

**[DONE]**

## **NATIONAL ASSEMBLY**

### **OFFICIAL REPORT**

**Tuesday, 14<sup>th</sup> May, 2013**

The House met at 2.30 p.m.

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

**PRAYERS**

**PAPER LAID**

The following Paper was laid on the Table:-  
The First Report of the Committee on Appointments on Vetting of Cabinet Nominees.

*(By Hon. Katoo)*

### **NOTICE OF MOTION**

**ADOPTION OF REPORT ON VETTING OF CABINET NOMINEES**

**Hon. Katoo:** Hon. Speaker, Sir, I beg to give notice of the following Motion:-

THAT, this House adopts the First Report of the Committee on Appointments on Vetting of Cabinet Nominees, laid on the Table of the House today, Tuesday, 14<sup>th</sup> May, 2013.

### **MOTION**

**ADOPTION OF REPORT ON VETTING OF CABINET NOMINEES**

**Hon. Speaker:** Hon. Members, we will proceed with this Order. I will give guidance to the House in the following manner: We are now using the Supplementary Order Paper in circulation and Order No.8 is a Motion to adopt the First Report of the Committee on Appointments on the Vetting of Cabinet Nominees. The Motion also seeks to request the House to approve the nomination of certain persons and reject the nomination of another.

Hon. Members, when the Motion is moved and seconded, I will propose the Question of the entire Motion as contained on the Order Paper. This will open debate to

Members to speak to the Motion. At this point, any Member who may want to amend the Report may do so by moving to amend the Motion together with the Report.

At this point, I will remind any Member with amendment to approach the Table for the Clerk to draft such proposed amendments appropriately. However, each amendment will have to be approved by the Speaker pursuant to our Standing Orders. Amendment to delete any name will not be allowed at this point since the Speaker will thereafter put severally the Question for approval of each proposed nominee at the conclusion of the debate. Therefore, a Member intending to oppose the nomination of any nominee, other than those proposed to be rejected in the text of the Motion will have to wait for the Question to be put against the specific nominee. I will dispose of any amendment to the Motion and if carried, propose the Question of the Motion in the amended form. Hon. Members, thereafter, I will put the Question for approval of each of the proposed nominees for the decision of the House in the order that their names appear in the Motion. Thank you.

**Hon. Katoo:** Thank you, hon. Speaker, Sir. On behalf of the Members of the Committee on Appointments and pursuant to the provision of Standing Order No. 191, it is my pleasure and duty to present to this House the---

**Hon. A.B. Duale:** On a point of order, Hon. Speaker. I want to direct the Clerk to provide copies of the Reports to the Members. It is only the Mover who has a copy and I have raised the matter. It is good as you raise issues, Members can get time to read the Report and recommendations. I have said this several times.

**Hon. Speaker:** The Clerk has gone to do exactly that so that every Member has a copy of the Report. The staff that is in possession of the Report should ensure that every hon. Member gets a copy. It is not fair that the Mover of the Motion is the only one who has the Report and other Members do not.

**Hon. Linturi:** On a point of order, hon. Speaker, Sir. I seek your indulgence as we wait for the Clerk to provide the Reports. Under Standing Order No.33, I stand seeking the adjournment of the House to discuss a matter that is important to this nation. Recognizing that the matter before us today must be dispensed with, taking into account the provisions of the law, at the same time I want to plead with you to find it necessary to raise the matter that is going on around Parliament. Looking at the occurrence of the day and the kind of stress Members of Parliament are going through while trying to access Parliament because of the demonstrators that are outside the gate, I feel that it is important we raise the issue. It is fine to recognize that these demonstrators have rights, and these rights are properly provided for by law; it is something we must respect. But even in that respect, it does not mean that people have a right to impinge on others' rights. This being the august House, a house of honour, I would urge you to find it necessary to give us time, at least, after we dispense with Order No.8. We pray that you find it necessary to give us, the leaders of Kenya and the people who are supposed to bring order in this country, time to discuss this matter because we also need to inform this country what is really happening.

*(Applause)*

**Hon. Angwenyi:** Hon. Speaker, Sir, I beg to second. I do see you very well.

**Hon. Speaker:** Hon. Jimmy Angwenyi, you cannot second a point of order!

*(Loud consultations)*

I quite well appreciate the anxiety.

**Hon. Angwenyi:** On a point of order, hon. Speaker.

**Hon. Speaker:** Hon. Jimmy Angwenyi, in as much as I am willing to consider what hon. Linturi has raised, our Standing Orders require that on a matter of this nature, the person requesting must have the support of---

*(Several hon. Members stood up in their places)*

Okay! You may resume your seats, hon. Members.

Order! Order, hon. Members! I can see it is the whole House.

**Hon. Members:** Yes!

**Hon. Speaker:** Hon. Linturi, because of the business that is before the House, which we must conclude, and because we cannot interrupt this one now, it is up to you, hon. Members, if you want to discuss that particular matter for one hour or one-and-a-half hours, that will only happen after you conclude the business at Order No.8.

Can I get an indication Clerk?

**The Clerk of the National Assembly** (Mr. Bundi): Hon. Speaker, there are only five.

**Hon. Speaker:** Hon. Linturi, the Chair will be mindful that, at around 5.00 p.m. if we will have concluded the business at Order No.8, the next one-and-a-half hours hon. Members can discuss that particular matter, because I believe it is a matter of national concern. Thank you.

Hon. Katoo, you must move the Motion, not just laying the Report on the Table.

**Hon. Katoo:** Thank you, hon. Speaker. I started by saying that on behalf of hon. Members of the Committee on Appointments and pursuant to the provisions of Standing Order 191, it is my pleasure and duty to present to this House, the Committee's Report on the Vetting of Cabinet Secretary nominees.

**Hon. Speaker:** Move the Motion as indicated.

**Hon. Katoo:** Hon. Speaker, I beg to move the following Motion:-

THAT, pursuant to Article 152(2) of the Constitution and the provisions of Standing Order 204 (4), this House adopts the Report of the Committee on Appointments on the vetting of Cabinet Secretary nominees, laid on the Table of the House today Tuesday, 14<sup>th</sup> May, 2013, and approves the appointment of the following persons as Cabinet Secretaries in the respective Ministries:-

1. Ms. Ann Waiguru - Ministry of Devolution and Planning
2. Amb. Raychelle Omamo - Ministry of Defence
3. Amb. Amina Mohamed - Ministry of Foreign Affairs
4. Prof. Jacob Kaimenyi - Ministry of Education, Science and Technology
5. Mr. Henry K. Rotich - Ministry of National Treasury
6. Mr. James Wainaina Macharia - Ministry of Health

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| 7. Eng. N. S. M. Kamau        | - Ministry of Transport and Infrastructure                 |
| 8. Prof. Judy W. Wakhungu     | - Ministry of Environment Water and Mineral Resources      |
| 9. Hon. Charity K. Ngilu      | - Ministry of Lands, Housing and Urban Development         |
| 10. Dr. Fred Matiang'i        | - Ministry of Information, Communication and Technology.   |
| 11. Dr. Hassan Wario Harero   | - Ministry of Sports, Culture and Arts                     |
| 12. Mr. Davies Chirichir      | - Ministry of Energy and Petroleum                         |
| 13. Mr. Felix Kiptarus Kosgei | - Ministry of Agriculture, Livestock and Fisheries         |
| 14. Mr. Adan Abdalla Mohamed  | - Ministry of Industrialization and Enterprise Development |
| 15. Hon. Najib Balala         | - Ministry of Mining                                       |

(b) THAT, this House rejects the appointment of Ms. Phyllis Chepkosgei Kipkingor Kandie---

**Hon. Members:** No! No!

**Hon. Katoo:** I am moving the Motion.

**Hon. Member:** Yes!

**Hon. Katoo:** I beg to move the Motion:-

THAT, this House rejects the appointment of Mrs. Phyllis Chepkosgei Kipkingor Kandie, nominated for appointment as Cabinet Secretary for East African Affairs, Commerce and Tourism.

Hon. Speaker, Sir, I am going slowly so that hon. Members can get copies of the Report. I think now they have the copies.

**Hon. Members:** Where are the copies, we do not have them?

**Hon. Katoo:** Hon. Speaker, Sir, on behalf the Committee on Appointments, pursuant to the provisions of Standing Order 191, it is my pleasure and duty to present to the House the Committee Report on Vetting of the nominees as Cabinet Secretaries.

Hon. Speaker, Sir, the Committee on Appointments was constituted by the House on Tuesday 23<sup>rd</sup> April, 2013, and it comprises the following hon. Members:-

1. Hon. Justin Muturi, MP, Speaker of the National Assembly
2. Hon. (Dr.) Joyce Laboso, MP, Deputy Speaker
3. Hon. Aden Duale, MP, Leader of the Majority Party
4. Hon. Francis Nyenze, MP, Leader of the Minority Party
5. Hon. (Dr.) Naomi Shaban, MP, Deputy Leader of the Majority Party
6. Hon. Jakoyo Midiwo, MP, Deputy Leader of the Minority Party
7. Hon. Katoo ole Metito, MP, Majority Whip
8. Hon. Chrisantus W.Wakhungu, MP, Deputy Chief Whip
9. Hon. Jackson Kiptanui, MP
10. Hon. Ken Obura Mirenga, MP
11. Hon. Isaack Ali Shaaban, MP
12. Hon. (Ms.) Amina Abdalla, MP
13. Hon. Roselinda Soipan Tuya, MP

14. Hon. Gideon Konchella, MP
15. Hon. Jamleck Kamau, MP
16. Hon. Maj-Gen. (Rtd.) Joseph Nkaissery,
17. Hon. Boniface Gatobu, MP
18. Hon. Maj. (Rtd.) Marcus Mutua Muluvi, MP
19. Hon. Cecily Mbarire, MP
20. Hon. Moses Cheboi, MP
21. Hon. David Wafula Wekesa, MP
22. Hon. Nelson Gaichuhie, MP
23. Hon. (Ms.) Esther Mathenge, MP
24. Hon. Ibrahim Ahmed Sane, MP
25. Hon. Manson Nyamweya, MP
26. Hon. (Ms.) Khamisi Mishi Juma, MP
27. Hon. Ahmed Ibrahim Abass, MP
28. Hon. Stephen Mutinda Mule, MP

Hon. Speaker, Sir, the Committee was guided by the provisions of the Public Appointments (Parliamentary Approval) Act, 2011, while undertaking its mandate. On 1<sup>st</sup> May, 2013, the Committee, through an advertisement in the Press, invited the public to submit memoranda on the suitability or otherwise of the nominees to hold public office in accordance with the provisions of Section 6(9) of the Public Appointments (Parliamentary Approval) Act, 2011. The law provides for public participation within seven days of receipt of notification of nomination from the appointing authority. Public participation as stipulated in the Public Appointments (Parliamentary Approval) Act, 2011, is in form of submission of sworn affidavits. In seeking public participation, the National Assembly published in the national daily newspapers invitations for the members of public to make submission in form of sworn affidavits on the suitability of Cabinet Secretaries nominees.

As a result, memoranda were received in respect of the following nominees, namely Prof. Jacob Kaimenyi, Eng. M.S. Kamau, Hon. Charity Ngilu, Dr. Fred Matiang'i, Mr. Davis Chirchir, Ms. Phyllis Jepkoskei Kipkingor Kandie and hon. Najib Balala. These were submissions in sworn affidavits against the nominees I have indicated. In the interest of justice and fairness, the Committee wrote to the concerned nominees, forwarding the details of memoranda received against them and requested them to respond to the allegations. The Committee received sworn affidavits from all the concerned nominees. The Committee carefully considered the petitions and asked the concerned nominees to provide verbal explanations. Questions were filed to each nominee when he or she appeared before the Committee.

After careful consideration of the facts before it, the Committee arrived at the findings recorded in its Report. On 3<sup>rd</sup> May, 2013, the Committee wrote to the Kenya Revenue Authority, the Ethics and Anti-Corruption Commission and the Higher Education Loans Board. It is good to note that the Ethics and Anti-Corruption Commission vide a letter dated 3<sup>rd</sup> May, 2013, was requested to provide any information touching on the integrity of the nominees that may be in the possession of the Commission. A reply was received on 7<sup>th</sup> May, 2013, advising that the Commission was not able to avail the information sought within the set deadline and would fast-track the process and revert back to the Committee within the shortest time possible. However, as

at the conclusion of the vetting process, the information had not reached the Committee. The KRA informed the Committee that all the 16 nominees are tax compliant. The Higher Education Loans Board confirmed to the Committee that nine nominees, who benefited from the Board had cleared their loans while the rest never benefitted.

The Committee held a total of 13 sittings. The vetting of the nominees was undertaken on Thursday 9<sup>th</sup>, Friday 10<sup>th</sup> and Saturday 11<sup>th</sup> May, 2013. It was open to the public and was covered widely in the media. I want to confirm that the Committee embarked on writing its report, which was adopted on Monday, 13<sup>th</sup> May, 2013. In conclusion, I want to report that the Report was adopted unanimously by the whole Committee.

Therefore, with those few remarks, I beg to move this Motion and ask hon. Francis Nyenze, the Leader of the Minority Party, to second.

**Hon. Nyenze:** Thank you, Hon. Speaker, Sir. I wish to urge this House to adopt the Report of the Committee on Appointments. We did vet all these nominees, one by one. As the Mover said, the vetting was covered live by the media and we were very fair. It is only one candidate who is not suitable for the position. So, I want to urge the House to adopt this Report because we adopted it unanimously.

I second.

**Hon. Speaker:** Hon. Members, you know the rules of engagement.

**Hon. Mirenga:** Yes.

**Hon. Speaker:** Hon. Mirenga, the Chair never sought your concurrence but anyway, let me propose the Question.

**Hon. (Eng). Gumbo:** On a point of order, Hon. Speaker, Sir.

**Hon. Speaker:** What is it about?

**Hon. (Eng). Gumbo:** Hon. Speaker, Sir, this is a matter which borders on the Constitution of Kenya. I rise on a point of order under Standing Order No.204 and Article 107 of the Constitution of Kenya.

**Hon. Speaker:** Let us hear you.

**Hon. (Eng.) Gumbo:** Hon. Speaker, Sir, I rise on a point of order. Standing Order No.204 provides for the Committee on Appointments, whose Report we are debating here today. I want direction from the Chair if, indeed, this Report is properly before the House. I say so because under Standing Order No.204, Hon. Speaker, the Deputy Speaker and other Members are members of the Committee on Appointments. I have been in this House for quite a while and what, in my view, this amounts to is that we are actually debating a report prepared by the Speaker.

Mr. Speaker, Sir, if you look at the Constitution, Article 107 says clearly that it gives you powers to preside over debates in this House, but here we are seized of a matter which you are presiding over, yet from the outset you have presided over the same matter. Where does it leave the hon. Members? This, in my view, is not a frivolous point of order because it goes to the very foundation of our country – the constitutionality of what we are doing now. I want to say that the same Standing Order No.204(3), actually requires Hon. Speaker not to participate in debates but to appoint the Members who speak in the House.

Hon. Speaker, Sir, Article 75 of our Constitution provides how you and all State officers shall conduct their affairs. One of the things that Article 75 contemplates is that when a State officer conducts his or her affairs it should be in such a way that it does not

conflict with personal or official interests. I seek your ruling and request your indulgence, so that you look at these provisions and decide whether, indeed, by proceeding to debate the Motion before us we are not violating the Constitution, and whether you find it justifiable for us to have a member of the Speaker's Panel, and not yourself, preside over this debate.

Hon. Speaker, Sir, I seek your ruling.

**Hon. Speaker:** Hon. Members, I do not need any assistance on that. I can dispose it of quickly. I can tell from the outset that the hon. Member wants to filibuster, but let me give you this advice for free, as your Speaker. Article 107 of the Constitution does not bar the Speaker from chairing any committee set up by this House. Indeed, if that was the case, then you would find it inconsistent that Article 127, which establishes the Parliamentary Service Commission (PSC), is inconsistent with Article 107, since then the Speaker would only preside over deliberations in the House. The fact that the Speaker is the Chairman, constitutionally, of the PSC which commission presents budgets of the Commission, which takes care of hon. Members welfare--- That report usually is debated here without any issue that the Speaker should move from the Chair because he is, obviously, a Member of Parliament. The first oath that I took was as a Member of Parliament and, therefore, you would be saying that Article 107 and Article 127 are in contradiction with each other.

However, more importantly, you in your wisdom as a House made several decisions regarding which committees the Speaker should chair, among them the House Business Committee and the Procedure and House Rules Committee. So, surely, as I said from the outset, your point is either out of the fact that you have not fully applied your mind to the various positions in the Constitution, so as to see that the Speaker has no personal interest in this matter. Indeed, even a decision by the PSC, which the Speaker signs, is amenable to amendments on the Floor of this House. The Speaker has no vote. It is up to the House in plenary to decide what to do with a report of any committee, whether the committee was chaired by the Speaker or not; every committee is a committee of the House and, therefore, the report is presented to the plenary for the plenary to deal with it as appropriate. Therefore, I rule that there is nothing unconstitutional. There is no conflict and debate should proceed.

Yes, Hon. A.B. Duale.

**Hon. A.B Duale:** Thank you very much, Hon. Speaker, Sir. I stand to support this Motion. I want to confirm to the House that the Speaker in our deliberations was only chairing. He has no vote and it is this august House that decided that the Committee on Appointments be chaired by the Speaker. However, today is a happy day for me. The days when the Executive or a President would appoint a Cabinet Minister, who maybe was looking after some cows or running his business and the following morning he is sworn into office, are long gone. This country has shifted from that and it is because of the new Constitution that today Parliament, and the citizenry have a role to play in the appointment of the men and women who are to serve our country as Cabinet Secretaries.

Hon. Speaker, Sir, Article 152(2) of the Constitution is where this Committee drew its mandate from. This Committee had 13 sittings. We have brought a report to the House, but still the final say on the 16 nominees lies with the men and women who were elected by the different constituencies and nominated by different political parties. So, Article 152 is the one that gives the country Parliament and the Cabinet Secretaries.

Two, Standing Order No.204 creates the Committee on Appointments; procedurally it is again this House, through the Procedure and House Rules Committee--- If they feel that the Chair shall not in future be chairing the Committee on Appointments, we have a procedure and an exit route. Hon. Speaker also chairs the HBC.

