

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Thursday, 3<sup>rd</sup> October 2013

The House met at 2.30 p.m.

*[Hon. Deputy Speaker (Dr. Laboso) in the Chair]*

### PRAYERS

### PAPERS LAID

The following Papers were laid on the Table:-

The Annual Report of the Commission for the Implementation of the Constitution (CIC) for the year 2012/2013.

The Annual Report of the Power of Mercy Advisory Committee for the year 2012/2013.

Special Audit Report of the Auditor-General on the hire of aircraft by Office of the Deputy President.

The CIC Quarterly Report for the period April to June, 2013.

The Annual Report and Financial Statement of the Kenya Post Office Savings Bank for the year 2012/2013.

*(By hon. A.B. Duale)*

**Hon. Deputy Speaker:** Any other Papers to be laid? If not, next Order.

**Hon. (Ms.) Nyasuna:** Thank you, hon. Deputy Speaker. Before I give notice of my Motion, I would like to acknowledge the presence of a section of Members of Homa Bay County Assembly.

### NOTICES OF MOTIONS

#### ESTABLISHMENT OF SELECT COMMITTEE ON ROAD SAFETY

I beg to give notice of the following Motion:-

THAT, aware that there has been an increase in fatal road accidents in the country in recent past, including the most recent cases of the accident which occurred at Ntulele area along the Nairobi-Narok Road where 42 persons lost their lives and others left debilitated; further aware that since January 2013 to 19<sup>th</sup> September 2013 there has been a total of 4501 road accidents with 1841 of them being classified as fatal and in total 2293 persons have lost their lives due to these road accidents; concerned that there are reported increases in the failure of road users to adhere to

traffic rules, the laxity in enforcing the provisions of Legal Notice No. 161 of 2003, popularly known as the “Michuki Rules” and the Traffic (Amendment) Act of 2012, and lack of any legislation or policy on motorcycles and *boda boda* operations; noting that there has not been a national study on the possible manufacturers’ defaults, particularly on locally assembled public transport vehicles, this House resolves that the National Transport and Safety Authority do conduct safety training, testing and licensing of all *boda bodas* and motor cycles, and further resolves to establish a Select Committee on Road Safety to investigate, inquire into and make recommendations to the House, including recommendations on proposed legislation within one hundred and twenty (120) days on: -

(i) the root causes of the rising cases of road carnage, including motor cycle accidents;

(ii) the failure in enforcement mechanism of the existing traffic-related statute and regulations;

(iii) the process of training and licensing of public transport, including licensing of drivers, public transport vehicles and motor cycles;

(iv) any correlation between the rise in road accidents and manufacturers’ defaults; and further that the Committee comprises of the following Members:-

The Hon. Gladys Wanga, MP - Chairperson

The Hon. Priscilla Nyokabi, MP

The Hon. Rosalinda Soipan Tuya, MP

The Hon. Fatuma Ibrahim, MP

The Hon. Eng. Mahamud Mohamed Maalim, MP

The Hon. John Mbadi, MP

The Hon. Mary Emase, MP

The Hon. Eng. Vincent Musyoka, MP

The Hon. Andrew Toboso, MP

The Hon. Asman Kamama, MP

The Hon. Kabando wa Kabando, MP

The Hon. Nicholas Gumbo, MP

The Hon. Mishi Juma, MP

The Hon. Ben Mutura, MP

The Hon. Dennitah Ghati, MP

Thank you, hon. Deputy Speaker.

**Hon. Deputy Speaker:** Hon. Iringo, do you have a notice of Motion to give? Let us have hon. Wanyonyi. Do you have a notice of Motion to give hon. Wanyonyi?

#### SUBMISSION OF RELEVANT INFORMATION ON GOVERNMENT LOANS

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

THAT, aware that according to Central Bank of Kenya estimates, Kenya’s public debt has now hit 50% of GDP with the Gross Government Domestic Debt increasing by Ksh141.4 billion to Ksh1.0

trillion on 5<sup>th</sup> April 2013 from Ksh858.8 billion at the end of June 2012 and an external debt load of Ksh800 billion, taking the total national debt burden to a high of Ksh1.8 trillion or half of the Ksh3.6 trillion economy; deeply concerned that the Government is forced to spend more to service the loans ultimately increasing the Government's recurrent expenditure and crowding out the development budget; aware of the massive shortfall in revenue collection and slow disbursement of donor funds forcing the Government to dishonour its public debt obligations; noting that the burdens and benefits of the use of resources and public borrowing must be shared equitably between present and future generations, this House, pursuant to Article 211 (2) of the Constitution, resolves that within seven days the Cabinet Secretary responsible for Finance submits to the Finance, Planning and Trade Committee all relevant information regarding all loans and publicly guaranteed debts, including the extent of total indebtedness by way of principal and accumulated interest, the use of the loan profits, the provision for repayment and progress thereof, and the legal framework to guarantee borrowing.

### REQUESTS FOR STATEMENTS

**Hon. Deputy Speaker:** There are several Statements.  
Yes, Dr. Ottichilo.

#### PROJECTED STRATEGIC GRAIN RESERVE STOCKS IN THE COUNTRY

**Hon. (Dr.) Ottichilo:** Hon. Deputy Speaker, pursuant to Standing Order No.44(2)(c), I would like to request for a Statement from the Chairperson of the Committee on Agriculture, Livestock and Co-operatives regarding the expected 2013 grain harvest, and the current and the projected Strategic Grains Reserve stocks in the country. The Chairperson should inquire into and report on the following:-

- (i) the acreage put under maize and wheat in 2013 and the expected production;
- (ii) the factors that may influence the overall production, particularly timely availability of agricultural inputs and incidents of maize lethal necrosis disease;
- (iii) the contingency plans that have been put in place to import the shortfall, in case there is an expected shortfall in production;
- (iv) the amount of money budgeted for by the National Cereals and Produce Board (NCPB) to purchase the 2013 crop, and the amount of money that farmers will be paid for each bag of maize and wheat delivered to the NCPB;
- (v) how successful the programme introduced by the Government last year to offer storage facilities for farmers' grains at NCPB stores was; and,
- (vi) the plans that have been made to ensure that the Government's subsidised fertilizers for the 2014 long-rains season will be available in time, and that they will be distributed in a transparent manner.

Hon. Deputy Speaker, hon. Limo of Kipkelion has a subsidiary question to add to this request, and I would wish that you allow him to do so.

**Hon. Deputy Speaker:** Yes, hon. Limo.

**Hon. Limo:** Thank you very much, hon. Deputy Speaker.

Further to what hon. Ottichilo has said, I would like to add something on the maize lethal necrosis disease.

*(Loud consultations)*

**Hon Deputy Speaker:** Order! Order! Hon. Abbas and hon. Junet, you are consulting too loudly!

**Hon. Limo:** Hon. Deputy Speaker, the lethal necrosis disease has become a real threat to maize production, especially in Narok, Bomet and parts of Kericho and Nandi; and, lately, Kipkelion, where I come from. Therefore, I would like the Committee to further inquire into and report on the following:-

- (i) steps taken by the Government to arrest the spread of the disease;
- (ii) measures that the Government has put in place to sensitise and equip farmers, in terms of giving them information and the requisite skills to fight the disease; and,
- (iii) what urgent plans the Government has to assist or compensate the farmers who lost their crop and their livelihoods.

Hon. Deputy Speaker, given that this is a very important food crop for this country, and considering the fact that if its production is not enhanced the Government will lose a lot in foreign exchange, to bridge the gap, I will appreciate if comments on these matters are included in the Report that the Committee will bring to the House. If this problem is not mitigated, farmers and the country will suffer, which is a real threat to food security.

**Hon. Deputy Speaker:** There is another request for Statement from hon. Abdul Dawood.

#### STATUS OF LAND ADJUDICATION IN THE COUNTRY

**Hon. Dawood:** Hon. Deputy Speaker, pursuant to Standing Order No.44(2)(c), I would like to request for a Statement from the Chairperson of the Committee on Lands regarding the recent issuance of title deeds in Mombasa by His Excellency the President. In the recent past, His Excellency the President issued over 60,000 title deeds in a bid to kick-start an effort to solve the land crisis in the Coast region. In the Statement, the Chairperson should inquire into and report on the following:-

- (i) the status of land adjudication in the whole country;
- (ii) when title deeds will be issued for land where letters of allotment have been issued; and,
- (iii) when title deeds will be issued for land where adjudication has been done but neither letters of allotment nor title deeds have been issued.

Hon. Deputy Speaker, I would like to have an indication as to when the Statement will be given.

**Hon. Deputy Speaker:** Hon. Members, since we have started with requests, we will continue and finish with them and then take the responses from the Chairpersons of Committees.

Hon. Amina Abdalla, I believe that you want to respond to Statement requests, and not making requests for the same.

I will then move to hon. John Kihara.

#### DELAYED PAYMENT OF SALARIES TO SHER KARUTURI FARM EMPLOYEES

**Hon. Kihagi:** Thank you, hon. Deputy Speaker. Pursuant to Standing Order No.44(2)(c), I wish to request for a Statement from the Chairperson of the Departmental Committee on Labour and Social Welfare regarding delay in payment of salaries to employees of Sher Karuturi Farm in Naivasha.

Hon. Deputy Speaker, Sher Karuturi Farm is the largest flower farm in the country with over 3,000 employees and has a capacity to produce over two million stems of roses per day. The farm management has however experienced financial problems and thus of late payment of salaries to workers has been delayed. There has also been disconnection of power and water to the residential houses due to non-payment of bills. The Nakuru County Public Health Officer has also threatened to shut down the farm and as of now the workers are yet to receive half of their salaries for the month of August and the entire salary for the month of September.

Hon. Deputy Speaker, the Chairperson should inquire into and report to the House on the following:-

- (i) the actual number of workers currently in the farm or employed on the farm;
- (ii) the amount of money owed to the workers by the farm management in form of salary arrears, non-remittance to the union and co-operative and the compensation for the years worked;
- (iii) the measures the Government is putting in place to ensure that the workers' interests are not severely jeopardised in the very likely event that the farm goes bankrupt and,
- (iv) the urgent measures the Government is to take to provide relief and emergency aid for the children, women and vulnerable people within the workers' colonies established by the farm management and in which it can no longer provide social services.

Thank you, hon. Deputy Speaker.

**Hon. Deputy Speaker:** Thank you. Hon. Gladys Wanga, do you have a request for a Statement? If not, then switch off your microphone. Omar Mwinyi Shimbwa, you have a request.

