

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Tuesday, 17<sup>th</sup> March, 2015

The House met at 2.30 p.m.

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

PRAYERS

PETITION

PAYMENT OF DUES TO RAPHAEL KITIVI

**Hon. (Ms.) Musyoka:** Hon. Speaker, I have a public Petition by Mr. Raphael Kitivi, a former Administration Police (AP) officer; on reinstatement and payment of his dues. On behalf of Raphael Kitivi, a resident of Machakos County, I draw the attention of the House on the following:-

THAT, Raphael M. Kitivi was employed by the Government as an Administration Police officer in 1983 and stationed at Uhuru Camp, Nairobi;

THAT, in 1984, while based at Uhuru Camp, Nairobi, Mr. Kitivi was sent away by the then Chief Inspector and since then the Ministry of Interior and Coordination of National Government has not communicated to him with regard to his status of employment;

THAT, an appeal was launched with the Public Complaints Standing Committee and acknowledged through a letter dated 7<sup>th</sup> July, 2008, addressed to the then AP Commandant for his intervention regarding the matter;

THAT, the Ministry of Provincial Administration and Internal Security, in a letter dated 27<sup>th</sup> August, 2009, indicated that on 22<sup>nd</sup> January 1985, the officer was charged on account of deserting duty and fined Kshs300, but the officer was not issued with a dismissal letter, and that it was not clear how his name was removed from the payroll from January 1985;

THAT, multiple follow-ups by the officer have not received any redress to date;

THAT, efforts to resolve the matter have borne no fruits and the family of the petitioner continue to live in abject poverty;

THAT, the matter presented in this petition is not pending before any tribunal or court of law;

Therefore, your humble Petitioner prays that the National Assembly ensures that the petitioner's plight is addressed and makes any other order and/or direction that it deems fit in the circumstances of this case.

**Hon. Speaker:** You are through. Are you not?

**Hon. (Ms.) Musyoka:** Yes, hon. Speaker.

**Hon. Speaker:** You are unable to read the last bit which says "And your petitioner will forever pray"

**Hon. (Ms.) Musyoka:** Hon. Speaker, your petitioner will forever pray.

**Hon. Speaker:** I appreciate. It is a language that is not very easily understood by hon. Members who do not belong to a particular profession.

**Hon. (Ms.) Musyoka:** That is very true, hon. Speaker.

**Hon. Speaker:** The Petition is referred to the Departmental Committee on Administration and National Security. I do not see the Chairperson or the Vice-Chair but the Committee will be required to bring a Report on this petition within the timelines allowed by our Standing Orders.

Next Order!

### PAPERS LAID

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

The Convention on the Suppression of Unlawful Acts Relating to International Civil Aviation and the Protocol Supplementary to the Convention for the Suppression of Unlawful Seizure of Aircrafts (pursuant to Section 8 of the Treaty Making and Ratification Act, 2012)

The Traffic (Amendment) Rules, 2015 and the Explanatory Memorandum, in accordance with Section 11 of the Statutory Instruments Act, 2013 and Section 54 of the National Transport and Safety Authority Act, 2012.

The National Transport and Safety Authority (Operation of Motorcycles) Regulations, 2015 and the Explanatory Memorandum (in accordance with Section 11 of the Statutory Instruments Act, 2013 and Section 54 of the National Transport Safety Authority, 2012.

The National Transport and Safety Authority (Operations of Tourist Service Vehicles) Regulations, 2015 and the Explanatory Memorandum (in accordance with Section 11 of the Statutory Instruments Act, 2013 and Section 54 of the National Transport and Safety Authority, 2012.

The Annual Report and Financial Statements of the Public Service Commission (PSC) for the year ended 30<sup>th</sup> June, 2014

The Public Service Commission (Evaluation Report On Public Service, Compliance With Values And Principles) in Article 10 and Article 232 of the Constitution for the year 2013/2014.

*(Hon. A.B. Duale laid the documents on the Table)*

**Hon. Speaker:** The Chairperson of the Departmental Committee on Defence and Foreign Relations.

**Hon. Gethenji:** Hon. Speaker, I beg to lay the following Paper on the Table of the House today, Tuesday 17<sup>th</sup> March, 2015:-

The Report of the Departmental Committee on Defence and Foreign Relations on the vetting of Major General (Rtd.) Lukas K. Tumbo, nominee for appointment as ambassador to the Federal Republic of Somalia.

*(Hon. Gethenji laid the document on the Table)*

**Hon. Speaker:** Hon. Alex Mwiru, the Chairperson of the Departmental Committee on Lands.

**Hon. Mwiru:** Thank you, hon. Speaker. I beg to lay the following Paper on the Table of the House today, Tuesday 17<sup>th</sup> March, 2015:-

The Report of the Departmental Committee on Lands on the Petition regarding the status of the leased land meant for expansion of the Moi International Airport in Mombasa County.

Thank you.

*(Hon. Mwiru laid the document on the Table)*

**Hon. Speaker:** Hon. Members, the following reports which have been laid by the Leader of Majority Party:-

The Convention on the Suppression of Unlawful Acts relating to International Civil Aviation and the Protocol Supplementary to the Convention for the Suppression of Unlawful Seizure of Aircraft (pursuant to section 8 of the Treaty Making and Ratification Act, 2012) is referred to the Departmental Committee on Transport, Public Works and Housing.

The Traffic (Amendment) Rules, 2015, the National Transport and Safety Authority (Operation of Motorcycles) Regulations, 2015 and the Explanatory Memorandum (in accordance with Section 11 of the Statutory Instruments Act, 2013 and Section 54 of the National Transport and Safety Act, 2012) and the National Transport and Safety Authority (Operation of Tourist Service vehicles) Regulations, 2015 and their Explanatory Memorandum (in accordance with Section 11 of the Statutory Instruments Act, 2013 and Section 54 of the National Transport and Safety Authority, 2012) are referred to the Committee on Delegated Legislation.

## NOTICES OF MOTIONS

### ADOPTION OF REPORT ON VETTING OF MAJOR GENERAL (RTD) LUKAS K. TUMBO

**Hon. Speaker:** Hon. Chairperson of the Departmental Committee on Defence and Foreign Relations, is it not?

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

THAT, this House adopts the Report of the Departmental Committee on Defence and Foreign Relations on the vetting of the nominee for appointment as ambassador, laid on the Table of the House on Tuesday 17<sup>th</sup> March, 2015 and pursuant to Article 132 (2) (e) of the Constitution, approves the appointment of Major General (Rtd.) Lukas K. Tumbo as ambassador to the Federal Republic of Somalia.

**Hon. Speaker:** Hon. Member for Lafey, hon. Isaack Shabaan.

## NOTICE OF MOTION FOR ADJOURNMENT

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**UNDERSTANDING ORDER NO. 33(1)**

## TERRORISM THREATS IN MANDERA COUNTY

**Hon. Isaack:** Hon. Speaker. Pursuant to Standing order 33(1), I seek leave to move the adjournment of the House for the purpose of discussing the ongoing escalating terrorism threats in Mandera County.

Hon. Speaker, in the recent past, there have been numerous terror attacks in several parts of the country and in particular, the North Eastern part of the Kenya where a number of people have lost their lives and property. Security is an important national matter.

**Hon. Speaker:** Hon. Shabaan, before you go on, I want to give notice that all chairpersons of committees must remain in the Chamber because of the Communication that I am about to make. I do not want chairpersons of committees to, in future; claim that they were not aware. So, where chairpersons of committees are not able to be present, if there is the problem of capacity to sit for too many hours, leave sufficient instructions to your Vice-Chairpersons.

Proceed, hon. Shabaan.

**Hon. Isaack:** Thank you, hon. Speaker. Security is an important national matter and needs serious attention. Last week, the entourage of the Governor of Mandera County was attacked by terrorists where several soldiers and civilians were killed. A day after, one person was killed and two others seriously injured. I, therefore, request the adjournment of this House to discuss the ongoing terror attacks and insecurity in the country and in North Eastern Province in particular.

**Hon. Speaker:** Do you have the support?

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

Very well! You have the support. A sufficient number of hon. Members have risen in their places, including others who are walking in.

*(Several hon. Members walked into the Chamber)*

Order, hon. Members. I wish you could take your seats so that we can transact the next business. You can take a seat which is nearest to you. You do not have to go to sit very far.

*(Hon. (Ms.) Gathogo walked into the Chamber)*

Hon. Esther Gathogo, you want to be sandwiched between some hon. Members? Hon. Shabaan, having received the requisite support, I appoint that the House be moved in the manner he proposes at 5.30 p.m. this evening.

**COMMUNICATION FROM THE CHAIR**

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## MANAGEMENT OF COMMITTEES

**Hon. Speaker:** Hon. Members, I have the following Communication to make regarding management of committees.

Hon. Members, in the recent past, there has been concern on the manner in which committees are being managed and particularly by Chairpersons and hon. Members. It is on the basis of these concerns that I am issuing this Communication to address critical issues that affect the management and operations of committees. The importance of committees cannot be gainsaid and, as alluded to during the just concluded Leadership Retreat in Mombasa; committees serve as the reference point for legislation, oversight and involvement of the public in the affairs of the Legislature in the manner contemplated in the Constitution. It is the manner in which committees conduct their business that builds up or destroys the image of the Legislature.

Management of committees, as you are aware, is vested in the Office of the Speaker and Liaison Committee in terms of Standing Order No.217 (2), the chairpersons of committees, Standing Order No.180 and the Office of the Clerk. The four offices, working in synergy, enable the operations of committees to run efficiently and effectively thereby ensuring that the House executes its legislative and oversight mandate as provided for under Article 95 of the Constitution.

While the Speaker, Liaison Committee and the chairpersons of committees offer strategic leadership and direction, the Office of the Clerk is facilitative in nature and has, over the years, come to be regarded as the backbone of the committee system in all parliamentary democracies. In our case, the Office and the role of the Clerk is provided for under Article 128 of the Constitution, the Parliamentary Service Commission Act and the Powers and Privileges Act, as well as our own Standing Orders.

Hon. Members, in day-to-day operations, committees are managed by committee clerks and other officers who give procedural advice to the committee, take minutes of the committee proceedings, receive and preserve documents on behalf of the committees and carry out other important logistical and administrative duties. The secretariat also assists in official communication, arranging appearance of witnesses and advising chairpersons and members on procedures in committees. In essence, the committee secretariat is responsible for coordinating the affairs of the committee and ensuring that the committee gets the needed support to be effective in discharging its mandate.

The effectiveness of any oversight committee has, therefore, a bearing on the services provided by the committee secretariat and the synergy between the secretariat and the chairperson of the committee. I urge all chairpersons to accord the secretariat the necessary support in the discharge of their duties and, more importantly, in the application of the Standing Orders and the unwritten practices of the House.

Second, on conduct of meetings, hon. Members, in the recent past, there has been a worrying trend in the frequency at which committee members are holding meetings to the exclusion of the secretariat and, more so, the committee clerks. There are allegations that Members sit without the secretariat to strategize on how to alter committee reports in favour of persons under investigations and this is in the public domain. This must stop. I urge all Members not to be party to those despicable schemes. Otherwise, we shall have no Parliament to speak about.

(Applause)

Clerks are “Officers of the House” and just as is the case with the House which cannot sit without the Clerks-at-the-Table, committees should not meet or transact any business without the secretariat. A committee meeting is, therefore, not complete in the absence of a committee clerk and secretariat and will, henceforth, be treated as an informal gathering or a *Kamukunji*.

Committees are within their powers to exclude, on the other hand, any person or even the public from its proceedings for justifiable reasons pursuant to Article 118 and Standing Order No.254. But such exclusion however, does not apply to committee clerks who are part and parcel of the committee architecture.

Third, on official communication, hon. Members, I have also noted with concern the manner in which committees conduct their official communication with Government institutions and other agencies, as well as the private sector. There is a growing and worrying trend where chairpersons write directly to Government officials on various issues before committees in total disregard of the official channels of communication. Some chairpersons and members of committees even summon Cabinet Secretaries, Heads of parastatals and other Government officials through phone calls and the media. I have addressed this matter in my previous Communications and I wish to reiterate that all correspondence from the National Assembly communicating House and/or committee resolutions must be through the hand of the Clerk and all official documents tabled before committees shall be under the custody of the Clerk. Committee chairpersons and members have no business in writing letters to Cabinet Secretaries on official businesses of committees or even in the storage of official documents before the committees.

Fourth, on attendance of committee meetings, hon. Members, the attendance of committee sittings by members is important for an effective oversight committee. It has been brought to my attention that some committees are finding it extremely difficult to raise quorum within the required time as provided for in Standing Order No.185, which states as follows:-

“Unless quorum is achieved within thirty minutes of the appointment time, a meeting of a committee of the House shall stand adjourned to such further time or day as the chairperson of the committee may appoint.”

Committees are also unable to sustain quorum during deliberations of Bills, Sessional Papers, inquiries and Petitions before them. This has brought embarrassment and loss of dignity to committees and Parliament as a whole, especially when witnesses have been invited and meetings do not take off or end up with one or two Members conducting the business of the committee. It has been reported that in many instances, a member asks a question but is not even available to listen to the response by the Cabinet Secretary or any other accounting officer. This is a shame and must end.

Furthermore, there have been instances when committees fail to raise the requisite numbers necessary for adoption of reports, thus draft reports remain pending before committees for unnecessarily long periods as was the case with the Departmental

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Committee on Labour and Social Welfare on the Tassia Infrastructure Project Inquiry and the PAC Report on the Judiciary, among others. I exhort Members to fully participate in committee sittings to enrich their deliberations and be seized of the matters under consideration to enable committees to come up with impeccable findings and recommendations. Let us all ensure that retreats and field visits are properly utilized to conduct businesses and not picnics and beach holidays as is alleged. There must be value for money on any committee activities.

I wish to remind Members that they should attend committee meetings without fail. If they fail, the provisions of Standing Order No.187 will apply where failure to attend four (4) consecutive meetings without the permission of the chairperson or the Speaker will lead to automatic removal of that member from that committee. Any Member discharged from a committee in a situation such as this for non-attendance will not be eligible for re-appointment to any other Committee. I urge chairpersons of committees to co-operate with the clerks to provide lists of attendance on every committee sitting for purposes of administering Standing Order No.187.

As agreed in the Leadership Retreat recently in Mombasa, I hereby direct that the provisions of these Standing Orders and recording of sittings of committees and on quorum be implemented to the letter. I need to remind ourselves that those who desire not to attend or be members of committees can as well indicate such desires to the appointing authority; namely, the leadership of the political parties.

Five, on committee reports, hon. Members, committees communicate to the House through their reports. It is, therefore, imperative that committees prioritize consideration of Bills, Sessional Papers, statutory instruments, audit reports and Petitions and submit reports within the statutory timelines. Some committees have taken inordinately long to conclude inquiries, engaging in unending investigations while others re-open inquiries even after going for report writing. An example is the Departmental Committee on Agriculture, Livestock and Co-operatives which has been inquiring into the sugar crisis in western Kenya for the past one year and only managed to table its report last week.

*(Applause)*

The delay in concluding inquiries and producing reports on time leads to unnecessary speculation and fuels rumours of rent-seeking, among others. This waste of public resources on unending “investigations” will not be acceptable. Moving forward, an inquiry by a Committee should not take more than two months to conclude and a report submitted thereafter pursuant to Standing Order No. 199. Should there be need to extend, the chairperson of the committee will have to move a Motion in the plenary for extension of time. With regard to consideration of Bills by Committees, hon. Members, Standing Order No.114 (3)(b) provides thus:

- “Upon receipt of the legislative proposal from the Clerk under paragraph  
(2) the Speaker shall –  
(b) in respect of a legislative proposal for which no committee is in charge, refer the legislative proposal to the relevant committee for pre-publication scrutiny and comments and the committee shall submit its comments on the

legislative proposal to the Speaker within fourteen days of receipt of the legislative proposal” .

Most committees have failed to meet this requirement in terms of undertaking the pre-publication scrutiny and in producing reports of such scrutiny within the required time. The wisdom behind the pre-legislative scrutiny is to harmonise views and reduce the number of amendments brought on a Bill during Committee of the whole House. This has, however, not worked as evidenced by the many amendments brought by committee chairpersons on Bills that were referred to them for pre-legislative scrutiny.

