we will remain the same; beggars. We have to change that mindset. Hon. Masha was just talking about that. What is difficult about developing human capacity to build underground tunnels and exploit gold? One time we went down to Kahama. The people who operate those machines underground; about 5 kilometres down, are Africans. They are the ones who are driving those trucks. The only difference is that they operate under direction of the human expertise that the Europeans have developed and somehow we think that we cannot do that. That is where the problem is. Recently I was watching the TV and I saw a guy from Mali or some other West African country who used to work for National Space Agency of America (NASA).

An hon. Member: He is from Mali.

Major-General Muntu: Oh, is it Mali? He is now working for Microsoft; a brilliant guy. He has now been contracted by Microsoft and he goes around African schools trying to motivate young African students to go into the sciences. He is an African. There are many such Africans in Europe, America; at the cutting edge of technology – Tanzanians, Ugandans, Kenyans – they can operate there. They are brilliant; there is no doubt about that. You tell me, if you put together such brilliant minds in East Africa, regardless of which country they come from; you put them together and you say look, we want to gain expertise in this industry. We will put you together; we will give you capital, run it. You think they can't? Success breeds success. If Africans do that in one company it encourages others also to get into it. But we are trapped. We think we can't do it. We really need to go back to the basics. When people talk about simple things, they are even

dismissed. The Bible says that as a man thinks, so is he. If you think you can't manage, you won't. You remain paralysed in one spot. If you shift your mindset and think you can, you will; come rain or hailstones; you will. We need to change the way we think. These things can be managed. Look at the mechanics we have in this region. You have mechanics who can simply listen to the engine of a vehicle and they tell you what the problem is, without using instruments. But we cannot make spare parts for vehicles in this region. If you can't even make spare parts, when are we going to make a vehicle? We keep importing and importing. It goes back to the question of governance. Who will sit down and say, let us bring expertise together and empower them to do this, when those who could be doing that are busy trying to say, how are we going to get 10 or 20 or 30; some of them I think want to get 90 per cent out of these industries? That the problem. It goes back to that. We don't deal with that, I can tell you – Some of us have been around for the last 40 years, others 50 others 60 and there have been equal numbers of years of lamentation. I can tell you we can spend another 50 or 100 years for those of us who will be alive or our children or grandchildren still lamenting; possibly at that time, completely re-colonised. You hear some of these emerging economies; China, India and so on. At times people think they are just coming to Africa because they possibly think they love us. Nobody can ever what they deserve on this earth. You get what you negotiate for. The Chinese or the Indians are not going to come and do things for our own benefit, unless we are able to say, this is what we need, this is what we want and ensure that we get it.

Mr. Speaker, Sir, I would like to request, if it is possible, to get some resources, let these Members visit some of these countries; more so Angola. I understand Angola gets about US\$ 30 billion if not more – I have never been to Angola myself but when I read stories, I understand when you 20 to 25 kilometres outside of Luanda, it is the same these East African countries. Why? Let them go to Nigeria and a number of other African countries that have got resources but you cannot see any sign of human development in those countries. They can then come back, organise a workshop and we ask ourselves; is it just a question of resources and the revenues out of those resources or is there something that we need to critically look at as well; the mindset. We need to work on that, not only in the extractive industries, in agriculture, trade; wherever. Every workshop that we get, I would propose, not only at the EAC level, but even at the country level, we need to keep addressing the question of mindset. Until we deal with that and turn it round, my view is that whatever we would be doing, we would be doing it in futility.

I thank you.

Mr. Abdul Karim Harelimana (Rwanda): Thank you, Mr. Speaker, Sir. This debate is very interesting. It takes us to the history of where we were then and where we are today and find ourselves still living in the past. I do not know why we cannot make at least one-step ahead. Hon. Nangale said that there are some people who said that we have those natural resources but we are still begging from the people who do not have. The answer is just simple; it is what Hon. Muntu is saying; mindset. East Africa and Africa in general is not poor at all. We have everything. Although we have that problem climate change, we still have the better climate in Africa. Can you imagine a country in Africa that borders the Atlantic Ocean or Indian Ocean and at the same time imports raw fish from Europe? I have not had time to read the whole Summit report on strategic food reserves in East

Africa. However, I am sure that East Africa is the best place for agriculture in the whole world. It is the best. Still you find in one country, people are dying because of famine while others have abundant food, which they feed on their dogs. In some countries, people are dying of hunger in one part while others have plenty in the other side.