Hon. Speaker, Sir, I want to thank the President. He used Article 152 in appointing his Cabinet. He looked at gender, regional balance and for the first time---

**Hon. Members:** No!

**Hon. A.B. Duale:** Hon. Speaker, Sir, I need your protection.

**Hon. Kimaru:** On a point of order, Hon. Speaker, Sir. The Chair directed that the Report be distributed, but this has not happened, yet we continue to discuss what we do not have in our possession.

**Hon. A.B. Duale:** Hon. Speaker, Sir, as the Leader of the Majority Party I stood up and it is very unfortunate. I raised it. The secretariat must give hon. Members copies for them to interrogate this Report. Somebody somewhere is failing. Reports should have been here. The moment the report is tabled, Members should have it. So, hon. Speaker, I think you should give direction that this Report be given to Members.

**Hon. Speaker:** Hon. Duale, you may resume your seat briefly. Hon. Members, I have noted that but, please, we are also about to discuss another Motion which was raised by hon. Linturi. How we conduct ourselves here will, obviously, have a bearing on how others look at you. I saw some animals bearing the names of some Members on television; I think it is not very healthy. So, please even if you do not agree with a position being advanced or prosecuted by any speaker, please allow the person contributing to make their point, and you will also be given a chance to make yours.

Hon. A. B. Duale, you may proceed.

**Hon. A.B. Duale:** Thank you very much, hon. Speaker, Sir.

**Hon. Speaker:** In the meantime, please, Clerk, ensure that Members have the Committee's Report.

**Hon. A.B. Duale:** Hon. Speaker, Sir, I was one of the Members who had an animal outside named after me; unfortunately they should have brought a camel because my community and religion do not allow me to even touch that animal. So, next time I will tell Mr. Omutata to look for a cow, goat or camel that can send a message, because the people of Garissa and northern Kenya did not understand what message Mr. Omutata was passing.

Hon. Mungatana who was a Member of this House in the last Parliament, in his wisdom, knew this country was shifting from a Westminster model of governance to a pure presidential system. He foresaw that public vetting would be undertaken and did something for Parliament and the country. Mr. Mungatana introduced here the Public Appointments (Parliamentary Approval) Act. I want to tell my colleagues that the seven days given to the public to send in the memoranda and affidavits--- Many people sent in e-mails and letters; some congratulated the Cabinet nominees and others were against them. Parliament, in its wisdom, weighed that against the law.

The Act is very clear that if you want to give adverse or positive comments about anybody, you should do that in an affidavit and under oath. The Act also provides that nominees be given a chance to swear a replying affidavit. Consequently, Prof. Kaimenyi, Eng. Kamau, Hon. Ngilu, Mr. Matiang'i, Mr. Chirchir, Ms. Kandie and Hon. Balala gave us replying affidavits. The Committee made an observation of every affidavit.



Hon. Speaker, this Committee used Sections 6 and 9 of the Act. Out there the likes of Mr. Omutata and many others, we know their funders and where they got the pigs from. I want to raise an issue with the animal rights activists. If they are living in this country, what happened at the gate of Parliament will be discussed.

I know that hon. Members have not yet received the Report, but I believe they will get it. The Report will be available.

Sections 6 and 9 of the Public Appointments (Parliamentary Approval), Articles 152(2) and 132 of the Constitution and Standing Order No. 204 form the fundamentals and principles on which the Committee operates. This House will rely on them in looking at the Report presented to it. Some people will ask why so and so was approved by the Committee. It must be very clear that the public was given seven days to participate in the vetting as per the Constitution. The seven days the Committee is given to present a report to Parliament are provided for in the law.

I want to tell hon. Members that under the Standing Orders you have the power to approve, amend some sections or reject the Report. When the Deputy Majority Leader and the Minority Whip were reading the Report, there were murmurs. I want to assure hon. Members that it is within their right to respond to this Report or make their contributions. The Committee is an extension of the House; the last word is with the 349 members of this House.

Finally, I want to thank the President. Since Independence, this is the first Cabinet that is---

**Hon. Ng'ongo:** On a point of order, hon. Speaker, Sir. You know that a report of this nature is very weighty. When you propose to reject a nominee, the rule of natural justice would require that the membership of this House benefits from some of your reasons. Would I be in order to ask Members of this Committee why this lady was singled out, so that we make an informed decision, given that we did not have time to read the Report? It would be fair if we got this explanation from none other than the Leader of Majority Party.

**Hon. A.B. Duale:** Hon. Speaker, I want to inform my good friend, the Member for Suba, the Report is collectively owned by the 28 members of the Committee. In accordance with natural justice, we are making it available to every hon. Member of the House. The Report states why we vetted and why we did not vet each nominee. I want to confirm that Ms. Kandie was one of the nominees from whom we received affidavits. I also want to confirm that the replying affidavit from Ms. Kandie cleared her; the observation we made was that there was no evidence against her.

The only issue the Committee raised against Ms. Kandie – I want hon. Ng'ongo to hear me well – was her performance when she appeared before the Committee. Madam Kandie, the nominee for East African Affairs, Commerce and Tourism has no integrity issues. Madam Kandie has no qualification problems. I want to ask my colleagues that you have the right under---

*(Loud consultations)*

Hon. Speaker, I want to finish.

**Hon. Keter:** On a point of order, hon. Speaker, Sir.

**Hon. Speaker:** Even if you want to finish, let us give the gentleman here an opportunity. He is on a point of order.

**Hon. Keter:** I think the Majority Leader, hon. A.B. Duale, is not in order to mislead this House by wasting a lot of our time discussing how she is qualified. We want to understand the reasons that led to her rejection.

**Hon. A.B. Duale:** I want to tell hon. Keter that in Parliament, we do not waste time. Of course, a person of my caliber, Leader of Majority Party, takes the House business very, very seriously.

**Hon. Angatia:** On a point of order, hon. Speaker, Sir. Is the Leader of Majority Party in order to take the entire 13 sittings to come and subject the entire House to a show of subjectivity of an individual? Please, give us reasons why you rejected Kandie!

**Hon. A.B. Duale:** Hon. Speaker, Sir, first, I want to confirm--- I think Members must read the Standing Orders. I am one Member out of the 28 Members of the Committee, which is chaired by the Speaker. That is number one. Number two---

**Hon. (Ms.) Shebesh:** On a point of order, hon. Speaker, Sir.

**Hon. Speaker:** If there is another point of order---

**Hon. A.B. Duale:** I have not even responded to the point of order.

**Hon. Speaker:** No.

**Hon. A.B. Duale:** Let me respond to that point of order.

**Hon. Speaker:** I have said that hon. Shebesh is on her feet claiming to be on a point of order.

**Hon. (Ms.) Shebesh:** Thank you, hon. Speaker, Sir. I do wish to inform this House that I intend to move the following amendment to the Motion on the adoption of the Committee---

**An hon. Member:** On a point of order, hon. Speaker, Sir.

**Hon. Speaker:** You rose on a point of order.

**Hon. (Ms.) Shebesh:** I have not finished my point of order.

**Hon. Speaker:** I am just giving information of your intention.

**Hon. (Ms.) Shebesh:** I do intend to move an amendment to the Motion.

**Hon. Speaker:** You will do that when you will be contributing.

**Hon. Simba:** On a point of order, hon. Speaker, Sir. I would want the Leader of Majority---

**Hon. Speaker:** You are the Member for?

**Hon. Simba:** Dagoretti North. I am Simba Arati.

**Hon. Speaker:** You are also called Simba, among other names?

*(Laughter)*

Let us hear the Simba. I think this House now has a Simba. Yes, hon. Simba

**Hon. Simba:** Hon. Speaker, Sir. I would like to know whether the Leader of Majority Party is in order. That is because he is telling us that integrity issues were not touched in respect of Ms Kandie; even the Chief Whip has said that they did not receive any report from the Ethics and Anti-Corruption Commission (EACC). What we are saying is that the Leader of Majority Party is happy. He has not come out of those motions of praising; being a sycophant of His Excellency the President.

**Hon. Speaker:** I think Mr. Simba wanted to treat the House to light moments. You may proceed.

**Hon. A.B. Duale:** Hon. Speaker, Sir, at least, I am a sycophant of a sitting President. I am not a sycophant of a failure; the one who lost! At least, I am a sycophant of a sitting Head of State.

**Hon. Ochieng:** On a point of order, hon. Speaker, Sir. I think---

**Hon. (Ms.) Odhiambo-Mabona:** On a point of order---

**Hon. Speaker:** There is somebody else on a point of order, hon. Odhiambo-Mabona. He has the same right as you. So, since he caught my eye before you, hon. Odhiambo-Mabona, let him speak.

**Hon. Ochieng:** I am the Member of Parliament for Ugenya. Using the Standing Orders, is the Leader of Majority Party in order to keep taking us round in circles on a simple question? As the Committee, you have recommended that one Ms. Kandie be rejected. You have recommended that 15 of them be accepted. What we want are just reasons only, so that we can proceed with this Motion.

**Hon. A.B. Duale:** Hon. Speaker, Sir, if I am given time, I will give reasons. I will allow hon. Members to move an amendment to---

**Hon. Speaker:** Now, we must have order here. Let him present his case. If he does not give reasons as to why, remember you--- I said this earlier that the Report is before you, as a House. Just a minute! You have immense powers as Members of the House. You know what powers you have. If he does not convince you about the reasons, remember you are at liberty to exercise that power to disagree with him. I can see it is from both sides of the House. Is that not so? So, why all this hullabaloo? Leader of Majority Party, please, clear the air.

**Hon. A.B. Duale:** Hon. Speaker, Sir, I want to move and---

**Hon. Bichage:** On a point of order, hon. Speaker, Sir. It is important.

**Hon. Speaker:** Yes, Chris Bichage.

**Hon. Bichage:** Hon. Speaker, Sir, I think we are wasting time because the Leader of Majority Party is talking about something which we should have read in the Report. Can we have the Report and then look at the reasons ourselves?

**Hon. Speaker:** Withdraw your remark that we are wasting time.

**Hon. Bichage:** I withdraw, Sir. Can we have the Report so that we can read it for ourselves?

**Hon. Speaker:** Hon. Bichage, be seated. How long will it take you? Those of you who are hanging on the passages, you need to look at your Standing Order No.104. Even Members who have been here, at least, for five years and even more are on their feet. Hon. (Dr.) Eseli is on his feet. Please, hon. Members, remember this is a report of a committee. Remember you are contributing not as the Mover of the Motion. So, you have limited time. Go straight to the point!

**Hon. A.B. Duale:** Hon. Speaker, Sir, you need to save me from the barrage of points of order. In this House, in your capacity as individual Members, you have the right to agree with us on one Ms. Kandie. But the reason that the Committee gave--- If they failed, then all of us here have an opportunity to correct that through an amendment. I want to reply to one point of order. There were seven nominees who received adverse affidavits. They gave a replying affidavit. The Committee cleared them. Ms. Kandie was

one of them. The Report of the Committee is a report of the whole House. It will be decided this afternoon.

Finally, I want to be a proud sycophant of a sitting President and not a sycophant of a failure.

**An hon. Member:** On a point of order---

**Hon. Speaker:** He is through. Hon. Odhiambo-Mabona, I think you want to contribute. He has already finished. Just contribute to the Motion.

**Hon. (Ms.) Odhiambo-Mabona:** Thank you, hon. Speaker. Although I wanted to stand on a point of order, I thank you for giving me this opportunity to contribute to the Motion. I want to say that I am utterly appalled by the remarks by the Majority Leader. If you look at the issues he is talking about in relation to Ms. Kandie, he is brave enough to stand before us and tell us that there were no issues of integrity and there were no issues touching on her that would make them reject her.

My concern is that it is unconstitutional. I will take it upon myself, as one of the framers of the Constitution, to teach him about what the constitutional standards in relation to gender equality and non-discrimination entail. I also just want to say that this House cannot further the culture of discriminating against women. There are candidates here who had issues touching on them in relation to integrity and, nothing has been said about them. But when it is a woman, the only thing you do is face backwards and then you are rejected; or, that you look at people with funny eyes.

Hon. Speaker, Sir, as women in this House, we cannot allow such things. We will not allow that. Even as I am concluding---

**Hon. Speaker:** Just a minute, hon. Odhiambo-Mabona. Did I hear you again say that you have to look at people from behind or with funny eyes?

*(Laughter)*

Hon. Odhiambo-Mabona, please, treat this---

**Hon. Speaker:** Hon. Odhiambo-Mabona, you are an hon. Member of this House. We do not want others to start pinning names of animals depicting Members. Now you are talking about “behind” and so on; please, desist from that.

*(Laughter)*

I am sure you can speak to this Report very well. I am sure you are capable.

**Hon. (Ms.) Odhiambo-Mabona:** Hon. Speaker, I was an excellent student of literature; so, I use language figuratively. So, those who do not understand my figurative language I am also available and willing to teach them some elements of literature. I want to encourage the Leader of the Majority Party to remember that he is sitting in my seat; we won.

With those few remarks, I want to say that he needs to style up.

*(Loud consultations)*

**Hon. (Ms.) Shebesh:** Hon. Speaker, Sir, I want to move the following amendment to the Motion on the adoption of the Report of the Committee on Appointments:-

THAT, the Motion be amended by –

(i) Inserting the words “subject to:

(a) amendment of the Report in Paragraph 1 of Part V (Recommendations) on Page 68” and inserting Item 16 as follows: “Ms. Phyllis Chepkosgei Kipkingor Kandie, East African Affairs, Commerce and Tourism.”

(b) deleting Paragraph 2 of Part V (Recommendations) on Page 68.

(ii) Inserting Item 16 in Paragraph (a) of the Motion as follows: “Mrs. Phyllis Chepkosgei Kipkingor Kandie, East African Affairs, Commerce and Tourism.”

(iii) deleting Paragraph (b) of the Motion.

Hon. Speaker, Sir, I want to be very brief and clear as to why I move this amendment. Ms. Phyllis Kandie is a qualified candidate for this position.

**Hon. Ababu:** On a point of order, hon. Speaker, Sir.

**Hon. Speaker:** Read your Standing Orders, please! Hon. Ababu Namwamba be seated. Let her finish moving her amendment. I will not listen to you. Just sit!

**Hon. (Ms.) Shebesh:** Hon. Speaker, Sir, since we were not privy to some of the information that the Committee had and, unfortunately, the Committee has not made this Report available as quickly as it should have, allow me just to say that Ms. Phyllis Kandie is a graduate of Bachelor of Commerce. She also has an MBA. She is an investment banker. She has, in the last 15 years, been instrumental in advising on matters of financial management to both the Government and the private sector.

When this process began, we watched the interviews live on television. One thing I appreciate about the Committee on Appointments is that it was very honest as to the reason why it rejected her. It is not because she is not qualified; it is not because she has any integrity issues, it is simply because they did not like the way she presented herself and how she answered the questions *vis-à-vis* the other candidates, many of whom have been in diplomatic service, and so are very articulate. Many of them have worked in Government and so they know how to express themselves. Many of them have also been politicians. The Committee is clear that the only reason they rejected her is that she was stammering and not answering questions as quickly as she should have. She, probably, was not sitting as upright as the Committee would have wanted.

When we passed the Bill on public appointments---

**Hon. Midiwo:** On a point of order, Hon. Speaker, Sir. I think hon. Sebash---

**Hon. Members:** Sebash! Sebash!

*(Laughter)*

**Hon. Midiwo:** Shebesh! I am a Luo. You can excuse me for that.

**Hon. Speaker:** Proceed, Mr. Midiwo.

**Hon. Midiwo:** Hon. Shebesh is in order to move the amendment. However, we cannot run this House like a market. We were 28 Members in a committee that was

chaired by you. A question has been raised by hon. Members: Why did we reject this particular lady?

The Leader of the Majority Party was given a chance to answer, but he never did so. I personally cannot agree that the blabbering by the Leader of the Majority Party carried the whole of the Committee along. It looks bad. We are here and we want to say why we rejected the name before amendments are made. It is only fair that way.

Secondly, it is going to be the first time hon. Members are debating without Members having fully interrogated a report. It looks bad. I beg you to give some of us an opportunity to articulate how we unanimously arrived at a decision to reject one of the nominees. It is only fair to do so. It will look like we did it for flimsy reasons, yet there are very good reasons why the Committee twice, and not once, rejected this particular nominee.

Hon. Speaker, Sir, I beg that you give me a chance as a Member of that Committee to put the record straight. It will also save your image. I thank you.

**Hon. Speaker:** Hon. Members, the point of order raised by hon. Jakoyo Midiwo is a very serious one. The Committee has 28 Members. Hon. Midiwo has said something extremely pertinent and logical. However, since the House does not have enough copies of this Report, and even if it had enough copies, not everybody has had a chance to read through the Report--- While stepping down the proposal by hon. Shebesh to move an amendment, I would want to allow debate. Hon. Shebesh, you are not stopped. We want to stand you down for a moment so that Members of that Committee, as proposed by hon. Midiwo, can advance the reasons. If Members are still not convinced, or persuaded, then we will proceed in the manner hon. Shebesh is proposing.

Therefore, we will stand down the proposal by hon. Shebesh and hear debate on the Report. I, Particularly would like to encourage Members of the Committee. I hear suggestions that we have four hon. Members of the Committee debating this matter. That is a proposal. I rule not more than five hon. Members. If they are not able, by any chance, to persuade or convince you Members then we will proceed to the proposal by hon. Shebesh.

I want to give this chance to none other than hon. Jakoyo Midiwo.

*(The proposal to amend the Motion stood down)*

*(Debate on Motion resumed)*

**Hon. Angwenyi:** On a point of order, hon. Speaker, Sir. Hon. Midiwo stated very clearly that we cannot interrogate that Report before we receive it---

**Hon. Speaker:** Hon. Angwenyi, you are arguing with the Chair. The Chair has already addressed that matter. We know that the Report is not available, and even if it was everybody has--- I am aware of the technical hitches that the staff has explained are causing the delay. I do not know what is happening. Hon. Angwenyi, it is only fair that a few Members of that Committee contribute, and if they are not able to convince the rest of the House, we will proceed to hear the amendment proposal by hon. Shebesh.

**Hon. Midiwo:** Hon. Speaker, Sir, I rose on that point of order because---

**Hon. (Ms.) Shebesh:** Hon. Speaker, Sir, I really would like you to hear me out because I was in the middle, and I will take your instructions. I urge that in your ruling

you be clear that we are debating what was brought by the Committee as a report, and there was no dissenting voice. Therefore, we will not use this opportunity to malign a woman using all manner of things that were concluded at the Committee but not included in the Report.