This has been attributed to the fact that committees do not conduct pre-publication scrutiny of Bills. Committees have also failed in their duty in terms of producing reports on Bills after the First Reading, pursuant to provisions of Standing Order No. 127 (3)(4) and (5). Committees have been accused of giving preference and more attention to issues appearing in the Press particularly on procurement in Government places and other public institutions, instead of Bills and other legislative agenda. While it is within the mandate of committees to deal with issues of public interest, it should not be the main preoccupation chasing, or being seen to chase reports appearing in newspapers. I urge committees to take legislation and other business before them more seriously and report within the stipulated time frames.

Finally, hon. Members, this being a House of procedure and rules, I, therefore, urge you Members to conduct your official business within the provisions of the Constitution, statutes and our own Standing Orders and, particularly, respect the rules against anticipating debates and commenting on reports which have not been tabled before the House, consideration of which is before committees.

I thank you, hon. Members.

## NOTICE OF MOTION

### EXTENSION OF PERIOD FOR CONSIDERATION OF NOMINEES TO JSC

**Hon. Chepkong'a:** Hon. Speaker, I beg to give notice of the following Motion:-

THAT, pursuant to the provisions of Section 13 of the Public Appointments (Parliamentary Approval) Act, this House resolves to extend the period for consideration of the nominees for appointment as Commissioners to the Judicial Service Commission by a further 10 days from 20<sup>th</sup> March, 2015.

**Hon. Speaker:** Hon. Chepkong'a, you were giving notice of a Motion. Is it that you gave notice? When is the Motion to come?

**Hon. Chepkong'a:** Tomorrow.

**Hon. Speaker:** Very well.

**Hon. Chepkong'a:** Thank you very much.

*(Several hon. Members walked out of the Chamber)*



**Hon. Speaker:** Order, hon. Members! Hon. Mason Nyamweya and others, you have not been in the Chamber even for 15 minutes. Hon. Mwaura, if you want to go out, just walk out. Walking out does not concern your mouth.

**Hon. Speaker:** Leader of the Majority Party, what is your point of order?

**Hon. A.B. Duale:** Hon. Speaker, allow me to seek your directions on a matter of emerging grave concern to this House, especially in the light of the fact that it touches not only on the interpretation of the Constitution, but also on the application of Standing Order No. 87 of the National Assembly Standing Orders which is replicated word by word in Standing Order No. 88 of the Senate Standing Orders.

Hon. Speaker, it has become increasingly frequent for Members of this House to come across reports that carry derogatory remarks directed either to the Members of this House or even to the Office of the Speaker for matters being performed within their official functions. In today's dailies, a number of stories have been put, some claiming that you are blocking Reports. However, more specifically, reports appearing on Page 11 of today's *Daily Nation* Newspaper, quote Members of the Senate making derogatory and demeaning remarks not only against the Office of the Speaker of the National Assembly, but also against this House as a whole. Our House, in that story, is equated to a secondary school whereas the Senate is equated to a college. Our Speaker is equated to a head-teacher whereas the Speaker of the Senate is equated to a college principal in a very derogatory manner that openly flies in the face of provisions of Article 107(2) of the Constitution which talks about presiding in Parliament during Joint Sittings where the Constitution recognises you as the Chairman of the Joint Sitting. Article 127(2)(a) of the Constitution gives you the Chairmanship of the Parliamentary Service Commission. Article 146(2)(b) of the Constitution talks about who is to take over supposing a vacancy in the Office of the President and that of the Deputy President, God forbid, arose.

Hon. Speaker, recently, other remarks against this House have been made by our own Members even after you gave Communication last week on a matter where matters before a Committee were discussed and this was in contempt of parliamentary proceedings that had taken place. Coming back to the matter on the *Daily Nation* Newspaper, recently, the House made an issue regarding the Public Audit Bill, 2014 and the Public Procurement and Disposal Bill, 2014 in which this House is being accused of bypassing the Senate even when clear indications have been given that these are Bills that are of county nature. At the back of the Bills, it has been indicated that the Bills are of county nature and that, ultimately, they would be sent to the Senate. There is, therefore, no issue for calling for a joint resolution of the two Speakers under Article 110(3).

If the Bill, at the bottom, says that it concerns counties, then the question that arises for determination by the two Speakers within the reading of Article 110(2) does not arise.

In my opinion, these remarks are setting a very dangerous precedent in our parliamentary bicameral democracy. I had thought all along, Members of the National Assembly and of the Senate have a professional responsibility to respect the principles enshrined in Chapter 6 of the Constitution, Articles 73 (a), 75 (1) (c) and the Standing Order No.87 of the National Assembly which is replicated, word for word, in the Standing Order No.88 of the Senate. The effect of these provisions is to require State organs and officers to nurture a culture of respect and dignity for other State organs and officers as they perform their official functions.

While we will probably live with these remarks, I also seek, in summary, your directions on the following:-

(a) Is it in order for the Members of the Senate to keep referring to the National Assembly and its leadership in a demeaning and derogatory manner notwithstanding the provisions of the Constitution and the Standing Orders?

(b) Whether the provisions of Article 110(3) of the Constitution contemplate the two Speakers in resolving an issue that has not arisen. If the Bill is of a county nature, is it a must that the two of you must sit?

(c) Whether it is right for this House -and hon. Speaker you must guide us in this process - to consider money Bills passed by the Senate in contravention of Article 109(5) of the Constitution some of which are scheduled for debate today, particularly Order Nos.11, 13 and 14. Article 109(5) of the Constitution is very clear. It says that the origin of money Bills is in the National Assembly. Before we go to Order Nos.11, 13 and 14, we want you to give us a direction on whether it is right for this House to consider money Bills passed by the Senate in contravention of Article 109 (5).

(d) Will I be in order to bring a Notice of Motion under our Standing Order No.87 to discuss this matter or whether you can deal with it through a Communication from the Chair?

The matters that I am raising, which have a basis in the Constitution and the Standing Orders, are part of what we agreed as leadership in Mombasa. We agreed that at all times we must protect the dignity and integrity of how we do business. I seek your direction on those issues that I have raised this afternoon.

**Hon. Midiwo:** Thank you, hon. Speaker. Let me contribute a little bit to the issues raised by the Leader of the Majority Party because they are weighty. I can see that he still has a working brain despite the beating that I gave him in Kajiado yesterday.

*(Laughter)*

He looked very miserable. I thank him for being magnanimous to think of the image of our institution. We are dealing with weighty matters in the current times. There seems to be an attempt for us to go to the dungeons. There seems to be a very concerted effort coming from all corners. I watched the Members of the Senate on national television. Having perused through the Bills and seen the automatic requirement that they will be moving horizontally to the Senate, the pronouncements were meant to start an argument, which should not have been there in the first place.

Hon. Speaker, I want to ask you to approach the issues raised with soberness. As I see it, we have walked this path for two years. So far, your Office and your counterpart's Office have managed it well. You need to guide us with a view of consulting your colleague to guide his Members. Insults can be there, but when they are unnecessary, it is not good for either of the Houses. I want to plead with you to do it soberly because we are setting precedent.

The issues raised were about our own Members flouting our Standing Orders and our own utterances in public about issues which are live before Parliamentary Committees or on the Floor of the House. There is too much noise. However, the noise is amongst the accused. There is too much noise particularly in the Public Accounts

Committee (PAC). The noise is amongst the accused Members. When a matter is before this House, even if it did not involve Members of Parliament, the rules are that we cannot comment about it in funerals. However, that is what seems to be happening. There is too much noise about the House Business Committee doing this and the Speaker doing that. You said it this afternoon that this is a House of rules. We cannot expect to audit and checkmate the Executive if we do not understand the rules or refuse to play by the rules.

I do not agree that any issues regarding the investigations by hon. Cheboi should be canvassed out there by the Members of the Public Accounts Committee. The ruling that sent the issue to the Committee was that they be investigated on the issues between them such as the accusations of corruption.

Another one has just erupted, namely, the one on the Committee on Agriculture, Livestock and Co-operatives. It has erupted. This is about Kenyans. What is happening in that Committee is a very interesting thing and should concern you and us. When it is said that Members of this Committee, who are our own Members, shared Kshs60 million not to write a good report, that is when you read on social media that Kenyans wish for us to be bombed. I suggested in Mombasa and in the House Business Committee that this does not concern you, but it is a good time for hon. Duale on the other side and this side to agree to disband Parliamentary Committees for a new reconstitution, especially the ones that keep on giving us a bad name.

In my language, they say there is no smoke where there is no fire - *Onge iro kamaonge mach.*

*(Laughter)*

**Hon. Speaker:** Hon. Midiwo, of course, that is incapable of translation on the HANSARD.

**Hon. Midiwo:** Hon. Speaker, I withdraw the vernacular bit. I was just making it simpler for translators. Nevertheless, I had already qualified it by saying that it is a saying in my language. However, I withdraw the vernacular part. There is smoke where there is fire. Even some Members of the Public Accounts Committee (PAC) are making noise and calling the investigating Committee “a kangaroo court” and yet, it is a standing Committee of this House. It is one of the oldest Committees in any parliament. Do those going live on TV and radio, calling the investigating Committee “a kangaroo court” expect us to stand here and call them thieves? What do they want us to do? What they are doing is besmirching the image of this House. We cannot and we shall not watch our colleagues go down with us.

I say this with all humility and respect to our colleagues. As I have said, this is a good time for both sides of this House to agree to dissolve the Committees that do not know their work. When they want to discuss graft, or how to protect each from the consequences of graft, they send the committee clerks out of the meeting venue. There is no parliamentary committee without a clerk. There is no secret in the work of a committee. I said it and I got a lot of blame from my colleagues. I said that we must be careful about the issue of rent-seeking from people who have power. We have constitutional powers to do the right thing. We cannot allow 20 or 27 out of 29 people to

bring down 349 people. Some of us are here just because of our blameless names. That applies to the majority of the Members of this House.

Hon. Speaker, the first thing we are asking you to do is this: You must set your officers to tell you which hon. Member has been talking negatively about us and about you in the last few days and deal with them in accordance with the Standing Orders. It is not a new thing. Deal with the matter because if you do not, it will be the order of the day. It will be business as usual. Today, the Speaker is hon. Justin Muturi. Tomorrow it will be hon. so and so. It is the Chair. It is not a particular person. When we go to funerals and just talk, and we do not expect guidance from you, something has gone wrong with our environment. It used to be that the Speaker was only challenged by logic. I have been here long enough. The Speaker cannot be that person you talk about without facts. You must talk about the Chair with facts.

Hon. Speaker, it is good; we do not fear you. If I know that there is something wrong, I will stand here on a point of order and tell you that it is wrong. It is up to you to agree with it. When it comes to a situation where you are not defending on Communications you have made on the Chair, those are the property of this House. A Communication made from that Chair by you or by any of your deputies is guidance, on the HANSARD, for the eternity of this House, unless it is changed.

Therefore, I just want to plead with you. For the first time, we are hearing about committee evidence disappearing. You must crack the whip even in the office of parliamentary clerks. It must be done right and it will not be the first time. We want to help and work with you. I plead with you; you have the powers to indulge the House leadership and the party leadership to reconstitute these committees because the noise going out there is not about who is not guilty, but it is how we are corrupt.

Thank you, hon. Speaker.

**Hon. Speaker:** Hon. Members, the issues raised was---

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

**Hon. Speaker:** No! No! No! I can see the direction you want to take. I do not want us to go into discussing what Members discuss out there, particularly at funerals. As you know, it is very difficult to know what people are going to say at funerals. People are never invited for funerals; they attend on their own volition. I do not want us to go into the area of Members talking about issues that are in committees. More particularly, I do not want Members to discuss what is happening before the Committee on Powers and Privileges. It will be unfair to start debating that issue. I have kept off the committee. I do not know who is appearing before that Committee, when or what they are saying. It is not in my interest. I trust the competence of Members of that Committee and the leadership therein.

Therefore, there is no reason as to why anybody, including me, should want to follow the proceedings in order to know what has been said today or what was said yesterday. Let us allow the Committee to do its work. That is the best we can do. It is our own Committee. With regard to some of the issues, since there are certain Reports that are before the House, I would want to advise those who may have issues to raise those issues when debate on those Reports commences in the House, so as to avoid prejudicing what is likely to be said later. Since that is not the debate that is before us, we will again

be breaking our own rules because we will be anticipating the debate that is going to come up.

There is the matter that was raised by the Leader of the Majority Party, if there is a Member who wants to contribute.

Yes, hon. Eseli.

**Hon. (Dr.) Eseli:** Thank you, hon. Speaker. I agree with the sentiments of the Leader of the Majority Party and my Deputy Leader of the Minority Party. However, mine is a bit different. There was an issue the Leader of the Majority Party raised about Money Bills emanating from this House, and not from the other House. When we were debating the Constitution of Kenya, 2010 in the last Parliament – which we were constrained to pass as it was – I said that when we come back to the Eleventh Parliament, one of the tough wars would be about superiority between the two Houses and that scenario is actually transpiring before my own eyes and I am feeling vindicated.

Regarding the issue of Money Bills from either the Senate or the National Assembly, what is listed on the Order Paper are essentially amendments to such Bills by the Senate. As you address yourself to that matter, could you, please, guide us? For instance, there is the County Governments (Amendment) Bill, and the Senate takes care of the county governments. Could you guide us and the public generally, including the Senate in a way, in the sense that if they have an amendment they wish this House to consider and it happens to be a Money Bill, which route they should take. Would they bring a petition like ordinary citizens or which route do they take? I go by the adage that man is not made for the law; the law is made for man. I am sure that for peaceful co-existence, so that we benefit the nation, there must be a way in which these things can be done without raising too much acrimony as it appears to be raising.

Hon. Speaker, as you make your ruling, you can look at that area and see how best to improve the relations between the National Assembly and the Senate, so that we can do something good for this country.

Thank you, hon. Speaker.

**Hon. Speaker:** Yes, hon. David Ochieng!

**Hon. Ochieng:** Thank you so much, hon. Speaker. The issues raised by hon. A.B. Duale and hon. Eseli are very important. Somehow, we must get a way of having an end to the incessant wars between the National Assembly and the Senate. We must get away from that situation. I was looking at two sections, which I thought could assist us in doing so, as you consider what the hon. Member has raised.

In fact, I thought that if you were to make a ruling on this, then it should not be done in this House. You should look at it, think about it deeply with your fellow colleague at the Senate and do not come and give a communication. This is because sometimes you give them and then they contradict them. I thought the issues you raised are very good. Some are administrative and you could discuss them. I would like to be heard.

Hon. Speaker, this requires your attention. Some of the issues raised by hon. Duale are administrative. I think you could sit and discuss them. I was looking at both of you invoking Article 107(2) of the Constitution and Standing Order No. 213. It is time we had a joint sitting between us and the Senate to talk about these issues and resolve them on the Floor of the House.

Secondly, we could create a joint committee of this House and the Senate so that in case such issues arise, we can deal with them at that level. This is the time we need to do that. I have seen your body language in this Session. You look so conciliatory. You have been reaching out so much. You need to continue with this kind of spirit and ensure that these squabbles that are hurting us are discussed and agreed upon. If you have a committee at that level, they can report to both of you. There are issues that can be resolved at that level and then, you can take them up as the Speakers. This is my opinion.

Thank you very much.

**Hon. Speaker:** Let us have hon. Johana Ng'eno.

**Hon. Kipyegon:** Thank you. I also wish to voice the same concerns, which most of the Members here have voiced. First, is the question of the Senate. This Constitution was not written by this House. It was written by Kenyans. The way the Constitution was drafted to empower this House to deal with certain Bills is not our mistake. It is the Constitution itself and, therefore, I do not know why we find it hard to understand the Constitution. When we find it hard to believe what this House does, it is the prerogative of any person to seek interpretation in courts, rather than hurling abuses at this House and demeaning it. We are also elected Members and we would want to be accorded the respect that we deserve.

Secondly, on the matter of discussing issues which are before the committees and this House, it is upon us, as Members of this House, to respect ourselves before we even think of others respecting us. We need to accord ourselves the respect that we deserve. This is a House of honour and dignity. It is upon the Members of this House to ensure that what we also discuss either inside or outside this House does not demean this House. There are issues which we find so hard to understand. For instance, when we were passing the Security Laws (Amendment) Bill, it is obvious that if there is any Bill which will go against the law, courts can interpret and give their ruling like what they have done right now.