#### INSECURITY ON NAKURU HIGHWAY

**Hon. Shimbwa:** Thank you, hon. Deputy Speaker. Pursuant to Standing Order No.44(2)(c), I wish to request for a Statement from the Chairperson of the Departmental Committee on Administration and National Security regarding the rampant highway insecurity especially around Salgaa and Mau Summit area on the Nakuru Highway.

Hon. Deputy Speaker, persons disguised as traffic policemen frequently stop motorists, hijack them and rob them of their valuables. Recently, two companies, Crown Petroleum Limited and Tahmeed Transport Company Limited, had their lorries and trailers hijacked. The lorries were recovered in Eastleigh and Kabete while the trailers were missing.

Hon. Deputy Speaker, in the Statement, the Chairperson should inquire into and report on the measures the Government has put in place to deal with the rampant insecurity on highways that threatens to affect regional trade.

Thank you, hon. Deputy Speaker.

**Hon. Deputy Speaker:** Thank you. Roselinda Soipan Tuya.

#### NON-ALLOCATION OF BURSARY FUNDS TO KENYAN STUDENTS AT MAKERERE UNIVERSITY

**Hon. (Ms.) Tuya:** Thank you, hon. Deputy Speaker. Pursuant to Standing Order No. 44(2)(c), I wish to request for a Statement from the Chairman of the Departmental Committee on Education, Research and Technology concerning allocation of bursary funds to Kenyan students in Makerere University.

Hon. Deputy Speaker, information availed to me by one of the many Kenyan students in this university is to the effect that for one year now a group of Kenyan students has been pursuing their applications for bursaries in vain. This follows a proposal or an application submitted to the relevant education officers – a proposal which was duly acknowledged and followed with a promise by the said officers to act on the students' request within a week and that was in September of last year.

Hon. Deputy Speaker, it is also alleged that there is a sum of Kshs6.8 million supposedly earmarked for a bursary kitty for needy students in Makerere but which has not been expended for the last two years or at least not for the intended purpose. The reason given for withholding of these monies is lack of approval from the Ministry of Education, the consequence of which 96 needy students and, therefore, would-be beneficiaries of the said monies have since missed their examinations. Most of them are staying at home losing out on their opportunities as a result of delays in the disbursement of these funds.

I, therefore, wish to request that in its response, the Committee should after verification of the aforementioned issues, state what measures will be taken in the immediate to obtain the approval of the Education Ministry to ensure the needy students in Makerere who qualify for bursary assistance do not continue to suffer while money is stashed away in the university's accounts.

Thank you, hon. Deputy Speaker.

**Hon. Deputy Speaker:** Thank you, hon. Soipan. Hon. John Mbadi.

#### INVESTIGATIONS INTO NARCOTIC DRUGS ABUSE

**Hon. Ng'ongo:** Thank you, hon. Deputy Speaker. I also rise to seek a Statement from the Departmental Committee on Administration and National Security. Pursuant to Standing Order No.44(2)(c), I hereby request for a Statement from the Departmental Committee on Administration and National Security concerning the narcotic drugs abuse investigations.

Hon. Deputy Speaker, in 2010 a criminal complaint on narcotic drugs trafficking was presented by the former United States of America (USA) Ambassador to Kenya, Ambassador Michael Rannerberger and investigations were conducted by the then Minister of State for Provincial Administration and Internal Security. A copy of the

criminal complaint and provisional report on the investigations were subsequently tabled before the National Assembly on 17<sup>th</sup> February 2011 with the promise to table the final report once the investigations were completed.

Hon. Deputy Speaker, the Chairperson should therefore inquire into and report on:

(i) whether the investigations pertaining to the narcotic drug trafficking have been completed;

(ii) the action taken against those found responsible or culpable and finally,

(iii) when the final investigation report will be tabled in the House.

Hon. Deputy Speaker, I hope that the Chair will take this matter seriously given the magnitude or the effect of narcotic drugs in this country especially on the youth and also given the fact that some of the people who were named are actually senior individuals in this country.

Thank you, hon. Deputy Speaker.

**Hon. Deputy Speaker:** Thank you hon. Mbadi. Chairman of the Departmental Committee on Administration and National Security, while you are answering that you can also answer an earlier one that was directed to you.

**Hon. Abongotum:** Thank you, hon. Deputy Speaker. The Member for Changamwe, hon. Omar Mwinyi Shimbwa, raised the issue of highway robberies by people who disguise themselves as policemen or policewomen and end up hijacking vehicles and causing a lot of losses to businesspeople and especially transporters.

Hon. Deputy Speaker, we want to get to the bottom of this issue because it is rampant not only along Mombasa, Salgaa and all the way to Malaba, but it is also common on other highways. So, we actually request that we be given two weeks to report on that issue. We will bring the answer in two weeks.

Hon. Deputy Speaker, on the issue of the narcotic report, you will agree with me or the House will agree with me that this is a matter of a greater magnitude and considering the fact that His Excellency the President has actually launched a campaign against these drugs and drinking of illicit drinks, I want to ask for three weeks to come up with a full report on this report that was meant to be tabled in this House.

**Hon. (Dr.) Ottichilo:** Hon. Deputy Speaker, Sir---

**Hon. Deputy Speaker:** Yes, hon. Ottichilo; maybe before you ask, your earlier question was directed to the Committee on Agriculture, Livestock and Co-operatives. Is the Chair or Vice-Chair or any Member of that Committee in the House to give us an indication on when to expect the response to his question? The Committee does not have any Member present! Okay hon. Wanyonyi.

**Hon. F. K. Wanyonyi:** It looks like the leadership of the Committee on Agriculture, Livestock and Co-operatives is out because they are preparing to go to Mombasa. I undertake to pass the information. If you give us two weeks, we will get back to the Member.

Thank you, hon. Deputy Speaker.

**Hon. Deputy Speaker:** Please remember what the Leader of Majority Party mentioned yesterday, that when you give an undertaking make sure it is properly done and that the Clerks have received the necessary information, so that you can process it.

Yes, Leader of the Majority Party.

**Hon. A. B. Duale:** Thank you, hon. Deputy Speaker. I want to make it clear now that the Clerks and my office are taking stock. When you say two weeks, we will remind you when they are over, so that Members will not come here and say they have been kept waiting for six months. We will keep track; when you say three weeks, we will remind the Committee Chair that they are over.

**Hon. Deputy Speaker:** Okay; the next is hon. Ottichilo.

#### STATUS OF SAN MARCO SPACE APPLICATION CENTRE

**Hon. (Dr.) Ottichilo:** Thank you, hon. Deputy Speaker. A week ago I requested a Statement on San Marco Space Application Centre. The Speaker directed that the Chairpersons of the Committees on Education, Research and Technology and Administration and National Security, Energy, Communication and Information meet to decide on how to respond to my questions.

Unfortunately, the Chairs have not met because the Committees are very busy with a number of issues. Since then, matters at San Marco Space Centre have continued to deteriorate. Confirmed information indicates that Kenya and Italy have not signed an agreement. There are programmes being initiated by the Government of Italy to transfer the assets of the centre to the Italian Space Agency at the University of Rome, which the Kenya Government entered into agreement with. This is a very serious matter, and for that reason, I beg you to allow me to ask the Leader of Majority Party to respond to this matter, so that we do not lose the assets in this centre.

**Hon. Deputy Speaker:** Order Members! Order! Hon. Shill we said no walking along the passage.

**Hon. (Dr.) Ottichilo:** This country is going to lose heavily because this is a very strategic centre in terms of security, disaster management, science and technology. So, before the Committee Chairs find time to meet, I would like the Leader of Majority Party to undertake to this House that he will give us the status of this centre and we will know what is going on, and what action the Executive is taking to ensure that a favourable agreement to this country is entered into.

**Hon. Deputy Speaker:** That is, indeed, an urgent matter and a cross cutting one. Before the Leader of Majority Party answers, can we have hon. Jamleck, Chairman, Committee on Energy, Communication and Information?

**Hon. Kamau:** Thank you, hon. Deputy Speaker. We, indeed, agreed that the three Committees will be sitting jointly to look into this matter. These are the Committees on Education, Research and Technology; Administration and National Security and Energy, Communication and Information. The three Chairs sat and agreed that we should meet tomorrow to start the process of giving him an answer. We expect that within three weeks we will be done. We will have to go and visit that place ourselves and see how it is, so that we can give the Member the exact position. The matter is actually being handled by those three Committees.

**Hon. Deputy Speaker:** Yes, the Leader of Majority Party.

**Hon. A. B. Duale:** This House, in the last Parliament, adopted a report on that facility. In consultation with the hon. Member, there was an inspection done by the Office of the former Prime Minister, which was yet to--- As the Committees do their investigations, I will bring a Statement on the status on Thursday next week, and I will



also avail the documents of the last Parliament's joint committee and the Report from the former Prime Minister's taskforce.

**Hon. Deputy Speaker:** Okay, what is happening to the Chair of the Committee on Administration and National Security?

**Hon. Abongotum:** I know hon. Ottichilo raised the issue of transfer of assets to the University of Rome. I just want to urge the Leader of Majority Party to also instruct the Ministry concerned not to transact anything until the Committee finalizes its report.

**Hon. Deputy Speaker:** Yes, indeed, that is a very good suggestion. If there are things being transferred from San Marco, we want action taken immediately to stop it until the three Committees have come up with a comprehensive report to the House, and their recommendations on how we should move forward. We should leave it at that.

Yes, hon. Bowen.

#### ISSUANCE OF WORK PERMITS AND CITIZENSHIP TO FOREIGNERS

**Hon. Bowen:** Thank you, hon. Deputy Speaker. Pursuant to Standing Order No. 44(2)(c), I hereby request for a Statement from the Chairperson, Committee on Administration and National Security concerning the issuance of work permits and citizenship to foreigners in Kenya. The rate of unemployment in this country is alarming, but the Ministry of Interior and Coordination of National Government, through the Department of Immigration, constantly issues work permits to foreigners for jobs that can be done well by Kenyans. Permits have been issued to several foreigners who are supposed to provide specialized services.

The process of acquiring these work permits in the Ministry of Interior and Coordination of National Government, Department of Immigration is very fraudulent and corrupt. It has led to illegal immigrants into the county who have contributed to the high level of insecurity in the country.

In the Statement, the Chairperson should report on the following matters:-

(a) how many work permits have been issued to aliens from the year 2012 to date, including the information on specific job descriptions and qualifications for those work permits issued;

(b) the procedure of vetting and issuing work permits to aliens;

(c) the role of the parliamentary committee in the process of vetting and issuance of work permits;

(d) how many aliens have been granted citizenship in the past five years, and the reasons as to why they were given citizenship, and their country of birth;

(e) whether the issuance of work permits of class E to employees--- These are jobs which can be done best by Kenyans; why the permits should not be cancelled and Kenyans given those jobs.