**Hon. Speaker:** I will rule anybody who attempts to malign any person out of order.

**Hon. Kamau:** On a point of order, hon. Speaker, Sir. I think it is important for Members to know that, especially those who are not aware, that I personally opposed the Report of the Committee in relation to the rejection of Ms. Kandie. Let that be very clear from the outset.

**Hon. Speaker:** That is information! Let us hear Mr. Midiwo, if he is contributing.

**Hon. Midiwo:** Thank you, hon. Speaker, Sir. I was not impressed by the Mover of the Motion, the Majority Leader and the Minority Leader. I have been in this House for 10 years and I have seen people's names go down or people go down with Committee reports, and I do not wish to be one of them.

We conducted this vetting in full view of the public at the Kenyatta International Conference Centre (KICC). Hon. A.B. Duale has rightly said that with regard to Ms. Kandie, we received an affidavit saying that she was involved in a scam to do with funds for women and this was in public. We cannot debate this Report without telling the House that, or giving the House a copy of that affidavit. That affidavit was not enough for Members of this Committee to reject Phyllis Kandie. There were criteria that we used. One of the criterion why Ms. Phyllis Kandie was rejected - the one which she did not pass and she was expected to - was the one that said that she had to have understanding of what she was going to do in her docket.

In full view of the camera, Ms. Kandie was asked to tell us her understanding. She even said that Kenya was part of the configuration of the Southern African Development Community (SADC). It is good to put it on record because it is in the HANSARD. So, we asked ourselves how we were going to have this lady in charge of commerce if she did not even know our own trade configurations as a country.

On tourism, the lady said that Kenya did not need many tourists but it needed fewer well-paying tourists and we asked ourselves, are the hotels going to be closed when she becomes the Cabinet Secretary for Tourism, or are we going to lose employment? She did not seem to understand what she was going to do in that docket. Everybody was unanimous until yesterday when there was an attempt by all of us to try to do what the House is trying to do. We still deliberated on this for about five hours.

*(Hon. (Dr.) Pukose stood up in his place)*

**Hon. Speaker:** Hon. Midiwo, resume your seat! Yes, Dr. Pukose.

**Hon. (Dr.) Pukose:** On a point of order, hon. Speaker, Sir. If you look at the interview on the appointments, hon. Jakoyo Midiwo asked a question which he thought he understood. For instance, he commented when he was interviewing the Cabinet Secretary for Health, that the Medical Officers of Health (MOHs) transport drugs from KEMSA to their stations through their clinics---

**Hon. Speaker:** Resume your seat, hon. Pukose. Yes, hon. Midiwo.

**Hon. Midiwo:** Hon. Speaker, Sir, you can see the challenge you have. I begged you last week, and I still beg you to conduct induction workshop for our new Members, because the public is watching us. What is happening here will go down with this country. Already the House has integrity issues and people are bringing pigs in front of the House. We have to move a notch higher.

Even if the House, in its wisdom, decides that we have to pass or reject all, it is the prerogative of the House but it is good to put the record straight. It is important, so that we do not appear to have gone to some vetting exercise and wasted public funds. We took our time. Some of us here take our job very seriously. I know that our colleagues may wish, because of political reasons, to do this but we have been faced with several challenges in this, and the Mover ought to have raised them.

For example, there were questions about Hon. Charity Ngilu and Hon. Najib Balala. It is important to tell this House about every negative thing we could have asked Hon. Ngilu, but there is a parliamentary report which cleared her. So, this House could not have used the negative part of that report. It is important to tell Members, so that the public stops saying that we let her off the hook because we did not. We could not use the same report which was brought here, deliberated on and she was found innocent.

It is important that when we are moving a report of this magnitude---

**Hon. Kato:** On a point of information, Hon. Speaker, Sir.

**Hon. Speaker:** Does he want it?

**Hon. Kato:** He is my friend and he will---

**Hon. Midiwo:** I accept the information, hon. Speaker, Sir.

**Hon. Kato:** Hon. Speaker, Sir, I would like to inform my colleague. Maybe, he was not in the House when I was moving the Report because I even overemphasized that point. I said that it is very important for Members to know that we asked the Ethics and Anti-Corruption Commission whether they had anything against the candidates. I said very clearly that by the time we closed the vetting exercise, there was no report from the Ethics and Anti-Corruption Commission.

**Hon. Midiwo:** I was coming to that, hon. Speaker, Sir. This House did its bit. This Committee, through the Office of the Clerk, asked the Ethics and Anti-Corruption Commission whether it had anything good or bad against the nominees of the President. They said that time was too short, and they had not seen anything adverse about them. This is not a court of law. We are seeing articles in the media which are negative about the Committee. If we go this route, you will see more of them. We have a duty to this House. We were a Committee of the House, and we must protect the image of this House. Therefore, to say that we rejected Ms. Kandie for no reason is not fair.

Therefore, those who have contributed, this is what they said during the deliberations, but the minutes ought to be given to these hon. Members to show that she is not qualified for that position. Maybe we recommend to the President to create a small docket for her.

Hon. Speaker, Sir, that is what came to the Committee and it is not the duty of a vetting committee. That was not the duty of the vetting committee.

**Hon. Shill:** On a point of order, hon. Speaker, Sir. Is hon. Midiwo in order to mislead this House, first by saying that the information we have been given by the Leader of the Majority Party was not complete, that he is going to give us new things? Up to



now, it is only about the interviews and nothing else. Is he in order to try and use the back door to tell us about the integrity of this House without telling us substantive things?

**Hon. Speaker:** Hon. Shill, I rule that hon. Midiwo is perfectly in order. You need to listen to what a Member is saying. However agitated you may be about a contribution, please give the other person a chance to finish. Hon. Midiwo has been giving information that has not been given before. You cannot say that he is not saying anything.

**Hon. Abongotum:** On a point of order, hon. Speaker, Sir. I just want to confirm that hon. Midiwo is in order to deal with matters that are very peripheral in the Report; the Report is coming but I have an advance copy of it. So, I want to go through the synopsis of this Report; the last part of it on page 67(VI) mentions something to do with capacity. This lady did not have capacity to handle what is in her docket. I want to state for the information of hon. Members that the lady, apart from being telegenic is qualified. She was only fairly shy and I want to confirm to hon. Members that---

**Hon. Speaker:** Hon. Abongotum, resume your seat.

**Hon. Abongotum:** I have not finished!

**Hon. Speaker:** Hon. Abongotum, you are an experienced and old Member of this House. Surely, what you have gone into is a matter perfectly within your right to contribute when we are dealing with the Motion. If you will only allow hon. Midiwo to complete his contribution, then others can also contribute, if they wish. Again, we will put the matter to vote.

**Hon. Midiwo:** Hon. Speaker, Sir, the House is perfectly in order to disagree with the Committee, and that is why we are a debating Chamber. However, it is good to say what criterion we used in vetting. This is what we looked for and hon. Abongotum was not in that room, if I remember well. I have never missed a session.

We said that we were to look at academic qualifications, employment record, professional affiliations, knowledge of the relevant subject and that is where the problem is. We also said we would look at overall suitability for the position. Then we looked at integrity, and she had no integrity issues; that is true.

**An hon. Member:** On a point of information!

**Hon. Midiwo:** I do not want information!

**An hon. Member:** On a point of information!

**Hon. Speaker:** He has said he does not want information, so just resume your seat.

**Hon. Midiwo:** Hon. Speaker, Sir, I am just about to finish. Our problem is the criteria that I have read and it is official. These things are in the Act. We had problems with this particular nominee regarding Nos.5 and 6, which is knowledge of relevant subject. Many Kenyans sent all Members of the Committee messages that, that docket will have a problem because she spoke to the nation. She did not exhibit any knowledge of what she was supposed to do there. Without saying things at the back of others - hon. Abongotum calls them peripheral - we want a country that deals with things in a straight manner; a country in which all of us have a responsibility. You may say that she is shy but the person who is going to project the image of this country to tourists must be somebody who is not shy; it is somebody who can articulate the position of our country. Ordinary people told us: "You may in your wisdom as a House say that she gets it because of politics, but Kenyans will never forgive you because they saw it."

Thank you.

**Hon. K.K. Kinyanjui:** Hon. Speaker, Sir, I would like to be guided by you on whether hon. Midiwo was in order because I have---

**Hon. Speaker:** You are not a Member of that Committee.

**Hon. K.K. Kinyanjui:** Hon Speaker, Sir, I have the Report and the recommendation he has raised here---

**Hon. Speaker:** No. Let me first of all establish that there is no Member of the Committee who intends to contribute. Hon. Kinyanjui, I will give you a chance.

**Hon. (Ms.) Mbarire:** Hon. Speaker, Sir, I want to contribute to this Motion, first by saying that we, as the Committee on Appointments, did our job and it is true that at the end of it all we recommended that one Phyllis Kandie was not suitable for the job. It was not for anything else but because of the way she answered our questions. I know that many times interviews fail even the very best brains, and sometimes people get intimidated; sometimes they come ill prepared and I want to say here that we did not in any way find one Phyllis Kandie unqualified for the job. But because of the manner in which she answered the questions, we had a problem and it took us a long time---

**Hon. Kimaru:** On a point of order, hon. Speaker, Sir. I do not think it is in order for any Member who was in that Committee to again oppose the very recommendation they brought forth. Is it in order? This is because I believe that there is collective responsibility in that particular Committee.

**Hon. Members:** No!

**Hon. Speaker:** Hon. Kimaru, your point is quite valid but remember even when decisions are made unanimously, human beings have a right to change their minds from time to time. So, as the Chair, I can only leave it to the conscience of every individual Member to---

**Hon. Midiwo:** On a point of order, Hon. Speaker, Sir. Nothing impedes the contribution of Hon. (Ms.) Mbarire. I am reliably informed that every time we give reasons, as Members of this Committee, the Kenya Broadcasting Corporation (KBC) blocks those reasons from Kenyans. We have given them the right to cover this debate. Something is afoot. Something is going on that we need to know. Nothing could be more shameful than when hon. Members of the Committee give their reasons and they get blocked. It could be even more shameful that when Members of the Committee are giving reasons as to why they reached a decision, something being funded by taxpayers is blocking our voices.

You need to rule on that one, hon. Speaker, Sir.

**Hon. Speaker:** Hon. Midiwo, you are right in requesting the ruling but you will approach the Chair and give us your source of information. But you are perfectly in order.

*(Hon. (Ms.) Odhiambo-Mabona stood up in her place)*

Hon. Millie Odhiambo, I hope this time round you will be a bit straight to the point.

**Hon. (Ms) Odhiambo-Mabona:** Hon. Speaker, Sir, it is difficult to teach an old dog new tricks but the point I want to raise---

**Hon. Speaker:** You have to learn new tricks.

**Hon. (Ms.) Odhiambo-Mabona:** Hon. Speaker, Sir, the issue I want to raise has to do with a ruling you have given. I need clarity because it is going to guide us

throughout the life of this Parliament. You have just indicated to the Member for Laikipia that when a committee brings a report to the House, Members of the committee have a right to change their minds on it. A ruling has been made in this House before and during previous Parliaments to the effect that one was not allowed to change one's mind and that if one wished to dissent, one would just do so and keep quiet. So, just to guide us for purposes of future debate, I would request that you give direction as to whether it is actually in order for a Member of a committee who supported a report of that committee to come to the House and disown it.

Meanwhile, from what I have heard from Cecily so far, she does not sound like she is opposing the Report. She was giving reasons but my concern is that you give us direction in relation to the situation.

**Hon. Speaker:** I will do so much later.

Continue, hon. Mbarire.

**Hon. (Ms.) Mbarire:** Thank you, hon. Speaker, Sir. I just want to say that as the Member for Laikipia said, I am not opposing this Report. It would be very hypocritical of me to stand here and oppose a report of a committee in which I sat for four days. I am just stating facts and let me say that it was not a very easy decision for us to make, for the reason that if you looked at the papers of this great lady, you would appreciate that they do not match the lady who came for the interview. That is why I am saying it is possible that this lady got intimidated by the television cameras. Even as hon. Members, when we begin our politics, it takes a while for us to get used to speaking like Millie Odhiambo or Ababu Namambwa or the Leader of the Majority Party. It does not just happen overnight.

Therefore, I am convinced, as a Member of the Committee, that it would be a good idea to give this lady a chance. By saying this, I am not suggesting that we did the wrong thing. I am only saying that maybe we need to have a vetting process that goes beyond interviews because you may not be in a position to---

**Hon. Members:** On a point of order!

**Hon. Speaker:** Just a minute! All of you have loud voices. There is an hon. Member whom I want to hear.

**Hon. Onyango:** Thank you, hon. Speaker, Sir. I am hon. Osele, the Member for Kabondo Kasipul. I rise on a point of order to state that we know that hon. Members of this House are learned, and that they are very good in English but it is not in order for hon. Members to use the same English saying one thing and withdrawing the same using another language on the same subject matter. The Committee had the responsibility of knowing that if this was a bad day for this lady--- Of course there are bad days. You can wake up and face an interview on a bad day. Maybe, she had a problem with her husband. The Committee had to check on such aspects before bringing a report to this House. Members of the Committee should not come here to agree and disagree on the same Report that they brought to us. This may lead us to question whether the Appointments Committee really did its job well.

**Hon. (Ms.) Mbarire:** Hon. Speaker, Sir, we did our job very well. I have been speaking English all the time. I did not speak any other language, not even my Embu language.

**Hon. Speaker:** Order, hon. Mbarire! There is an hon. Member who seems to be having a burning point of order.

**An hon. Member:** Thank you, hon. Speaker, Sir. On the same note, I seem to get the feeling that Members of the Committee are taking instructions from other quarters because Hon. Shebesh is telling us that she never saw anything bad about that lady. She had good qualifications---

**Hon. Speaker:** Resume your seat, hon. Member. The Member on the Floor, whom you purport to be rising on a point of order, is not hon. Shabesh. So, you are giving us a completely different story. What you are doing is completely out of order. Hon. Mbarire is on the Floor but you are telling the House about Hon. Shebesh. Please, allow Hon. Mbarire to complete her speech and then you can speak about what Hon. Shebesh told you.

**Hon. Midiwo:** He needs some induction course!

**Hon. Speaker:** I agree with you, Hon. Midiwo. I think he needs some induction course.

**Hon. (Ms.) Mbarire:** Hon. Speaker, Sir, the hon. Member is completely out of order. That is not a point of order. I am simply speaking, first, as a Member of the Appointments Committee; but I am also saying that this is the first time we are conducting this kind of exercise. We have lessons to learn from the exercise. We do not have any precedent from which we could have borrowed. So, instead of us beginning to say that the Committee did not do a good job, we should be saying that in fact we did very well, because we have never done something like this before for Cabinet Secretaries. We need to ask ourselves what more we can do with that law, so that we can empower the Committee to do more than just conducting oral interviews.

There are also certain recommendations that we have made, which hon. Members need to take into consideration. We wrote to the Ethics and Anti-Corruption Commission (EACC) and asked for reports on each of those candidates but the Commission never gave us any reports. The question is, if the EACC cannot give us timely reports on nominees, how do we believe that they have the capacity to authoritatively claim to know anything about anybody for that matter? Do they have the capacity to avail reports to Parliament when we need them?

Therefore, with those very many remarks, I want to say that I am happy with the job that the Appointments Committee did. I urge hon. Members to seriously consider the amendment by Hon. Shebesh.

*(Several hon. Members stood up in their places)*

**Hon. Speaker:** Hon. Members, you are forgetting the directive I gave a few minutes ago. Let us hear a few Members of the Committee.

Yes, hon. Manson Nyamweya.

**Hon. Nyamweya:** Hon. Speaker, Sir, I am a member of the Committee. I was present throughout the time the Committee interviewed this lady.

Hon. Speaker, Sir, one of the things I want hon. Members to understand is that this country belongs to all of us. We have a duty to do as a nation. We want somebody who understands the role of the East African Community. This particular nominee was going to handle the docket of the East African Community. The main function of the docket is to increase trade amongst the member states of the East African Community. She was going to handle the docket of commerce, both internally and outside the country.

She was going to handle the docket of tourism, which requires taking part in international forums to support and promote tourism in this country.

However, the answers she gave to the questions put to her were wanting. Her understanding of the East African Community was very scant. She has lived in this country. She has good qualifications. If you look at her curriculum vitae, you would expect her to know these things even from newspapers. If you read newspapers, you should know what is happening within the East African Community, the COMESA and SADC regions. When we interviewed her, we realised that she had no clue as to what happens within these regional blocks.

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

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

**Hon. Ababu:** On a point of order, hon. Speaker, Sir. I refer the Chair and House to Standing Order No.83 which governs points of order. I do this with utmost respect to the Chair and to my hon. colleagues in the House. I do this out of my very serious concern as to whether really we are not using or misusing this provision of point of order to interrupt debate unnecessarily and even bring this House into disrepute. Allow me to invite hon. Members to look with me at provisions of Standing Order No.83. It says:

“Any Member may raise a point of order at any time during the speech of another Member stating that the Member rises on a point of order and that member shall be required to indicate the Standing Order upon which the point of order is based.”

Without going into the details of that Standing Order, a point of order with respect of a Member purportedly being out of order can only be so in respect of a Standing Order. If you rise and say that Hon. Nyamweya is out of order, the being out of order or being in order must be in respect of a specific Standing Order. Therefore, I am wondering whether we have thrown these Standing Orders through the window or whether we are a House of debate and debate governed by rules of the House. If you were to look at both the letter and spirit of Standing Order No.83, you would actually come to the conclusion that a lot of the issues that we listened to in this House this afternoon, certainly do not fall within the purview of Standing Order No.83 in terms of point of order.

**Hon. Speaker:** You are absolutely right, Hon. Ababu. I am also cognizant of the fact that we have about 80 per cent of the Assembly being new Members and that everybody is still learning. The biggest problem has been the older Members rising out of order and claiming to be rising on points of order. I think it is only fair that I invite all of you to clearly understand the Standing Order. It is a very simple Standing Order. Just understand and internalize it so that when you claim to be standing on a point of order, you really understand what it is. If you want to argue, please you can rise and say that you want to contribute. A lot of what we have been doing is that people want to argue. When they do not agree with another Member, they rise on point of order. The House will be better informed to really stick within the rules of the House.

**Hon. Nyamweya:** As I was saying, the whole of this docket is going to have the nation advance in terms of economic growth. It is going to be the pillar of coordinating activities of the Government in East African Community, international fora, tourism and so on. So, when you talk to the person, you get the feeling that she has no clear understanding of what she is going to do. What we are saying as a Committee is that we are giving a chance to the appointing authority to correct the error so that we are able to

move as a nation. We are not against her as a person. We want competent people to be given positions so that they can serve all of us in this country. There is no docket reserved for a particular side of the Government. We looked at her and at her competence and we are saying that she does not pass the test. You will make the final decision, but remember we should not have a bad Executive. If we have discovered a mistake now, let us rectify it so that the Executive can have a chance to give somebody competent that position.