However, what we did here before the passage of that law demeaned this House. I wish to seek your direction and ask: How can we hold this House the way it used to be? This idea in all the media houses that Members of this House are rent seekers--- I wish to support the idea that it is high time you rein on chairpersons of several committees. It is not just one committee. There are so many committees which several Members have allegations against. When we are done with the Public Accounts Committee (PAC), you should also ensure that several committees are investigated. We have mentioned the Departmental Committee on Agriculture, Livestock and Co-operatives. We do not know the allegations against it. We also know that there are other committees which have the same situation. I think it is time that you also decided to deal with these matters once and for all. If we are to return to normalcy and have this House have its dignity, it is you who can ensure that. It is you who can rein on the bad characters of most of the chairpersons.

Thank you.

**Hon. Speaker:** Let us have hon. John Mbadi.

**Hon. Ng'ongo:** Thank you. I listened to the Leader of the Majority Party. I do not want to mention anything on a money Bill because last week, we canvassed a lot on that issue. What struck me was the issue that the Leader of the Majority Party brought

forward regarding whether Article 110(3) would require that every time a Bill is being introduced in either House; that both of you sit to agree. I would like to read it. It states:-

“Before either House considers a Bill, the Speakers of the National Assembly and Senate shall jointly resolve any question as to whether it is a Bill concerning counties and, if it is, whether it is a special or an ordinary Bill.”

My understanding of this is that it does not require that both of you will always hold a round table meeting to agree on whether the Bill concerns counties or otherwise or whether it is a special Bill or an ordinary Bill, if it is a Bill that concerns counties. What is required by law is for the two of you to resolve. The way I understand that is that if there is a Bill that is supposed to be introduced in the National Assembly, you can communicate with your counterpart in the Senate and indicate that this is a Bill that concerns counties or it does not and your counterpart would again communicate back to you after consulting the Legal Department of either House. That is very clear. I do not understand why this is a matter that should always be raised in the plenary of the Senate, instead of your counterpart communicating with you. This is because the two of you can work very well. However, sometimes, incitement comes from Members of both Houses. The two of you should communicate. This idea of one of you not communicating with another but using the Floor of either the National Assembly or the Senate to raise matters will not take us far. In the first year, it was understandable because we were just coming in. However, now, going forward, if this issue is still coming up, then it is not reflecting very well in terms of maturity of leadership in this country. We are all in it. We are coming out badly as not being very mature.

People talk of mongrel governments. Kenya has a mongrel legislature. This is something that we need to accept. The kind of Senate that we have in Kenya - and I said it from day one and I want to repeat it - is nowhere in the world. In fact, no one has ever shown me where we have this kind of Senate. That is why we have problems. The people of Kenya must take a decision either to make the Senate Upper House or if it is irrelevant, we do away with it. The assumption of the drafters of the Constitution under Article 110 was that the Senate would deal with only Bills touching on three things:-

1. A Bill in Chapter 12 affecting the finances of county governments which is clear and those Bills are there.
2. A Bill relating to the election of Members of the County Assembly or a County Executive. It is very clear but the problem comes when you talk about a Bill containing provisions affecting the functions and powers of the county governments as set out in the Fourth Schedule.

Those of us in the National Assembly feel that the Senate should be restricted to discussing Bills that affect functions and powers of the counties as set out in the Fourth Schedule, not just general functions and powers of the counties. It must be those functions and powers as set out in the Fourth Schedule.

The problem is that the Senate interprets it differently. They want anything that would affect anything - not even a function or power in the county - so long as you are doing anything in the county. This is something which you will do anyway because Kenya is divided into 47 counties. There is no any other space left for us to do anything in this country. Anything you do will be on a county. That is where the Senate now comes in

and insists that everything has to go to the Senate. To cure that, the people of Kenya will not escape this. I know hon. Duale does not want to listen to this.

The people of Kenya should come up with a constitutional amendment to make the Senate an upper house that I would want to go to. I cannot be in the National Assembly forever. I would want to go to the Senate, but I would want to go to a real upper house and not a fake upper house.

*(Laughter)*

An upper house that would make people believe that it is a college and the other house is a secondary school. By the way, I do not want to be referred to as a person in college because it is long since I left college. I do not want to go there easily, in fact, right now, if I have to go to a college. I want to do it through correspondence. That is why I have not done my PhD. Going back to college, to me, is an insult. I am now a *mzee*. In fact, my children are going to college. How do you want me to go there again? So, Kenyans must decide.

Finally, on the Senate and the National Assembly, we are tired of the war. Hon. Speaker, communicate with your colleague in the Senate. If there is a Bill that is being introduced here, communicate the two of you and determine whether it is a Bill concerning counties or not, so that this country can move forward. But there is something that I wanted to mention generally with regard to behaviour of committees in this House. You know, I sit in the Public Accounts Committee (PAC). When these issues and complaints about allegations on bribery came up, actually, I was the first one to say that this committee must be dissolved. At that time, I was misunderstood. When I was calling for the dissolution of PAC, I was not targeting an individual. In fact, I did not have the Chairman in my mind because no one brought any substantive evidence. I do not want to discuss that - I do not know whether it has been taken to the Powers and Privileges Committee - but what I meant is that Committees of Parliament are supposed to play oversight role. The moment allegations - serious ones like taking bribes - are levelled against a committee, the best thing to do is to have that committee dissolved, disbanded and reconstituted.

Hon. Speaker, we cannot pretend. I see Members of the Departmental Committee on Agriculture, Livestock and Co-operatives wasting time trying to defend themselves. You will not defend yourself. Some of your Members have already accused you of taking money. They have even mentioned an amount of Kshs60 million. Why can they not say: "Mbadi has taken", if it is just rumours? So, if some Members of your Committee have spoken, the best thing to do is to dissolve the committees that have been adversely mentioned. Let the Coalition for Reform and Democracy (CORD) and Jubilee Alliance withdraw its Members from the Departmental Committee on Agriculture, Livestock and Co-operatives. Let us reconstitute these committees to bring back the good image of this Parliament. As we speak, no matter what; whether we pretend, sing, try to sanitize and so on, no one will take us seriously. These committees - and I want to count them - PAC will go whether we like it or not---

**Hon. Speaker:** Hon. John Mbadi, it is like you have completely ignored what I said. Now you are debating the things that I have said you should not. You are even



suggesting what should happen. That is wrong. Why do you not leave that to the committee that we referred the matter to? If you make suggestions as to what should happen, you will be seen to be influencing their decision.

**Hon. Ng'ongo:** No, I am not. In fact, that committee should do a good job professionally. What I believe is that the damage, once caused, can no longer be repaired. The Departmental Committee on Agriculture, Livestock and Co-operatives has no option, it will go! With regard to the Departmental Committee on Lands, my friend must go because the Karen land saga has not been resolved.

**Hon. Speaker:** Hon. John Mbadi, again, if you want to make those kinds of allegations, you obviously will be out of order. If you have allegations of that magnitude, you know the Standing Orders. Bring a substantive Motion and the House will express itself. It is not right that we accuse others of doing certain things and then, when we get an opportunity to address it, we again go back to the same. We will be exercising double-standards.

Hon. Members, the issue raised by the Leader of the Majority Party - which I may need to address - may be administrative because it may involve the application of what has been suggested by hon. Ochieng, although he has since taken his leave. A while ago, I indicated that Members ask questions before committees and even before responses have been given, they disappear. Is hon. Ochieng here?

*(Hon. Ochieng walked into the Chamber)*

Hon. Ochieng raised the issue of Article 107. The matter of Article 109 (5), which as you know, is very clear that Money Bills may only originate in the National Assembly and it is a point that hon. David Eseli has also addressed. It states that money Bills may only originate in the National Assembly. If they may originate at all, they may only originate in the National Assembly. Those are some of the issues that have been raised. Hon. Members, we need to read Article 110(3) carefully. It does not say, "Before a Bill is introduced." I have heard some of you use that word. It is before a Bill is considered. If you have been reading your Constitution consistently, you would be familiar with the language used. Before a Bill is considered in either House, the two Speakers shall resolve the question as to whether or not the Bill is one that affects counties or not and whether it is an Ordinary Bill or a Special Bill. That is the requirement in that Article 110(3).

The point raised by the Leader of the Majority Party is where a Bill in the Memorandum of Objects and Reasons, clearly states that this is a Bill that affects counties. I think that is the issue that the Senate seems to have problems with. The Bill itself says that it is a Bill that affects counties. Is there any question to be considered or resolved? But for whatever worth it may be, towards the end of the year, and after several consultations, we had taken the position that we will be consulting. We do not have to waste time writing letters to one another; we just need to sit and agree. There is no law that is for any particular individual. The laws will be styled "An Act of Parliament of the Republic of Kenya." So, what, perhaps, did not happen - and I may take the liberty to say it here - is that there was either ambush or there was no sufficient time given for the Speaker to even look at the Bill. The Bill was very clear that it is a Bill affecting counties. It is on audit while the other one is on procurement and asset disposal. Those are matters

that happen both at the national level and at the county level. Before I come with any form of communication, more importantly, in order to continue with the spirit of consultation--- Unless the two Houses agree to go beyond the provisions of Article 112 and Article 113, which are on mediation - and that is contemplated at the tail-end - when the Houses have passed Bills, in which there is a disagreement, then you form a mediation committee. The two Houses could be attracted to the logic in the argument by hon. David Ochieng.

If the Houses can resolve to create a mechanism similar to the one of mediation in Articles 112 and 113, obviously it becomes difficult to see how, before the publication of a Bill or after a Bill has been published, we may not in the process be stifling the initiatives of Members. Members can easily find their legislative proposals completely lost in that form of consultations. Even before I make a ruling, which I promise to do, I will have to consult with the leadership of the Senate so that we can understand what could be the problem. This is merely a simple matter of misunderstanding what the National Assembly has been doing with regard to those two Bills. There was no intention at all to overlook the Senate.

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

**Hon. Speaker:** Hon. Washiali, I doubt that you are likely to add anything to this particular one. Are you supposing you want to address us on Articles 109, 107(2) and 110(3) on matters of integrity?

**Hon. Washiali:** Yes.

**Hon. Speaker:** We have already done that.

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

**Hon. Speaker:** There is nothing out of order. It is not possible. Do not react. I do not want Members to react. Every small thing that has been said here and there is not necessarily a matter that you need to respond to.

Hon. Washiali, what is your point of order? It better be a point of order.

**Hon. Washiali:** Thank you, hon. Speaker. I have been insisting to speak because my name has been mentioned adversely in the sense that it is the source of the Kshs60 million that was given to the Departmental Committee on Agriculture, Livestock and Cooperatives.

**Hon. Speaker:** Who has mentioned your name adversely?

**Hon. Washiali:** Hon. Speaker, I wanted to clear---

**Hon. Speaker:** Who has mentioned you adversely?

**Hon. Washiali:** The media, hon. Speaker.

**Hon. Speaker:** No, hon. Washiali. If you want to clear your name, you go by way of a Personal Statement. That is not here.

**Hon. Washiali:** Hon. Speaker, this is a matter that is---

**Hon. Speaker:** Do not take advantage. I cannot allow you to make a Personal Statement through the wrong route. Look at Standing Order No.33, please.

**Hon. (Eng.) Gumbo:** Hon. Speaker, I wish to thank you for giving me the opportunity to pronounce myself on the matters that have been canvassed by my colleagues. It is true that the Constitution gives the National Assembly more work than the Senate. That is a fact. However, that being the case, it is no reason for us to assume---

**Hon. Speaker:** Hon. Gumbo, just one second.

Hon. Members, I wish to recognise the following institutions seated in the Speaker's Gallery:-

1. Students from Mang'u High School in Kiambu County;
2. Students from Kithirune Girls' Secondary School in Meru County; and
3. Students from Kiriti Girls' Secondary School in Murang'a County.

Welcome to Parliament.

*(Applause)*

Proceed, hon. Gumbo.

**Hon. (Eng.) Gumbo:** Thank you, hon. Speaker. The construct of the Constitution is not in doubt that this House is allocated more duties than the Senate. However, that is no reason for the Senate not to feel good about it. What we have seen are these endless turf wars. We must find a way to try to exchange goodwill between the two Houses so that we can move forward. This matter has been with us for too long.

The other matter that I am concerned about, for those of us who have been keen and have been watching the media, is a debate which is currently going on in one of the FM radio stations and it is simply called "House of Thieves". That is largely in reference to this House and to the institution of Parliament. I do not think that is a good way to look at us. There are a number of us who are doing a lot of good work. However, this work is going unnoticed.

I remember, for instance, when the issue of the Constituencies Development Fund (CDF) came up, hon. Kabando wa Kabando and myself were comparing notes at 1a.m. This is not something that we were doing for ourselves. In fact, the Press conference that we had here with Members on Monday, those of us who were keen, we sent the messages past midnight. Neither hon. Kabando wa Kabando nor myself is a head of a committee. I have also sat in this House up to well past midnight when we are passing some very important Bills. So, as we debate this matter---

I am lucky to have been the inaugural Chairman of the House Broadcasting Committee. One of the things we discussed is that sometimes as an institution we also need to tell Kenyans some of the good things that are happening in this House. As they say where I come from, "Sometimes it takes only one maggot to spoil a whole tonne of meat." So, a majority of Members in this House are doing a good job but, unfortunately, where we are at the moment that is not being seen. It is incumbent upon us as the institution of Parliament, irrespective of the position that the Senate holds or the position that we hold, that we find a way to redeem this institution. The truth of the matter is that the respect that Parliament has had in this country is slowly dying. I do not think it is good for us. This is an important institution of governance in our country. It is upon us who find ourselves in this moment in time--- Whether we like it or not, it is a crisis. A lot of the committees have been mentioned.

What I do not agree with is the view being advanced by hon. Mbadi that any committee which is adversely mentioned should be disbanded. We must have systems that can handle some of these matters internally before they even get out. I have been agonising and I have looked at some hon. Members who have had the privilege to serve in this House for three or four terms. These are honourable senior citizens of this country.

Maybe a time has come that, even at an informal level, we need to have a council of elders of this House which can sit and canvass these matters so that we do not find ourselves in the situation that we are in now. The truth is that there are a lot of Members--

I have had occasion, for example, when I was proposing an amendment to one of the Bills, to discuss with a colleague well past midnight. He was similarly working on the Bill. As you know, the research support that we have here is not to the extent that we would want it to be. So, I want to look at this as an opportunity for us to relook at ourselves as a House and see what we can do to redeem the image of Parliament. It is important that we redeem the image of Parliament so that the very many good things that Parliament is doing can start to come out as opposed to the few bad things that are coming out that everyone now seems to be talking about.

I thank you, hon. Speaker.

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

**Hon. Speaker:** Hon. Bare Shill, there is no debate. I expected you to appreciate that hon. Gumbo was also on a point of order.

**Hon. Shill:** Hon. Speaker, I stand on a point of order. I just wanted your guidance because many Members have mentioned that committees should be disbanded. I was perusing the Standing Orders for the provisions - other than the ones on the Powers and Privileges Committee - that say that a committee can be dissolved. I seek your guidance on that. Maybe there are some sections that I did not see. I did not find any section where it is provided that committees can just be disbanded that way.

**Hon. Speaker:** Thank you, hon. Shill. The matter, which is before us is not new in other parts of the world. But, it is new to us. In some of the oldest democracies, for example, the UK Parliament, these are matters that have been under consideration since the year 1868. If you care to read what has happened in their deliberations, you would see that we have to deal with the matter ourselves. Contrary to perceptions held by other people we, as Parliament, must deal with whatever bedevils us, unfortunately. There are a lot of treatises available, which people can look at.

As I had indicated, let me respond to the issues raised without necessarily prejudicing what is likely to happen. I want to assure the House that there will be consultation. I did give an undertaking that I intend to continue with those consultations with the leadership of the Senate. We are one Parliament. It is fair for the Members particularly, and the Leader of the Majority Party raised this, that if you need to discuss the personal conduct of the President, the Speakers of both Houses of Parliament, Standing Order No.87 requires you to give a three days notice. In the Senate, the same is provided under their Standing Order No.88.