Thank you, hon. Deputy Speaker.

**Hon. Deputy Speaker:** Thank you, hon. Bowen.

**Hon. Okoth:** Hon. Deputy Speaker, I requested for a Statement a few months ago on the status of KDF and I missed the session when the Chairperson of the Departmental Committee on Defence and Foreign Relations was ready to present it. I was wondering how we proceed in such a case.

**Hon. Gethenji:** Hon. Deputy Speaker, a week or two ago I was prepared to read the Statement, but the Member was not in the House and I was directed by the Speaker to wait until the Member is in the House for the response.

**Hon. Deputy Speaker:** Are you ready to respond today?

**Hon. Gethenji:** Yes, I am.

**Hon. Deputy Speaker:** But you will have to wait until we finish with the requests as we had agreed.

**Hon. Gethenji:** I stand guided.

**Hon. Deputy Speaker:** You will have to wait, Okoth. Ole Ntutu.

#### DELAYED GAZETTEMET OF NEW CONSTITUENCIES AS DISTRICTS

**Hon. ole Ntutu:** Hon. Deputy Speaker, pursuant to Standing Order No.44(2) (c) I wish to request for a Statement from the Chairperson of the Departmental Committee on Administration and National Security regarding the gazettelement of the 80 new constituencies as districts created under the new Constitution.

The national Government continues to use the old district headquarters for purposes of planning for Government departments and agencies thus greatly disadvantaging the newly created units. In the Statement, the Chairperson should inquire into and report on the following:

(i) when the Ministry of Interior and Co-ordination of National Government plans to gazette the new constituencies as districts as required by the law; and,

(ii) when the Cabinet Secretary for Interior and Co-ordination of National Government will instruct other Government departments and agencies to start using the new districts as their recruitment centres and also deploy staff and resources to these new districts.

**Hon. Deputy Speaker:** That one is directed to the Chairman of the Departmental Committee on Security.

**Hon. Abongotum:** Hon. Deputy Speaker there are two requests here and the hon. Member for Marakwet East requested for a Statement on the status of work permits in this country which is an extremely pertinent issue in this country. We will require three weeks because there is a lot of documentation. He said that he wanted to know how many people were issued with permits for the last five years.

On the issue of the new districts, I think that will require a week before I respond to the issue of gazettelement. I, however, know that gazettelement is usually at the discretion of the President. These districts need to be gazetted so that Kenyans get services in those places. So, one week will be sufficient.

#### STATE OF AFFAIRS AT THE JUDICIARY

**Hon Nakara:** Hon. Deputy Speaker, pursuant to Standing Order No.44(2)(c) I wish to request for a Statement from the Chairperson of the Departmental Committee on Justice and Legal Affairs regarding the disquiet and lack of harmony at the level of the Judiciary. Concerned that the Judiciary plays a critical role in the proper governance of this nation and the administration of justice; the National Assembly by itself or through its committees is empowered by Articles 94 and 95 of the Constitution to deliberate and

resolve matters of concern to the public and to play oversight role on State officers and State organs---

*(Hon. Onyonka crossed the Floor without moving to the bar)*

**Hon. Deputy Speaker:** Hon Richard Onyonka, you know the rules. You are not a new Member. We know about crossing the Floor.

**Hon. Nakara:** The Chairperson should inquire into and report to the House on the following matters:-

(i) the terms of service of the members of the Judicial Service Commission including, but not limited to their pay, remuneration and allowances;

(ii) the frequency of their meetings and pay for the allowances so far paid to individual members of the Commission;

(iii) whether the Judicial Service Commission, having been adversely mentioned at the commencement of the investigation by the Departmental Committee on Justice and Legal Affairs Committee, can fairly and impartially investigate or sit in judgment on matters concerning the conduct of the Chief Registrar of the Judiciary;

(iv) whether the Judicial Service Commission, having been adversely mentioned at the commencement of investigations and being in part responsible for accountable use of judicial funds, can reasonably, fairly, and impartially investigate or sit in judgment on claims of financial impropriety in the Judiciary; and,

(v) whether some members of the Judicial Service Commission attempted to interfere with the investigations by the Banking Fraud Unit of the police service on alleged fraud of Judiciary's funds and stop prosecution of those found culpable.

Hon. Deputy Speaker, finally, I want the Chairman of the Committee to state to us whether the act of members of the Judicial Service Commission of refusing to appear before the Justice and Legal Affairs Committee amounts to misconduct within the meaning of the Constitution and the law.

The public needs to know about this issue because the Judiciary is an institution that started reforms in this country. However, of late, some members of the public have got discouraged and they do not accept some of the judgments. We need the Judiciary to put its House in order to win the confidence of the public.

**Hon. Nuh:** On a point of order, hon. Deputy Speaker. I was wondering whether the hon. Member was seeking a Statement or he was issuing a Statement. I was lost. I wanted your clarification.

**Hon. Deputy Speaker:** I think it was clear that he was seeking a Statement from the Departmental Committee on Justice and Legal Affairs.

## STATEMENT

### DESTRUCTION OF CROPS BY WILDLIFE

**Hon. (Ms.) Abdalla:** Thank you, hon. Deputy Speaker. Pursuant to Standing Order No.44(2)(c), on 17<sup>th</sup> June 2013 the Member for Ruiru Constituency, hon. Gathogo sought a Ministerial Statement regarding the destruction of crops by animals in various parts of the country. In her request, she noted that agriculture is the only source of

livelihood for most Kenyans and was concerned about the recurrent invasions of farms and destruction of crops in most parts of the country.

In her request, she wanted the Committee to report to the House on what measures the Kenya Wildlife Service (KWS) has so far taken to control the situation; whether there will be any form of compensation for the affected farmers and whether the Committee is in a position to visit Ruiru Constituency to see the extent of the damage by hippos as an example of the damage other animals are doing in other parts of the country.

In exercise of its mandate, the Committee embarked on the matter and invited the Cabinet Secretary, Ministry in charge of water resources to a sitting of the Committee. In her response, the Cabinet Secretary responded as follows: That she is aware that there are many cases of destruction of crops by animals in many parts of the country and that the following strategies of mitigating the same are being addressed by KWS:-

(i) The KWS sensitizes the communities on measures of mitigating dangers caused by wildlife and how the same can be handled as they occur.

(ii) In consultation with communities, the KWS is erecting barriers such as electric fences, mounts and stone walls to keep wildlife away from human settlements and farms. Currently, the KWS has erected 1,154 kilometres of electric fence throughout the country.

(iii) The KWS has an elite mobile squad of 45 rangers headed by a senior warden, which usually responds to support residents in areas where there is human-wildlife conflict.

(iv) The KWS has an elaborate community support programme that reaches out to communities that interact with wildlife. Some of their projects include provision of water, health centres, education and enterprise projects.

Regarding the specific issue of hippos within the Ruiru Constituency, the Cabinet Secretary informed the Committee that her Ministry, through the KWS has been sending teams of rangers to attend to the problem of animals by driving them back to the waters. The Ministry, through the KWS, has a special unit there that deals with the problem of animals. On the issue of compensation, as I said when responding to the question from hon. Mwadime, there is currently no legal ground upon which compensation of crops can be based. The Wildlife Conservation Act, Cap.376 of 1989 was amended to outlaw compensation of crops, wildlife and other related farm infrastructure. This amendment was as a result---

**Hon. Deputy Speaker:** Hon. Amina, we can hardly hear you. I do not know what the problem is. The tone is too low.

**Hon. (Ms.) Abdalla:** Hon. Deputy Speaker, I will try to speak louder. On the issue of compensation, currently there is no legal ground upon which compensation of crops can be based. The Wildlife Conservation Act, No.376 of 1989 was amended to outlaw compensation of crops, livestock and other related farm infrastructure. We are told that this amendment was as a result of abuse of the same.

Lastly, on the Member's request for the Committee to visit her constituency during the House sitting on Tuesday 30<sup>th</sup> September, the Committee unanimously agreed to resolve to appoint a day in conjunction with the community leaders in Ruiru to go and visit the area to see for itself the destruction of crops by the hippos.

**Hon. (Ms.) Gathogo:** Asante sana, Bi. Naibu Spika kwa hayo majibu kutoka kwa Mwenyekiti wa Kamati ya Mazingira na Mali ya Asili. Ningetaka kusema kwamba

sijaridhika kwa sababu wakulima katika Eneo Bunge la Ruiru na Kenya yote wanateseka kwa sababu ya hawa wanyama wa pori. Wakati wanyama wameuliwa, tunakimbizwa na watu wanateswa sana kwa sababu ya kuwaua. Wanyama wakiua watu, hakuna malipo wanapata. Kwa hivyo, ninamshukuru Mwenyekiti lakini sijaridhika. Ningetaka kuikaribisha Kamati kwa eneo langu la Bunge. Tuko na bwawa la maji la tatu ambapo tumeuliza Serikali iweke seng'enge ya stima lakini haijawekwa. Wiki iliyopita, mtoto mdogo alikuwa karibu kuumwa na mamba akitoka shule. Kwa hivyo, sitaki kulichukulia jambo hili kwa mzaha na ningetaka kulipata jibu ambalo litaniridhisha. Sijaridhika kamwe!

**Hon. Deputy Speaker:** Chair of the Committee on Environment and Natural Resources, you have already undertaken that you will be visiting the area. After your visit, of course, you will have maybe further clarifications. But do you want to add anything?

**Hon. (Ms.) Abdalla:** Hon. Deputy Speaker, I just wanted to agree with the Questioner that the compensation given out when wildlife attacks animals or crops has been low, but I want to urge Members, especially the hon. Member, to note that on Tuesday next week, we shall be tabling a report to amend the proposed Wildlife Conservation Bill, 2013. I would like to urge Members to contribute to that Bill because it is now proposing compensation for damage to crops. It also seeks to increase the amount of money that will be given as compensation when wildlife attacks animals.

Secondly, on the issue of fencing, we will be taking it up with the KWS. As you know, the new dispensation allows us to amend budgets and we will be able to facilitate that as much as the Committee is able.

**Hon. Deputy Speaker:** Okay. We will leave the matter to rest there until you visit the area. Before the Leader of the Majority, I want hon. Musyimi and then the Chair of the Committee on Justice and Legal Affairs to also respond to the question on the Judiciary, as to when they will be ready with their report.