The Speaker: Hon. Harelimana, are you discussing this report or another one?

Mr. Harelimana: I am still on this report; but just emphasising on the issue of mindset. We have everything but we still have to beg.

Mr. Speaker, Sir, we lament; we say that the international market is not fair, but I think sometimes we are not even obliged to follow what the international market is demanding. If we stick on our ideas, I am sure the international market will need us and come to us.

We send our minerals to the internal market in a raw form. They manufacture many things and bring them back to us. If we put in place some conditions in our favour, because they also need to live, I am sure these people will come down to us and we will understand each other.

I just want to give a simple example of the EPAs. Negotiations are still taking place and we are talking about our resources, including the minerals. They still want to take them raw and bring them back as finished material and more expensive and some of our countries are just taking it very easy and they accept the ideas which come from there. That is why we keep reminding our Council of Ministers not to go very fast in the EPAs negotiations and accept whatever is coming from outside there.

Mr. Speaker, Sir, I support this report because we need to come up with a regional legal framework and have an oversight over the Executive about our minerals. I remember when we visited Kahama, Mwanza, Geita and other places in Tanzania and later on Uganda, I wondered whether the Africans working on those mines know the quantity which is being exported. Someone in the level of Deputy Director or whatever in the mining zone does not know the quantity of whatever is being exported outside Tanzania. I had a chance to talk to one of them and he told me even the Minister himself was not aware of what was being taken from that area. Can you imagine? That is why I think we have to come up with a regional legal framework, which will assist our Partner States---

The Speaker: Hon. Harelimana, when you say you got hearsay that the Minister does not know what is going on and we only have one Minister for Mineral Resources in Tanzania, I do not think it would be fair on him when you give that kind of a statement on the Floor and you cannot substantiate. Could you please take it back because it is only hearsay and we do not go by hearsay in this Assembly?

Mr. Harelimana: Mr. Speaker, Sir, I take it back.

Mr. Speaker, Sir, the regional legal framework was needed even before this time. But today and tomorrow, it is more needed; especially that in some Partner States of EAC, there are countries which are not very sure of what they have as minerals and natural resources. So, they don't have even national legal frameworks for minerals. So, if we come up with one which will put together all the countries, I think it will help us.

Whatever we get from the minerals will go back to our people and there will be a difference.

In North Africa where they are endowed with minerals, the people are still crying about unemployment and poverty. Their GDPs are very big, but the money does not trickle down to the people. I think we can learn from these problems which are in Northern Africa and the Arab countries so that when we come up with the regional legal framework, we are able to make sure that whatever we get from the minerals and other natural resources in our countries, it benefits our people.

With those remarks, I beg to support.

Ms. Kwekwe: Mr. Speaker, Sir, I want to thank the Hon. Members who have contributed to this debate.

Mr. Speaker, Sir, I would like to make some few clarifications. I wanted to make it clear that the report is based on the objectives that are enumerated on pages three and four. The workshop was aimed at meeting those objectives and in our view they were met. However, I would like to give some information that there are fundamental differences between legal frameworks that govern minerals as treasured metals and oil. Even though both are extractives, the way legal frameworks are made from what we have today is different. Under oil, the product, that is petroleum belongs to the State. Any company that comes to extract does so as an agent of the State. So, the product remains with the State. The owner of the product is the State. You will see this in all the laws; if you look at the Nigerian, Norwegian or the laws of the United Arab Emirates. Where the extractive is oil or petroleum, the commodity belongs to the State. But this is not the case with minerals. When you look at the laws that are pertaining to date, when it is minerals for example gold or diamond, the product belongs to the company and it is leased, just like you would lease land and make use of it as you wish; of course governed by the contract that you have between you and the State, for example, for a period of time upon the expiry of which that asset is relinquished back to the owner. That is why in previous submissions in this House, for instance when the Committee specifically submitted a report on the Tanzanian tour, we fundamentally made a recommendation which this House adopted that East African countries should amend their laws (and thank God Tanzania did) to ensure that governments hold a stake in these companies. That was a recommendation we made when we toured Shinyanga, Geita and Mwanza in Tanzania. We are aware of the disparities between how minerals and oil are legislated and managed. So, we will continue to say that on the issue of minerals, the Partner States should emulate the Tanzanian approach whereby the government is obliged by law to hold a stake in the mining companies.