We do not want to encourage a situation whereby when one wrong happens in one House, the other House does the same. We should be more magnanimous given that we have been in existence longer than the Senate. Just because something wrong has happened on the other side, we should not begin bombarding or calling Members of the other House names without following the laid down procedures. It is only fair that, like we do here - I have not heard Members discuss anything to do with the leadership, namely the Speakers and the others. That is why it is necessary for us to consult and advise the Members that if they want, like some have been said to have threatened, they

do so in a proper way. Just follow Standing Order No.88 for the Senate and Standing Order No.87 for the National Assembly. Rules should be followed. Even as we relate to one another here, let us observe some form of respect, honour and decorum. If we do not respect one another, others will not respect us as well.

I would want this to end there, so that we can move to business. That was raised for purposes of perhaps bringing to our attention the need for us to consult much more intensely between the leadership of both Houses of Parliament.

I know hon. John Olago Aluoch, you have been out of the country for some time. Do you want to give us your advice? We will listen to your wise counsel.

**Hon. Aluoch:** Thank you, hon. Speaker. Let me assure the Chair and my colleagues that I am on my way to healing and now I can work.

The issues that have been raised, indeed, by the Leader of the Majority Party and supported ably by hon. Jakoyo, are grave. I listened to my colleagues on the Floor and I noticed that many of us are losing sight of the fact that the issue that we are supposed to be dealing with is whether or not we have the skills to negotiate where there is friction. That is the fundamental fact that we should be addressing.

When the Senate calls this House school boys and school girls, when we call the Senate a mongrel, we make matters worse. I was taught over three decades ago that when institutions differ, the best way to resolve the differences is to speak to each other directly and not through the media. Many times we speak to the Senate through the media and from the Floor of this House. The fact is that if the Senate is concerned about seniority, quite apart from the volume of work that we generate, which hon. Gumbo has ably explained, two other points that make it clear that this House is superior are in the Constitution.

Parliament is both the Senate and the National Assembly. It is one Parliament, two Houses. The Chairman of the body that governs Parliament is the Speaker of the National Assembly. He is the Chair of the Parliamentary Service Commission. That gives you, hon. Speaker, an edge over your colleague in the Senate.

Two, if you look at the Constitution, Article 106, when the two Houses meet together, the person to chair the sitting is the Speaker of the National Assembly and not the Senate. So, the issue of seniority should not even arise. It is clear in the Constitution that this is the superior House. But that does not mean that we are going to treat the Senate in a derogatory manner. They are our brothers and sisters.

In my humble view, the issue that the Leader of the Majority Party has brought to the Floor of the House is one where he should have talked to his colleague in the Senate, so that when issues arise in this House touching on the Senate or vice-versa, they are discussed behind closed doors; not on the Floor of the House and not in the media. I listened to your last remarks and that of hon. Ochieng and my view is that if we are going to run smoothly and if the two Houses are going to have the respect of this country and each other, then you and your colleague in the Senate must have a way of communicating with each other once in a while. When the leadership of the two Houses meet, like we did in Mombasa about a week or so ago, they must have a chance to meet on their own, so that Members are then guided on what they should say on the Floor and to the media.

If a Member of the Senate sets out to belittle the Members of this House, he belittles himself or herself as well. The same applies to us. So, we should not say that if I

stand here to belittle the Senate, then I am going to come out superior. No, I will go down with them. We either go together ahead or we fall down and drown together.

Hon. Speaker, I urge you, with all humility, that as you consider this matter, which is very grave, consult with your colleague in the Senate and come up with measures that will help us to restrain ourselves from uttering muck issues on the Floor of this House or in the Senate, which may help in making these distractions even worse. If we are to reconcile, then we must have skills in reconciliation. I have been toying with an idea since the Eleventh Parliament started, that if we were to consider rules about the qualifications of Members of either House, one of them should be that before you stand for election, you must demonstrate an ability to reconcile; an ability at dispute resolution first, so that if you cannot reconcile a dispute, you have no business being in this House.

Thank you, hon. Speaker.

**Hon. Speaker:** Very well. That is why I thought it was fair to listen to those words by hon. John Olago Aluoch. The language of Article 110(3) does not contemplate a situation whereby that consultation becomes a matter of a plenary debate. This is why your suggestion about consultation, which I had alluded to, is important.

As Houses of Parliament, we are one, as you rightly say. Article 93 establishes the Parliament of Kenya, which shall consist of the National Assembly and the Senate. So, we are really conjoined. What anybody feels about their House is immaterial. That is what Kenyans adopted when the Constitution was promulgated on 27<sup>th</sup> August, 2010. We get encouraged by statements such as the one hon. Aluoch has just made.

Hon. Members, before we go to the next Order, let me take this opportunity to announce that Members who desire to propose amendments to the Public Audit Bill, 2014 either as Members or as Committees must do so and submit them to the Clerk not later than 10.00 am tomorrow. We concluded debate on that Bill more than two weeks ago. Surely, I am surprised. I am told there is a Committee that is considering bringing amendments. We cannot excuse you for going beyond tomorrow. If you do not have amendments, we will deal with the Bill in the Committee of the whole House on Thursday afternoon. Indeed, even amendments to the Public Procurement and Asset Disposal Bill, 2014 should be submitted to the Clerk's Office latest by midday tomorrow. If you remember my earlier communication, this is one of the core jobs of Committees. So, do not tell me that you have not considered Bills because you were chasing something which was found in something called political gossip. Deal with legislation first. As we have said, let us deal with legislation and more importantly those two Bills which we have said we need to transmit to the Senate for their consideration as well. Remember the deadline is 27<sup>th</sup> May, 2015.

Therefore, hon. Members, I hope this does not take anybody by surprise. I am sure that those of you who have been keen to read and prepare are ready with your amendments. You can submit them tomorrow. If for one reason or the other a Member, but not the Committee, feels that they may require an extra two hours, you should approach the Speaker's Office. Otherwise, we want to prioritise business so that, if possible, by the end of this week we transmit the Bills to the Senate.

Next Order!

## MOTION

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## APPROVAL OF THE BUDGET POLICY STATEMENT, 2015

THAT, pursuant to the provisions of Section 25(7) of the Public Finance Management Act and Standing Order 232, this House adopts the Report of the Budget and Appropriations Committee on the Budget Policy Statement 2015, laid on the Table of the House on Wednesday, 4<sup>th</sup> March, 2015, subject to –

(a) deletion of Part VIII on page 29 of the Report (Financing Measures) and substituting thereof with a new Part VIII (Recommendations and Financing Measures *herein attached*);

(b) insertion of the following new Part IX immediately after the new PART VIII

The Committee, having reviewed the Senate's Resolution on Budget Policy Statement, 2015, further recommends that, in the finalization of the Estimates for 2015/2016 financial year, the National Treasury also takes into account the Senate's Resolution on the Budget Policy Statement, 2015 as contained in the THIRD SCHEDULE herein attached;

(c) insertion of the THIRD SCHEDULE in the Report, immediately after the SECOND SCHEDULE. (*proposed new Third Schedule is herein attached*); and

(i) deletion of all the words immediately after the word "ceiling" under item VI appearing on page 28 of the Report and substituting thereof with the words "be scaled down to Kshs219.4 million.

(ii) amendment to the First Schedule to the Report by deleting the figures "Kshs476 million" appearing under Vote 208 (Salary and Remuneration Commission) and substituting thereof with figures "Kshs219.4 million"

*(Hon. Musyimi on 10.3.2015)*

*(Resumption of Debate interrupted on 12.3.2015)*

**Hon. Speaker:** Hon. Members, I need to make this announcement before hon. (Prof.) Nyikal commences. We must aim to conclude this Motion because it has a bearing on the preparation of the Division of Revenue Bill. It is fair that we conclude this debate as soon as possible. I am happy that several of you have contributed.

Proceed, hon. (Prof.) Nyikal.

**Hon. (Prof.) Nyikal:** Thank you, hon. Speaker, for giving me the opportunity to contribute to this debate.

Hon. Speaker, the new Constitution gives this House the power of budget-making and not just passing Budgets as before. In a way, the Constitution also gives this House, particularly the Budget and Appropriations Committee, the power of the purse. This is a double-edged privilege that we have to look at very carefully. However, I must congratulate the Budget and Appropriations Committee – where I belong – for the hard work they did last week, culminating in getting an amicable way of resolving the issue of public hearings.

Hon. Speaker, I do not want to repeat what has been said but I have three issues that I want to raise. One is the realisation of the Committee and this House that we need to put more money in the institutions of governance that deal with corruption; namely, the Ethics and Anti-Corruption Commission, the Office of the Auditor-General, the Judiciary and even the National Police Service. This is extremely important because this menace has dug deep into the social fabric of this country. Corruption is actually bleeding this country dry. It is admirable for the House to recognise this and put more money. However, may I also say one thing; I do not think that only investigations, arrests, imprisonments and the courts will completely eradicate corruption in this country or seriously reduce the menace. As Members of Parliament, having put more money into those institutions, we have a bigger responsibility to this country. Corruption has become an issue that has been integrated into this country to the extent that people no longer have any concerns about it. The only thing that worries people is that they should not be caught in matters of corruption. Very few of us actually believe deeply inside intrinsically in our conscience that corruption is a bad thing. I remember recently seeing a *matatu* with inscription “It is only corruption if you are caught”. That is a sad state of affairs for this country. Therefore, the Members of this House have a responsibility to start a social revolution that will get rid of corruption or significantly reduce it. Going by what we are reading in the Press, and what we are saying about ourselves, we need to look at each other in the face. We need to look ourselves in the mirror, search deeply in our hearts and commit ourselves to fighting corruption in this country. That is the only way we will get rid of this menace. Giving money is good but we must give complete political goodwill. We must change this country and lead the lobbying that is required to make corruption not only illegal but actually a sin.

The second thing I want to say about this Budget is that I appreciate the monies that have been put in social safety nets. It is indeed an obligation of any civilised society with good governance to look after the needy. However, may I say that many of us think that this is a hand-out for those who are in need? I would like to bring to the attention of hon. Members that actually the money we give to needy people like the orphans, the elderly and people with disabilities is actually a social stimulus. The Brazilian example has shown that for every dollar that is put in social safety nets, the country will get back 80 cents by way of economic stimulus.

Hon. Speaker, in Brazil during the Government of former President Lula, 15 million people were removed from the poverty bracket by those programmes. So, we should appropriately put the money there and we should not look at it as a handout but a socio-economic stimulus. In fact, in the areas where this money is distributed, the effect on the local economy is very significant.

I do realise that the structures we have in place are not adequate and they at times bring issues of equity but I am aware that there is a policy that is coming to this House as a Sessional Paper. We must take advantage of it to correct and improve the structures that we have particularly for old people where I would recommend that we increase the age and cover everybody beyond that age limit. That will take us a long way.

The Uwezo Fund where we have also put more money is an important adjunct to these social safety nets because it makes both the youth and the women able to indulge in economic activity and, therefore, support themselves. However, as it is now, the structure



of Uwezo Fund, particularly for repayment, is not adequate and unless we put those structures in place, the money we have put in Uwezo Fund may be lost. So I urge the Executive to move with speed now that the money has gone out to put structures so that we get the money back and make it a truly a revolving fund.

I am also happy that we are looking at health and we have put more money into it. I know we have the equipment leasing--- However, I want to sound a warning as a professional that this is a good idea but I am not totally convinced that the preparations that are required in terms of infrastructure, personnel and the legal arrangement with the counties is such that we will get the benefit that should accrue from this. But I believe the Executive is looking into this so that we do not spend so much money in this without getting the benefits. We have had situations in this country where large sums of money have been spent in buying equipment which have stayed idle in stores. We should not do that and go in this direction. I am also concerned that since this is leasing, what will happen at the end of the leasing period? Again, I presume that that will be looked at. Devolution has also rendered the health sector a bit ineffective and I know that the health sector is devolved but I do not see why we cannot put structures in place that will make it work even in the devolved status.

I am also happy that we have put some money in the Economic Stimulus Programme (ESP) particularly in the *Jua Kali* sector and the Centres of Excellence but there are very many other ESPs, particularly in the health sector, that we need to look at.

With those remarks, hon. Speaker I beg to support the Bill.

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

**Hon. Speaker:** Hon. Washiali, what is your point of order?

**Hon. Washiali:** As a Whip, I am getting disturbed because quite a number of our colleagues have contributed on this Bill and my fear is that we may be left with a quorum that may not be enough to pass this important Bill. Listening to hon. (Prof.) Nyikal and having been in this House the whole of last week, I have been listening and most of what I am hearing now is just the repetition of what we discussed last week.

Hon. Speaker, could I call upon the Mover to reply, under Standing Order No.95? We are repeating ourselves.

**Hon. Speaker:** Yes. Do I get the sense that is so?

**Hon. Members:** Yes.

**Hon. Speaker:** Under Standing Order No.95, hon. Washiali is right and I see the sense.

*(Question, that the Mover be now called upon to reply,  
put and agreed to)*

**Hon. Musyimi:** Hon. Speaker, I wish to donate my two minutes to my good friend the hon. Member for---

**Hon. Speaker:** But, you see this is for the Mover to reply. Somebody who is not the Mover cannot step in because he does not know what to reply to.

**Hon. Musyimi:** I stand guided, hon. Speaker and I beg your pardon.

I wish to take this opportunity to thank all hon. Members for their very generous, incisive and extremely helpful contribution to the debate and the issues that we have been

deliberating upon. Budgetary matters are never easy. Much of Government is about money and that is what we have taken the last one month, no less, discussing. It has been a long process. The consultations have been full. We have met with the Treasury, as I said, seven times, no less; I could say more. We have also met as a Committee many times including this morning. We meet almost daily.

We have also had very fruitful consultations at plenary these last couple of days especially with respect to the matter of public hearings and we have enjoyed having the benefit of the input that has come from our colleagues on that matter. The question still remains as to how we are going to proceed with public hearings without the capacity to support projects but that is a discussion for another day.

We have enjoyed the openness and the manner in which we have debated these issues, of course, happening in the context of the wider issues that are being raised of corruption and the integrity of this House, which are not small matters.

So, hon. Speaker, I want to thank hon. Members, the National Treasury and my Budget and Appropriations Committee, in particular. I want to thank you and the Parliamentary Budget Office for all the work they have done to facilitate the debate on the Budget Policy Statement (BPS).

Hon. Speaker, with your kind permission I beg to reply.

**Hon. Speaker:** Hon. Members, do we have the numbers? Can we see whether we can deal with this business? Tell me.

**An hon. Member:** We have the numbers.

**Hon. Kang'ata:** On a point of order.

**Hon. Speaker:** Now, who is that? This hon. Member for Kiharu, you are not in Kiharu here!

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

*Resolved accordingly:*

THAT, pursuant to the provisions of Section 25(7) of the Public Finance Management Act and Standing Order 232, this House adopts the Report of the Budget and Appropriations Committee on the Budget Policy Statement 2015, laid on the Table of the House on Wednesday, 4<sup>th</sup> March, 2015, subject to –

(a) deletion of Part VIII on page 29 of the Report (Financing Measures) and substituting thereof with a new Part VIII (Recommendations and Financing Measures *herein attached*);

(b) insertion of the following new Part IX immediately after the new PART VIII

The Committee, having reviewed the Senate's Resolution on Budget Policy Statement, 2015, further recommends that, in the finalization of the Estimates for 2015/2016 financial year, the National Treasury also takes into account the Senate's Resolution on the Budget Policy Statement, 2015 as contained in the THIRD SCHEDULE *herein attached*;

(c) insertion of the THIRD SCHEDULE in the Report, immediately after the SECOND SCHEDULE. (*proposed new Third Schedule is herein attached*); and

(i) deletion of all the words immediately after the word “ceiling” under item VI appearing on page 28 of the Report and substituting thereof with the words “be scaled down to Kshs219.4 million.

(ii) amendment to the First Schedule to the Report by deleting the figures “Kshs476 million” appearing under Vote 208 (Salary and Remuneration Commission) and substituting thereof with figures “Kshs219.4 million”

### COMMITTEE OF THE WHOLE HOUSE

*(Order for the Committee read)*

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

#### IN THE COMMITTEE

*[The Temporary Deputy Chairman  
(Hon. Kajwang') took the Chair]*

#### THE PROTECTION AGAINST DOMESTIC VIOLENCE BILL

*(Resumption of consideration interrupted  
in Committee on 3.3.2015)*

**The Temporary Deputy Chairman** (Hon. Kajwang'): Hon. Members, this is the Committee of the whole House convened to consider the Protection Against Domestic Violence Bill (National Assembly Bill No. 28 of 2013) beginning from Clause 9.  
*Clause 9*

**Hon. Chepkong'a:** Thank you, hon. Temporary Deputy Chairman. One piece of information, for the purpose of this Committee meeting, is that the Commission for the Implementation of the Constitution (CIC) has determined that this Bill is one of those constitutional Bills which must be passed before 27<sup>th</sup> August, 2015. If we do not pass this Bill, it means that we will have some problem. So, it is important that hon. Members pay attention particularly to the amendments so that it is not rejected.