**Hon. Musyimi:** Hon. Deputy Speaker, the Member for North Imenti asked a question directed to the Chair, Committee on Lands. I am aware that the Chair, Lands Committee is not in the Chamber. Indeed, he cannot be in the Chamber. I have discussed with the Member for North Imenti to ask that the Committee be given a few weeks by which time to give the report. While I am on my feet, if you will be so kind as to indulge me, the matter of the Bills that have been committed to the Budget and Appropriations Committee came up last week. I know that you are kind enough to give me audience at hardly any notice to explain that although there were inordinate delays, some of these Bills should have been given attention as far back as May this year. I told you, and you were kind enough to inform the House, that these 10 Bills came to my Committee on Thursday last week, 16<sup>th</sup> September, 2013. The law requires that we give them not more than two weeks and I want to promise this House that by 10<sup>th</sup> October, we shall be done with these Bills.

I would like to plead, as you rightly pointed out, that the Office of the Clerk does respect the legislative process of dealing with these Bills and that we are not given negative coverage for mistakes that are, quite honestly, not ours. I want to thank you.

**Hon. Deputy Speaker:** Thank you. The Chair, Committee on Justice and Legal Affairs.

**Hon. Chepkong'a:** Hon. Deputy Speaker, I have listened very keenly to the Statement that has been requested by---

**Hon. Deputy Speaker:** You are also too soft. We cannot hear you.

**Hon. Chepkong'a:** Too soft?

**Hon. Deputy Speaker:** The voice.

**Hon. Chepkong'a:** Hon. Deputy Speaker, I have listened very keenly to the Statement that has been requested by the Member with respect to the goings on in the Judicial Service Commission. The Justice and Legal Affairs Committee is currently seized with other matters in addition to what he has requested. We will be dealing with those issues. But it is important for this House to know that if some of the correspondences that we have read in the newspapers are true that the Members of this House have been referred to as "lords of war", some people are playing with fire.

**Hon. Deputy Speaker:** Are you responding? You are responding to the issue.

**Hon. Chepkong'a:** Hon. Deputy Speaker, I am responding. I was told I was a little bit soft and that is why I am trying to be a little bit fiery. I was out of the country and the Committee sent a letter requesting the JSC to respond within 14 days. Up to today, they have not responded. They think that we are barking dogs. We have capacity to bite. They should watch this space. I have teeth and this House has teeth.

**Hon. Deputy Speaker:** How long?

**Hon. Chepkong'a:** Hon. Deputy Speaker, I am responding. I have listened and hon. Junet has also spoken very well.

**Hon. Deputy Speaker:** Hon. Ababu has a point of order.

**Hon. Chepkong'a:** I am responding, hon. Deputy Speaker.

**Hon. Deputy Speaker:** He is on a point of order, please, allow him.

**Hon. Ng'ongo:** Thank you, hon. Deputy Speaker. Listening to the Chairman of the Departmental Committee on Justice and Legal Affairs, he is talking of some people referring to this House as "lords of war". Could he be quoting from the media? This is because our rules are very clear. You cannot refer to adverts, stories, rumours and communication from the media unless you are able to substantiate. I am at a loss as to who is referring to hon. Members--- Is the Chairman of the Departmental Committee on Justice and Legal Affairs in order to refer to documents that we are not aware of? Could he clarify if he is referring to the media? What is his source of authority?

**Hon. Deputy Speaker:** I think you are quite right. Hon. Chepkong'a, that is why I asked you to give us time. You could substantiate those issues at the time you will be giving your response to the question. Give us the time when you will respond to Mbadi's concerns that you are quoting rumours and using information from the media which may not be substantiated.

**Hon. Chepkong'a:** Thank you, hon. Deputy Speaker. Of course, hon. Mbadi knows that I am a very competent lawyer. When I quote, I am authoritative on this matter. On matters of accounts, I respect him. He should equally respect me on matters of law. I am authoritative on this matter. I am quoting primary evidence and if hon. Mbadi wishes to consult with me, he is my good friend, I could avail this documentation to him and I am sure he will be satisfied. We will respond in the next two weeks. This is a very serious matter and so we undertake---

*(Loud consultations)*

Hon. Deputy Speaker there is a lot of chorus here. Two weeks is quite sufficient.

**Hon. Deputy Speaker:** Okay. Two weeks it shall be.

**Hon. Nakara:** Hon. Deputy Speaker, as per the weight of the matter, some information is needed. This is because the judgment could be done any time in the course of next week. So, I need the Committee to sit within a week so that we get to the conclusion of this matter.

**Hon. Deputy Speaker:** Remember that the Chairman of the Committee is not in the Judicial Service Commission. They have to go back and forth to several people. I think it is reasonable to allow him the two weeks. If any other matter happens in between, we are not going to be in control of it anyway. Let it be two weeks, hon. Nakara. Let the matter rest there. Your concern has been noted. If the Committee can do it any faster, then it will be in the interest of everybody. We are giving the Committee a maximum of two weeks.

#### VISIT TO CHINA BY PRESIDENT AND HIS DELEGATION

**Hon. Wakhungu:** Hon. Deputy Speaker, some two weeks ago I had requested for a Statement from the Leader of the Majority Party regarding the President's visit to China. He promised to give feedback within three days. Indeed, we consulted afterwards and he said that I should give him time because of the Westgate issue. So, I want to remind him. I am sure he has the Statement. If he has it today, I will appreciate.

**Hon. A.B. Duale:** Hon. Deputy Speaker, the Statement is ready, but I will issue it on Tuesday, next week.

**Hon. Deputy Speaker:** It is your turn now, Leader of Majority Party to give us the programme for next week.

#### BUSINESS FOR THE WEEK COMMENCING 8<sup>TH</sup> TO 10<sup>TH</sup> OCTOBER 2013

**Hon. A.B. Duale:** Hon. Deputy Speaker, pursuant to Standing Order No.44(1)(2), on behalf of the House Business Committee I rise to give the following Statement regarding the business appearing before the House the week beginning Tuesday, 8<sup>th</sup> October, 2013:-

The House Business Committee (HBC) met on Tuesday this week at the rise of the House to give priority to the business of the House. The House will consider the following Bills in the Committee of the whole House: The Capital Markets (Amendment) Bill, 2013; The Tax Appeals Tribunal Bill, 2013 and the Microfinance (Amendment) Bill, 2013. The Kenya Deposit Insurance (Amendment) Bill, 2013 which is in the Committee of the whole House will be put on the Order Paper next week in case we do not reach there.

I wish to urge all Members with proposals to fast track the amendments and submit them to the Legal Department of Parliament for consideration. The HBC agreed to a request that the Auditor-General makes a presentation to the Public Accounts Committee seated in this plenary on Tuesday next week. In this regard, we will expect a Motion to be made under Standing Order, No.31 on Tuesday. I want to urge Members under Standing Order No.91 to take leave of the House. I want to urge Members to avail

themselves in the House to exercise their fundamental role of oversight over other arms of Government.

Hon. Deputy Speaker I have also been informed that the Departmental Committee on Energy, Communication and Information is expected to table a Report on the Kenya Information and Communication (Amendment) Bill, 2013 and the Media Council Bill, 2013 in readiness for the Second Reading of those two media Bills.

Further and importantly, I wish to bring to the attention of the House the fact that the HBC is concerned about the inordinate delay occasioned by Departmental Committees and the Budget and Appropriations Committee when Private Members' Bills are sent to them for pre-publication scrutiny as required under Standing Order No.114. So far, a total of 25 Bills have been referred for pre-publication scrutiny. Out of this, four Bills have been cleared and published including the two constitutional amendment Bills. Between May and September, that is four months down the line, a total of 18 legislative proposals were forwarded to respective departmental committees and the Budget and Appropriations Committee. I am informed that the Budget and Appropriations Committee has today cleared a number of such Bills and will forward them to the Speaker for approval to allow publication.

I am also informed that the Departmental Committee on Finance, Planning and Trade has also cleared the Public Procurement and Disposal (Amendment) proposal. The HBC is now seized of the comprehensive list of all the legislative proposals forwarded by Members and a copy can be found in Room Eight or my office where Members can track the movement of their individual Private Members' Bills.

However, hon. Deputy Speaker, I would like to invite your attention to the following:-

(i) to urge all Committees to form sub-committees to be able to fast track the scrutiny of legislative proposals so as to fast track publication of Bills;

(ii) establish an administrative guideline within which Committees must submit their Reports on legislative proposals to your office to pave way for publication of the Bills; and,

(iii) I urge you to order that at the expiry of 14 days, pursuant to Standing Order No.114(3)(b), the legislative proposal be published immediately.

Hon. Deputy Speaker, finally, the House Business Committee will meet on Tuesday, 8<sup>th</sup> October, at the rise of the House to consider the business for the rest of the week.

I hereby table the Statement.

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

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

**Hon. Deputy Speaker:** On his Communication?

**Hon. Gumbo:** Yes, hon. Deputy Speaker.

**Hon. Deputy Speaker:** Proceed.

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

While I do not wish to repeat what the Leader of the Majority Party has said, one of the benefits that we intended to gain by going purely presidential was to allow this House to concentrate on its core mandate, key of which is law making. This matter has



been coming up, and I thank the Leader of Majority Party for raising it again. We have reached a point where we now need the intervention of the Speaker because the main purpose of what the Leader of Majority Party has done is to enable hon. Members to prepare, so that when we come here, we debate the matters that are going to come to this House. We raised this matter last week, and I want to say it again: The Committees must do their work.

If the Speaker must wield the big stick, the time is now because we are getting very frustrated. The other week, we were debating the Police Service Commission (Amendment) Bill. However, it was not on the Order Paper last week. It is not on the Order Paper this week. It was slotted for this week but, again, it is not on the Order Paper. We are getting very frustrated. With the limited research facilities that we have, as a House, this is a major frustration. I am, therefore, appealing to you that the Office of the Speaker must now step in so that the Committees, and particularly the Chairpersons of Committees, can do their work so that we can also be enabled to our work properly.

**Hon. Deputy Speaker:** Okay, you have laid emphasis on it. As the Leader of Majority Party has said, the matter is of major concern to hon. Members. We have discussed in the House Business the concern that Bills are not being tracked or they are being frustrated. The movement of Bills, particularly Private Members' Bills, and even Government Bills; as you have mentioned, for example, the Police Service Commission (Amendment) Bill, has been withdrawn because of, again, the Committee not being ready with the amendments. So, Committee Chairpersons, please, make sure that you get your act together, so that we can get moving. We do not want hon. Members to feel frustrated.