I want to comment on her commitment and firmness. I asked her a question that I had asked Ambassador Amina. Ms. Amina told us that she could prefer trade officers to report in her docket; Ministry of Foreign Affairs. Some of us may agree with her for some reasons. This lady does not understand the role of trade officers in foreign missions. She might not have been prepared but for a person who is asking for that kind of position from the Government of Kenya, she must be prepared for the interview. People are saying she is timid. If she is timid when meeting a Parliamentary Committee, what will happen when she goes for international forum to promote Kenya? Please, let us be fair to this country. Let us be fair to the Executive. Let us give them a chance to correct an error so that this nation can move together as one. Thank you.

**Hon. Member:** Some of us have never spoken since we came to this House!

**Hon. Kamau:** Hon. Speaker, Sir, I was also in that Committee. We sat down as a Committee and agreed that we were going to be guided by the relevant Acts and laws of this country. Indeed, if you refer to the Public Appointments (Parliamentary Approval) Act of 2011, Section 6(7) is very clear and it states:-

“An approval hearing shall focus on a candidate’s academic credentials, professional training and experience, personal integrity and background.”

I agreed with the decision of the Committee with respect to the 15 nominees. For those, I stand behind the Committee. On page 66 of the Report, under section 4.1.5, it talks about the Cabinet Secretary Nominee for Ministry of East African Affairs, Mrs. Phyllis Kipkingor Kandie. These are the observations of the Committee: “She is a holder of Bachelor of Commerce Degree, a holder of MBA from Middlesex University in United Kingdom in 1991. She is an investment banker and currently engaged as Director, Investment Advisory Services at Standard Investment Bank. She was a business advisory consultant for Small and Medium Enterprises sector. She has never been charged in a court of law in this country. She has never been dismissed from office for contravention of provisions of Article 75 of the Constitution.”

The Committee found the nominee unsuitable. You cannot say you found her unfit to hold that office because she was unable to express herself properly.

Hon. Speaker, Sir, when we started the political journey, we had our own first time to stand before a big audience. Most of us, if not all of us, were actually not able to perform very well on the first day. There is no difference between that and this particular lady. I know for sure that the only thing that we need to do is to give her a chance and she will be able to deliver.

I can tell you for sure, even in the Bible, the scriptures are very clear and they say---

**Hon. Member:** On a point of information, hon. Speaker, Sir.

**Hon. Kamau:** I do not want to be informed, hon. Speaker. The scriptures are very clear and they say---

**Hon. Ababu:** Hon. Speaker, Sir, these hon. Members need more induction in order to understand the House rules.

**Hon. Speaker:** What is wrong now? I think I agree with you, hon. Ababu Namwamba. There is a lot of induction work required for these hon. Members. If a Member rises in his place claiming to inform the other Member and the Member says he does not want information, you resume your seat. You do not persist. You just resume your seat, do not argue!

**Hon. Kamau:** Thank you, hon. Speaker, Sir. When you look at the reasons for rejection of the nominee - I do recollect during the 10<sup>th</sup> Parliament we had another Motion here when we were talking about passion; that somebody did not have enough passion.

**Hon. Member:** We needed a “passionmeter”

**Hon. Kamau:** Hon. Otieno Kajawng’ talked about a “passionmeter”

**Hon. Abass:** On a point of order, hon. Speaker.

**Hon. Kamau:** I wish---

**Hon. Abass:** Hon. Speaker, Sir, is the hon. Member in order to mislead this House? We all know the hon. Members of that Committee. He was the first one to propose the rejection of Kandie and now he comes before the Floor of this House with a different story. He was the first hon. Member to propose the rejection and the Committee adopted his proposal. Is he in order to mislead this House?

**Hon. Kamau:** Hon. Speaker, Sir, you and I and Members of that Committee are very clear and they know it very well; I was the only person who objected and I do not want to go into that because that is information which does not help at all.

**Hon. Abongotum:** On a point of information, hon. Speaker.

**Hon. Speaker:** Do you want to be informed, hon. Jamleck Kamau?

**Hon. Kamau:** It is okay.

**Hon. Abongotum:** Hon. Speaker, Sir, let me say that intelligent people change their minds and foolish people do not. So, my friend, the hon. Jamleck Kamau is perfectly in order to change his mind, if he did that because he is intelligent.

Thank you, hon. Speaker.

**Hon. Kamau:** Alright; thank you hon. Speaker, Sir.

**Hon. Member:** On a point of information, hon. Speaker, Sir.

**Hon. Kamau:** No more points of information, hon. Speaker

**Hon. Speaker:** The hon. Member does not need more points of information.

**Hon. Kamau:** Hon. Speaker, Sir, no more information please.

**Hon. Speaker:** The hon. Member does not need your information, so keep it to yourself.

**Hon. Kamau:** Please let me articulate my issues and finish.

**Hon. Speaker:** Those are the rules of the House. The hon. Member does not need your information. So, you keep it to yourself.

**Hon. Kamau:** I was talking about a Motion we had here sometime during the 10<sup>th</sup> Parliament. It was dealing with people’s passion and something like that. The Constitution or the relevant rules do even talk about anything to do with the presentation of a Member. Somebody can go before a Committee and panic and become nervous; that does not necessarily mean they are not qualified. I raised an issue and said I wanted the reasons behind the rejection of this particular nominee.

**Hon. Member:** And you are the witness.

**Hon. Kamau:** These guys are witnesses. I was actually not given any at all and I said I would not go with---

**Hon. Mule:** On a point of order, hon. Speaker, Sir. I was a Member of that Committee. I want to confirm that I am very disappointed for the simple reason that we went through a very thorough and transparent process of vetting these nominees. Hon. Jamleck Kamau should not mislead this House. When as the Committee on Appointments we sat for two hours on Saturday evening and every Member gave his or her opinion on this nominee, hon. Member strongly opposed her appointment.

I wish the Clerk of this House and the Leader of Majority Party would furnish hon. Members with the minutes of our sitting that evening.

**Hon. Members:** Yes, the HANSARD!

**Hon. Mule:** We need to stop playing politics in this House. Thank you.

**Hon. Kamau:** Hon. Speaker, Sir, I think we are just trying to bring in politics in all this.

**Hon. Ng'ongo:** Hon. Speaker, I think this issue is very serious, especially if you are a Member of a Committee. We need to know clearly your position. This is a matter of tradition and it should be a matter of record. Could we confirm the position of hon. Jamleck Kamau? If he dissented, is there a dissentive voice in that report? I think it is important to be fair and just to everybody rather than being treated to this sarcasm. We are setting a precedent that we want to live with, so we want to know the position of hon. Jamleck Kamau.

**Hon. Speaker:** You are right, hon. Ng'ongo.

**Hon. Linturi:** On a point of order, hon. Speaker, Sir.

**Hon. Speaker:** I am responding to what hon. Ng'ongo has just raised then another Member from some corner purports to be also on a point of order. How is that?

*(Loud consultations)*

Yes, it must be from some corner of the House. That is why I said that I want to leave some matters to hon. Members and their respective constituencies so that what you say, if you know it is not recorded, has a bearing on you. Indeed, we are also looking for people's integrity.

Let us allow everybody to say what they have to say.

**Hon. Kamau:** Hon. Speaker, Sir, I think it is very clear. I am speaking like this because I am the one who objected to this. I have witnesses; whether the Clerk recorded it or not, that is not the point. But I did not even sign this document as a Member of that Committee.

That notwithstanding, what I was talking about is that the reasons for rejection of this particular lady, to me, were not convincing. That is the simple reason why I did not sign this document and that is the reason I refused to go with other Members of the Committee. I thought it was actually very unfair on her.

**Hon. Linturi:** On a point of order, hon. Speaker, Sir.

**Hon. Kamau:** Hon. Speaker, Sir, if you can protect me from the--

**Hon. Linturi:** On a point of order, hon. Speaker, Sir. Thank you. With all due respect to Hon. Jamleck Kamau, he is a good friend of mine. For purposes of making sure



that proper procedure is followed, this Report was made by 28 hon. Members; whom we all respect and Members that we feel should be guiding us because there are no enough reports for every hon. Member to look at.

So that we can debate this matter from an informed point of view, I am inviting you to read the provisions of Standing Order No. 199 (4) and (5) for Hon. Kamau. Now that Hon. Kamau is serving the second term and he is very familiar with the procedures of the House, I would want to urge the Chair to find that the more we allow him to contribute in this debate, the more he continues to confuse this House and the more we get mixed up. He will make us unable to take positions because of the conflict he is creating through the information he is giving us.

So, hon. Speaker, Sir, I am requesting you to find him out of order and rule that he should not contribute on this Report. The Standing Order No.199 (4) and (5) clearly says that there should be a dissenting report, which he has not brought to this House and which he continues to hang on. Hon. Speaker, we seek your guidance.

**Hon. Kamau:** Hon. Speaker, Sir, allow me to refer you to something here on page four of that Report.

**Hon. Member:** On a point of order, hon. Speaker, Sir.

**Hon. Kamau:** Let me finish. Protect me, hon. Speaker.

**Hon. Speaker:** Let him finish what he is saying.

**Hon. Kamau:** Thank you. On page four of the Report, hon. Speaker --- For your information, this report does not even have the minutes of the Committee sittings. They are not here to show that I actually dissented.

Secondly, if you look at the attendance of the Committee, there is hon. Aden Duale, M.P., and Leader of Majority Party/Chairperson. That is misleading because the Chairperson was the Speaker. On the same token, how these people record their things is neither here nor there.

Therefore, what I am saying is very clear and I want to end by saying this, the stone that the builders rejected eventually became the cornerstone. That lady is fit to hold that office.

**Hon. Speaker:** Before we go to the rest of the membership, I can see Hon. Maj-Gen. Nkaisery, who was a member of the Committee, is on his feet.

**Hon. (Maj-Gen) Nkaisery:** Thank you hon. Speaker, Sir. First, generals never lie. I want you to note that point. It is very important for the Members of the Committee to be honest. The issue of integrity is very important. We cannot come here and play to the gallery. I can see that Members from that side had a Parliamentary Group (PG) meeting and they got some instructions.

**Hon. Members:** Aah!

**Hon. (Maj-Gen) Nkaisery:** Hon. Speaker, Sir, they cannot say “aah”, I am talking. By the way, I am the only general in this House so, you better listen to me. You will remember that in the Committee, the people who spoke passionately and destroyed the chances of Mrs. Phyllis Kandie are the people who have just talked. Hon. Mbarire spoke passionately and said that in the docket of tourism, as a former Minister in that Ministry, if we take a person of the caliber of Mrs. Kandie, she cannot represent this country.

I want the Members to listen to me. You will remember me telling the Committee that this lady could be having television phobia. She may not have had an opportunity to

appear on television. I have interviewed quite a number of people and I said that maybe she had phobia, but they insisted that this lady will be representing Kenya in international fora and she does not meet the requirements of this portfolio. The candidate portrayed lack of knowledge of the portfolio. When questions were put to her, she did not understand the politics of our region. She does not know about SADC or COMESA or what you need to get quality tourists.

**Hon. J.K. Ng'ang'a:** On a point of order, hon. Speaker, Sir. Will I be in order to request you to give us guidance on this Motion? We have 12 Members whom we entrusted to do this special assignment and vet these nominees. They could not agree and now, here we are debating the same thing. Will I be in order to request you to put the Question so that we can vote? We should not waste the whole day discussing something which we assigned our Members to do. They could not agree. Even if we spend the whole day and week, we shall not agree. So, I am kindly requesting you to put the Question.

**Hon. Speaker:** You are out of order because you do not seem to even remember what I directed. Is this loss of memory or what? It is just a few minutes ago! Hon. Nkaissery.

**Hon. (Maj.-Gen) Nkaissery:** Hon. Speaker, Sir, you need to forgive him because he just came from the PG. So, he is a bit confused. We are not here to destroy people's career, but we are also here to make sure that this country is led by the very best.

I am surprised this afternoon by the statement of the Leader of the Majority Party. I am very much dismayed. This gentleman is a Muslim. A pig has been slaughtered at the gate of Parliament and he says "today is the happiest day of my life".

**Hon. (Ms.) Sunjeev:** On a point of order, hon. Speaker, Sir. Could you, please, guide me? From what I understood my party leader to be saying, he did not say he was happy because a pig has been slaughtered at the gate. He was saying that he was happy in another context. We understand that he is a Muslim and we respect him for that.

**Hon. Speaker:** The Member is right that the Leader of Majority Party was not saying he is happy because pigs have been slaughtered. He said he was happy because he was presenting a report.

**Hon. (Maj.-Gen) Nkaissery:** Hon. Speaker, Sir, I would have expected the Leader of Majority Party to say: "Before I contribute on this Motion, I am very disappointed for what happened". I would have expected him to say that, but he was very happy anyway. So, do not worry about that.

We do not want to destroy the career of Phyllis Kandie. By the time we left the venue, we had consensus. I want to tell this House that it is not the Government. Whether you are in Jubilee, you are here to oversee and watch the Government. So, you should not receive instructions and have the likes of hon. Shebesh trying to sneak an amendment before we debate the Motion.

**Hon. A.B. Duale:** On a point of order, hon. Speaker, Sir. This is a problem of lack of memory. Hon. Nkaissery was a general and he feels that he is addressing a barrack. Is he in order? A Member of Parliament is in order to bring an amendment. Secondly, Members of Parliament do not take instructions. The only coalition where instructions are given is the coalition that he belongs to where they talk to somebody who is in London.

**Hon. Speaker:** Members, those things are not helping us. We are not making any progress. I want to appeal to both Hon. Nkaijerry and Leader of the Majority Party to debate the matters which are before the House.

**Hon. (Maj.-Gen) Nkaijerry:** Hon. Speaker, Sir, I was saying that we are not here to destroy the lives of Kenyans. We are here to make sure that this country has good leaders. Part of that leadership is the Cabinet Secretaries. If we believe that a particular Cabinet Secretary does not measure up to the portfolio she or he has been appointed to, then it is the responsibility of the Committee on Appointments to make recommendations to this House. This is exactly what the Committee did. In the last minute before we left, I remember you telling hon. Jamleck Kamau that he could only record his dissent.

Hon. Speaker, Sir, therefore, we are not saying that Mrs. Kandie is not qualified. We are saying that Mrs. Kandie is not suitable for the portfolio. So, this is our recommendation and personally as a committee member, I want the members of that Committee to stand by the Report, especially the Leader of the Majority Party, Hon. (Ms) Mbarire and Hon. Jamleck Kamau. They should stand by the Report because they appended their signatures on it and you cannot go back on it.

Thank you, Hon. Speaker.

**Hon. Speaker:** Hon. Kabando.

**Hon. Kabando wa Kabando:** Thank you, hon. Speaker, Sir. This should actually be one of the happiest times when we are unveiling a historic responsibility by this pioneering Parliament under the new dispensation, but unfortunately I possess some unkind remarks for this Committee. Now, you have unveiled a catalogue of fallacies. It is actually wrong from the beginning for you to sit in a committee, get sufficient time and then come to this House with disagreements. You suffocate our voices when we are supposed to be heard. This Committee is a disgrace. However, having said that---

**Hon. Nyamweya:** On a point of order, hon. Speaker, Sir.

**Hon. Kabando wa Kabando:** Hon. Speaker, Sir, I cannot be allowed by this hon. Member to contribute. You cannot have your way on what you are saying.

**Hon. Speaker:** Order, hon. Kabando. Hon. Nyamweya is on a point of order.

**Hon. Nyamweya:** On a point of order, hon. Speaker, Sir. Is the hon. Member in order to call this Committee a disgrace? I want action from hon. Speaker because we have done a report and we stand by it. You entrusted this Committee which is chaired by hon. Speaker to do this Report. We have given the reasons why the nominee was rejected and we are saying that we have a responsibility to ensure that the Executive upholds the correct decisions.

**Hon. Kabando wa Kabando:** Hon. Speaker, Sir, I do not find anything that makes me to be out of order. I have just said on the Floor of the House---

**Hon. Speaker:** Hon. Kabando wa Kabando, I am informed that indeed you used the word "disgrace". You are directed to withdraw and apologise.

**Hon. Kabando wa Kabando:** Hon. Speaker, Sir, I will withdraw the word "disgrace" and say that this Committee by the presentations of its members is suffering from three things. Number one, they are captives of miasma of deceit. Number two, they are now captives of fallacies because---

**Hon. Nyamweya:** On a point of order, hon. Speaker, Sir.

**Hon. Kabando wa Kabando:** Hon. Speaker, Sir, can I be allowed to continue and build my case because it is important?

**Hon. Speaker:** Proceed.

**Hon. Kabando wa Kabando:** Hon. Speaker, Sir, we endorsed this Committee in totality and we have a lot of respect for it. No one should use the Chair just because the Speaker was chairing the Committee to suffocate the intellectual freedom of an individual Member on the Floor of the House. What I am saying is that after listening to those who sat in that Committee contributing and after looking at a copy of this Report, I can easily logically conclude that indeed the Committee is not living to the expectations bestowed on it by the collectivity of this House. That may not constitute disgrace but it may mean underperformance.

Hon. Speaker, Sir, I find no reason to subject any of the individuals on the list of the proposed nominees for Cabinet Secretaries not to serve. This is individually looking at their resumes and dispositions. The argument being brought here by the people who sat in the Committee that this gracious lady, Phyllis Jepkosgei Kandie was not very presentable shows that what they are trying to tell Kenyans today is not the truth. There is a man who I have nominated in my constituency to sit in my CDF committee who is visually impaired. Does that imply that she is not qualified to head the tourism docket? This is not beauty pageantry. The fact that somebody has requisite intellectual capital to interrogate issues of the docket so assigned--- I ought to remind you that we lowered the bar for elective officials like Members of Parliament, Senators, Governors and Members of the County Assemblies (MCAs) last time so that we could allow a smooth transition and so that no one could be subjected to selective justice. Now, this Committee is suffering from selective amnesia. If you are a member of this Committee, you should not stand here and renege on your report. Of course, you can since it is your right but to us do not stand here and within six to seven hours you contradict the position you held last night. There must be some issues. Be they CORD or Jubilee, this is a collectivity of this House.