Hon. Temporary Deputy Chairman, I beg to move:-

THAT, clause 9 of the Bill be amended—

(a) by deleting subclause (1) and replacing with a new subclause (1) as follows—

“(1) Any person who reasonably suspects that an offence of domestic violence is being or has been committed may give such information to the police officers or any other person in authority”;

(b) in subclause (2) by deleting the words “by virtue of such reporting attacks, intimidates or does any harmful act to the person providing information” appearing immediately after the words “person who” and substituting therefor the words “attacks, intimidates or harms a person who reports domestic violence”;

(c) by deleting subclause (3);

(d) by deleting subclause (4);

(e) by deleting subclause (7);

We are seeking just to clean up that Clause so that it can be in consonance with the old Bill. Secondly, we are also seeking to clean up Clause 9(b) and seeking the deletion of sub-clause 3 as it is redundant.

Thank you.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Kajwang’): The Chairman is proposing deletions in sub-clause 1 and 2. The words are in the Order Paper and deletions of sub-clauses 3, 4 and 7.

Hon. Member for Kibra, what are you saying?

**Hon. Okoth:** I just want to contribute.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Yes. You are on microphone. A little bit louder.

**Hon. Okoth:** Thank you, hon. Temporary Deputy Chairman. I am blessed with height and this microphone is short. In Clause 9, I will agree with hon. Chepkong’a about the cleaning up of the first Clause and making it tidier. However, I have a problem with the deletion of sub-clause 3. Sub-clause 3 as I understood it is basically a whistle-blower mechanism and protection. To take that out diminishes what was to be achieved by giving people the ability to feel comfortable that they can reveal suspected cases of domestic abuse and that if they are in possession of information, they would not be harmed. I would love that sub-clause 3 to remain as it is.

**The Temporary Deputy Chairman** (Hon. Kajwang’): I will take a few responses. Hon. Member for Thika Town.

**Hon. (Ms.) A .W. Ng’ang’a:** Hon. Temporary Deputy Chairman, I would also say that sub-clause 3 be retained. This is because if we delete it, disciplinary action might be taken against that person and people will decide not to give information. When you have information you will stay with it and fail to disclose. So, I would say that we maintain it.

**Hon. Waiganjo:** Hon. Temporary Deputy Chairman, in my view, for most part, I agree with the Chairman on the amendments. In sub-clause 1, there is something called “reasonable suspicion.” When he substitutes that, it gives us a balance in law to say “reasonable suspicion” as against “has reason to believe.”

In “c”, deletion of religious leaders: It is very difficult nowadays to know who a religious leader is. Until we define “religious leaders,” we cannot risk putting it here. In sub-clause 3, by inserting “to be concealed” in itself, it does not entirely dilute the substance of that Clause. I support the Chairman’s amendment in that respect.

**Hon. (Prof.) Nyikal:** Thank you, hon. Temporary Deputy Chairman. I also agree with the first part of these amendments “a” and “b” but as regards “c” “d” and “e” I do not. The whole issue about this Bill is protecting people who are suffering under domestic violence. For a long time, domestic violence has been considered as an internal or a family thing. Therefore, people may know and neighbours may know that something is going wrong; children suffer, women suffer and other people suffer but nobody does anything. If you remove that, then you are removing the impetus for those who have

information to give it and protect and save people who are suffering. So I oppose the others except “a” and “b”.

**The Temporary Deputy Chairman** (Hon. Kajwang’): All right. The relevant Chairman, can you explain this issue so that we do not take long on it? Can you explain so that hon. Members understand where you are coming from?

**Hon. Chepkong’a**: Thank you, hon. Temporary Deputy Chairman. When the Committee discussed this Clause 9(3), the feeling was that once we had cleaned up sub-clauses 1 and 2, sub-clause 3 was well taken care of. In fact, I am just discussing with hon. Kang’ata here who is a Member of the Committee and we are of the view that we can retain sub-clause 3 so that we do not have issues. We will also have to retain sub-clause 4. If we retain sub-clause 3, we must retain sub-clause 4.

**The Temporary Deputy Chairman** (Hon. Kajwang’): How about sub-clause 7?

**Hon. Chepkong’a**: Sub clause 7 would be deleted. It does not make sense at all because the determination is by quote. It is not a determination which can be made in law.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Can you pronounce yourself on HANSARD?

**Hon. Chepkong’a**: I propose that Clause 9 of the Bill be amended-

(a) by deleting subclause (1) and replacing with a new subclause (1) as follows—

“(1) Any person who reasonably suspects that an offence of domestic violence is being or has been committed may give such information to the police officers or any other person in authority”;

(b) in subclause (2) by deleting the words “by virtue of such reporting attacks, intimidates or does any harmful act to the person providing information” appearing immediately after the words “person who” and substituting therefor the words “attacks, intimidates or harms a person who reports domestic violence”;

We retain sub-clauses 3 and 4.

**The Temporary Deputy Chairman** (Hon. Kajwang’): The neater way to do it is to pronounce yourself as withdrawing your proposed amendments on paragraph (c) and (d).

**Hon. Chepkong’a**: Thank you, hon. Temporary Deputy Chairman. That is a better way. I therefore withdraw the amendments to sub-clause 3 and 4 but retain amendment to the deletion in sub-clause 7.

*(Proposed amendments by hon. Chepkong’a withdrawn)*

**The Temporary Deputy Chairman** (Hon. Kajwang’): Now we are very clear. We are going to consider paragraphs (a) and (b). I will put different Questions on sub-clause 1 and 2 so that I am clear about this.

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

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

*(Clause 9 as amended agreed to)*

If you do not pay attention, you can lose a very beautiful legislation just by being there. You know that my role is not to tell you to vote but to put the Question and expect you to vote whichever way you want. So, I need you to pay attention as we move along.

*Clause 10*

**Hon. Chepkong'a:** Thank you, hon. Temporary Deputy Chairman. I beg to move:-

THAT, clause 10 of the Bill be amended—

(a) by deleting subclause (1) and replacing with a new subclause (1) as follows—

“(1) A person who is in a domestic relationship with another person may apply to Court for a protection order in respect of that other person.”;

(b) in subclause (2), by deleting the word “shall” appearing immediately after the word

“application” and substituting therefor the word “may”;

(c) in subclause (3) by deleting the word “shall” appearing immediately after the word

“application” and substituting therefor the word “may”;

The reason is that we are seeking to clean up Clause 10(1). Secondly, in legislation, you do not make it mandatory for one to make an application. It is left to the person. He is given discretion to apply or not and so the correct word is “may”. Similarly in subclause 3, we are replacing the word “may” with the word “shall”.

That is all hon. Temporary Deputy Chairman. I thank you.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Kajwang'): Member for Rarieda, are you in the Chamber? Okay, Member for Rarieda has joined the veterans who keep their cards hoping that they will be called next to contribute. Member for Ndhiwa.

**Hon. Oyugi:** Thank you, hon. Temporary Deputy Chairman. I would like to support the amendments made by the Chairman of the Committee. What he is seeking to do in this particular amendment is to tidy the Bill. I like the substitution of the word “may” with the word “shall” which then makes the Bill proper and enlarges the purview--

**The Temporary Deputy Chairman** (Hon. Kajwang'): Sorry, what are you saying?

Okay, you are agreeing with the amendments.

**Hon. Oyugi:** I am in agreement with this particular amendment because it then expands the purview in terms of the rights of the person who is eligible for the protection order.

The second thing is that the Chairman of the Committee is right in making these particular amendments in Clause 10(a). It is tedious but you remember the reason why

this particular amendment was being made is because we had tried to narrow down the persons who are supposed to be in a domestic relationship. We grant him this and we let him make this particular amendment. I support. Thank you.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Member for Kibra, do you have a different opinion? Did you hear the question?

**Hon. Okoth:** Yes, I rise to respectfully but vehemently disagree with the Chairman of the Committee and my colleague Member for Ndhiwa because Clause 10(a)(1) says:-

“A person who is in a domestic relationship with another person may apply to court for a protection order in respect of that other person.”

This is a more protective approach to this issue rather than to limit which people are eligible to get protection orders. I will give you a practical example of ex-partners who happen to be stockers. You are divorced from somebody or you broke up with somebody yet that person haunts you at your place of work, business or comes to your new house and where you have a new relationship and new family, he keeps bothering you. You should be covered. Let us be magnanimous. We have already defined the range of persons who are protected as domestic partners. Let us just say including those who have been past partners to be allowed---

**The Temporary Deputy Chairman** (Hon. Kajwang’): Have you read the contents of Section 11(2)?

**Hon. Okoth:** Please tell me why that is important.

**The Temporary Deputy Chairman** (Hon. Kajwang’): It is tied to it. Clause 10(2) is tied to Section 11(2). That is what I see, is it not?

**Hon. Okoth:** Well, law making is complex and we will engage in the complexities as they go. I beg to understand where and what you are guiding me to---

**The Temporary Deputy Chairman** (Hon. Kajwang’): I see a nexus in understanding both Clause 10(2) and Clause 11(2). Here lies the mischief that is being---

**Hon. Okoth:** That is why I was insisting for Clause 10(1) to stay as it is.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Well, you do not inform the Chair because there is nothing to inform him about. He just puts it to vote.

Okay, Member for Ol Jorok, you are a studious Member of this Committee. Can you help us here?

**Hon. Waiganjo:** Yes, thank you, hon. Temporary Deputy Chairman. Apparently, I would want to inform the Member for Kibra that there is a concise description of “domestic relationship” and we have also defined “stocking”. So, his fears must be allayed. There is no way a person who has been in a domestic relationship stops being in that kind of a relationship as far as this Act is concerned. So, I want to support the Chairman on these amendments and inform the Member for Kibra that “domestic relationship” is clearly and well defined in this Act. “Stocking” is also well defined. If you part ways with your spouse you do not necessarily, for purposes of this Act, stop being in a domestic relationship.

**The Temporary Deputy Chairman** (Hon. Kajwang’): You do not seem to differ on appreciation of sub-clause 1. You seem to be arguing over whether the word “shall” should change to “may” or whether “may” should change to “shall”. That is why it is tied to appreciating Clause 11(2). Here, it means that if it is a child applying for this order of

protection, then this child must follow Clause 11(2), whichever the situation. Even if there is no Children's Officer, he must look for one somewhere. That is why it is permissive.

Hon. Chairman, what did you have in mind?

**Hon. Chepkong'a:** Thank you, hon. Temporary Deputy Chairman. That has been well put by you and hon. Kang'ata. I would like to persuade my very good colleague, who was formerly a Member of this Committee. In fact, he was a very good Member before he left. I do not know for what reasons. On a more concrete note, we are just merely replacing the word "shall" with "may". The word "shall" makes it mandatory even when the person does not wish to apply. If you look at Clause 11(2), read together with the amendment without anticipating, you will see that we have just cleaned it. If you do it in any other way, then you negate Clause 11(2). It becomes a little bit confusing. I would beg my good friend that he drops the opposition.

**The Temporary Deputy Chairman** (Hon. Kajwang'): That clears the ambiguity because Clause 11(2) gives you several ways in which this child can approach the court by application. However, when you say "shall", then this child must look for these ten solutions. Can I put the Question then? Member for Ndhiwa, have you changed your position?

**Hon. Oyugi:** Thank you, hon. Temporary Deputy Chairman. The hon. Member for Kibra is right in trying to oppose. However, the reason I am supporting the Chairperson's position is that what is referred to in Clause 10(1) is something totally different. Clause 10(1) before it is amended has two portions. One, the clause talks about a person in a current domestic relationship, but also talks about a past relationship. That is what Clause 10 before it is amended speaks to. The Chairperson of the Committee is proposing an amendment to only make the current people in a domestic relationship the ones subject to an application for a protection order.

**The Temporary Deputy Chairman** (Hon. Kajwang'): Are you changing your position? You had supported the Chairperson.

**Hon. Oyugi:** No. I am supporting the Chairperson. The only point I am trying to clarify to you is the fact that Clauses 10 and 11 of the Bill are distinct and different. Clause 10(1) speaks to the definition of "protection order" in a past or a previous domestic relationship. However, Clause 11 is speaking to a child applying for protection order. Those two are distinct.

**The Temporary Deputy Chairman** (Hon. Kajwang'): Thank you very much, I appreciate. The only problem I see is that all of you seem to be agreed on sub-clause (1), is that right?

**Hon. Oyugi:** The Member for Kibra is dissenting on sub-clause (1). He is right to disagree and oppose sub-clause (1). I am clarifying why I understand his opposition whereas on the other side, I am supporting the Chairperson's position of a deletion; an amendment in the manner it is in the Order Paper. I am with my Committee Chairperson on this.

**The Temporary Deputy Chairman** (Hon. Kajwang'): Let me just put the Question.

**Hon. Okoth:** No, hon. Temporary Deputy Chairman.



**The Temporary Deputy Chairman** (Hon. Kajwang’): Well, we cannot have an argument on this, can we? Let us put it to vote and see how it goes. Let me propose them sub-clause by sub-clause. I can put (b) and (c) together, but let me put (a) separately because they relate to different things.

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

The Chair is in doubt. If they shouted loudly, everyone has the right to shout. So, you need to shout as loud as you can.

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

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

*(Clause 10 as amended agreed to)*

*Clause 11*

**Hon. Chepkong’a:** Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 11 of the Bill be amended in sub-clause (2)—

(a) by inserting the words “a parent, guardian, probation officer, police officer, person acting on behalf of a non-governmental organization concerned with the welfare of victims of domestic violence or, with leave of court, any other person” immediately after the word “through”;

(b) by deleting paragraphs (a), (b), (c), (d), (e), (f), (g) (h), (i) and (j);

The import of this amendment is that we are cleaning the Bill as drafted. If you look at the way it was drafted, it provides for (a), (b) and (c). However, the best way of drafting this is to provide for the various persons in the manner in which it has been drafted. The Committee felt that instead of enumerating them in the manner in which it was done, we propose that the entire sub-clause 2 (a) to 2 (j) be deleted and replaced thereof with the words that are contained thereon. We have just reproduced what is contained thereon, so that we can make it clearer. We combined some of the persons that are referred thereon.

For instance, the term “a conciliator” was dropped because a conciliator is a person who has been referred to arbitrate over a conflict. That is not the best person who would ordinarily represent one of the parties in the conflict. That was dropped because it did not make sense. He is supposed to be an arbiter and not a person who represents the parties in the conflict. There are two persons who are complaining in the circumstances. So, it is left with the other person who is unhappy to report that matter on behalf of the child.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Kajwang’): Members, this is just to improve the drafting style. It seems to me that it retains everything subject to what you think. However, it is just to improve the drafting style. Member for Kibra, you do not want to speak to this, do you? Member for Seme, you want to speak to this?

**Hon. (Prof.) Nyikal:** Hon. Temporary Deputy Chairman, it is not just reordering. The Children’s Officer and the church have been excluded. That is what I note there. The whole essence of this Bill is to provide that as much protection is given and as many people as possible, who are responsible, if they have the opportunity to report the matter, should report it. Many times many children are suffering. They are brought to you when they are injured and bartered and some people had information and nobody said anything.

The original version gave more protection to a child than what we are trying to do now. Particularly, I cannot understand why Children’s Officers have been left out.

Thank you, hon. Temporary Deputy Speaker.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Can you, quickly, explain that, hon. Chepkong’a?

**Hon. Chepkong’a:** Hon. Temporary Deputy Chairman, as you said, we completely retained the substance. Including the names of all these persons is, again, being restrictive. We have allowed any persons, subject to the leave of the courts. Whoever feels that they need to apply to protect a child can seek leave of the court to do so. We have included parent, guardian, probation officer, police officer, person acting on behalf of an NGO concerned with the welfare of victims of domestic violence. As hon. Members can see, we have already taken care of most of the ones that I have mentioned. In addition to that, we have provided that, with the leave of court, any other person including a Member of Parliament, can go to court and say that they want a child to be protected; because one possibly has some affinity or nexus towards that child. Therefore, we have even made it wider rather than make it restrictive in the manner in which it had been done before.