Hon. Members, there was one more Statement request in respect of which we have not heard from the Committee Chairperson. It is the Statement request on the flower farms in Naivasha, by hon. John Kihagi. Do we have the Chairperson or the Vice-Chairperson of the Departmental Committee on Labour and Social Welfare? Hon. Gichigi, can you speak on their behalf?

**Hon. Gichigi:** Hon. Deputy Speaker, since this is an issue that is outside Nairobi, I propose that we be given two weeks to investigate it.

**Hon. Deputy Speaker:** Okay, you have committed your Committee to it.

What is your reaction, hon. Kihagi?

**Hon. Kihagi:** Hon. Deputy Speaker, this is a fairly urgent matter. We are talking of people who have not been paid their August salary. We are also talking of people who are living in deplorable conditions. Therefore, I would urge that the Committee attempts to handle this matter within a week.

**Hon. Deputy Speaker:** Hon. Kihagi, we shall give them a maximum of two weeks, as they have requested.

Hon. Members, before we move to the next Order, I would like to give a Communication on it because it is a special Motion.

## COMMUNICATION FROM THE CHAIR

### AMENDMENT OF MOTION ON APPROVAL OF TSC NOMINEES

**Hon. Deputy Speaker:** Hon. Members, I have received several requests from some hon. Members wishing to amend the Motion on the Report by the Departmental

Committee on Education, Research and Technology on vetting of nominees to the Teachers Service Commission, which is the next Order. In this regard, I wish to guide you on this matter. In so doing, I will be guided by the precedent that has been set by this House and previous Houses.

Hon. Members, a precedent has been set on the manner of amending a Report proposing a rejection in total, or in part, of nominees to a constitutional commission. Hon. Members may recall that in the Tenth Parliament, a report by the Departmental Committee on Labour and Social Welfare on the appointment of commissioners to the Gender and Equality Commission, which had recommended the appointment of commissioners and the rejection of the chairperson, was amended and the name of the chairperson was approved by the House. Similarly, at the beginning of this Session, the House amended a report that had proposed that some of the names be approved while one was to be rejected.

These two cases are different from what we have today as they were proposing that part of the names be approved, and that part of them be rejected. Order No.8 is a Motion that is asking the House to adopt a report of a committee proposing rejection of all names, and not partial approval of the list. The closest precedent to what we have today is the manner in which the House was guided following its decision to reject the Motion on the adoption of the Report by the Departmental Committee on Justice and Legal Affairs on the appointment of the chairperson and members of the Ethics and Anti-Corruption Commission. The Report, which had proposed that the chairperson be rejected, was rejected by the House. Subsequently, the Speaker ruled that a rejection of a Motion proposing the rejection of nominees results in maintaining the status quo. That is, the House will still be seized of the names. Indeed, in the case of the Ethics and Anti-Corruption Commission, the name was later re-introduced in the House by way of a Motion and was approved.

Hon. Members, in this regard, therefore, since the Motion under Order No.8 is asking the House to adopt the Report of a Committee proposing rejection of all names, an amendment asking the House to approve any or all of those names would be a direct negative of the Motion. Any Member with such intention is advised first of all to oppose the Motion under Order No.8 when the Question is put. Should the nays have it, then it follows that the House will still be seized of the names as forwarded by His Excellency the President. In this case, any Member would be at liberty to introduce a Motion at a later date asking the House to approve the appointment of any or all of the nominees to the Commission. Please be guided.

Members will also recall that towards the end of the sitting yesterday, attention of the Speaker was drawn to Standing Order No.107 regarding alleged misinterpretation of truth by the Member for Laikipia East. The hon. Keynan alleged that the Member had misled the House on his attendance of committee sittings regarding this particular Order. I have since established that, indeed, the Member attended the last meeting of the committee wherein the report was adopted. That fact was also alluded to by the hon. Anthony Kimaru, MP and indeed the hon. Cecilia Ngetich, MP. This, therefore, settles that matter.

I thank you. Next Order.

## **MOTION**

ADOPTION OF REPORT ON VETTING OF TSC NOMINEES

THAT, pursuant to Section 8 of the Teachers Service Commission Act and the provisions of Standing Order 45, this House adopts the Report of the Departmental Committee on Education, Research and Technology on Vetting of Nominees to the Teachers Service Commission, laid on the Table of the House on Tuesday, 1<sup>st</sup> October 2013.

*(Hon. (Ms.) Chege on 2.10.2013)*

*(Resumption of Debate interrupted on 2.10.2013)*

**Hon. Deputy Speaker:** Yes, hon. Jamleck Kamau had eight minutes on this Motion.

**Hon. Kamau:** Hon. Deputy Speaker, in the circumstances of your ruling, I wish to oppose this Motion and I want Members to give me the benefit of the doubt on this one. Just listen to me and see whether perhaps what I will explain to you might change those who are not for this Motion or are for this Motion.

Hon. Deputy Speaker, I am more concerned with the procedure that was followed during the vetting process. The TSC Act and even the Act on appointments is very clear on the process that is supposed to be followed. Every nominee is treated differently from any other nominee. You get a nominee and then you interview him separately from the other nominee. From there, you make observations of that particular nominee and finally you make recommendations.

Hon. Deputy Speaker, when I look at this report, indeed interviews were done separately. Observations were done separately but the recommendations thereof were actually not done individually. The recommendations that were brought to this House were actually global showing that all these members or nominees should all be rejected. The issue that I have with that is that yes, indeed two nominees could have had some issues but what about the other four nominees? I want Members to put themselves in the shoes of these nominees. If it was you who was being nominated, you went through the entire process and you are clean, credible and have integrity, the Committee did not find anything wrong with you and yet at the end of the day the Committee comes and says: "Reject those names," how would you feel?

Hon. Deputy Speaker, that is what I have a problem with. What I believe would have happened and do not take me wrong, I do not support any person---

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

**Hon. Deputy Speaker:** Njagagua, what is your point of order? What is out of order?

**Hon. Njagagua:** Hon. Deputy Speaker, my point of order is whether the Member is actually in order to seek to guide the Departmental Committee on Education, Science and Technology. He does not sit in that Committee. I have done about six months in this august House. I have seen various reports and I do not think there is any standard way of writing reports. If he is in any doubt or if he does not think that we did a good job, let us

discuss the report itself but he should not seek to guide that Committee on how to do its work. Is he actually in order in doing that?

**Hon. Deputy Speaker:** Okay. Hon. Jamleck.

**Hon. Kamau:** Hon. Deputy Speaker, I do not intend to guide the Committee on how they are supposed to write their reports but as a Member of this House and also as a Chair also of a Committee and I also have sat in committees before, I know how reports are written. Therefore, I do not really want to dwell on that because I want to dwell on the issues that I have before me.

Hon. Deputy Speaker, I personally have said that I do not want to be taken wrongly but if there is any nominee whose name appeared in this House or in the Committee and his or her name was not forwarded to the President for approval, I cannot support such a person but for those nominees who went through the entire process, they are clean. They have no problem. Why should they actually be victimised simply because some other persons found their way in? I thought the best thing that we can do as a House is to make sure that we put ourselves in the shoes of those people and actually if they have no problem make the necessary recommendations to rectify the matter.

Hon. Deputy Speaker, I have seen that there were three persons whose names were submitted to the President for approval as Chair and yet the Committee talks about seven people and I understand. I have read the Report and I know but what the Committee did not tell us is that there was a court order that said that alongside those three members that the panel was to submit to the President, there were four other members who were supposed to have gone alongside. That is a court order and the panel could have done nothing about it.

**Hon. (Ms.) S.W. Chege:** On a point of order, hon. Deputy Speaker.

**Hon. Kamau:** Hon. Deputy Speaker, I wish I could not be interrupted.

**Hon. Deputy Speaker:** Yes, but you cannot really stop the Chair of the Committee, hon. Jamleck.

**Hon. (Ms.) S.W. Chege:** Thank you, hon. Deputy Speaker. I respect hon. Jamleck Kamau but it is not right for him to come and tell the House that we did not disclose that there was a court order. When I was doing my submission yesterday unless he was not listening since he was busy lobbying, he should have heard me saying that there was a court order on the same matter. So, I would like him to proceed but not mislead this House. Thank you.

**Hon. Deputy Speaker:** Hon. Jamleck, the Chair has mentioned that.

**Hon. Kamau:** Well, hon. Deputy Speaker, what I am saying is that the Chair of the Committee---

*(Loud consultations)*

**Hon. Deputy Speaker:** Order, hon. Members. We have said that each of us is going to have an opportunity to speak and that we are going to do it respectfully for each other. Everyone will have their chance if we have the time. So, let us just be patient and give Jamleck his chance.

**Hon. Kamau:** Hon. Deputy Speaker, I just want to go directly to the recommendations of the Committee and if we can go there together, one of the recommendations talks about 37 names that were forwarded to the President, in

contravention of the Act. That is correct, but for the three names that were supposed to be forwarded by the panel, it is the court that ruled. Once a court rules, hon. Members, the only person the President was supposed to appoint from all those is one. Whether they were three or seven, truly speaking it does not really have any difference but that as it may, I really do not want to belabour on so many of these.

I want to go on the general observations of this Committee. Hon. Members can go with me there, that is, Page 27 of the Report and go straight to the general observation No.8. It states thus: "The Committee observed that the list did not meet the constitutional requirement of regional balance."

Hon. Deputy Speaker, all these people who were brought before the Committee, one of them comes from Coast Province, another from Eastern Province, another from Nyanza Province, another from Western Province, and another one from Central Province. Surely, is that not regional balance? What other form of regional balance are we looking for? So, these are the issues I am saying that the Committee apparently has issues about. I would like to urge the Committee to put all other considerations aside, whether politics or anything and withdraw this Report. Let them bring before this House a report that is clear and which does not victimize people so that this House can move forward.

Hon. Deputy Speaker, with that, I strongly oppose.

**Hon. Melly:** Hon. Deputy Speaker, I would like to inform hon. Jamleck that, in fact, the court had ordered that the names that were to be forwarded were only four. In this particular case, some regions were not considered at all. For example, in the first installment of names, there were a few names of people from Central Province. In the last one, we have two names of people from Nyanza Province and yet other regions are not taken care of.

**Hon. Kamau:** Hon. Deputy Speaker, that information was not very necessary because there is no way you can have six positions representing the people of Kenya. There is no way you can do that.

*(Loud consultations)*

I am being very clear on my own. I will always support the truth no matter what and the truth is simple. There are vested interests in this House which are out to make sure that some people are knocked out so that they get their way through.