Hon. Speaker, Sir, on the subject of the individual being discussed here, if today you start saying somebody is not professionally qualified and the Cabinet Secretary for Defence is a military officer, the Cabinet Secretary for Health is a medical doctor, the Cabinet Secretary for Lands is a land commissioner, what do you mean? We want to give opportunity to individuals to make a difference in the Republic of Kenya. Particularly look at this listing, there is a member who was sitting in the Kenya Revenue Authority (KRA), Horticultural Crops Development Authority (HCDA), K-Rep Bank, has been a board member and director of Standard Chartered Bank. If you interrogate where people are coming from, I think it is you as Kenyans who passed the Constitution and you said you wanted to create opportunity. For women and now you have 47 of them coming on a platform of affirmative action within counties, they should ask themselves: Must we have had these rules like issues of arrogance about certain nominees and issues of integrity about certain nominees even if those Committees' reports in previous parliaments were defeated? I said that if anyone is living in a glass house - and by a glass house I mean if you have not been subjected to a court process - then no one should say you are guilty in any way.

Hon. Speaker, Sir, as I conclude, I strongly urge this House to look at this issue with fairness, without any prejudice and with justice. In this country we have had people passed as commissioners without so much interrogation and they have performed. We also have 349 hon. Members of Parliament sitting here who did not go through any other

interview apart from nomination by a party and then public participation and the choice was made. Sometimes the things we say can hurt even those who are not being discussed.

With supplication and a lot of humility, kindly let us embrace continuity; let us not create side shows. Let us not campaign. I want to concede that I did not attend a parliamentary group meeting not because I am very disobedient, but I said that I did not want anybody to talk to me after I had watched the committee proceedings. I want to say that having looked at other committees of previous parliaments in which hon. Members sitting across here participated, I observed their powerful delivery, intellectual interrogation and serious professional scrutiny and wish to say that this Committee fell short of serious vetting. This is in public domain. I locked myself in the television room of my house for two-and-a-half hours to watch their interrogation. The questions asked to the nominee were: "What is your opinion on this matter? What can you do on this matter?" Critical vetting is about competence. You ask questions like: "Can you do this job? Do you have issues? Are you technically focused?" Anyone with a Masters degree from a reputable university, and has served as a member of a board for many years in companies that delivered and is given an opportunity for months can do what I did at the Nairobi Water Company, although I was not an engineer.

I want to tell the Committee members that we respect them and their stewardship, but for now, let us look at the Report. When we do so, another question arises. In this hour and day we are telling Kenyans that we do not have a report. This is the problem we have with the image of Parliament. We are being bashed everyday by busy bodies, because the Communications Department does not live to expectations. What was difficult about sending this Report to the e-mail addresses of the Members of Parliament, or putting it on the website of Parliament immediately it was tabled and enable hon. Members to access it through their phones because we are in a digital environment?

As I conclude, I urge this House to move forward. I ask the Committee members to go home and reflect; never again should they participate in proceedings so passionately and then come here to---

**Hon. Members:** On a point of order, hon. Speaker, Sir.

**Hon. Speaker:** Hon. Members, you are out of order. The hon. Member is still contributing, and you are on your feet.

**Hon. Kabando wa Kabando:** Hon. Speaker, I told them to go home and reflect--

**Hon. Ababu:** Hon. Speaker, I rise to support this Report. Before I go into the details of supporting this Report, I just want to remind this House that we are undertaking a historic process. This is the first time this House is getting an opportunity to undertake an exercise that brings to life Article 132 (2) of the Constitution; it says that the President shall nominate and, with approval of the National Assembly, appoint the Cabinet. Therefore, we are engaged in a constitutional exercise. As we do this, this House may want to know that all the eyes of this nation are on it right now. Kenyans are watching very keenly because they do believe that we are setting a precedent. Therefore, let us put our passions, emotions and political affiliations aside. May we honour this historic moment with the seriousness it deserves?

I also wish to remind the Committee on Appointments, which you chair, that the Constitution places an awesome responsibility on it, just as it does on all the committees of this House. Indeed, just for the record, when a committee of this House sits--- Article

125 of the Constitution says that when a committee of the House sits, calls evidence and interrogates witnesses it has the same powers as the High Court of Kenya. When this House sits in interrogation of a matter like this one--- When the Committee on Appointments met and deliberated on this matter, they enjoyed powers similar to those a High court of this Republic would enjoy. I make reference to these constitutional provisions to draw our attention to the enormity of the responsibility confronting us right now. It is an enormous responsibility.

Having said that, and in the context of that constitutional mandate and responsibility, I want to remind this hon. House that this Report is not about Ms. Kandie, or any of the individuals we are debating here now. It is about the composition of the Government of the Republic of Kenya that is going to be given a constitutional mandate to serve this Republic and every Kenyan whatever their political affiliation. So, let us not reduce this great debate and historic moment to a contest over individuals, and lose sight of the greater responsibility to the people of this Republic, who sent us to this House. We are exercising one of the three cardinal responsibilities of the House. We come here to legislate, represent and oversee. We are exercising both the oversight and the representative roles. We represent the people of this country in terms of watching and listening with the keenness of a neurosurgeon to ensure that whatever decision is approved in this House it can meet the approval of the people we represent in this House.

Hon. Speaker, two wrongs do not make a right; I have listened to the Member for Mukurweini. He very eloquently and passionately reminded this House that some of the Members here may not have had an opportunity to go through vetting. But two wrongs do not make a right. The fact that you may be a member of committee of this House when you, perhaps, have never gone through vetting does not rob you of the cardinal responsibility to represent and oversee in this House. Therefore, we must undertake this responsibility aware that the whole country is watching us. As we debate this Report, we keep on receiving anecdote from outside this House. Members of the public tell us what they think of the debate going on here.

On the Report itself, I want to believe that the Committee on Appointments undertook its responsibility seriously, with due attention to rules of procedure and due regard to the requirements of natural justice, namely giving everybody their right to be heard. Let me just mention the nominee who has raised a lot of heat in the House. Page 41 of the Report has the first point about Ms. Kandie, Cabinet Secretary nominee for the Ministry of East African Affairs, Commerce and Tourism. When you look at the first part of the Report, the Committee tells us of some of the complaints, or alleged misdeeds, that came to its attention. For the avoidance of doubt, and because this is a House of record, this ought to be put on record. The Committee tells us that it heard that the nominee was at one time the director of an entity styled as the “Kenya Micro-Enterprise Promotion Programme”. Those are not the words of Ababu Namwamba. These are the words of the Committee as recorded in this Report. Kenya Micro-Enterprise Promotion Programme failed to remit Kshs2,310,000 in respect of Kapkerwa Women Group, Kabarnet *Jua Kali* and Kabartonjo *Jua Kali* Association. The Committee goes ahead to say on record that Ms. Kandie cannot hold office due to provisions of Chapter Six of the Constitution. For the record, Chapter Six of the Constitution speaks to the issue of leadership and integrity. So, I presume, when I read this very express record of the Committee that, that arose out of some interrogation of issues that touched on integrity.

**Hon. Kamau:** On a point of order, hon. Speaker, Sir. With all due respect to my colleague, Ababu Namwamba, I think he is a little bit lost in this one. That is because what he is referring to is actually not the position of the Committee. In actual fact, that is what was alleged of that particular candidate. Basically, it is an allegation. It is not the report of the Committee. Please, do not mention that.

**Hon. Ababu:** Hon. Speaker, Sir, with all due respect to my brother, and he sounds like a man you can enjoy good relations, I did put it on record very clearly that this is a record of the report based on allegations received by the Committee. Anybody who has cared to listen to me up to this point would know that I was very careful to indicate that, that particular part of the record of the Committee is a report of allegations received by the Committee. I have made that very clear and, for the avoidance of doubt, I do repeat the same.

Hon. Speaker, Sir, the Committee did not bother to go ahead to also indicate in great detail the absolutely impressive qualifications of that lady, who is a Kenyan. Those qualifications have already been put on record by hon. Jamleck Kamau and I am not going to repeat them. But, most importantly, in respect of those allegations, the Committee went ahead to record a very detailed response from Ms. Kandie. If you look at her response, she is actually denying every single allegation on record and, I suppose, on oath. That is because we have a tradition in this House that every witness that appears before a Committee of the House – and I speak as a former chairman of a Committee of this House – has to do so on oath. My concern – and this is where I want to conclude this particular point – is that after the Committee gave us those details, it does not pass a verdict based on the information received and on the clarifications provided by that candidate. The Committee then runs to page 67---

**Hon. Abass:** On a point of information, hon. Speaker, Sir.

**Hon. Speaker:** Do you want to be informed?

**Hon. Ababu:** I have no problem with that, provided it is relevant.

**Hon. Abass:** I would like to inform the hon. Member that the Committee took a position on that but, at the time of compiling the report, for some of us who are very new, we were convinced that if we put that in the report, it is going to destroy the future of that lady of getting a job. So, that is why it is not there. But, as the Committee, we took a position.

**Hon. Members:** No!

**Hon. Ababu:** Hon. Speaker, Sir, if what the hon. Member just said is true, that is diabolical. It is absolutely diabolical. It is worse. It means that the Committee deliberately chose to withhold certain fundamental information that would have assisted this honourable House to make a decision. Perhaps, the Committee members, when they get the opportunity to debate, will prosecute that matter.

But my concern is that after providing that information, and without passing a verdict based on those allegations, and on the subsequent clarifications from the nominee, the Committee then runs to page 66 and simply lists qualifications of the nominee. She is a holder of Bachelor of Commerce degree. She is from St. Mary's University, Canada. She is an investments banker. A business advisory consultant for over--- She has never been charged in a court of law and so on. So, it runs to page 67 and drops a decision from the blue. As an hon. Member of this House, I have chaired a House Committee. I have presided over vetting. It is not true that this is the first time we are conducting vetting.

The last Parliament, indeed, set the ground rules of vetting through the Parliamentary Select Committee on constitutional review that I had the privilege of co-chairing. We vetted nominees to all these commissions that you see today; the Independent Electoral and Boundaries Commission and the other constitutional commissions. Madam Sarah Serem was vetted by the Finance Committee, of which hon. Speaker--- I had the privilege of not sitting in as a Member.

Hon. Speaker, Sir, as the Chairman of the Justice Committee, I presided over the vetting of quite a number of persons for purposes of approval by this House, including the Chief Justice of the Republic of Kenya. Therefore, I know that when you are undertaking an exercise as this, and because this report becomes a record of the House; one that could also serve as evidence in a court of law in the event of any judicial matter, you want to provide all the details that can help in decision-making. The Committee then suddenly gives us this verdict. I quote:-

“The Committee was not satisfied with the capacity of the nominee to handle functions of the Ministry that she was nominated for and, therefore, found the nominee not suitable for appointment as a Cabinet Secretary for the Ministry of East African Affairs, Commerce and Tourism.”

That is the verdict that the Committee passed unfortunately and with due respect, without any build-up. Perhaps, I am speaking too much as an attorney. But you want to build up a case before you render a verdict. I do not see that sequential logical build up of a case that leads to this verdict. So, as hon. Member of this House reading and perusing this Report, I am also struck by another audit. The audit is that this Report is not accompanied by minutes. That is because, ordinarily, in the absence of details---

**Hon. Speaker:** Now, hon. Members let us give hon. Rachel Shebesh a chance to move her proposed amendment and then we can proceed with the debate. Hon. Shebesh.

**Hon. (Ms.) Shebesh:** Hon. Speaker, Sir, I want to reiterate that I am bringing a Motion of amendment to include the name of Phyllis Kandie because she is qualified. I have heard Members of this Committee repeating that they were interviewing the nominees. I do not know who sent them to interview. The work of the Committee is to vet. If you look at the comments of the public--- I am worried that maybe due to public pressure, on the first day when Kenyans asked the Committee whether it was vetting or interviewing, it could have come up with a proposal that in order to appear tough it needed to look for a candidate whose name it would not pass. Because of the various reasons that have been given by hon. Members here, it is rather obvious by the standards of this House and even the Constitution that the reasons given to exclude Phyllis Kandie do not fit the criteria and the mandate that we have been given.

I beg this House that we include her name. I think she has gone through humiliation and stress as a person. Her children are watching this when Members are saying that she cannot hold a job and yet for 15 years she has been an investment banker who has advised the Government and the private sector.

With regard to personalities, maybe, this House will need to take cognizance of that even as the National Assembly waits to vet more people. As a woman, we are trained on how to approach interviews and leadership positions. We are told that our personalities are portrayed. We are told not to pretend to be who we are not. In the realm of personalities, there are talkers also known as sanguines; there are watchers also known



as phlegmatics; there are thinkers who are called melancholics; and there are doers who are called choleric. Each of these personalities has its strength and fits in the given work.

You remember the President said, when doctors were complaining, that you do not have to be a doctor to run the Ministry of Health. They are looking for managers, that is, people who can bring proper structures and efficient management systems. Those who speak too much normally cannot run organizations very well. However, those who are quite in their work are probably the best team builders and researchers. If you look at the work Phyllis Kandie has done, you will find that she has, probably, succeeded and it is the reason she was interviewed by the President and his deputy. They chose her to cover a portfolio that brings together three Ministries.

When you say that she does not know anything about SADC or the EAC, I can tell you that many of us, as we came to this House, probably, we did not know those institutions as well because we came from different backgrounds. The three dockets she has been given are the East African Community, tourism and commerce. Honestly, I would not imagine that the President and his deputy could give such a heavy portfolio to a woman who is not competent.

Let us overlook the ability to communicate and look more at the ability to deliver. I want to move that Motion and ask hon. Angwenyi to second it.

**Hon. Angwenyi:** Hon. Speaker, Sir, I rise to second this Motion. In fact, what I would have said has been said perfectly well by the Hon. Namwamba, my very good student, Hon. Kabando wa Kabando, Hon. Millie Odhiambo and others. They have summarized what I wanted to say, but let me also add something.

This Committee said everything positive about this lady and then all of a sudden drew a negative conclusion. When we read this Report in the future we might never know why this negative conclusion was given. It could be a typing error!

*(Laughter)*

My student said that the argument given in this House by the Members of that Committee show that the work, at least on this lady, was shoddy. They should have told us whether she was panicky. Did she have a problem? Did one of the gentlemen in the Committee look at her face with protruding eyes?

*(Laughter)*

You never know. When you read her CV, she has performed very well for the last so many years. She has performed very well in her education. If she did not know that Kenya is not a member of SADC, she can learn that in a minute. Just tell her that Kenya is not a member of SADC and she will know that.

*(Laughter)*

Hon. Speaker, we want somebody who can create entrepreneurship in this region. I also take exception to committees which have a vast majority of Members of one sex, especially the male Members. They threaten and bash candidates of the opposite sex. In

fact, we should be proud of this lady because of what she has done before. We need to urge her to do even better when she is appointed to this position.

There are questions: Did they award any marks, say, question number one, ten marks, or question number two, five marks? Did the question of her appearance carry more than 50 per cent of the marks so that you could conclude this way?

*(Laughter)*

This is the first time for most of us to undertake this exercise. I urge this House to be cautious so that they do not make discriminatory decisions. If she does not know anything about the East Africa Community, did you ask the nominee for the health docket whether he knows how to circumcise men?

*(Laughter)*

Did you ask the nominee for the docket of lands whether or not she knows how to survey land? We should not bring these matters. People have a background. Let us recommend this lady. Her name should be approved so that she is appointed to this position.

With those few remarks, I beg to second.

*(Loud consultations)*

**Hon. Speaker:** The procedure is that the Chair proposes the Question and then you can rise thereafter to claim that you want to say something about it if anything at all. But to just rise as though the House is rising--- However, you will learn slowly because not everybody learns at the same time.

*(Question of the first part of the amendment,  
that the words to be left out be left out, proposed)*

**Hon. (Ms.) Nyasuna:** Thank you, hon. Speaker, Sir, for giving me this opportunity. As I begin my contribution on the amendments that have been moved, I would like to note that I read bad faith in the fact that three hours after we began debating we do not have copies of this Report to be able to review it adequately so that we can contribute in knowledge.

Secondly, having had a glimpse at the Report from other Members who have copies, you will realise that it lacks in detail and substance. To say the least, there are areas in this Report I do not know whether they were omitted in bad faith. For example, if you look at the Report, you will find that all Members who had affidavits sworn against them, except the nominee for Energy, Mr. Chirchir, have those affidavits summarized. However, the nominee for Energy, Mr. Chirchir does not have his affidavits summarized in this Report.

Having said that, I must also say that overall, the Report lacks in one key fundamental principle of the Constitution; the principle of regional balance. Under the Constitution, Articles 27 and 131 say that all Kenyans are equal. However, this Cabinet that is supposed to be the face of this country reflects George Orwell's *Animal Farm*.

Those who have read that book know that some animals are said to be equal while others are said to be more equal than others.

**Hon. Speaker:** Hon. Wanga, please, we are debating the amendments. If the amendment is carried, you will go to discuss the substance of the Report as amended. For now, you should tell us whether you support the amendment or you are opposed to it and give reasons for either way.

**Hon. (Ms.) Nyasuna:** I am advised, hon. Speaker, Sir. I rise to support this amendment.

*(Applause)*

The parameters that the vetting committee was using to vet according to the Appointments Act were eight. They were academic qualifications, employment record, professional affiliation, potential for conflict of interest, knowledge of subject, overall suitability, tax compliant and integrity. There are nominees that we are passing who are recommended by this Committee to be passed in this House today who in the public eye do not satisfy many of these parameters.

In fact, the cancer that ails this country is not even lack of confidence of our leaders. It is also not whether they are timid or not. The cancer that ails this country is corruption. So, to single out one nominee and say that she did not exhibit confidence is unfair. When I look at the eight parameters, I find that this nominee scored six out of eight. In any exam if you score 75 per cent, you have passed.

My point is that the move to eliminate this candidate appears discriminatory. What ails us is not lack of confidence or whether we have passion or not, but what ails us is corruption. That is why it pains me that some nominees will be passed in this House and yet they have integrity issues.

Referring to the Bible again as I support this amendment, Moses was a stammerer and this did not stop him from leading the people of Israel to Canaan. So, on this nominee, particularly from a gender perspective as women who have come to this House on the face of affirmative action, we should not stand on the way of other women.

Hon. Speaker, Sir, I support the amendment and say that the list is lacking in regional balance. All Kenyans must be equal and must be treated as such. Two communities cannot share eight of the positions and then the other 10 are left for us to share. That must be addressed adequately.