Thank you, hon. Temporary Deputy Chairman.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Hon. Chepkong’a, I understand when you talk about excluding the church and any other religious institution for the simple reason that it has not been defined anywhere in the law who “the church” or “religious institution” means in this legislation. Would you have a very strong objection if the Director of Children’s Services were to be included? The Children’s Officer would be falling under the Directorate of Children’s Services. That would take care of the concerns raised by the Member for Seme. You also realise, Member for Seme, that your objection involves moving a further amendment to the proposed amendment. Can you speak? We need to close those ranks. If your issue is that the Children’s Officer has been left out should we, therefore, include the Director of Children’s Services? That way, we would strengthen paragraph (b) which seems to be talking about Children’s Officer.

**Hon. (Prof.) Nyikal:** Hon. Temporary Deputy Chairman, I guess it will be in law. This one specifically talks of a Children’s Officer. It does not mean the Director of Children’s Services, unless we talk of the Director of Children’s Services or his agent. So, the two should be left there. Again, looking at it with regard to the other people who

have been included, it would be prudent to subject this to the court process. Children will not have an opportunity to speak for themselves. If we leave out the words “with leave of the court” it will be broader and acceptable. However, as it is, the words “with the leave of the court” makes it difficult to use other people as contained in the Bill. So, I will not agree with that provision. The Director of Children’s Services, and the Children’s Officer, should stand on their own. Those other people should be left in.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Let us hear what other people have to say.

Yes, Member for Siaya.

**Hon. (Ms.) Ombaka:** Thank you, hon. Temporary Deputy Chairman. I support the Member for Seme in terms of excluding certain individuals. We must also include relatives and neighbours, because they are critical.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Member for Siaya, you cannot bring new nomenclatures that are not there. Are they there?

**Hon. (Ms.) Ombaka:** Hon. Temporary Deputy Chairman, “relatives” and “neighbours” are there.

**The Temporary Deputy Chairman** (Hon. Kajwang’): I can see that they are provided under item (j).

Yes proceed please.

**Hon. (Ms.) Ombaka:** Thank you. I feel that this is critical and is missing, just as Social Welfare Officer. They are employed; that is their job. If you leave their names out of this Bill, what is their function on the ground? Therefore, these should be included in this list. They make the list more comprehensive and wider. There will be many choices on the kind of people that can be consulted or who can protect a child.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Yes, Member for Narok.

**Hon. (Ms.) Tuya:** Thank you, hon. Temporary Chairman. I stand to support the proposal by the Chairperson of the Committee, particularly for the reason that he has widened the scope for protection of children against violence from the restrictive provisions of the Act as it is right now. By including “any other person, with the leave of the court,” we are giving *locus standi* to any person who may see the need to protect a child from domestic violence to actually secure protection for that particular child. With all these other people listed here, there will be sufficient protection to children.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Thank you for introducing the word “*locus*”, so that there is right to court. If you look at Clause 11(2), you will appreciate that under item (ii), it provides for NGO concerned with the welfare of victims of domestic violence, or a relative or neighbour. What this means is that the bracket is closed. It can only be the people who have been listed down. The Chair seeks to open it up to provide for “any other person”. The Member for Seme has a problem with “leave of court” but he should view courts as friends of children. The courts will not do things which are anti-children. So, you should not approach courts as though they are not worthy entities. They do things in the best interest of children. That is why they are there. So, even as you appreciate it, you need to be very permissive in how you appreciate it.

Member for Migori, do you have some comments on this matter?

**Hon. (Ms.) Ghati:** Thank you very much, hon. Temporary Deputy Chairman. As much as you say that courts are friends of children, who usually goes to defend children

in court? Are they not Children's Officers? I would have expected the retention of Children's Officers. Where I come from, whenever there is violation of children's rights, it is the Children's Officer who takes the matter to court. Any other interested parties also take such matters to court. In fact, I am surprised that NGOs are included in this list, but not Children's Officers. The NGOs should be removed from this list, so that they can come in under "any other person". What about areas where we do not have NGOs? How do you go out looking for an NGO representative to defend children?

Also, as I support, I would have liked to see the word "chief". Our children know chiefs more than the councillors, who have been proposed here. Therefore, I would have expected Children's Officer to appear on the list. The NGOs can fall under "any other person". There are no NGOs in some parts of this country.

Thank you, hon. Temporary Deputy Chairman.

**The Temporary Deputy Chairman** (Hon. Kajwang'): Hon. Chairman, we do not want to be on this for a long time. You know that at 5.30 pm we will go to another business. Can you explain in a final way that will help us to proceed?

**Hon. Chepkong'a**: Thank you, hon. Temporary Chairman. I appreciate what the Members have said. I have just looked at it. We may have forgotten to include the Director of Children's Services. The reason why the others were left out is that, if you are a relative or a neighbour---

**The Temporary Deputy Chairman** (Hon. Kajwang'): Just a minute, hon. Chepkong'a. Before you go to others, how many others are you able to gather?

**Hon. Chepkong'a**: It is the Director of Children's Services and such office.

**The Temporary Deputy Chairman** (Hon. Kajwang'): All right. Proceed.

**Hon. Chepkong'a**: Secondly, if you look at the word "guardian", it takes care of a relative or a neighbour. If you are a guardian of that child you could be possibly a relative or a neighbour. Therefore, you do not need to repeat some of those words continuously. Courts are extremely sensitive to the rights of a child. It is impossible for any person to just walk in and make an application on behalf of a child. That child is expected to be protected and we are very conscious of the fact that not just anybody can wake up and go and seek an application. It must be with the leave of the court, so that the court can consider the various parameters under which that person comes to court and the interest that he or she has.

**The Temporary Deputy Chairman** (Hon. Kajwang'): All right. Therefore, as a midpoint can you do this and maybe that will increase how many people will support your amendment? Are you able to further amend your text? Can you find where you want to put the words "Director of Children's Services" inside your Bill as a further amendment. What you will say on HANSARD is that you propose that amendment to be further amended by including these words in a particular place.

**Hon. Chepkong'a**: I propose that Clause 11(2) be further amended by including the words "Director of Children's Services".

**The Temporary Deputy Chairman** (Hon. Kajwang'): Where do you prefer that to sit? You need to be very clear.

**Hon. Chepkong'a**: A parent, guardian, probation officer, Director of Children's Services.

**The Temporary Deputy Chairman** (Hon. Kajwang’): So, between the words “Probation Officer” and “Police Officer” you want to have the words “Director of Children’s Services?”

**Hon. Chepkong’a:** Correct. That will take care of all the rest.

*(Question of further amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Kajwang’): That is a Floor amendment. Hon. Member for Seme, I want us to press on. Until we are sitting on an issue, which is very relevant to the law on issues which are fairly procedural, you need to have as much discussions as possible. Now that you asked, I will give you the opportunity to speak. Proceed, Member for Seme

**Hon. (Prof.) Nyikal:** If you say “The Director of Children’s Services”, will the Children’s Officer without getting permission from the Director actually---

**The Temporary Deputy Chairman** (Hon. Kajwang’): But these people work under the Directorate of Children’s Services and that is what the law expects them to do. Therefore, it would be him or all these people---

**Hon. (Prof.) Nyikal:** My fear is if I am a Children’s Officer in Siaya and I see something going on---

**The Temporary Deputy Chairman** (Hon. Kajwang’): The work you are executing is on behalf of the Director.

**Hon. (Prof.) Nyikal:** Will I then appear in court? This is why I sought your legal guidance, please. If I appear in court, can I say that I am appearing here as the Director of Children’s Services? Secondly, with the issue of leave of court, I see two processes. One process is that you seek the leave of court and then you go and do the next. How many people, when they think they have something to do, will be discouraged by the simple fact that I have to first of all go and seek leave of court? Sometimes these things are so slight. You have read in newspapers and internationally that children have been killed and everybody around knew of it. If you put processes---

**The Temporary Deputy Chairman** (Hon. Kajwang’): Who is eager to explain this away? Hon. Member for Thika Town, can you explain it in a way that helps the hon. Member for Seme?

**Hon. (Ms.) A.W. Ng’ang’a:** Thank you. I was not rising to support his point. I have a problem with doing away with the word “neighbour”. Most of the time children are helped by neighbours, who are not necessarily guardians. A neighbour is a person who does not take care of that child but who, when they find out that there is a problem takes care of the child before any other person comes in. So, there is no way we can replace “neighbour” with “guardian”. We should also include “neighbour”. A neighbour cannot be a guardian. We know that.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Everybody will have their opinion on this and we will be on this the whole day. Why do we not put it to vote? You will make my work easy if you make comments which help me to get out of the stalemate rather than increase the debate. Member for Ndhiwa.

**Hon. Oyugi:** Thank you. I like the fact that the Chair of the Departmental Committee on Justice and Legal Affairs is willing to make concessions. I suggest the

following: In the original Bill, perhaps he only wants to drop the word “conciliator” which is in 2(f) and then (i), “church and any other religious institution.” You then leave everything else that is therein, and then try to use the words like those hon. Member for Narok brought in namely, “any other person with the leave of the court.” What that does then is that they take care of the concerns of hon. Nyikal by having both the Director of Children’s Services and a social welfare officer plus expand the avenue for anyone else with *locus*.

**The Temporary Deputy Chairman** (Hon.Kajwang’): All right. Members I will put this to vote for two reasons. First, we are not going to go this way in the whole House, that is critique amendments proposed on the Floor when we have the Order Paper and proposed amendments, and you do not have a Floor amendment with you. It makes work very difficult. It is easier to improve what is there than to scuttle everything which is not there. I want to put the Question so that this is very easily done. You have already included “Director of Children’s Services”. Do you want to include another one?

**Hon. Chepkonga:** Thank you hon. Chairman. I will just plead with Members. If it is a question of procedure, if you look at Clause 11(3) it provides for a further procedure. You cannot apply for a protection order for a child if you have not served the other person; that is not as easy as you think; you can just apply and get it. The court must still give you leave to apply if you are not the parent or guardian of the child as indicated in the---

*(Question, that the words to be inserted*

*be inserted, put and negatived)*

*(Clause 11(2) as further amended negatived)*

*(Question, that the words to be left out*

*be left out, put and negatived)*

*(Clause 11 agreed to)*

*Clause 12*

**Hon. Chepkong’a:** Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 12 of the Bill be amended in Sub-clause (2) by deleting paragraph (b);

It states thus, “---has the capacity to understand the nature and foresee the consequences of decisions in respect of matters relating to his or her personal care.” The reason we are seeking this amendment is covered under Clause 12(1)(a).So, we retain 1(a) without (b).

**The Temporary Deputy Chairman** (Hon. Kajwang’): Hon. Chepkong’a, I do not know whether I am with you; I thought you were amending Clause 12(2)(b). Is that not what you are trying to do by deleting the entire sub-clause 1(b)? Please, look at Page18 of the Order Paper.

**Hon. Chepkong’a:** Sorry, hon. Temporary Deputy Chairman. I guess I moved much faster. I had already reached Clause 14. I sincerely apologise. What we are deleting is: “---the head of the unit at the lowest point of decentralization.” That does not make

sense. We tried making sense out of that but we could not manage. At least, we understand what a police officer is and applicants representing any other person with the leave of the court.

*(Question of amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Kajwang’): Member of Kibra, you are awake and that is very good.

**Hon. Okoth:** I just want to clarify my understanding of, “---the head of the unit at the lowest point of decentralization.” In our hybrid mongrel system of devolution and the former Provincial Administration that would sound to me something like either the sub chief or the ward administrator at the lowest level. However, if that is not clear, then I will support the Chairperson.

**The Temporary Deputy Chairman** (Hon. Kajwang’): So you support the Chairperson. Member for Ol Jorok.

**Hon. Waigango:** I am fully with the Chairperson on this.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Hon. Member for Ugunja.

**Hon. Wandayi:** Hon. Chairperson, I support

**The Temporary Deputy Chairman** (Hon. Kajwang’): Member for Mandera North.

**Hon. Nooru:** I do support the same amendments, but I rose for other purposes.

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

*(Clause 12 as amended agreed to)*

*Clause 13 agreed to*

*Clause 14*

**Hon. Chepkong’a:** Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 14 of the Bill be amended in subclause (4) by deleting the words “and, if the respondent fails to appear, the court shall, subject to section 23 (3), issue a warrant for the arrest of the respondent” appearing immediately after the words “to the order”;

The reason behind this is that if you look at sub-clause 23(3) it reads thus:

“A respondent arrested under a Subsection (2) shall be held in custody and brought before a court as soon as possible and in any event, not less than twenty four hours after the arrest on a charge of contravening section 25.”

That is clearer than what is contained in Clause 14. It makes it very specific that the person who has been arrested must be brought to court within 24 hours, who fails to comply with any court order that has been issued. Already that is provided under Clause 23(3). That is not assuming that we do not have any amendment to that Clause in the Order Paper today.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Kajwang’): It is very difficult to tell who is requesting to speak to this because I can see Members are waiting to speak to the next business. I can even see from your faces that you are more interested in the next business than what I have now. You will have to press the intervention button if you want to speak to this.

Member for Ndhiwa.

**Hon. Oyugi:** Thank you hon. Temporary Deputy Chairman. I would like to support the amendment by the Committee Chairperson. I really think the reason why this particular deletion is necessary is because it is superfluous to ask the court to issue a warrant of arrest if someone does not appear in court. It is almost an express thing. It is always the initiative of the courts to issue warrants of arrest. I support the Chairperson.

**Hon. Waiganjo:** Thank you hon. Temporary Deputy Chairman. I support because if not amended then it proposes that once you are served with summons and an order, that in itself will provoke a process of your arrest and arraignment to court and yet 23 explains very well instances where you can be arrested in contravention of Section 25. Section 31(2) also explains why that order should be explained to you. I, therefore, fully support the Chairperson on this amendment.

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

*(Clause 14 as amended agreed to)*

## **PROGRESS REPORTED**

### **THE PROTECTION AGAINST DOMESTIC VIOLENCE BILL**

**Hon. Chepkong’a:** Hon. Temporary Deputy Chairman, I beg to move that the Committee doth report progress to the House on its consideration of the Protection Against Domestic Violence Bill and seek leave to sit again another day.

I am seeking for the recomittal of Clauses 3 and 4 of the Bill.

**The Temporary Deputy Chairman** (Hon. Kajwang’): That is alright, but you can seek recomittal when the Committee resumes again. You could have done that at the start of this Committee. Until we are finished, you still can recommit them for good reasons.

*(Question proposed)*

*(Question put and agreed to)*

*(The House resumed)*



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

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Chairperson, report to the House.

**Hon. Kajwang’**: Hon. Temporary Deputy Speaker, I beg to report that a Committee of the whole House is considering the Protection Against Domestic Violence Bill and has instructed me to report progress and seek leave to sit again another day.

**Hon. Nooru** seconded.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Thank you. It has been seconded.

*(Question proposed)*

*(Question put and agreed to)*

### **MOTION FOR ADJOURNMENT UNDER STANDING ORDER NO. 33 (1)**

#### **TERRORISM THREATS IN MANDERA COUNTY**

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Order Members! Pursuant to Standing Order No. 33 and as sought by hon. Isaack, the substantive Speaker gave a ruling that at 5.30 p.m. today we will have the Motion for Adjournment on a matter of urgent national importance. I, therefore, call upon hon. Isaack Ali to move his Adjournment Motion.

**Hon. Isaack**: Thank you, hon. Temporary Deputy Speaker. I beg to move that the House do now adjourn for the purpose of discussing the escalating terrorism threats in Mandera, in particular and in the country in general.

You are aware that there have been a lot of terrorist attacks in the country in the last two years. A case in point is the terrorist attack which took place in Westgate, where many Kenyans lost their lives and property was destroyed. There was Mpeketoni where over 60 people lost their lives and property. There has been escalating incidents in Mandera for the last two years. In the recent attack on Friday, the Governor’s entourage was in danger; many police officers and a former Chairman of Mandera County Council were killed. The next day three Kenyans were attacked in Mandera Town. One was killed and the other two were seriously injured. Today an explosion took place in Mandera Town. I have not yet known how many people were injured as a result of that explosion.