**Hon. Deputy Speaker:** Hon. Members, Jamleck is right. You cannot have 42 tribes in six positions. That is a statement of fact. Hon. Leader of the Minority Party.

**Hon. Nyenze:** Thank you, hon. Deputy Speaker for giving me this opportunity. I want from the outset to support this Motion. There are very good reasons for doing that. I want to thank the Chairperson of the Departmental Committee on Education, Research and Technology and the Committee Members for coming up with a very good piece of work which is not biased. It cuts across the political divide.

I had predicted earlier that after six months, Committee Members will not be working with party directions. They are supposed to work as Members of the National Assembly. We have now started seeing that independence which is very good.

*(Loud consultations)*

Hon. Deputy Speaker, you have to protect me.

**Hon. Deputy Speaker:** Order, Members!

**Hon. Nyenze:** This Committee made very good observations. First, the laws of Kenya have to be followed. The Teachers Service Commission Act has to be followed and we are also guided by our Standing Orders. This Committee observed that instead of three names being forwarded to the President, seven names were forwarded. That was in contravention of the Teachers Service Commission Act. They also say- and it is a point we support - we cannot break the law and get away with it.

*(Loud consultations)*

**Hon. Deputy Speaker:** Order, Members! We do not want to belabor the point. The issue is that if the extra four was as a result of a court order; please let us not repeat the same issue over and over.

**Hon. Nyenze:** Thank you, hon. Deputy Speaker and protect me from hon. Jamleck who is my personal friend and I do not want to offend him, but I want to put facts right. If that Committee has done a good job, surely we should support them; it does not matter which side of the political divide.

Most of these members are above 53 years old and therefore near the retirement age; they are old. We are not discriminating against age. There should be transition---

*(Loud consultations)*

**Hon. Deputy Speaker:** Hon. Angwenyi! Hon. Angwenyi will you, please, leave the Chamber!

**Hon. Members:** Out! Out! Out!

*(Hon. Angwenyi withdrew from the Chamber)*

**Hon. Nyenze:** Hon. Deputy Speaker, I think it is also good for Members to respect the Chair.

**Hon. Deputy Speaker:** The hon. James Angwenyi will remain out of the Chamber for the rest of this sitting.

**Hon. Nyenze:** Hon. Deputy Speaker, the Constitution is very clear that any appointments must reflect the face of Kenya. The face of Kenya is not just the tribe. There are people with disabilities and so forth. Names of people with disabilities were presented to the President. They never appeared in this list and that is discriminatory. That is why we support this report.

We cannot fit, as you rightly put it, all the tribes of Kenya in these slots. However, we have seen in the recent past that appointments have been concentrated on very few communities and yet we have 42 communities in this country. We have to make sure that every region of this country is represented in this Government. This is our Government and not any party's Government. It is all the Government of Kenya.

Five out of six nominees are employees of the Ministry of Education. When you do mass transfers, what are you trying to prove? This Committee was observant. It

checked those details and realized that they were transferring a problem from the Ministry to the TSC. We know the problems that we have had in the past.

If all other committees will be seen by Members of the National Assembly to be as objective as Sabina's Committee, we will support them irrespective of the political divide. I am also urging my colleagues from the CORD side that further committee recommendations should be like these ones Sabina has presented. We will support the report fully.

We support the President. We have seen of late that the President and the Prime Minister are working together and warming to each other. They are uniting this country. We do not want prophets of doom to come and sneak in things that will separate this country. We want a united nation. This we can only achieve by doing the right things. When you want to support a flawed vetting system and bring the results here because you want to help a colleague, we will oppose that and you will be an enemy of Kenyans.

I support and second.

**Hon. Deputy Speaker:** Alice Wahome.

**Hon. (Ms.) Wahome:** Thank you, hon. Deputy Speaker, for allowing me to speak to this Motion. From the outset, I oppose this report in its entirety. I beg to be heard because the Committee has a report, which it has tabled before this House and it is the right of every Member to be heard. The Committee has dispensed mainly with its work and it is for the Members to interrogate the report. If one cannot be heard, then it means that, and I am saying this with humility, we are at risk of allowing dictatorship from the Committee. Members should be given a leeway to discuss and debate the report.

I want to address the recommendations of the Committee. The Committee has made three key recommendations. If you allow me, one, the Committee is urging that the entire list be thrown out for the reasons that some names were sneaked in. If you look at the Communication to this House, it was by His Excellency the President. So, the buck stops with His Excellency the President. Therefore, saying that there were names that were sneaked elsewhere other than the list that was tabled in the House is an issue that needs to be relooked at. My position is that the entire list was brought to the Speaker by His Excellency the President. Therefore, to that extent, the Committee may have erred. It made an error in its finding.

*(Loud consultations)*

**Hon. Deputy Speaker:** Order, Members! Everyone shall be heard and she will have her opinion. Hon. M'ruaki, what is your point of order?

**Hon. M'uthari:** On a point of order, hon. Deputy Speaker. Is it in order for the Member to mislead the House? The Committee stated that it does not know how the name of the last candidate in the interview found its way to the President. The President was supposed to receive 13 names of nominees, but one of the names that were given to him was not even shortlisted. That is what we mean by saying that it was sneaked and we do not know where it came from.

**Hon. Deputy Speaker:** Okay. At least, that point has been clarified.

**Hon. (Ms.) Wahome:** Hon. Deputy Speaker, I still stand by my position that the list that was brought to this House was signed by His Excellency the President. The recommendation of the Committee is that fresh---

*(Loud consultations)*

Hon. Deputy Speaker, protect me. I said that there is likelihood of us having dictatorship and that is why people do not want to hear other Members. The recommendation of the Committee is that fresh advertisement be carried out for the positions of chairperson and members of the TSC. The second one is that fresh selection panel be constituted. I want to speak to those two recommendations. The President nominated pursuant to Section 8 of the TSC Act. The mandate to nominate is of the President. The panel is set out and laid out by the law. We should look at the TSC Act and this is important because we also want to make a decision with the right materials. I believe we are saying that the process was flawed. So, let us also have a correct process.

We need to look at the mandate that the Committee used in Section 8(11). This is very important Members and after hearing me, you might agree with me, so that we can make corrections. It provides that if the National Assembly rejects any or all of the subsequent nominees submitted by the President for approval under Sub-section 10, the provisions of sub-section 5 and 6 shall apply. Sections 8(5) and (6) say a lot. It provides that the same panel---

**Hon. Deputy Speaker:** Members, you are not listening to the Member. Even if you have a different view, she is using the Act. She is reading from the Act. Can you, please, give her time to prosecute her argument?

**Hon. (Ms.) Wahome:** Hon. Deputy Speaker, I think they are trying to derail, so that my time can be exhausted. I am pleading that I be heard and this is very important. I am saying that under Section 8(12), the mandate to set the panel is under the law. This Committee purported to be the law and ordered, by its recommendation, that a fresh panel be constituted. That is one of the recommendations.

If you look at Section 8, the Committee cannot do that because a selection panel is already set. When does a selection panel dissolve? Can the Chair be humble enough to agree to hear her report being interrogated positively or negatively? This is the Floor of the House.

**Hon. Deputy Speaker:** And a debating Chamber and not an agreement Chamber. We have too many Members in the corridors. Hon. Makau!

**Hon. Melly:** On a point of information, hon. Deputy Speaker. I would like to inform the Member who is on the Floor that hon. Muita was in the shortlist, but was not in the list that was taken to the President. Two, the reason why the Committee decided that the panel be reconstituted was because it accepted to interview a fellow panelist. Then it lost its moral standing.

**Hon. (Ms.) Wahome:** Hon. Deputy Speaker that is exactly my point. The Committee has no such mandate. It cannot order by recommendation---

*(Loud consultations)*

This House cannot delegate itself the authority and mandate to set up a new panel. The panel, whether they want to hear me or not, is set by the law. Therefore, when the recommendation comes to the Floor saying that a new panel shall be constituted, it



speaks to the violation of the law and by adopting this report, we shall be violating the law. If you read Section 8, the panel has been set.

**Hon. Deputy Speaker:** Order, Members!

**Hon. (Ms.) Wahome:** Hon. Deputy Speaker, the panel can only be dissolved by Section 8(13) which says:-

“The panel shall stand dissolved upon appointment of the chairperson”.

But this Committee, by this recommendation, has dissolved the panel. I am asking the Members to---

*(Loud consultations)*

**Hon. Deputy Speaker:** Order, Members!

**Hon. (Ms.) Wahome:** The Committee does not know its own report.

**Hon. Deputy Speaker:** Hon. Member, you cannot be speaking when the Speaker is upstanding.

**Hon. (Ms.) Wahome:** My apologies, hon. Deputy Speaker.

**Hon. Deputy Speaker:** Hon. Members, we are not making progress because you have all refused to allow the Member to prosecute her argument to the end. Allow her to do so and then you can decide. You know that you will get your own chance. If you do not agree with her, that is not important. Breathe if you need to breathe, but do not rise and try to disrupt the House. Alice must be heard. Let her finish her contribution. No shouting matches here, Members.

**Hon. (Ms.) Wahome:** Hon. Deputy Speaker, thank you for your protection. Recommendation No.2 states thus: “Fresh selection panel be constituted as per the Teachers Service Commission Act.” It is talking about a fresh selection panel. If we pass this, it means that a fresh selection panel shall be constituted and yet that is contrary to Section 8. I want hon. Members to be humble by reflecting and looking at that section. As we move forward, I hope this House shall not be embarrassed by recommending what this House is not able to recommend within the law.

If the National Assembly rejects all the names or some of them, it is the mandate of the President to bring a new list. They have usurped the authority and the mandate of the Act by ordering a fresh panel. Therefore, this recommendation cannot be allowed because if we allow it, then it will be against the law.

As I sit down, may I say that the elephant in the House, in this list, is the chairperson. We are punishing some innocent Kenyans. The other elephant outside the House is one Lydia Nzomo.

*(Loud consultations)*

That is the truth and I will say it. That is why this debate is not even being allowed.

**Hon. Deputy Speaker:** Order, hon. Members! What is your point of order, hon. Junet Nuh?

**Hon. Nuh:** Hon. Deputy Speaker, is the hon. Member in order to mislead the House by saying that the House has no mandate to interrogate the names that were submitted by the President? She also said that the buck stops with the President and

whatever he submits must be passed. Is she in order to state that and purport to deprive the Committee its mandate which has been given by the Standing Orders?