**Hon. Kajwang':** On a point of order, hon. Speaker, Sir. I have loved the debate that hon. Members have displayed on the Floor but we have ventilated this issue for quite some time now. This is particularly the amendment that my sister has brought before the House. Could I be in order to request that the Mover be called upon to respond on the issue only limited to the amendment that is before the House because some of us are very eager to debate the real issue? If we go this direction, we will not give the entire Report a service. Some of us want to look at the entire Report while others want to give information about other nominees. Is it possible that we can jump this huddle of Mrs. Kandie and put it to rest and then we discuss the Report because you have reminded us that we do not have time? This Report must go. If it is not bundled, then it will automatically be passed. So, can we save time? I can see that we are almost getting to the level that we are going to discuss the Adjournment Motion.

**Hon. Speaker:** I want to agree with Hon. Kajwang' that rather than discuss the amendment, we actually discuss the substance of the Report.

*(Hon. Ng'ongo consulted loudly)*

Hon. John Mbadi, next time I hear you speak when the Speaker is on his feet, you will face consequences. You are an experienced Member who knows this. So that we can get hon. Members contributing to the debate on the Motion, let me put the Question.

*(Question of the first part of the amendment,  
that the words to be left out be left out, put and agreed to)*

*(Question of the second part of the amendment,  
that the words to be inserted in place thereof be inserted, proposed)*

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

*(Question of the Motion as amended proposed)*

**Hon. Wandayi:** Hon. Speaker, Sir, first, I rise to oppose this Motion or this Report for that matter. Why do I say so? I can see most hon. Members are missing the point and the point is that we have to look at this issue of the nominees in the context of the composition of the entire team of 16 nominees. As has been rightly pointed out, these nominees fall short of the requirement of the Constitution. If you look at the Constitution, Article 54(2), it talks about the issue of the disabled and for sure there is no single disabled person in this list of 16 nominees. Article 54(2) says very clearly that the State shall ensure the progressive implementation of the principles that, at least, 5 per cent of the members of the public in elective and appointive bodies are persons with disabilities. Zero per cent is not progressive. Therefore, on that account alone, this list cannot pass the test.

Secondly, the entire list of 16 does not include any single youth and this is a very serious issue because if you look at Article 55(b) it also talks of affirmative action in terms of youth representation. We understand that the Jubilee Government rode to power on the crest of youth support or so we are told and I expected the Chairman of the TNA who is here to have been at the forefront at opposing this list because he is also a youth. It is not right that we pay lip service to the question of youth. To advance the argument of my colleague, Hon. (Ms.) Wanga, the Constitution dictates under Article 10 that we have regional representation and it abhors discrimination of any sort. If you look at the composition of this proposed Cabinet bearing in mind that the Cabinet will have these 16 nominees including the President, the Deputy President and the Attorney-General, you find that members of the community from where the President emanates will have 31 per cent of the composition of the Cabinet. Members of the community from where the Deputy President emanates will have equally 31 per cent of the entire composition. This is a whole 62 per cent of the entire Cabinet coming from two communities.

**Hon. Members:** Shame!

**Hon. Wandayi:** Very shameful, hon. Speaker, Sir. This leaves a mere 38 per cent to be shared by the rest of the country. This cannot be acceptable and, therefore, my proposition is that this entire list be rejected by the House.

*(Applause)*

Let it go back to the President and he does fresh nominations in compliance with the requirements of the Constitution. That would also give opportunity to the Committee on Appointments to put their act together so that they do proper vetting the second time round.

I oppose entirely.

**Hon. Katoo:** On a point of order, hon. Speaker, Sir. I rise on a point of order to move a Procedural Motion that pursuant to the provision of Standing Order No.30(3)(a), this House resolves to extend its sitting time today, Tuesday, 14<sup>th</sup> May, 2013, until conclusion of business appearing under Order No.8. My attention has been attracted to the fact that under the Act, we must dispose of this business appearing under Order No.8 and taking into account the interest of hon. Members, that so many of them want to contribute on this Motion, I urge the House that we extend the sitting of the House in order to give all of us time to ventilate enough on this subject. I request my colleague, Hon. Gichigi, to second.

**Hon. Gichigi:** Hon. Speaker, Sir, I second.

*(Question put and agreed to)*

**Hon. Wario:** Mhe. Spika, asante kwa fursa. Namshukuru Mwenyezi Mungu kwa kupata fursa kuchangia Hoja ya kihistoria katika taifa la Kenya. Kwa nini ninasema ni Hoja ya kihistoria? Ukisoma kipengele cha sheria 152(2) kinatoa uwezo kwa mara ya kwanza katika taifa, Bunge kama taasisi kupitisha pendekezo lililotolewa na Rais wa taifa. Hii ni historia kubwa.

Ukisoma kifungo cha 152(3), kinasema Bunge lisihusike katika kuteuliwa kwa mawaziri watakoendesha shughuli ya kitaifa. Hii ni historia kubwa ambayo ninafuraha nikisimama hapa leo kuchangia Hoja hii.

*[Hon. Speaker left the Chair]*

*[Hon. Deputy Speaker took the Chair]*

Bi. Naibu wa Spika, hii ni heshima kubwa kwa taasisi ya Bunge na Wabunge. Mawazo ni tofauti. Baadhi yetu wanasema kwamba asilimia fulani ya Mawaziri wateule wanatoka mkoa fulani na asilimia fulani wanatoka mkoa mwingine. Lengo na maudhui ya kubuni Serikali ni kuhudumia wananchi. Inafaa wale wanaoleta Hoja hii wakumbuke kwamba Serikali iliyopita ilikuwa ya sehemu mbili za nchi hii. Zaidi ya asilimia 50 ya Mawaziri wa Chama cha ODM walitoka Mkoa wa Nyanza. Kwa nini wakati huo wenzetu hawakushangaa? Mbona leo wanaona ajabu?

**Hon. Ng'ongo:** On a point of order, hon. Deputy Speaker. Is it in order for the hon. Member to mislead the House and the country about the composition of the last

Cabinet, which was dissolved only a few months ago? The hon. Member has spoken of the ODM side having had over 50 per cent of the Cabinet appointments from Nyanza Province. I would like him to substantiate his allegation because as far as I can remember, only four out of the 20 ODM Cabinet Ministers were from Nyanza. About five of them were from the Rift Valley Province. ODM had Cabinet representation even from the Central Province – something which had never happened before. So, the hon. Member has no right to mislead the country in furthering his own interests.

**Hon. Deputy Speaker:** Hon. Wario, do not mislead the country on numbers.

**Hon. Wario:** Bi. Naibu wa Spika, silipotoshi taifa. Prof. Anyang'-Nyong'o hatoki eneo la Pwani. Mhe. James Orengo hatoki eneo la Kaskazini Mashariki. Mimi sipotoshi Bunge. Nazungumza nikijua kilichotokea. Kwa hivyo, nataka kumuomba mheshimiwa aangalie idadi ya Mawaziri---

*(Loud consultations)*

**Hon. Deputy Speaker:** Order! Order, hon. Members! This is really not a point that we need to debate because 50 per cent is really not true. I was also a Member of ODM then and I know that there were only four Cabinet Ministers from Nyanza Province. So, please, let us continue.

**Hon. Wario:** Ahsante, Bi. Naibu wa Spika. Nikiendelea, lengo letu si kuangalia ni mkoa upi umewakilishwa kwenye Baraza la Mawaziri. Lengo letu ni kuona jinsi huduma ya Serikali itakavyomfikia Mkenya popote alipo, bila ya kujali kama anatoka eneo la Tana River, Kaskazini Mashariki ama Nyanza. Lengo na maudhui yetu---

**Hon. Onyango:** On a point of order, hon. Deputy Speaker.

**Hon. Deputy Speaker:** What is it, Member for Kabondo Kasipul?

**Hon. Onyango:** Hon. Deputy Speaker, is it in order for the hon. Member to mislead the House by suggesting that it does not matter to us where the Cabinet Secretaries come from when the Constitution of the Republic of Kenya, in Article 130 is clear that the composition of the national Executive shall reflect the regional and ethnic diversity of the people of Kenya? That is what we voted for as Kenyans and you cannot take us aside. Otherwise, you should have prevented us from voting for that provision.

**Hon. Deputy Speaker:** Hon. Members, we are not the Executive at this point. You can make your recommendations but at the end of the day, it is the Executive which can nominate individuals to the Cabinet. We only came here to vet the nominees that have been forwarded to us.

Continue, hon. Wario.

**Hon. Wario:** Ahsante, Bi. Naibu wa Spika. Mamlaka ya kuajiri Mawaziri ni ya utawala. Si mamlaka ya Bunge. Kazi yetu ni kuunga mkono ama kukosoa yanayopendekezwa.

Nikiendelea kuzungumzia tunayojiuliza leo kwa mara ya kwanza, haswa nikizingatia kwamba baadhi yetu wanasoma vipengele fulani vya Katiba, vilema hawamo kwenye ratiba ya walioteuliwa. Nakiri kwamba kwa sasa vilema hawamo kwenye ratiba ya walioteuliwa kuwa Mawaziri lakini uteuzi huo bado haujakamilika. Hivi sasa, tunawakagua wateule 14 lakini Katiba imeruhusu kuteuliwa kwa Mawaziri wasiozidi 22. Kwa hivyo, hii ni shughuli ambayo bado inaendelea.

Bi. Naibu wa Spika, nimefurahi sana kuichangia Hoja hii kama ilivyo kwa sababu---

**Hon. Mwaura:** On a point of order, hon. Deputy Speaker. Is the hon. Member in order to call people with disabilities “vilema” when the official title for them is “walemavu”? I would urge that he withdraws the use of the word “vilema”. There are no *vilema* in this country.

**Hon. Deputy Speaker:** Please, be informed, hon. Ali Wario. Hon. Mwaura has given you the right title.

**Hon. Wario:** Bi. Naibu wa Spika, nimesikia lakini neno “kilema” na “walemavu” lina maana sawia. Sidhani kama mhe. Mwaura anaweza kunifunza Kiswahili.

*(Several hon. Members stood up in their places)*

**Hon. Deputy Speaker:** Order! Order! Hon. Members, we are not going into semantics. You can use your private time to find out who is going to learn what the right terminology is, from who.

**Hon. Wario:** Ahsante, Bi. Naibu wa Spika. Sisemi hivyo kwa sababu ya kuonyesha madharau kwa walemavu. Namuomba msamaha ndungu yangu Mwaura na walemavu wote nchini Kenya. Natumai mhe. Mwaura amefurahi.

Bi. Naibu wa Spika, nikiendelea, lengo na maudhui yetu ya kuangalia uteuzi wa Mawaziri hivi leo ni kutoa huduma kwa nchi ya Kenya. Nimetoka katika sehemu ya Tana River. Tunavyozungumza, barabara zimekatika katika sehemu hiyo. Zaidi ya watu 10,000 hawana makao. Je, tutamkimbilia nani kwenye ofisi ya Wizara husika kuomba usaidizi ili wakazi wa sehemu hiyo wapate huduma? Mizozo imeibuka kwenye kila pembe ya nchi hii. Ni vipi tutapata Waziri haraka atoe huduma inayostahili ili tupunguze ukabila na siasa za vyama? Tunataka tupate Mawaziri ili watoe huduma kwa Wakenya kwa sababu wao hawatakwenda kuuliza ni nani anayetoka Nyanza ama Pwani. Watatoa huduma kwa Wakenya wote, kama Mawaziri wa Serikali.

Tumeelezwa mengi na Wanakamati wa Kamati ya Uteuzi kuhusu Bi. Kandie. Lakini Wanakamati hao hawakutuambia iwapo mteule huyo hana elimu ya kutosha ama ni mfidadi ama ana matatizo ya kiutu ama ya kitaaluma. Kamati hiyo imetuambia kwamba Bi. Kandie hafai. Je, imekuwaje hafai? Niliisoma Katiba, na haswa Kifungu husika – Kifungu 12(a) na (b). Hadhi ya Kamati ya Bunge ya Uteuzi ni sawa na ile ya Mahakama Kuu. Kamati ya Uteuzi ina uwezo wa kumshurutisha mtu yeyote kuleta habari yoyote inayohitajika kwa shughuli ya Kamati hiyo. Unapokosa kuitumia fursa hiyo na kuleta Bungeni ripoti ambayo haiambatani na maono yako na kutuambia kwamba Bi. Kandie hafai kuhudumu kama Waziri, unatuambia nini?

Wakenya wanaliangalia Bunge hili. Si kila mtu atapata fursa ya kusimama hapa na kuzungumza jinsi ninavyozungumza. Ukipewa wajibu wa kutunga sheria na kuamua ni nani anayefaa kuwa Waziri, ni lazima utekeleze wajibu huo kwa haki na uadilifu. Tusizingatie maumbile ya kijinsia ya mtu huyo ama sehemu anakotoka.

**Hon. Member:** Thank you, hon. Deputy Speaker. I rise to oppose this Motion. First, I want to indicate that the issue of regional balance as is envisioned in our Constitution was not observed. I know there were numerous parameters that were used when the Committee was doing the vetting. I urge this honourable House to look at this list in its entirety. Knowing our history, this Government should have taken this

opportunity to bring healing to this nation. They should have ensured that the Cabinet is balanced by ensuring that we have Members coming from different geographical regions. I want to oppose under this particular concern.

We have 42 ethnic communities in this country. It is not proper that out of the 16 members of this Cabinet that have so far been tabled today, eight come from a mere two. It is not proper that the rest 40 communities of this country are left to share the remaining eight. I want to urge this House to reject this list in its entirety on the basis of regional balance as is envisioned in the Constitution.

**Hon. (Ms.) Gathecha:** Thank you, hon. Deputy Speaker. I rise to support this Motion and this list. Kenyans have been waiting for us to deliver. They voted overwhelmingly for the Jubilee Coalition and they will judge us in four years' time on our ability to deliver services to all Kenyans. I want to remind every single one of us here that we have one mandate. We have held this country hostage for the last one month or so by refusing to form committees. But now that we will approve this list of Cabinet Secretaries, we will start the process of delivering services to every single Kenyan. That is what all Kenyans are waiting for. They want to know where to go when there is an issue or they have bodies in mortuaries and they are not able to bury them. As Members of Parliament representing various constituents, we need people that we can go to, to get service delivery.

I rise to support.

**Hon. (Ms.) Wanyama:** I wish to support this Motion. As my colleague has said, time is not on our side. Kenyans are waiting especially for the Jubilee Government to deliver. *Wananchi* are waiting for them to deliver. These nominees are capable and I wish to support them.

You can see we have insecurity in western Kenya. We want these names to be approved by the House so that the Cabinet Secretary concerned can take up the task of restoring order in the area.

I support the Motion.

**Hon. Ganya:** Thank you, hon. Deputy Speaker. I stand here to support this Report. The Constitution demands that you adhere to both procedure and substantive aspects of vetting. These Cabinet Secretaries have been vetted. After vetting, you look at the confidence, integrity as well as the suitability of the nominees. Looking at the Report, all these nominees meet those constitutional thresholds. It is so critical for us to realize that this country must move on. Most of these people are professionals who are well learned with enough technical experience to take this country forward.

As a Member of Parliament from Marsabit County, this is the second time we have had a Cabinet Minister in the Republic of Kenya, after 50 years of Independence; the only one who has ever served as a Cabinet Minister in this Government. The only Minister we have had within the 50 years is the late Dr. Bonaya Godana, the Member for North Horr, the constituency I represent today. For the first time, Dr. Hassan Arero Wario has been appointed by the Jubilee Government. I want to thank the Government for this gesture. It is so critical that all Kenyans are given a chance to serve this nation. As a region which voted overwhelmingly for Jubilee, the Government gave the people of Marsabit an opportunity to serve in it. We are glad. Thank you.

**Hon. Kang'ata:** I rise to support the Report. These people are learned; they are all graduates and they have Masters Degree. This issue of regional balance, I think we are



stretching it so much. Practically, it is impossible to appoint 42 persons into that Cabinet. We have only 16 slots. With 16 slots, we are talking about only 16 vacancies. I think it is impractical for us to appoint each and every person. Government is presently without a Cabinet. There are many issues that need to be handled by the Cabinet. Time is of the essence. For instance, we have insecurity in the entire country and we have the issue of flooding. Those issues need the intervention of the Cabinet. Because we do not have a Cabinet, this country may grind to a halt.

I have instructions from my constituent, Mr. Antony Mwangi, to express reservation against the nomination of Prof. Kaimenyi. This man swore an affidavit that was presented to the Committee. The replying affidavit by Prof. Kaimenyi failed to address the issues which were raised. He said his wife died while delivering a baby at Kiria-ini Mission Hospital. The baby too died. Mr. Mwangi lodged a complaint before the Medical Practitioners Board against negligence at Kiria-ini Mission Hospital. When that matter was taken before the Board, the person who was chairing was Prof. Kaimenyi. He did something that was very unfair. He ejected a journalist called Antony Kariga who, incidentally, died the other day. It was unfair to eject Mr. Kariga because he was there to bring openness to that process. So, the submissions by Mr. Mwangi were not recorded. They were not given a fair hearing by Prof. Kaimenyi.

Again, he was the Vice-chancellor at the University of Nairobi where he presided over suspension of university students unfairly. I was a student leader at the University of Nairobi and I know the problems he caused us. He was not a person who would afford us a hearing. Personally, I suffered a lot when he was the Vice-Chancellor, but that issue is neither here nor there. The key issue is how he treated Mr. Antony Mwangi. His defence in the Committee was that the decisions were collective. Mr. Mwangi did not make any accusations against Prof. Kaimenyi. He cannot hide behind the Committee to say that those decisions were collective. Ejecting Kariga from the proceedings was done by Kaimenyi in person. Therefore, as hon. Member of Jubilee Coalition, I would not want to embarrass my President and Deputy President. I may as well support this Motion. But on Prof. Kaimenyi, I do plead with hon. Members to express reservations. He is a person who did not treat my constituent well - Mr. Antony Mwangi. As a result, he did not get justice in the Medical Board.

Thank you.

**Hon. Kaluma:** Thank you hon. Deputy Speaker, for giving me the opportunity to contribute to this Motion. I beg to refer the House to the provisions of Article 130 and 131 of the Constitution. With the permission of the House, I wanted to take the House through Article 130 (2) and it reads as follow:-

“The composition of the National Executive shall reflect the regional and ethnic diversity of the people of Kenya.”

I beg to refer the House to Article 131(2) on the duties imposed upon the President by the Constitution, particularly on Sub-article (2)(c). It reads as follows:-

“The President shall—

(c) promote and enhance the unity of the nation”

and

“(d) promote respect for the diversity of the people and the communities of Kenya.”