This attack was preceded by the Kormey Quarry Massacre, where 36 Kenyans were killed. Another attack was the Omar Jillo bus attack, where 28 Kenyans also lost their lives. In the same Omar Jillo location, six Kenya police reservists (KPRs) and a police officer were killed by the same terrorists. At Mandera Central Administration Police (AP) Station, two police officers have been killed within the last two years. Several attacks took place which targeted Government and important installations. Chiefs

and many Government officers were targeted. I know that at least a chief was killed in Mandera Town and many people injured as a result of these terrorist attacks.

The effect of these terrorist attacks in Mandera in particular and in the country in general has been very devastating. There has been loss of life and property in Mandera County in particular. This has slowed down the growth of the economy of the county. It has curtailed the movement of people to do business as required. During the quarry incident, most of the civil servants, particularly the teachers, moved out of Mandera. There are few public servants remaining in Mandera County today. Many have not gone back as a result of these threats. As a result of these continuous attacks that have been meted out on the people of Mandera County, there has been continuous psychological trauma. There has been closure of public institutions, particularly schools and hospitals. Many civil servants have not reported to very important and vital institutions. These threats have also stalled the activities of the County Government and other development activities by the national Government as well as service delivery.

What is the most important thing to be done? Why has security failed in Mandera County and some other parts of this country? The biggest problem, particularly in Mandera County, is the Kenya-Somalia border, along the stretch of 200 kilometres from El Wak in Lafey District to Mandera. This particular area is manned by the Ethiopian security forces on behalf of the Kenya Government. It is unfortunate that the Ethiopian security forces have not been able to man our borders properly and stop these security threats. Since our Kenyan forces have gone to Somalia, particularly Kismayu, these militia groups and terrorists have found their way to Mandera County, particularly that 200-kilometre stretch, which is manned by the Ethiopian security forces. They are attacking the Kenyan people at will within our territorial borders, because the Kenya Defence Forces (KDF) have failed to protect the territorial integrity of our borders.

What we need to do is that our defence forces need to immediately take over the 200-kilometre section between El Wak and Mandera, which is right now manned by the Ethiopian Government and defence people. It is the duty of the KDF at any time to ensure that our borders are safe. They should not leave their responsibilities of defending our territorial borders to a foreign country. It is a shame that for the last two years Kenyans have been killed. Over 100 people have been killed, yet the KDF cannot pursue the terrorists across the Somali border, because it is assumed that another foreign force is protecting our borders. This cannot be taken lightly. It is a shame.

Mr. Temporary Deputy Speaker, therefore, the KDF has the mandate to protect our territorial borders, particularly the stretch that I have mentioned. They should immediately stop the terrorist threat. Kenya has 2,200 kilometres-long border with Somalia between Kiunga and Mandera and there is a serious threat along this border.

Our forces in Kismayu are protecting the Somalia Government and leaving the rest of the border to be manned by terrorists. We have left this to a foreign country. How safe are we? For the last two years, we have been prone to attacks, which take place almost every day as our KDF watch. They have left us to a foreign force. That is not acceptable. Because of our long border, Kenya has a major stake in Somalia. We should play a major role in bringing stability to Somalia. The international community has failed in bringing law and order in Somalia. Many countries, which are trying to bring sobriety, law and order in Somalia are not playing their rightful role. We know that

Somalia does not have institutions which can fight terrorists. They do not have a strong military force, a police force or intelligence capacity because the international community is not funding these vital institutions.

Mr. Temporary Deputy, Speaker, therefore, the international community has failed Somalia. As a result, we bear the brunt of insecurity along the border. It is high time the international community, particularly the United Nations, and the frontline States---

**The Temporary Deputy speaker** (Hon. (Ms.) Mbalu): Order, hon. Member! I am not a “mister”. I am a “madam”.

Your time is over.

Hon. Members, just a reminder the Mover has only ten minutes, which he used very well in moving. This is pursuant to our Standing Order No.33(4). Any Member who will be contributing to a Motion on an urgent matter of national importance will take five minutes.

Order, hon. Member! You are out of order. You had your ten minutes. Hon. Members, pursuant to Standing Order No.33(4), you will have only five minutes to discuss this matter; so, you can prepare.

I will give a chance to the Member for Garissa Township. Please, read your own Standing Orders.

**Hon. A. B. Duale:** Hon. Temporary Deputy Speaker, I was wondering and the Member has to correct his remarks on the HANSARD as he used “Mr. Speaker” more than 50 times. But it is because of the passion he has for the matter.

The matter before us is not new. It is a serious matter. It has been with the people of northern Kenya for the last five years since *Al Shabaab* came in place, more so as it was growing. They have been there, have killed many Kenyans, destroyed many villages and attacked several key installations.

Now the life of the Governor of Mandera is in danger. I am not saying that his life is more important than those of the many ordinary Kenyans who have been killed, but killing a governor or a Member of Parliament is a high premium target for *Al Shabaab*. That will serve them well in their propaganda.

Two things are very important, and I said it over the weekend. The communities that live on the Kenyan side, more so in Mandera, have their counterparts who are Somalis on the other side. These are the communities that the *Al Shabaab* pass through to attack Kenya. We have said it as leaders a number of times. Time has come for the leadership of northern Kenya, namely religious, political leaders and the elders, to cross the border and ask their counterparts on the other side why they allow people to pass through them. Why do they give access routes? Why can they not offer intelligence? It is like somebody passing through my house to attack my neighbour. My neighbour should ask me why I should allow that to happen. The people who live on the other side in Somalia must be magnanimous. Some of them have children learning in Mandera Town.

Secondly and more fundamentally, the President must go to IGAD and to the African Union and request that the KDF, under the umbrella of AMISOM, be allowed to take charge of the stretch from Kiunga in Lamu to Border Point One in Mandera. Ethiopia, Djibouti, Sierra Leone, Burundi, Uganda and Kenya are all part of the AMISOM. Kenya is suffering in the hands of the *Al Shabaab*. We will be safe from Ras

Kamboni, Kiunga in Lamu up to the Border Point One in Mandera, if the KDF are allowed to man the other side of the border under the AMISOM. It will be very easy for them to deter terrorists. Stability has returned to Garissa County and parts of Wajir County, because that part is under the command of the KDF.

More fundamentally and final, the Government in Somalia, and I do not want to discuss it, must take responsibility in its war against *Al Shabaab*. The Government of President Hassan Sheikh, a good friend of mine, is busy removing a Prime Minister, taking Cabinet lists to Parliament, which have been rejected for two years instead of fighting terrorism. The Government of Somalia must take responsibility of securing their nation. Today, Turkey, Jordan and all the countries that border Iraq and Syria have a serious security strategy to prevent IS agents from crossing to their countries. Cameroon and Chad are in Nigeria because they want to fight *Boko Haram*. The KDF must go across and follow *Al Shabaab* to their bases and revenge for the people of Kenya.

Thank you, hon. Temporary Deputy Speaker.

**The Temporary Deputy speaker** (Hon. (Ms.) Mbalu): Let us go to the Member for Tiaty, hon. Kamama Asman.

**Hon. Abongotum:** Thank you, hon. Temporary Deputy Speaker. I want to join my colleagues in condemning the terrorist attack that took place in Mandera, where the governor almost lost his life. We lost the lives of many other Kenyans. The *Al Shabaab* threat is real. The sooner we confront it as a nation the better for all of us.

We have heard that from Border Point One in Mandera all the way through Liboi, Difu to Kiunga it is a long stretch. We need to deal with this menace of terrorism in a very special way. It should not be in the normal casual way in which we have been dealing with it. My colleague, hon. Gethenji is here; I want to recommend that locals be given Kenya Police Reservists, so that they can manage their own affairs. It now looks like it is a free for all. The governor cannot move. He cannot visit projects in his county and that part of the county is grounded. They should be given the Kenya Police Reservists and our intelligence system should up their game. We will beat these terrorists using superior intelligence and not through the casual way in which we have been handling security matters.

We also want to recommend that instead of the KDF under the AMISOM staying in Kismayu or Ras Kamboni, they should man the area between El Wak and Mandera. That is the only way in which they can repulse these terrorists.

Therefore, this should be done as a matter of urgency, so that people can have confidence in the security forces. I know that a lot has been said about the terrorists, but we seem to be wavering in terms of the way we normally deal with the issues. As a nation, we should deal with what is happening in Mandera once and for all. It is not easy. I know it has taken the Government quite some time. I even know that the Inspector-General of Police and the Cabinet Secretary were on the ground. Of course, those visits assist the people by creating confidence. However, we need real action. When my Committee visited Mandera last time, I was told that nobody was in charge of that place, from dawn to dusk. I was told that people from across the border were the ones who were in charge. Our police officers and soldiers do not get out of their camps. Therefore, that problem needs to be addressed, so that people in that part of the country can have confidence in the Government.

I support the sentiments expressed by all the hon. Members from that area. As the Government, we need to take the security of the people of Mandera very seriously.

Thank you, hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Thank you. Let me hear the Member for Mandera West, hon. Mohamed Maalim.

**Hon. (Eng.) Mahamud:** Thank you, hon. Temporary Deputy Speaker.

Hon. Temporary Deputy Speaker, Kenya is under attack and for that matter, Mandera is under attack. We are actually the soft belly for our terrorists. The proximity of Mandera to the Somalia border makes us a soft belly for them.

Hon. Temporary Deputy Speaker, if you go to Mandera County, you will see that there is no no-man's land between Mandera Town and Somalia. This has gone on for too long. We know that Kenya has had its own spate of terrorist attacks in many other parts of the country. However, the issue of Mandera has actually persisted. Day in, day out we hear about attacks. The worst ones happened last December where teachers were taken out of a bus and killed. A few days later, quarry workers were massacred in Kormey. Again, the governor's convoy was attacked last Friday. Terrorist attacks happen every day. In fact, two days ago people were attacked in Mandera Town. Every night, people are killed. There is no week that passes without an improvised explosive device (IED) exploding or somebody being killed.

Eighty per cent of terrorism problems come from across our border with Somalia. People who kill in Mandera Town are either sympathisers of *Al Shabaab* or are elements of the terror group, who have infiltrated our people because of the proximity of the town to the border. There are no two ways of going about this problem, Kenya must take security of its people seriously. We must strategize properly because, apparently, we have no holistic strategy for dealing with this matter. I personally appeal that a security conference be held, where all leaders from the region and the leaders of all the security agencies can take part. We will then ask ourselves how best to deal with this matter.

This matter is too serious to be handled in the traditional way of dealing with insecurity. Our officers heading the security organs have no idea of how to deal with this matter, or they take it so casually. Unless we confront these things head on, Mandera will be ceded to *Al Shabaab*. They will not stop there. They will come to other counties. The sooner we take this matter seriously the better.

As it has been said, our military is deep inside Somalia but we do not have a strategy for protecting ourselves.

I need not repeat what has been said as to whether the section between Mandera is actually under the Ethiopian team and AMISOM. This is untenable. We demand, as mandarins and this Parliament that first, the Commander-in-Chief of our Defence Forces visits that region. I think nobody at the senior level has been able to go to Mandera after all these attacks. We want someone to go and reassure Kenyans that they are safe and they will be safeguarded by their country. We would like our people to see and listen to people first hand so that these matters are dealt with.

Hon. Temporary Deputy Speaker, something serious happens and it is forgotten. You know what happened during the saga of the massacre of our teachers and that has affected that region seriously because there are no teachers for our children. Our children are today left at the mercy of *Al Shabaab*. Because there is no teacher to teach them, the

*Al Shabaab* will teach them. They know that they have been abandoned because the teachers who were teaching them were killed by *Al Shabaab* and that is what *Al Shabaab* wanted. *Al Shabaab* are alienating Kenyans against Kenyans.

Today you know that Kenyans do not want to go and work in Mandera, Wajir or Garissa. This is a very serious matter; these are very serious issues. We demand that a serious conference be held to discuss this matter in the meantime. These piecemeal solutions by our security forces should be totally dismantled and we come up with strategies that are holistic in dealing with this matter once and for all.

Lastly, I do not think we have the moral authority to be in Somalia when we are not able to defend our own borders.

I thank you, hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Thank you. Hon. Leader of the Minority Party who is also the Member of Parliament for Kitui West.

**Hon. Nyenze:** Thank you, hon. Temporary Deputy Speaker for giving me the chance. I want to stand with the people of Kenya and particularly those of Mandera for the insecurity that they experience. We have lost many---

*(Hon. Member consulted the Chair)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Order, hon. Members! Let us not come to the hon. Temporary Deputy Speaker please. You cannot change my eyes.

**Hon. Nyenze:** Thank you, hon. Temporary Deputy Speaker. Many lives have been lost especially those of teachers, quarry workers and now the governor nearly lost his life.

Somalis are the ones who suffer more than any other Kenyan because of the *Al Shabaab* attacks because economically, you cannot do commerce where there is insecurity. Educationally, teachers have pulled out and children are suffering there and you cannot do business when you are in a situation of insecurity. The Government has to address that issue once and for all.

Hon. Temporary Deputy Speaker, it may sound crazy but this is the way forward. It is good when you listen to people who have lived in insecure areas like hon. Kamama and the people from northern Kenya. What they say and the solutions they put forward to address these issues is important.

One, Somalia has no strategic or economic importance to this country for us to involve a lot of our resources and many soldiers. The moment the Kenya Defence Forces (KDF) move out of Somalia and they are stationed inside Kenya and not in Somalia, from Kiunga to Mandera that is when you will see peace because Somalia is of little strategic importance. In fact, Somalia has taken Kenya to the International Court of Justice in The Hague wanting to take some of our coastal areas where they think there is oil. So, we must ask ourselves as leaders: What is it that we have to sacrifice our soldiers when we do not have security within our borders?

Hon. Temporary Deputy Speaker, if you go to any place in northern Kenya and even the Coast and I have been to several places, tourism is gone; hotels have no guests

and business is down because *Al Shabaab* wanted it that way but we cannot give up and we will not negotiate with terrorists. We will fight until we defeat them.

Hon. Temporary Deputy Speaker, I want to say that a policy and new strategies have to be put in place because the old system of fighting terrorism has failed. We have been attacked time and again. I want to suggest that the Kenya Defence Forces (KDF), the Kenya Police and all security agencies involve Somalis themselves. The policemen, the intelligence gathering and everything should involve the local Somalis. They know those people. They know their language and they know how they move around. That will solve the problem but sending people from other parts of the country, they may not understand the intricacies and the methods to fight this scourge of terrorism.

Kenya has been very insecure in that part of Mandera. It is not a bad idea trying to involve communities living along the borders; try to bring them together and let us work out a security situation where we share intelligence and we see ways of combating it. Let us have communities that live in those areas hold meetings across the border. In Tiaty and areas where there is insecurity, that is how hon. Abongotum and others have managed to contain the situation, they know where the shoe pinches. They know where there is insecurity. Let us encourage local communities living around Mandera---

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): The Leader of the Minority Party your time is over. Hon. (Ms.) Fathia, Member for Mandera County. You can proceed to the Dispatch Box.

**Hon. (Ms.) Fathia:** Thank you, hon. Temporary Deputy Speaker, for giving me this opportunity. I want to condemn the actions by the terrorists where last Friday they attacked our governor. That has been the fifth time. It is now risky. Our governor's life is at risk and I do not see a lot of commitment from the national Government. The security apparatus are in Mandera. They were deployed there but they are not seriously doing their work. Are they waiting for the governor to pass on so that they get serious? This is of national importance. *Al Shabaab* are so many at the border and they will affect even the other counties. We are all at risk. The Government has to stand up and see how we should curb this issue of terrorism. The intelligence systems are on the ground but after they report, there is nothing which is done. The Government is let down by the security officers together with the County Commissioners. The locals in Mandera County and we as the leaders, had sat down with them and told them that if there is any issue or anything they see, they should be ready to report just for the sake of securing the county.

I want to attest that many people have been reported but nothing has been done. People have been released in the name of corruption. Corruption is what is killing our country. I do not understand why we are protecting and securing Somalia. I really do not understand. The KDF are unable to secure Mandera. More than 100 people; locals, teachers, nurses and police officers have passed on in the name of terrorism attacks and there they are in Kismayu protecting Somalia. I think there is business going on and I do not even see why Mr. Karangi's contract has to be extended. He does not add value; neither do the KDF officers.

Ethiopia borders Somalia but have you ever heard of any terrorist attack? Nothing! It is just that our country is not serious and I am sorry. Let us remember that *Al Shabaab* had at one time said that they will attack the Parliament of Kenya and

Government institutions. So, it is not only Mandera, guys we have to stand up. I hope the President is watching me today. I am really crying in my heart.