**Hon. Murungi:** Thank you, hon. Deputy Speaker. The trend in this House, especially on this report is that the Chairperson of this Committee and her Vice-Chairperson and the Committee Members are continually disrupting any dissenting voice on this report. Could you kindly rule that they give us time to debate and interrogate this report? Every time a Member with a dissenting voice rises up to talk, a Member of that Committee stands up to interrupt. This has never happened in this House. Let me be on record and advise Members of Jubilee Coalition---

*(Loud consultations)*

**Hon. Deputy Speaker:** Order, hon. Members! There is only one Member who should be upstanding and that is hon. Kathuri. He is on a point of order.

**Hon. Murungi:** Also protect me from Mr. Gichigi. He is really disturbing me. The trend we are setting in this House is dangerous. We are executing a matter of very innocent Kenyans named in this report. If we continue getting interruptions from Members of the Committee, then it will be unacceptable. I advise the Members of Jubilee---

**Hon. Deputy Speaker:** Your time is up. Please, conclude, Alice. No more points of order.

**Hon. (Ms.) Wahome:** Hon. Deputy Speaker, the last point I was stating and I was hoping I would be heard by this House regards the general observations of the Committee. Observation No.1 states that the Committee observed that a list of seven nominees for the position of the Chairperson was forwarded to the President. They state that the Teachers Service Commission Act, Section 8(6) was violated. I want to cite High Court Case Petition No.370 of 2013 in which the ruling was given on 22<sup>nd</sup> July 2013. The High Court, through Justice Majanja, ordered that the selection panel's list of nominees be included. The panel had no choice, but to comply with the court order. That is why they forwarded more than three names as is required by the law. They complied with the law by agreeing to be bound by the judgment. If that had not happened, the Committee---

**Hon. Deputy Speaker:** Thank you. Your time is up.

**Hon. Kisoi:** Hon. Deputy Speaker, I rise to support this Motion. It is about the future of this country in terms of the precedent and the dignity of the House. I want to thank the Chairperson of the Committee for being a patriotic Kenya and rising above regional politics to execute her mandate dutifully in order to save Kenyans.

This report is not about the nominees themselves; it is about a process and the rule of law. It is about the credibility of a legal process. It is about accountability of a process that has already been set by the law. The decisions we make in this House have a lot of effect and consequences in the future. If we set a precedent today that condones non-adherence to the rule of law by any authority then we will have done a lot of disservice to this country. This is not about regional politics; it is about the children of this country. The Teachers Service Commission is candid and clear on the procedure for nominations. The selection panel ought to have adhered to the process as per the Teachers Service Commission Act, but they did not follow the process. They submitted the seven names

instead of three names. We cannot be bound by judgments of convenience when actually the process is governed by the Act.

What the panelists did was to encourage a mass exodus of people from Jogoo House to the TSC. I must put this House on notice that the TSC now is not a house of retirees from Jogoo House. The TSC is an independent institution and it ought to be respected. One of the reasons we need the TSC to be independent as a constitutional commission is because of the interference from the bureaucratic system of the Ministry from Jogoo House. Now that we are transferring the bureaucrats in an exodus manner from Jogoo House to TSC that means that the problems that we are trying to eliminate from Jogoo House will be transferred to the TSC as an institution. We needed TSC to be independent so that it is efficient and effective in its operations. This country has been experiencing a lot of teacher unrest because their welfare is not taken into consideration. What the Committee did was to rise above regional party politics and any other interests. Their interest was to serve the interest of this country.

The interest here is that the panel, which was being headed by Kamunge, proved to be incompetent. It acted with a lot of conflict of interest in executing its mandate. Allowing a panellist to go back to be interviewed by the same colleagues is the worst crime that the panel committed. The TSC is an institution which requires a lot of dignity. Unless we rise above party politics and protect the TSC, we are bound to fail. One of the reasons as to why we opposed this list is that the authorities used a system that did not respect the rule of law completely. Some people acted with a lot of impunity.

One of the names that were forwarded to this House was not one of the names that were supposed to be forwarded here by the President. By the end of the process, one of the names found its way to the Committee. What we are saying is that we need a process that respects the rule of law, and which is accountable and credible. What this Committee is asking this august House to do is to adopt its resolutions in full, the effect of which is discarding of the entire list and giving an opportunity to all Kenyans to apply afresh and be subjected to interviews. As a House, we have the mandate of censoring any panel or Commission or process that breaks the law.

As a House, we need to act with a lot of wisdom and ensure that this institution is protected. We should always get the right results. The Committee is not against old people. We have a lot of respect for them but we need transitional leadership – leadership that can go beyond the limits that have already been set. These nominees are aged between 58 and 60. Young people in this country also need to be given an opportunity to lead. We need to be given an opportunity to have a say in the management and running of public institutions.

**Hon. Deputy Speaker:** Clement Wambugu has a point of order.

**Hon. Wambugu:** Hon. Deputy Speaker, there is a problem here because some hon. Members continue to talk of discrimination in terms of age. They should have read the Bill of Rights as contained in our Constitution, which clearly states that you cannot discriminate anybody on the basis of age. What constitution have they been reading?

**Hon. Kiso:** Hon. Deputy Speaker, you can see that hon. Members are agitating passionately for this list to be rejected, maybe, because the chairman comes from Murang'a. We should appreciate that this is not about Murang'a politics. It is about national politics and the interests of Kenyans, including the children.

*(Loud consultations)*

Hon. Deputy Speaker, kindly, protect me to finish making my case.

**Hon. Deputy Speaker:** Order! Order! Hon. Members, allow him to conclude, please.

**Hon. Kisoi:** Hon. Deputy Speaker, I am urging this House to rise to the occasion. Hon. Members should come out of their cocoons, where some people believe that unless one comes from their region, one must not head a certain institution. Therefore, I urge hon. Members to reject all these names. Let them be sent back. Let us support this Motion, so that we can get a fresh opportunity for Kenyans to do whatever is just to this country.

**Hon. Deputy Speaker:** Yes, hon. Mary Seneta.

**Hon. (Ms.) Seneta:** Thank you, hon. Deputy Speaker. I want to bring to the attention of this House the provisions of Standing Order No.216(5)(a). The functions of departmental committees are to investigate, inquire into, report on all matters relating to their mandates and management activities, administration, operation and estimates of the assigned ministries and departments. Another mandate of departmental committees is to study, assess and analyse the relative success of ministries and departments.

The Committee on Education, Research and Technology, in which I sit, investigated the process. We inquired into the process and looked at the success of the commission we want to form and felt, out of our observations, that the process was flawed. This issue is not about regions. It is not about counties. It is not about the President. I want to inform one of my colleagues, for whom I have a lot of respect that this is not about the President. It is about a process that was flawed. As a Committee, we feel that we cannot allow these processes to be ignored in a country we want to improve.

Thank you, hon. Deputy Speaker.

**Hon. Deputy Speaker:** Yes, hon. Irungu Kang'ata.

**Hon. Kang'ata:** Thank you, hon. Deputy Speaker, for giving me this chance.

*[Hon. Deputy Speaker left the Chair]*

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

Hon. Temporary Deputy Speaker, every time I see a nomination for appointment in this House, I feel sorry for CORD Members. I have noted with a lot of humility that all the appointments have been coming from the Central region. I feel for them. I feel sorry for the people of the Coast region. In all the appointments that have been made, I have not seen a single person from the Coast region. I have not seen a person from Meru. I have not seen a person from Busia County. But God is good! This is the only time I am seeing them in this list. Therefore, join us by rejecting this list. It is only in this report that I see a person from Busia County. It is only in this report that I see a representation of Kenya.

**The Temporary Deputy Speaker** (Hon. Cheboi): Order! Order! Hon. Kaluma has a point of order.

**Hon. Kaluma:** Thank you, hon. Temporary Deputy Speaker. Thank you, colleagues, for allowing me to---

**The Temporary Deputy Speaker** (Hon. Cheboi): Hon. Kaluma, kindly, it has to be a point of order.

**Hon. Kaluma:** Hon. Temporary Deputy Speaker, is the hon. Member on the Floor in order to say that we should be glossing over the law, matters of procedure and matters of crimes like the ones reported by the Committee simply because somebody from Busia or the Coast region has been included as a beneficiary of this dirty process? I am raising this out of concern. In my view, this is not a report we should be debating. The Committee notes in their observation number two that the name of Mr. William Mwita was forwarded to the National Assembly for approval despite his name not being among the 13 names that were forwarded to the President for nomination. It means---

**The Temporary Deputy Speaker** (Hon. Cheboi): Hon. Kaluma, you were doing very well until you started debating again.

**Hon. Kaluma:** Hon. Temporary Deputy Speaker, I am not debating. What I am saying is that this is a Motion in which we should, in fact, be asserting the dignity of this House in a very proper way. Somebody has brought here a name which was not forwarded to us by the President and we are debating the Motion as if it is a matter of a Luo being appointed.

**The Temporary Deputy Speaker** (Hon. Cheboi): Order, hon. Kaluma! You have made your point.

Proceed, hon. Kang'ata.

*(Hon. Nassir moved to the Dispatch Box)*

Hon. Nassir, use your gadget at your seat.

**Hon. Kang'ata:** Hon. Temporary Deputy Speaker, protect me from hon. Members. Let them, kindly, allow me to prosecute my argument.

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

**The Temporary Deputy Speaker** (Hon. Cheboi): Hon. Nassir, put on your gadget so that I can recognise you.

**Hon. Nassir:** It is on, hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Cheboi): Hon. Nassir, I cannot see your name on my panel, and I am not giving you the Dispatch Box.

Hon. Nassir, it is on now. I have just granted your request for point of order. You cannot just walk to the Dispatch Box.

**Hon. Nassir:** Hon. Temporary Deputy Speaker, let it be very clear to my very good friend, with whom I sit in a Committee, that they are not doing anybody a favour. We are rightfully Kenyans---

**The Temporary Deputy Speaker** (Hon. Cheboi): Hon. Nassir, you are on a point of order. I want you to raise a point of order.

**Hon. Nassir:** Hon. Temporary Deputy Speaker, my point of order is that my friend is very dramatically trying to say that he feels sorry for those of us who are from the Coast, Nyanza and other regions---

**The Temporary Deputy Speaker** (Hon. Cheboi): Order! Order, Member for Mvita! You have given a description. I cannot see any point of order that you are raising. So, I would like him to proceed.

**Hon. Nassir:** Hon. Temporary Deputy Speaker, my point of order---

**The Temporary Deputy Speaker** (Hon. Cheboi): No! No! No! That is not a point of order.

Proceed, hon. Kang'ata.