Mr. Speaker, Sir, this Assembly has also in the previous submissions by the Committee, agreed that the Assembly needs to be exposed more on this sector of extractive industry; that is both minerals and oil. I want to report that the Committee is in the process of raising funds to visit particularly Southern African countries where we want to combine Botswana and South Africa for minerals and Norway for oil and gas and Mongolia for minerals. Norway and Mongolia have so far some of the best laws on those two aspects. So, there are case studies within continent and beyond where this Committee has always

been asking to visit as the Inter-Parliamentary Liaison Forum on Extractive Industries to add value to their legislation.

Mr. Speaker, Sir, equally in previous submissions, the Committee had requested the Council of Ministers to come up with a legal framework on the mineral sector. That is not alien because it is drawn from the Treaty; Article 114(2)(c) which reads:

“With regards to management of mineral resources sector, the Partner States agree to promote joint exploration, efficient exploitation and sustainable utilisation of shared mineral resources to pursue the creation of an enabling environment for investment in the mining sector; to harmonise mining regulations to ensure environmentally friendly and sound mining practices and to adopt common policies to ensure joint fossil exploration and exploitation along the coast and Rift Valley, among others.”

Therefore, the Treaty had given us a directive which I pray to the Council of Ministers to bring it to life. We need to have a legal framework for the region which can be a model like the SADC model. The SADC has a model where member countries can domesticate that model to suit their circumstances. The Angola story is very saddening. Angola has gone beyond what is traditionally known whereby you have a contract between a company and a State. A diamond mine in Shinyanga, for example, on one hand and the United Republic of Tanzania on the other hand. The Angola model has gone from State to State; the contracts are between the State and another State; in this case we have the Republic of Angola on one hand and the Peoples Republic of China on the other hand. You have Angolan oil being held as collateral for developments that will be done in Angola; infrastructure including roads and everything. But the catch is that Angola must supply all its oil to China for the next 20 years regardless of what market price of oil is; they have agreed on the price of oil today that will apply for the next 20 years. So, you see that kind of contract. It would have been easier if it was a contract between a company and the State. But here it is a State-State contract. Uganda is just about to exploit petroleum. Tanzania is about to exploit gas. In future, this Committee would like to be engaged on legislation focusing on that area of petroleum and gas because it is a very peculiar field which is different from the mineral field. But for the case of this workshop, we were looking at the mineral side. I would like to inform this House that we as a Committee should not say that we are lamenting because since this Committee engaged itself in this sector, I want to assure you that the gains that were made by the Tanzanian Parliament in amending the law to what they have today was considerably informed by the EALA recommendations. Hon. Nangale went before the Committee and made a submission on behalf of the Committee on Agriculture, Tourism and Natural Resources. That submission contributed greatly to what we are seeing today in the Tanzanian Mining Act of 2010. The case study was based on Tanzania, the next one will be based probably on Kenya. Fortunately for Uganda we have been waiting for legislation on petroleum because they don't have any, but it is now in the process of being formulated. We have as a Committee engaged with the relevant Committee so that when the draft is out, we would like to give our input to that because we have seen it work for us in Tanzania and it should work in Uganda.

Mr. Speaker, Sir, I want to say that we are not lamenting but celebrating our small gains. They may be small but they are gains all the same and we should celebrate.

I want to thank the Hon. Members who have contributed to this. None of them has said they don't support and so, I want to thank them and tell them that they shall see more on this on the Floor of this House because this Committee is dedicated and fully committed to ensuring that we have a mining legislation that serves the interests of the people of East Africa.

I thank you. (*Applause*)

(Question put and agreed to)

ADJOURNMENT

The Speaker: Hon. Members, we have come to the end of business today. As you are aware we are sharing this Chamber with the Members of the Kenya National Assembly and they meet in the afternoon. So, we are going to meet tomorrow morning at 9.30.

I now adjourn the House until tomorrow morning at 9.30.

(The House rose at 5.30)