Hon. Deputy Speaker, having stated the above and referred the Legislature to those provisions in the Constitution, I want to make this confirmation. We are dealing with Cabinet Secretaries. The Cabinet Secretaries, together with the President and the Deputy President under the relevant articles of the Constitution, will constitute the National Executive. We are sitting here as Parliament expressing the sovereignty of the entire nation and that is why we are being called the National Assembly. It is only in this House where the entire nation - through its duly elected representatives - speaks on any matter concerning the nation.

So far, if we pass the nominees presented for approval by the House today, we will be having a total of 19 Members of the Cabinet, including the President, Deputy President and the Attorney-General who, essentially, will be the Minister for Justice and Constitutional Affairs. That is how I see it.

Hon. Deputy Speaker, we cannot have a situation where, out of those 19 people, we already have 16 of them from three ethnic formations in this country, while we are 42 tribes.

*(Applause)*

Fourteen nominees out of 19 are coming from three ethnic formations; nine from the Rift Valley and Central Kenya and then three from North Eastern Kenya. I agree when a note is coming from the other side of the House indicating that this, indeed, is a Jubilee Government. But when we are assembling here today, it is not a Jubilee Government. We are assembling here as a Government of the Republic of Kenya.

*(Applause)*

On account of that fact, I will oppose without any issues on qualification of individuals presented here.

**Hon. Ganya:** On a point of order hon. Deputy Speaker.

**Hon. Deputy Speaker:** What is your point of order, hon. Ganya?

**Hon. Ganya:** Hon. Deputy Speaker, is the hon. Member in order to suggest that three nominees are from North Eastern Province, when Dr. Hassan Wario is actually from Marsabit County and not North Eastern? Is he in order to mislead the House?

**Hon. Kaluma:** Hon. Deputy Speaker, I am talking about ethnic composition of the Government and not the regional representation. I am talking about the ethnic composition of the Cabinet.

May I proceed by saying the following: Our nominees are very qualified---

**Hon. Angwenyi:** On a point of order Hon. Deputy Speaker.

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

**Hon. Angwenyi:** Is the hon. Member in order to say that the list of Cabinet Secretaries is composed of three communities when, in fact, it is composed of about 14 communities. That is because Kipsigis is a different tribe from Nandi, Marakwet and Tugen.

*(Loud consultations)*

**Hon. Deputy Speaker:** Order, hon. Members! Order! Let us allow him to continue and clarify; there is actually no tribe called “Kalenjin”. It does not exist. I am a linguist and I am telling you this: There is no tribe called “Kalenjin”.

**Hon. Kaluma:** Hon. Deputy Speaker, I know there is no tribe like that, but I am talking about ethnic formations. We know what the Kalenjin nation is in common parlance out there. We know what Gema nation is outside Parliament and within Parliament. We know what North Eastern Somali tribe is. I am saying that you cannot have 14 nominees out of 19.

**Hon. Ng’ongo:** On a point of order, hon. Deputy Speaker.

**Hon. Deputy Speaker:** Order! I hope it is a point order. I know you normally know what a point of order is, hon. Ng’ongo.

**Hon. Ng’ongo:** Hon. Deputy Speaker, what goes on record in this House is very important and, therefore, we need to get the facts right. The reports that have been adopted in this House based on 2009 census list the third largest community in this country as Kalenjin.

Hon. Deputy Speaker, unless we go back to that report and change the ethnicity or the ethnic composition of this country; as far as I am concerned, according to the official records, the third largest tribe or ethnic community is Kalenjin.

Actually, hon. Mbadi who is speaking is thought to be a Luo, but he is regarded as a Suba in our statistics. The Kalenjin, whether Kipsigis, Nandi, Tugen and Elgeyo-Marakwet are all lumped together as Kalenjins. If that is a mistake, it should be corrected. It must have been committed by the second President of this country who wanted his community to look big and, therefore, amalgamated so many tribes which form different ethnic communities. That is what we are hearing today. That report is with us and that is the official position.

**Hon. Deputy Speaker:** Hon. Members that is why we are saying we talked about the language. There is no language called “Kalenjin”. There is nobody who speaks Kalenjin; they speak Kipsigis, Nandi and Tugen. You have also used it interchangeably – community versus ethnic. We really have to agree on what we are talking about. I do not think this is really what is under contention at the moment. Let us allow Hon. Kaluma to finish his contribution. If we need to re-look at our records again, I think that is a matter that can easily be executed, but outside this House.

Hon. Kaluma, can you proceed and conclude?

**Hon. Kaluma:** Hon. Deputy Speaker, one cancer that is killing our nation is tribalism. This would be the first duty of any government that we are assembling, beginning with the last elections, to be most focused on. I was reading--- I am taking the House through Article 130. I would like to remind the House that what the President has done in proposing these nominees is actually an offence that could cause the removal of the President.

When we go to the Attorney-General’s Office, which is the Ministry of Justice and Constitutional Affairs, you have everybody in the top ten coming from one ethnic formation. We have the Attorney-General, the Solicitor-General, the Senior Deputy Solicitor-General, the Registrar of Marriages, the Registrar of Societies, Registrar of Companies, Registrar of Political Parties, *etecetera*. You ask yourself: Where in the world could such a governmental formation be accepted?

Hon. Deputy Speaker, the Inspector-General of Police is not able to secure the country for the simple reason that if you look at the security apparatus in this country, other than him sitting up there, everybody down here is from one ethnic formation. There is a malfunction in the Government. May I go on record as confirming that I support the inclusion of Phyllis Kandie because I saw the URP being short-changed by the TNA and they come to pretend here.

**An hon. Member:** Hate speech!

**Hon. Shill:** Hon. Deputy Speaker, Sir, I support the Report. History is being written in Kenya.

**Hon. Kaluma:** On a point of order, hon. Deputy Speaker.

**Hon. Shill:** Hon. Kaluma, who was my lawyer, should respect me. I support the Report. History is being written in Kenya and we should remember that in our history, we used to hear the President appointing Ministers on the 1.00 O'clock news without any vetting. Some of them were appointed at the road sides, but because of our new Constitution, here we are today vetting Cabinet Secretaries. They have been subjected to public scrutiny. The Cabinet Secretaries who have been nominated today, if we look at them across the board, are well educated. They are people who are not corrupt. High standards have been kept.

I am bound to say that the nominee from North Eastern Province who was leading a multi-million bank, namely, Barclays Bank, has decided to serve his nation and forget about the money that he was earning there. This is to show that we, the people of North Eastern Province, despite being marginalized for some time, can now bring educated people and serve this nation with dignity.

I want to remind my friend, Hon. Kaluma, that the nominees from North Eastern Province are not three. They are, actually, two. One has also been appointed because of her high standards. That is Amb. Amina Mohammed, a well qualified Kenyan. I am trying to say that we are bringing in people of high calibre and we believe that they are going to serve this nation very well. If you look at Kandie, and we came to her rescue, she had all what matters as far as high standards are concerned. She was educated in Canada in high calibre universities and the United Kingdom. As a teacher, if somebody passed exams in universities, how can you say that, that person cannot serve the Government?

We are not a "banana republic", we are a country that has institutions. We have seen people who are not educated, but who are leading Ministries well. That is because our institutions are well laid down. Sometimes, we can have people who are highly educated, but do not have the knowledge of the Ministry at their finger-tips. So, there should be no fear that so and so cannot articulate herself or himself in front of people. If you look at the 16 nominees, they have very high standards. I am happy about the new Constitution for giving women their rightful place. Women in Kenya have been marginalized. Today, I am very happy that they have been given wonderful portfolios and I am sure they will not let us down. We have seen Hon. Ngilu who was among the first few women to serve in the ODM Cabinet. I am sure she is only being bashed because she changed her political affiliations like me. The truth of the matter is that there is no permanent enemy or friend in politics. But there is only permanent interest. If you look at the policies of Kenya, the monkeys are the same; only the forests have been changing. So, please, stop bashing other people.

In conclusion, Kenyans must move forward. I am proud to know that in the region, Kenya has come out of age. We have gone far as far as democracy is concerned. Today, if we go anywhere, we are very proud of our nation that we have conducted our elections in a very competitive and fair manner. We have also appointed our Cabinet Secretaries in a very fair way and subjected them to serious vetting. As a nation, we should be proud of that. In Parliament here, as politicians, we will hit at each other but, at the end of the day, we must remember that we are one nation. Let us put our acts together and see that the men and women whose nomination we are approving today, we will scrutinize them in their day to day work.

**Hon. (Ms.) Ghati:** Thank you, hon. Deputy Speaker. I rise to oppose the Motion, purely on the basis of non-compliance to regional balance. A lot has been said. We have eight regions in this country. If the Government was going to be fair enough even to our regions, I truly believe that we have very qualified people that we could draw from the various regions that we represent.

I am one of the people who were strongly involved in Constitution-making. We have eight regions in this country which were provinces before and I believe that, in the interest of fairness, which I am very sure the Jubilee Government is committed to, we could have been fair to nominate qualified Cabinet Secretaries from those regions. That way, we would not have had appointees here mainly from two ethnic communities---

**Hon. Lessonet:** On a point of order, hon. Deputy Speaker. Is it in order for the Member to mislead the House that there is no regional balance in the list of the 16 nominees? When you look at the eight regions, I ask myself: Is there a nominee from Nyanza? Yes, there are two. Is there a nominee from Western? Yes. Is there a nominee from Central Province? Yes. Is there a nominee from the Rift Valley? Yes. Is there a nominee from the Coast? Yes. Therefore, there is regional balance.

**Hon. Deputy Speaker:** Order! Allow Hon. Ghati to finish. Hon. Ghati, you have been given information.

**Hon. (Ms.) Ghati:** Hon. Deputy Speaker, I was talking about regional and ethnic diversity. The Jubilee Government promised to look into the issue of regional and ethnic balance. There are communities in this country which have never been close to power. I am challenging the Government to ensure that subsequent appointments are going to be made from communities that traditionally have never been close to power in this country.

*(Several Members stood up in their places)*

**Hon. Deputy Speaker:** Order, Members! We cannot have the whole House up on their feet. You want us to go county again?

**Hon. Ichung'wah:** Hon. Deputy Speaker, Sir, I would like to tell the Member who has just spoken that we have only 18 Cabinet positions and we have 42 communities in Kenya. I do not know how divisible that is to represent each and every community.

I rise to support this Motion. I would like to start by commenting on the nominees, especially, Mr. Aden Mohammed and Mr. Macharia. Mr. Aden Mohamed has been running a multi-national bank with a balance sheet of over Kshs300 billion, Mr. Macharia has been doing more than Kshs200 billion and Ms. Omamo has been the Chair of the Law Society of Kenya. Lastly, with regard to Mrs. Kandie, I have listened for a long time as Members discussed someone I have worked with for a long time. This is a

lady who has been in charge of major transactions in this country. For example, she was in charge of the recent rights issue of Safaricom. So, when people say that she is not capable, I do not know what calibre of people we are looking for as Cabinet Secretaries. She has been involved in K-Rep. Recently, she was involved in Jamii Bora transaction and the SIB Investment Bank.

When it comes to the East African Community, for those who do not know, she has been involved in cross listing of some of our listed companies. So, if it is an issue of performance, employment record and academic qualification, she is qualified. You cannot judge her because, maybe, she could not present her case in a 20 minutes interview. I have confidence that she has what it takes. For her to be a director of an investment bank, she has what it takes. I fully support her nomination.

**Hon. Deputy Speaker:** Hon. Members, I would just like to plead that the case on ethnic balance has been overstated; if we can dwell on other matters. It is already on record. We cannot have the same issue being raised every time.

**Hon. Mwaura:** Hon. Deputy Speaker. I rise to make the following comments on this Motion: First and foremost, I wish to observe that for the second time, through an act of the President, issues of people with disabilities seem to be taking the back banner.

We expected that out of the 16 nominees, at least, one shall be a man or woman with disability. Many of our people have gone to school and have participated in leading organizations. We are concerned, as a sector, that the 5 per cent as stipulated in Article 54(2) of our Constitution has not been met. Under Article 81(c) which calls for fair representation and Article 131(2) which calls for diversity of the people of Kenya in terms of public appointments, this category of individuals who are capable and can contribute meaningfully to national development is not being considered.

I also observe that the youth, who have demonstrated capacity to lead in various aspects, have also been sidelined. This country is aware that in the 1960s and 1970s, people as young as 28 years were appointed to the Cabinet. The message of the youth was very strong in the last elections in both the coalitions. So, we expected that, at least one of the 16 nominees will be a young person. Without belabouring what others have said, I believe that all parliamentary parties are of national character. Therefore, it cannot be a preserve of certain regions that Cabinet nominees can only come from them. Even if we were to divide the 18 Cabinet positions based on ethnicity, it does not justify why two ethnic communities can get four nominees when others do not have even one.

This country must not encourage the feeling that there is a glass ceiling based on where you come from, your disability or age. We must take into account age, disability and all other barriers to create an equal opportunity for everybody.

Hon. Deputy Speaker, the issue of corruption has also been alleged. I am surprised that the Anti-Corruption and Ethics Commission did not submit any report on any of the nominees and the question is: Is it actually a question of collusion? I would want to urge this House to also look at the efficiency of that Commission because it is in public domain that some of the nominees have been adversely mentioned in various corruption deals and, therefore, that a Committee of this House can actually sit for 13 consecutive sittings without receiving any report on such scandalous issues, actually it shows that, maybe, there was collusion in order to ensure that some people actually pass.

Hon. Deputy Speaker, these appointments are critical in the development of this country. While looking at the curriculum vitae of each and every nominee, I reckon that

management was critical in appointing them. However, in terms of career progression and appreciation of the fact that people know better what concerns them, I actually observed that there was, kind of, a mismatch in terms of the appointments that have been made by the President and the Deputy President. For example, someone who has qualifications in Information and Communication Technology (ICT) has actually been given the Ministry of Energy. While one would actually say that, that is not a problem but then the question would be: Did they actually just have him to ensure that they were sharing positions based on their pre-election coalition agreement or rather they were also looking at the competencies?

Hon. Deputy Speaker, I also know for example the nominee for the Agriculture docket does not seem to have any experience in matters of agriculture, other than procurement. I am surprised whether that nominee is going to be looking for procurement or to serve the farmers of Kenya. I also know Professor Kaimenyi who has been adversely mentioned. Actually, he is a dentist who should actually have been considered for the Health docket but has been given the position of Education, Science and Technology.

Hon. Deputy Speaker, I also note Professor Wakhungu who has got a very good curriculum vitae on issues---

**Hon. Ichung'wah:** On a point of order, hon. Deputy Speaker. I think it is misleading for hon. Mwaura to say that at managerial level, you cannot move from one sector to another or from one industry to another. He needs to understand that, at a certain level, you can move from Energy, Banking and ICT as long as you are at managerial level. Thank you.

**Hon. Deputy Speaker:** That is a point of argument. Continue.

**Hon. Mwaura:** Yes, hon. Deputy Speaker, That is not a point of order, it is a point of argument. Sit down, Sir. I also know for example that there is a very qualified gentleman, and it is also good to commend those who were well appointed. The nominee for Treasury seems to have an impeccable track record and even his qualifications are impressive. However, I take issue with the nominee for Devolution and Planning.

**Hon. Members:** Why?

**Hon. Deputy Speaker:** Order, hon. Members! Allow him to finish.

**Hon. Mwaura:** Please, do not gag me. It is my air time. Hon. Deputy Speaker, Ms. Anne Waiguru only seems to have a lot of experience in distributing money through the Integrated Financial Management Information System (IFMIS) and I do not think that is devolution.

**Hon. A.B. Duale:** On a point of order, hon. Deputy Speaker. With a lot of respect for my good friend, Hon. Mwaura, we are discussing the Report as tabled by the Committee on Appointments and for people who cannot defend themselves on the Floor of the House, the hon. Member is raising integrity issues. Is he in order? Let us discuss the Report. You know the sycophant of the person who failed is just next to me here. Can you protect me? He has just come very close.

*(Laughter)*

**Hon. Deputy Speaker:** Allow Hon. Mwaura to finish.

**Hon. Mwaura:** Hon. Deputy Speaker, I do not think this House is just a rubber stamp to say yes or no. We must interrogate the curriculum vitae of those ladies and gentlemen who are actually going to be in charge of the various dockets that are very critical to our country.

Hon. Deputy Speaker, as I was saying, if you look at the curriculum vitae of Ms. Anne Waiguru, she actually is more informed about financial matters than devolution. If you look, for example, at Dr. Fred Matiang'i who has been given the docket of ICT, actually he has more competencies on issues of devolution and planning. That is why I asked the first question whether really the President and the Deputy President considered your area of training. You are likely to manage your profession and ministry through what you studied rather than the management skills that you have.

Hon. Deputy Speaker, this country must always be guided by issues of fairness, justice and integrity. This country should not be seen to only encourage that only certain members of certain communities, only certain members of certain orientations can rise to the highest echelons of leadership and, therefore---

**Hon. Deputy Speaker:** Order! Hon. Grace Kiptui.

**Hon. (Ms.) Kiptui:** Thank you, hon. Deputy Speaker for giving me this opportunity. I rise to support the Report as tabled and I would like to urge my colleagues to see sense in the fact that these are just the first appointments. We have so many other vacancies in the offing. They should know that even if we were to divide the 42 tribes among the Cabinet Secretaries, I am sure we cannot go round that way. In that respect, there are so many other appointments that are upcoming and I urge everyone to be patient. We can look at the competencies of these nominees and approve them. I find that they are people who can manage the Cabinet posts that they have been given.

In that respect, I beg to support the Report as tabled.

**Hon. Members:** On a point of order, hon. Deputy Speaker. Put the Question.

**Hon. Deputy Speaker:** Order, hon. Members! You cannot be talking of a point of order. Is what Grace said out of order or where is the point of order coming from? I have been trying consistently to go from one side to the other. It is now counties. So, that was Baringo County. We will have hon. Pukose from Trans Nzoia County.

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

**Hon. Deputy Speaker:** Order, hon. Members! We will have order in the House. You cannot stand 300 of you and expect that you are all going to speak. So, let us just be orderly. If you take less time, we can have more people who are contributing and if you agree that everybody takes a minute, it will be good. This is because really even if you look at what you are saying, it is becoming repetitive. So, why do we not agree? So, to be fair to hon. Members, let us have the last five – two from this side and three from this side.