The other day the newly appointed Inspector-General General of Police visited Mandera. In yesterday's *Daily Nation* Newspaper he said that those were bandits. So, bandits could not be arrested? Nothing was done and he came down to Nairobi saying that it is not *Al Shabaab*; rather they were bandits. He has a lot of work to do. He has to be committed to do his work and to safeguard Kenya and Kenyans.

Hon. Temporary Deputy Speaker, it is unfortunate that our children are now not getting attention from the teachers. We have no nurses and doctors all in the name of *Al Shabaab*. Our County Commissioner, let me repeat, is not adding value in the country. For the sake of Mandera people, I want the Government to remove the current County Commissioner and get a real serious County Commissioner who would care about the lives of Mandera people. Lastly, this is our country. Whether you are in Busia, Kisumu, Wajir, or Mandera, we are one people from Kenya. Can we protect our county from the terror attacks?

Thank you.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Very well spoken. Before I give the Chairman for the Departmental Committee on Defence and Foreign Relations, I want to give two Members. The next one on my request list is the Member for Ugunja, hon. Opiyo Wandayi.

**Hon. Wandayi:** Thank you very much, hon. Temporary Deputy Speaker for this opportunity. I have been listening very keenly to the Mandera County Women Representative. I must say that I agree with her in totality. I was listening to hon. A.B. Duale speak. I got an impression that this Government is not serious because the way they are talking is as if *Al Shabaab* is some conventional army sitting somewhere waiting to be fought or fighting in a normal way. *Al Shabaab* are shooting people from as far as Busia, Kisumu, Siaya and everywhere in this country. So, if you approach *Al Shabaab* in the normal way of fighting wars with foreign bodies, we are going to miss it.

I fail to understand one thing: Why does the Government want to re-invent the wheel? If *Al Shabaab* is a foreign army, why has it failed to attack Ethiopia? Why has Ethiopia resisted *Al Shabaab* attacks if it is a question of Kenya having sent forces to Somalia? Remember Ethiopia went there earlier than Kenya?

We have a problem in our hands. There has been talk and the Member of Parliament who moved this Motion said very clearly that the Kenyan security forces are busy whiling away time in Kismayu while leaving the work of guarding our borders to Ethiopian forces. If that is true, then this Government has failed in its most cardinal responsibility of providing security to the nationals and securing the borders of this country.

Hon. Temporary Deputy Speaker, you know what such a Government is supposed to do in civilised society. I do not need to belabour the point. This Motion, just like many other Motions in the past, has become a ritual because it is turning this House into a talk show without any tangible results. The former Inspector-General, Mr. Kimaiyo was sacked on account of terrorism. His replacement is doing the same things that Mr. Kimaiyo was doing. He expects to get different results by applying the same methodology. We are in serious problems in this country. If what we saw in the security



sector is what is going to help us---What happened is merely a game of shifting musical chairs; removing Mr. Kimaiyo and bringing in someone else whose name I cannot even remember. This country is in problems unless the Government changes tact.

Hon. A.B. Duale, the other day called for dialogue between the Kenyan Government and *Al Shabaab*. Calling for dialogue between Kenyan Government and *Al Shabaab* is, first and foremost, admitting that the *Al Shabaab* is an entity recognised internationally!

Secondly and more importantly, it is admitting that the Government has surrendered in the sense that it can no longer confront the *Al Shabaab* and defeat it. If the Government surrenders, what can citizens do? It is very serious that a Government that is funded with taxpayers' money can surrender to the *Al Shabaab*.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Order, hon. Member for Ugunja! Hon. Member for Tetu, it has to be a point of order. Something has to be out of order. Let us hear what you have.

**Hon. Gethenji:** On a point of order, hon. Temporary Deputy Speaker. Is it in order for hon. Opiyo Wandayi to claim that the Leader of the Majority Party called for talks between the Kenyan Government and the *Al Shabaab*? We heard no such thing on the Floor of the House. If he is referring to media reports, you know we do not discuss media reports on the Floor of this House.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Order, hon. Member for Ugunja! Can you substantiate? Let us avoid talking about Members in the House.

**Hon. Wandayi:** Hon. Temporary Deputy Speaker, in the morning, we were told that where there is smoke, there must be fire.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Hon. Member for Ugunja, can you please substantiate what has been enquired by hon. Gethenji?

**Hon. Wandayi:** Hon. Temporary Deputy Speaker, the reports that we received suggested that there was that kind of proposal. If at all there were no such suggestions---

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Hon. Member for Ugunja, you are out of order! Can you substantiate or withdraw.

**Hon. Wandayi:** Hon. Temporary Deputy Speaker, if at all hon. Duale did not imply that we needed to have discussions with the *Al Shabaab*, then I withdraw. However, if at all he said so, then---

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Hon. Member for Ugunja, you are out of order. Can you substantiate, withdraw or we throw you out of the House? Withdraw the statement. Do not give conditions.

**Hon. Wandayi:** Hon. Temporary Deputy Speaker, I can only withdraw what is not factual. But if it is factual that he said so, then---

*(Loud consultations)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Hon. Member for Ugunja, let us respect the Chair and this House. I give you the last warning. Can you substantiate, withdraw or I throw you out of the Chamber?

**Hon. Wandayi:** Hon. Temporary Deputy Speaker, it will be totally against my conscience and principle to withdraw what is common knowledge.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Hon. Member for Ugunja, out of the Chamber! Hon. Members, we are not babies in this House. Can we follow our rules and procedures in debate to guide us? Serjeant-At-Arms, escort him out.

*(Hon. Wandayi withdrew from the Chamber)*

Hon. Members, as the Member leaves the Chamber, let us conduct ourselves honourably. We do not want to be called primary or secondary school children. Others are calling themselves university students. Hon, Members, we now have sanity in the House; I can assure you that.

Let us conduct ourselves with decorum.

I will give this chance to the Member for Kibra before I give the chance to the Chairperson of the Committee on Defence and Foreign Relations.

**Hon. Okoth:** Thank you, hon. Temporary Deputy Speaker. I rise to share with you some thoughts on this Motion for Adjournment. I thank the Member from Mandera for bringing it up for discussion.

When you look at the incidents that are going on at our frontier counties, or in places such as Mandera, Garissa, Wajir, Marsabit and Tana River, it is clear that the Government is failing in its core mandate of providing security. We cannot hide away from that truth. We have to be honest, as Members of this august House, and see the steps that we will take to make sure that our borders and the people who live in Mandera, Garissa, Wajir, Marsabit and Tana River are fully protected. They should enjoy State security for which they pay taxes and are entitled to under the Constitution.

As I speak, the Teacher's Service Commission (TSC), due to insecurity, has been unable to recruit teachers. This means that in the month of March, when students should be taking their end-of-term one examinations, there will be no teachers. We are talking about free primary and secondary education in all parts of this country, except in these counties where children are being denied their rights.

When will this House hold the Executive accountable for providing security to the people of Mandera, Wajir, Marsabit and Tana River and make sure that children in those areas go to school, just like the children of Kibra? This is a problem we must solve. I am happy that hon. Gethenji of the Defence and Foreign Relations Committee is here. This is an issue that cannot be solved in isolation, as an internal security matter, because it has regional security implications. Our relationship with Somalia, Ethiopia and South Sudan come into play. I am happy that President Kenyatta is now the Chairman of the Inter-Governmental Authority on Development (IGAD). We have to address this issue. The challenges we are facing will spread to areas like Turkana, if the conflict in South Sudan escalates further.

We have seen the impact of the refugee situation in Kenya and other host countries, as a result of the protracted civil war in Somalia. What will happen if we do not stop the chaos in South Sudan? I hope that the Chair of the Departmental Committee will take up this matter and ensure that our country is involved in the negotiations aimed at bringing peace in South Sudan. This should happen quickly, so that we do not end up with another refugee situation. I mentioned that I have had a chance to visit Dadaab

Refugee Camp, which is located in Carissa County, with a little spill over into Wajir County. The refugee camp is within 100 kilometres from our border with Somalia.

I noticed that there was proper screening of people crossing the border into Kenya. Refugees going to the camps are first screened 100 kilometres inside our territory from the border. If we are serious about national security, we cannot outsource national security to foreign powers. I have heard that, as per the regional security operation arrangement in Somalia, the Ethiopian military is responsible for the protection of that very sensitive boarder section, while our own military operates deep inside Somalia. Let us look into ways of bringing back our military to be primarily responsible for our security. We must also ensure that we do not outsource the control of refugee affairs to foreign powers and international NGOs. We must bring those functions back into our own hands.

I want to wrap up by saying that it is due to failure of the Government that there is no security in places like Mandera County, to an extent that the governor's life is at risk. A fifth attempt has been made on his life. I stand here in solidarity with the people of Mandera and tell them not to fear to demand from the Government what is due to them – security. It is not a favour for the Government of Kenya to provide them with security, for which they pay tax.

Even as we deal with this crisis, let us be pre-emptive to make sure that we do not have another crisis blowing out of South Sudan. The leaders of South Sudan must be brought to a round table to make a peace agreement, so that their nationals do not run into our country in hundreds of thousands and create a refugee crisis similar to the one in Dadaab.

**The Temporary Deputy Speaker (Hon. (Ms.) Mbalu):** For those hon. Members who do not read the Standing Orders let me take this opportunity to remind you of the provisions of Standing Order No. 91, on responsibility for statement of fact. Firstly, the Standing Order says:

“(1) A Member shall be responsible for the accuracy of any facts which the Member alleges to be true and may be required to substantiate any such facts instantly.

(2) If a Member has sufficient reason to convince the Speaker that the Member is unable to substantiate the allegations instantly, the Speaker shall require that such Member substantiates the allegations not later than the next sitting day, failure to which the Member shall be deemed to be disorderly within the meaning of Standing Order No. 107.”

I sent out the Member for Ugunja for the remainder of today's sitting because of his failure to substantiate the allegation that he had made. This clarification is for the sake of the HANSARD.

Let me have hon. Alice Ng'ang'a, the Member for Thika Town.

**Hon. (Ms.) A.W. Ng'ang'a:** Thank you, hon. Temporary Deputy Speaker for giving me this opportunity. Security matters belong to all of us. This is not the time for blame games about who should do what or who should not do what. It is high time we rose up as Kenyans and united to protect our borders, especially those in Mandera. As things are going on right now, the way forward for this nation, as we did in the Budget

Policy Statement (BPS), is to put more money into security, so that we can deploy security reinforcement in Mandera, or the other borders and protect our citizens.

It is high time we all realised that if we do not unite as a nation to fight this level of insecurity or the *Al Shabaab*, we are going to be defeated. When we come to what we are discussing right now, and especially in Mandera--- When *Al Shabaab* attack, they do not ask whether you belong to the CORD or Jubilee. I keep on repeating this statement. They attack and finish you. They know they are attacking Kenyans. When we deal with this matter, we should not be divided. We should unite and stand as a team, so that we can overcome the current level of insecurity.

I am saying it should not be a blame game and all leaders in the north eastern region should sit down with all the relevant authorities from the security forces, starting with the County Commissioners to the person at the grassroots. These include the chiefs and all the leaders of that region, including national security leaders. That meeting should come up with a solution and a way forward for this nation.

We sympathise with the governor. However, if you ask me, I will not sympathise with the governor alone but with every person who lives in Mandera. The governor is an individual. Let us also remember that there are other people there who are equally important. We should protect all of them as Kenyans. We should not be losing lives in the north eastern region because we are not doing what we are supposed to do.

If at all we are working with *Nyumba Kumi*, we should strengthen it. It should not be a theory that there is *Nyumba Kumi*, and it is not being felt. Yesterday I went to my constituency because the level of insecurity has also gone up there, and did not want a blame game. I said I also have an opportunity as a leader to call all the security officials, starting from the County Commissioner to the District Criminal Investigations Officer (DCIO), the District Commissioner and the Chief. We had a meeting yesterday in my constituency, and we called the community. This is because *Al Shabaab* lives among us. They do not live outside. The thugs and terrorists live amongst us.

We held a meeting with the community and the leaders were all there. We told the community that if they know of a person who is a threat to security, and they are afraid to reveal that, that person is an *Al Shabaab* or a thug, they should not write their names but write a note and drop it at the Chief's office. They should drop it there, so that security officers can deal with these people. This is because they are the ones who know better than us. I am here in *Bunge* and they are at the grassroots.

We should also involve the religious leaders in this war against terror and thugs that are also operating here in Nairobi. Once we include the religious leaders, let them preach like they do every Sunday or Saturday. Let them get involved. Let them talk about security every Sunday or Saturday, so that it can get into our people that security is a matter for all of us.

We should get united and if you suspect something you should not keep quiet. Go secretly and report to the authorities. If you fear that they are also involved, you can go ahead and write a note and do not write your name. You can send a young one, or any other person, to drop that name of a person at a Chief's office, so that we can look for a way forward. Let everybody know that the matter of security belongs to all of us and we should all get united.

We lost our hon. Member the other day here in Nairobi. If at all there is a hit squad that is hitting people here in Nairobi---

What I was saying was that we should have a security squad in Nairobi to deal with the terror menace in the City.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Your time is over hon. Member. The Chairman, hon. Member for Tetu, hon. Gethenji, the Floor is yours.

**Hon. Gethenji:** Thank you, hon. Temporary Deputy Speaker for this opportunity. I stand in solidarity with the people of Mandera County and the Governor who recently suffered an attack. We would just like to support the efforts by the Kenya Government, and all the re-engineering that has been done recently of the security architecture. You remember in the last parliamentary Session, we passed the National Security (Amendment) Act. This Act has given us the opportunity to even empower the security actors in this country to detect and deter criminals and terrorists.

The Kenya Defence Forces (KDF) and the activities they are pursuing inside Somalia through AMISOM is under the mandate of the UN and the African Union. If there is a request by the people of Mandera and Kenyans at large that the KDF should be deployed to Mandera then that can be brought to the Floor of this House in a substantive motion and not through this Motion for Adjournment. A substantive Motion can be brought and we can approve that the KDF be deployed. Generally, this House has passed, in the last one year or so five interventions by the KDF in support of the civil authority. When the civil authorities declare that they are unable to deal with an internal security matter, it is then and only then that the KDF can be requested to be deployed. Even if AMISOM was to be asked to allow the KDF to be deployed along the border on the Somalia side, that will be a very long process. If it is the desire of the Kenyan people for the KDF to be deployed then the shortest route is through the Floor of this House.

In our Westgate Report and various reports we have made to this House and elsewhere, we have made several observations which could actually make a big difference in securing the border area in Mandera. One of the areas is Bulahawa, which is the buffer zone between Somalia and Kenya. This area is completely populated. There is no buffer zone between Somalia and Kenya and the built-up area is right up to the border of Kenya and Somalia. Therefore, we do not know the difference that exists between the people who live in that area. We do not know whether they are on the Kenyan side or the Somalia side. There is a lot of intermingling there. This creates a very viable environment for terrorists to operate within. They hide amongst the populace and carry out their activities without being detected.

On the issue of the Governor for Mandera County, I would request that he makes an application. The law that we passed on national security provides that people who want to purchase armored vehicles do apply to the Government for the same. I am sure that given the incidents of insecurity and attacks against the Governor of Mandera, his application will be viewed favourably and with success.

I further want to say that the intelligence forces of this country have been empowered significantly. Since the passing of the Security Laws (Amendment) Act, we have seen a reduction of activities by *Al Shabaab* and other groups, which intend to do harm to Kenyans. From the time we passed the Act to date the incidents that we have been experiencing in and around Nairobi, which is one of the highly valued targeted

areas, have decreased significantly. We have also seen sharing of intelligence between Kenya and our friends in the U.S.A and the U.K. We have had execution and killing of high value target commanders of *Al Shabaab*, including Ali Godane and most recently Mr. Aden Garar, who have been instrumental in masterminding attacks. Therefore, we support all efforts by the Government. I would like to donate the last minute to hon. Ali Noor.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Hon. Members, I must appreciate the requests. I have 19 requests, but the time allocated for contribution to this urgent matter of national importance was one hour.

### ADJOURNMENT

Hon. Members, the time being 6.30 p.m., the House stands adjourned until tomorrow, Wednesday, 18<sup>th</sup> March, 2015, at 9.30 a.m.

The House rose at 6.30 p.m.