**Hon. (Dr.) Pukose:** Thank you, hon. Deputy Speaker. I rise to support the Motion on the appointments and say that these appointments, to me, meet the constitutional requirements because when I looked at the curriculum vitae during the interviews of various nominees, including Phyllis Kandie, I find that they are qualified. When I also looked at the interview of Mr. Macharia, as a doctor, I was very proud of this fellow because I saw in him a person who will be able to deliver the good services in as far as the Ministry of Health is concerned. I saw him talk of the six pillars of health and some of the questions which he was being asked, you thought that as somebody coming



from the banking sector, he could not handle them but he handled them very well and I think he will be able to take the health services to the next level.

I also looked at the regional balance in this issue. Many people have raised it but I do not think this Government would be able to accommodate every community in this country. It has tried to be very fair because they have tried to distribute to every former province as we can say it and I think every province is represented here. Also, there are other appointments which will still be coming. We have two positions which have not been filled and we hope that the other areas which have not been taken care of in these appointments will be looked into. There are also other appointments of Principal Secretaries of which I think they will also try and balance the areas that we think are deficient. Therefore, I urge hon. Members to approve these appointments because we only have few positions.

Thank you so much.

**Hon. Deputy Speaker:** Order! One person from Tharaka-Nithi to take the Floor. Whoever has the microphone from Tharaka-Nithi, please, go ahead.

**Hon. (Ms.) B.N. Nyaga:** Thank you, hon. Deputy Speaker, I stand to support the Report. I would like to say that the Committee did a wonderful job. They worked many hours to give us the best. I think they did it well. I would like to say that Ms. Kandie worked in various Ministries and institutions and did very well. She does not have any integrity issues. She is okay academically; if we give her the opportunity, I know she is going to do well. She will serve this country well. Thank you, hon. Deputy Speaker.

**Hon. Deputy Speaker:** Who has not given their maiden speech? There is an hon. Member; it had better be a maiden speech.

**The Member for Kapenguria (Hon. Chumel):** Thank you, hon. Deputy Speaker for giving me this chance. This is my first time to speak in this House. I appreciate the chance because it has come at a time when we are discussing an important issue here.

First and foremost, I want to thank the people of Kapenguria who have given me a chance to come and represent them in this House. Maybe, whatever they are after will be achieved. I am working towards that. For those who have not known me, I am Samuel Moroto, the Member for Kapenguria.

I rise to support this Motion. I have gone through the Report which is here. This is my third time to be in this House and I know only two people; namely, Hon. Balala and Hon. Ngilu. From information from certain quarters, I know that the nominees, whom we are discussing today, can take this country to a higher level.

Where I come from was marginalized for a very long time. Ours was a closed district during the colonial time. When the African Government came in, it did little to improve the lives of my people. That is why the Pokots are known as “cattle rustlers”. It is not their wish to do that. However, because of the environment they live in, they engage in such practices. But not all of them do it. In the community, we have church leaders, pastors and educated people who cannot engage in cattle rustling. People see them and say: “These are the people who do it.”

Hon. Deputy Speaker, I want to thank the President and his deputy because of the people they have given us. I believe when given the positions, they will deliver. They will, in particular, help the people of the place I come from, who have been marginalized for a very long time. I know here we have a committee in charge of land affairs. Maybe, tomorrow, their names will come out. I want to tell the Cabinet Secretary to be in charge

of land affairs that we have a big problem. The people there live on relief food year in, year out. This might be their time to celebrate like other Kenyans.

I want to say something about insecurity; people have been talking about insecurity in my area. If we do not empower and give resources to the police, I do not think we will do much to reduce insecurity. We talk of people protecting themselves because they own guns. I know that people go to the former North Eastern Province and undertake an operation. I am not in favour of that. In fact, the illegal guns they have are for protecting themselves. In some areas, there is neither government presence nor security set-up. The area along the Kenya/Uganda boarder is inhabited by Pokots, Karamojong and Turkana on the other side. The Uganda government has set up security apparatus along the border. However, on our side, there is nothing. People there protect themselves without any support from the Government. How will you force the people there to surrender guns without the support of the Government? The Government we are setting up should not do things the way past Governments did them. They have to make our people safe.

I support the Motion.

**Hon. Deputy Speaker:** Yes, hon. Ng'ongo.

*(Loud consultations)*

Order, hon. Members! Every hon. Member has an equal chance of catching the Chair's eye. Can we just be orderly?

**Hon. Ng'ongo:** Thank you, hon. Speaker. I believe that we need another two days of orientation. Actually, we need to know that, so long as an hon. Member has not contributed to a Motion, they have an equal right as any other hon. Member to contribute to it. So, let me contribute to the Motion.

First of all, I will try to quickly look through this Report. I want to put it on record that we had the best chance today to really make a difference in this country by showing, by example, what the Constitution says about vetting. When I look through this Report, the first thing I notice is that it is not complete. On page 2, we are told that Appendix II is minutes. But there is no Appendix II. If we had noticed this early enough, we would have stopped debate on the Motion for this to be rectified. Given that we have already taken time on it, it would be unfair for the House to go back to that. I want to put it that, in future, reports of this House will need to be done in a proper way, so that we can make informed decisions.

On the Motion before us, I was asking myself why it was necessary for Parliament to vet the Cabinet nominees, or even nominees for appointment as Principal Secretaries. Our role, as Parliament, is really not to interview and ask questions like "Are you technically qualified to do this or that?" That should have been done elsewhere. This House has the responsibility to look at certain key issues of national importance. This House has the opportunity to look at matters of national importance. One of them is public participation. Actually, one of the reasons why Parliament was given the mandate to vet is for the public to contribute and participate in such an important exercise. If you read Article 1(3)(a) of the Constitution, it says the sovereign power is with the people of Kenya. But that sovereign power is delegated to one of the institutions called "Parliament". So, therefore, whatever we exercise here today is a delegated power.

The other one is constitutionality. Now, if you ask me about public participation, I think we need to address it much better in future. If you look at the interviews that were conducted at KICC, I felt that public participation was not given enough attention. The fact that there were a few affidavits--- Let us not make public participation so difficult and expensive. By insisting that members of the public can only bring an affidavit; have to go to the lawyers--- We need to flex this. We should make it a bit more flexible for members of the public to give their opinion on the nominees of the Executive.

In terms of constitutionality, a lot has been said about it. But I think it is important that we address the matter squarely. When the Constitution talks to specific issues and mentions expressly that we need to look at things like the youth, it is not an idle provision in the Constitution. When it talks about gender, that needs to be looked at. We thank the President and the Deputy President for observing the gender rule. No one can fault them on that. That is because six out of 16 is just good enough.

In terms of gender, the Executive did excellent. The President and the Deputy President did excellent. Where someone has performed, you need to give a tick so that, when you give ticks and wrongs, finally you give marks as to whether someone has passed or failed. So, in terms of gender, I give them a tick. In terms of regional representation, they tried. We did not fail. But that one can be a tick, but when it comes to ethnicity, the President and Deputy President failed. I want to put it very clearly. The Executive is defined. The Executive under Article 132 is directed to follow ethnic diversity.

I have heard a colleague say that it was not possible. Yes, it was not possible to include 42 tribes in the Cabinet, but it was possible to include 16 tribes. In fact, with a thin Cabinet like that, if you are fair, the community that produces the President should only produce a maximum of one. A community that produces the Deputy President should produce a maximum of one. When you have the Executive that we have given--- I hope the President will remember to bring the name of Kimemia to this House as the Secretary to the Cabinet. Under Article 154, we must vet him. In fact, very soon, we will start asking whether he is acting in that office constitutionally. Let him bring that name tomorrow, so that we can start vetting him. But the Cabinet we have today is composed of 20 people---

*(An hon. Member interjected)*

You are wasting time *Bwana!* Let me continue. There is nothing out of order here. You are just arguing. So, the point I want to put is that we have 20 members of the Cabinet. If we approve these 16 names, we will have 20 members. Out of those 20, from the President's community, the President is there. The Attorney-General is there. We have other three Cabinet members. We have the Secretary to the Cabinet. Those are six. Six out of 20 is 30 per cent. That is not fair. Go to the Deputy President's community, it has five out of 20. It is 20 per cent. Add the two communities, it adds up to 50 per cent. How will you convince a Masaai, Turkana, Teso and Kuria that he forms part of this Government? If there were four slots for Rift Valley, I expected the Kalenjin to produce one, Maasai one, Turkana one and another community one. We have so many communities. There are Pokots and Samburus. So that, in terms of ethnic representation, this thing is skewed and it is completely unacceptable. So, I am urging the President and

Deputy President that when we pass these names – because I do not want to object to these names – I gladly read that now they have seen the sense and they may increase the Cabinet to 20. Since they are going to go to 20 – that is four more – and they can add two more so as to reach a maximum of 22, please, make sure there is a Giriama, Chonyi, Maasai, Samburu, Teso, Kuria and Suba. We need ethnic representation in this country. Thank you.

**Hon. Deputy Speaker:** Order! Hon. Members, I think the point has been made. I have already said Hon. Wambui.

**Hon. (Ms.) Munene:** On a point of order, hon. Deputy Speaker. Is it in order for the Member here to start spreading hate speech when he is talking about tribes? We are not here as a tribe, we are here as Kenyans. So, we do not want those kinds of things. We are all Kenyans.

**Hon. Deputy Speaker:** That is Wambui's point of order. What is yours?

**Hon. Ng'ongo:** Can I respond to that point of order?

**Hon. Deputy Speaker:** Order!

**Hon. (Ms.) Munene:** That is because everybody in this country is looking at us today. When we are here and we start mentioning names of tribes that have got more people; mentioning that the President and Deputy President have got more people, we are going to build more hatred and we do not want that. We want one Kenya and we want to work as a team. We were elected here as Members of the National Assembly.

**Hon. Deputy Speaker:** Order! I think that is enough for the points of order. She has explained---

**Hon. Ng'ongo:** In that point of order---

**Hon. Deputy Speaker:** If you are going to para-phrase what she has said--- You are going just to answer that.

**Hon. Ng'ongo:** Hon. Deputy Speaker---

**Hon. Deputy Speaker:** Order, hon. Members! We must have order in the House. Your time is up hon. Mbadi. Hon. Chanzu, we have finished with that topic. Let us not go back to it, please. Let Hon. Chanzu contribute so that we can move forward. I have declined your point of order, Hon. Mbadi.

**Hon. Chanzu:** Thank you, hon. Deputy Speaker. I rise to support the Motion as amended. In fact, I just want to start by helping my friend hon. Mbadi. The problem we are having is about the many commissions that we have established. We have established so many commissions. It was the same, same thing of thinking that we must cover every part of the country, but we ended up having so many commissioners which are now giving us a very big problem. That is what we were trying to fight for at that time. It was between PNU and ODM. But we now want to think as one country. I want to support and congratulate the President for the manner in which he picked these nominees. That is because he made it as transparent as possible. We have had enough time, from the time he brought out these names, to think about the issues. The Constitution has changed everything. We are the ones who are going to be the mouth piece. Those people are not going to be the talkers of the country. They are going to be the workers. They are going to be the technocrats. They are going to have people below them; experts who are going to be advising them on what to do. So, I think when we talk about regions, we should not talk about tribes. That is because with the 42 tribes, we will end up with the bloated

Cabinet that we had here, when we had PNU and ODM. We should be thinking as one single country. We should be thinking as Kenyans.

**Hon. Ng'ongo:** On a point of order, hon. Deputy Speaker. My good friend Hon. Chanzu said that we should not talk about ethnicity. The Constitution, however, talks about it. Under Article 130 (2) it says that the composition of the National Executive shall reflect the regional and ethnic diversity. This is not our creation. This is not causing war. In fact, what can cause war is exclusivity. If you include, people will not go to war but, if you exclude, people will.

*(Loud consultations)*

**Hon. Deputy Speaker:** Thank you, hon. Mbadi. You have given us the information.

Proceed Hon. Chanzu and finish your contribution.

**Hon. Chanzu:** Hon. Deputy Speaker, we have experimented on numbers in this country. We know what we are going through because of bloated numbers. If there is anything to be corrected, we cannot continue with the same. We want this Assembly to be a National Assembly. We want the Cabinet to be a Cabinet of Kenya and not a Cabinet of Luhyias, Luos or Kisiis. We want the Cabinet to practise the principle of collective responsibility. We want Cabinet to have the image of the whole country. They need to come together so that we work as one country. We are telling our children--- Are we going to have enough Cabinet positions to give all of them? I should be in a position of representing my constituency without the business of dividing people into clans and tribes. Shall we have enough positions for every clan in this country? No, we cannot.

So, I want to congratulate the President. We must pass these names so that the Government can start working and Kenyans can get service. Thank you.

**The Kilifi County Women Representative** (Hon. (Ms.) Katana): Mhe. Naibu Spika, mimi ni mheshimiwa Aisha kutoka Kilifi. Kwa vile ni mara yangu ya kwanza, naomba uniruhusu niwapongeze watu wa Kilifi kwa kunichagua ili niwaakilishe katika Bunge hili la Kumi na Moja.

Nimesimama kuunga mkono orodha ya majina. Nimeipitia Ripoti hii kwa uchache na nikaona kwamba walioteuliwa wana tajriba na taaluma ya kutosha kuendesha Wizara walizotengewa. Kuhusu suala la ukabila, nafikiri Katiba imeangazia hilo jambo katika Kipengele cha 152(d); kwamba si chini ya Mawaziri 14 na si zaidi ya 22. Katika taifa letu, tuna makabila 42. Wenzangu waliozungumza awali wametaja kwamba kuna ugumu fulani unaojitokeza. Hata ikiwa Rais angeamua kuwepo na Wizara 22, bado haingeweza kufikia idadi ya makabila tuliyonayo katika taifa hili. Mimi naona kwamba hakuwachagua kwa kuzingatia kabila ila ametumia misingi ya elimu na tajriba waliyonayo ili watumikie Wakenya wala siyo makabila yao.

Mimi naamini kwamba wanao uwezo---

**An hon. Member:** On a point of order, Hon. Deputy Speaker.

**Hon. Members:** Maiden speech! Maiden speech!

**Hon. Deputy Speaker:** She is on her maiden speech. She is not supposed to be interrupted.

**The Kilifi County Women Representative** (Hon. (Ms.) Katana): Ahsante sana Mhe. Naibu Spika kwa kunitetea. Nikimalizia, uteuzi huu umezingatia kanuni za Katiba

zinazoangazia usawa wa jinsia. Mheshimiwa Rais na naibu wake wameangalia sana suala hilo na wamewapa nyadhifa kina mama ambao wana uwezo kama sisi katika utendakazi. Kwa hayo---

**An hon. Member:** Defect!

**The Kilifi County Women Representative** (Hon. (Ms.) Katana): Hapana, *sijadefect!*

*(Laughter)*

Kwa hayo, naunga mkono orodha hii ya Mawaziri.

**Hon. Deputy Speaker:** Hon. Members we agreed that I should put the Question and it is for each candidate, we will need the time to do that.

**An hon. Member:** On a point of order, hon. Deputy Speaker!

**Hon. Deputy Speaker:** You cannot be on your feet when the Speaker is on her feet! I will allow you just because you are a new Member. She is a new Member so we can allow her.

**An hon. Member:** Thank you, Hon. Deputy Speaker---

**Hon. Deputy Speaker:** I said that I am allowing you to disobey the Speaker in the sense that you were standing up when the Speaker was on her feet. It is not that you are going to talk. Sit down first of all.

*(Laughter)*

You will get an opportunity when I finish communicating this. Hon. Members, I will read through as per each candidate.

*(The Clerk-at-the-Table approached hon. Deputy Speaker)*

Hon. Members, I have broken the process a little bit, but I will allow the Mover to make the last comment before I put the Question.

**Hon. Katoo:** Thank you, hon. Deputy Speaker. It is a procedure that the Mover of the Motion is always called to reply. I will not take even two minutes.

I want to thank all Members of this House – the 35 of them – who have contributed to this Motion. I want to assure them that we have taken their views. In constituting this National Executive, we hope it will be one of competence and one that will serve all Kenyans.

I beg to move.

**Hon. Deputy Speaker:** Hon. Members, pursuant to our new Standing Orders, I want to confirm that we have the requisite numbers to transact this business. I will give two minutes to the hon. Members who are at the Bar to sit down.

*(Question of the Motion as amended put and agreed to)*

*Resolved accordingly:*

THAT, pursuant to Article 152(2) of the Constitution and the provisions of Standing Order 204 (4), this House adopts the Report of the Committee on Appointments on the vetting of Cabinet Secretary nominees, laid on the Table of the House today Tuesday, 14<sup>th</sup> May, 2013, subject to insertion of the following Item No.16 on Paragraph 1 of Part V; that is the recommendation of the Report, Mrs. Phyllis Jepkosgei Kipkingor Kandie for East African Affairs, Commerce and Tourism; and (b) deletion of paragraphs two of Part V on the recommendation on page 68 of the Report; and that the House approves the appointment of the following person as Cabinet Secretary in the respective Ministry:

<u>Nominee</u>	<u>Ministry</u>
1. Anne Waiguru	Devolution and Planning
2. Amb. Raychelle Omamo	Defence
3. Amb. Amina Mohammed	Foreign Affairs
4. Prof. Jacop Kaimenyi	Education, Science and Technology
5. Mr. Henry K. Rotich	The National Treasury
6. Mr. James Wainana Macharia	Health
7. Eng. M.S.M. Kamau	Transport and Infrastructure
8. Prof. Judi Wangalwa Wakhungu	Environment, Water and Mineral Resources
9. Hon. Charity Ngilu	Land, Housing and Urban Development
10. Dr. Fred Okengo Matiang'i	Information, Communication and Technology
11. Dr. Hassan Wario Arero	Sports, Culture and Arts
12. Mr. Davis Chirchir	Energy and Petroleum
13. Mr. Felix Kiptarus Koskei	Agriculture, Livestock and Fisheries
14. Mr. Adan Abdulla Mohammed	Industrialization and Enterprise Development
15. Hon. Najib Balala	Mining
16. Mrs. Phyllis Jepkosgei Kipkingor Kandie	East African Affairs, Commerce and Tourism

### **ADJOURNMENT**

**Hon. Deputy Speaker:** Hon. Members, the Speaker had communicated that there will be an Adjournment Motion but since it was not prosecuted at the time it was supposed to, we have come to the end of today's sitting. Therefore, the House stands adjourned until tomorrow, 15<sup>th</sup> May, 2013, at 9.00 a.m.

The House rose at 7.20 p.m.