**Hon. Kang'ata:** Hon. Temporary Deputy Speaker, just to reply to those points of order, first and foremost, the hon. Members who stood on points of order---

**The Temporary Deputy Speaker** (Hon. Cheboi): Hon. Kang'ata, some of the points of order have been overruled. I want you to proceed and make your case.

**Hon. Kang'ata:** I am most obliged, hon. Temporary Deputy Speaker.

The first argument by the Committee is that the procedure that was used was not the correct one. One may argue that maybe that is the correct position but the question is: Should that prejudice the candidates themselves? My argument is no. When you kill, it is you who is taken to the court. When you steal it is you who is taken to court but it is very unfair to visit that illegality on an innocent applicant. So, the point is these candidates did not commit any illegality. It is the panel which purportedly committed that illegality. It will be therefore unfair to visit that injustice upon the candidates themselves.

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

**The Temporary Deputy Speaker** (Hon. Cheboi): Order, hon. Members. I realise that many of the points of order are real points of argument. I want us to proceed. Many of you are going to have your chance. Really, I would not want a situation whereby we use points of order to argue your cases. Kindly, let us proceed. Hon. Kang'ata, you should be winding up and then we will make progress.

**Hon. Kang'ata:** Yes, hon. Temporary Deputy Speaker. Number two, there is the argument that people with special needs were not considered. There has been an opinion in the Supreme Court defining what is a right which should be implemented now and a right that should be implemented systematically. These are special interests, issues related to the youth and gender. The Supreme Court in its wisdom has held that you cannot implement that right immediately. It is something that is progressive. So, therefore, my argument is that that is something that can be implemented.

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

**The Temporary Deputy Speaker** (Hon. Cheboi): Order, hon. Kang'ata. Members, I cannot see your points of intervention here. I am trying to look at it and I cannot see them. I will give you the opportunity but let me just see. Hon. Kang'ata, I want you to wind up.

**Hon. Kang'ata:** Hon. Temporary Deputy Speaker, Sir, the point is that these candidates found themselves on that list. If we were to reject this Motion, the way I am proposing we do, there would be no prejudice *per se* because the process would start afresh. If it starts afresh everyone will start at an equal footing. So, therefore, when we reject this Motion I am not saying that it will not have an effect of having these names adopted by this House. No. It will mean we shall go and start afresh. The Chairlady of that Committee yesterday argued that if we adopt this Motion those candidates appearing on that list are not going to be prejudiced. That is not true and I invite Members to read Standing Order No.49(1). It says:

“No Motion may be moved which is the same in substance as any question which has been resolved (either in the affirmative or in the negative) during the preceding six months in the same Session.”

So, the effect is that if you were for instance to start that process again and then all these names find themselves again in this House, one would argue that Standing Order No.49 is being violated. So, therefore in actual sense, it will be very unfair to these candidates.

Another issue is that the Committee did not raise any issue to do with the integrity of the candidates. They never mentioned anything to do with integrity of the members. We passed---

**Hon. Member:** On a point of order, hon. Temporary Deputy Speaker, Sir. From the mood of the House, will I be in order to suggest that we---

**The Temporary Deputy Speaker** (Hon. Cheboi): Order. Proceed.

**Hon. Member:** Thank you, hon. Temporary Deputy Speaker. Is the hon. Member who has been contributing really in order to confirm to this honourable House that all the other appointments that have been going on in this country have never included the people of Coast, Western and Nyanza while we know very well that indeed---

**The Temporary Deputy Speaker** (Hon. Cheboi): Unfortunately, you are still making an argument. I actually expected you to prosecute a point of order.

**Hon. Member:** No. I just pleaded with you that you should rule him out of order and maybe order him to apologise to this House.

**The Temporary Deputy Speaker** (Hon. Cheboi): Okay. That is it. Let me give the chance to the next speaker. Hon. Wanga.

**Hon. (Ms.) Nyasuna:** Thank you, hon. Temporary Deputy Speaker. I presume that this is my time to contribute and I would like to thank this Committee very much for showing love for our children and the future of this country. Recently, I visited Muruguru Girls in Nyeri. The school had gone up to a mean grade of seven but because of the teachers' strike, it dropped to a mean grade of six. This drop was attributed to the teachers' strike. The TSC is such an important institution in this country and the Departmental Committee on Education, Research and Technology has made such substantial arguments that the opposers are actually struggling to find points.

Hon. Temporary Deputy Speaker, you have seen a Member of this House almost turning this House into a drama festival. The opposers of this Motion are having a very difficult time opposing it because the Departmental Committee on Education, Research and Technology has, for the first time, sought to bring to the attention of this House that it is not a conveyor belt. It is a House that can make decisions and think independently.

Hon. Temporary Deputy Speaker, I regret that the process was fundamentally flawed. I am told by the Committee that even a lady from Homa Bay County was as good as her own county Member of Parliament in that vetting process. She will have now to go down the drain and come back in a fresh process. However, I would like to stand up and say that I would like that lady from Homa Bay County to come in a clean process that cannot be challenged by anybody anywhere.

Hon. Temporary Deputy Speaker, I respect age.

I do respect age a lot but the point is majority of the people in this country are under the age of 35 years. Yesterday, we approved a name of someone who is 59 years old. Today we are also approving names of people who are over 50 years old. This

House itself has a mean age of 40 years. What are we doing approving names that do not include the young people of this country?

*(Applause)*

We must ask these questions: How did a Member of the interviewing panel end up being interviewed and becoming number one, and you want us to approve that person and agree to that process? How does a name that was not even in the list find itself on the Floor of this House and you want this House to say that is okay? Maybe somebody just went and said “insert this name” to the person who was typing and you want as to say it is okay. It is not okay.

I support, hon. Temporary Deputy Speaker, Sir.

**Hon. Ichung’wah:** Thank you, hon. Temporary Deputy Speaker, Sir. I beg for your protection from hon. Kang’ata. I am not a dramatic student like him, so I will not engage him in the shouting match of whether I am CORD or Jubilee. He should know that I am Jubilee to the core, and that is why I will not even entertain anybody trying to invoke the name of His Excellency the President in this debate. I will not entertain any thought that can reduce this important debate that touches on the lives of our children or reduce it to a debate to do with regional politics in Murang’a County.

This Committee has done a splendid job and if we are to respect the work of Committees in this House, I want Members to support this Motion. The Committee had the time to interrogate all the issues and all the aspects of these nominees and they have given us very clear observations. Hon. Wanga has just told us that a name was sneaked into the list that was brought to this House or rather to that Committee. I would even urge the Committee to probably have added a fourth recommendation to further investigate how that name got into that list.

I have said I am Jubilee to the core, and I am very desirous of protecting my President. I walked in the villages on very hot and rainy days campaigning for this Government. I will therefore not allow people who were there in Kibaki’s regime to sneak in names. I will not allow anybody, the lords of impunity who served in that regime to spoil this Government that we have worked very hard for. We have been told of an incident whereby in the interviewing panel, one of the panelists turned around and become an interviewee.

**The Temporary Deputy Speaker** (Hon. Cheboi): What is your point of order hon. Jamleck? Proceed to the Dispatch Box, it might help you.

**Hon. Kamau:** You heard what the Member who is contributing on the Floor said, that the people who were serving during Kibaki’s regime are the ones who sneaked in the name there.

**Hon. Members:** Yes.

**Hon. Kamau:** I served in Kibaki’s regime, I did not sneak any name in there.

*(Laughter)*

**The Temporary Deputy Speaker** (Hon. Cheboi): Order, Hon. Kamau.



**Hon. Kamau:** Is the Member in order to insinuate that those people who served during Kibaki's regime are the ones who are responsible for sneaking in the name there? Is the Member truly in order?

**The Temporary Deputy Speaker** (Hon. Cheboi): Okay, proceed and please guard those grounds hon. Ichung'wah, the insinuations are not in order.

**Hon. Ichung'wah:** The insinuations did not refer to anybody specific. I only spoke of the lords of impunity in the former regime, whom I will not entertain if they spoil anything in this Government. Let me say that the guilty ones are always afraid, and move on.

*(Loud consultations)*

Protect me from hon. Kang'ata, he is out of order.

**The Temporary Deputy Speaker** (Hon. Cheboi): Hon. Kang'ata you should not repeat that, I have actually observed you for a few minutes and you had your opportunity to speak. I do not want you to be disorderly. I will not take that kindly. Proceed.

**Hon. Ichung'wah:** Thank you, hon. Temporary Deputy Speaker, Sir. I was saying it is an interesting scenario where a panelist turns out to be an interviewee. Coincidentally, the same person turned out to score the highest marks. If we are to stand as a House and ensure there is fairness in recruitment of any position in this country, we must ensure that such panels as this Kamunge panel that was interviewing these people exercise a lot of fairness and justice for the people they interview. Therefore, the process of---

*(Loud consultations)*

**The Temporary Deputy Speaker** (Hon. Cheboi): The consultations are getting a little loud. Please give an opportunity to the Member to contribute without interference. Yes, proceed.

**Hon. Ichung'wah:** Thank you, hon. Temporary Deputy Speaker, Sir. I wanted to conclude by saying that, indeed the Committee has done a very good job. They have give us their observations which speak for themselves and the Committee Members and other Members who have contributed to this debate have made it clear that other than two of the names, they have got nothing else against the other people who were proposed in this list. Therefore, they have got every right in the near future, whenever this process is repeated for the same names to be reintroduced and interviewed a fresh and if they qualify to be given this job. Otherwise at this stage, we must be faithful to the Constitution and the rule of law. On 28<sup>th</sup> March, 2013 we all stood by your desk there and swore holding the Bible with our right hand that we shall defend and protect the Constitution and the laws of this Republic. I want to urge Members in this House to be faithful to that TSC Act which has been contravened. I support this Report.

I support it 101 per cent and I am sure the people of Kikuyu, Kiambu, Murang'a and the ordinary Kenyans other than those who want to play politics here fully support this Report.

**The Temporary Deputy Speaker** (Hon. Cheboi): Hon. Wandayi.

**Hon. Wandayi:** Thank you, hon. Temporary Deputy Speaker, Sir. From the outset, I will support this Motion in its entirety. The whole process of interviewing, selection and bringing this list to this House has been mired in illegality. This House cannot attempt to sanitize an illegality. For that reason this House must rise to the occasion and adopt this Report in its entirety. At the end of the day when all is said and done, we shall continue to ask ourselves who in particular sneaked the name of one William Makubo to the President's desk. We have been told, and I agree with hon. Ichung'wa, that there are indications that there are remnants of the yester year---

**The Temporary Deputy Speaker** (Hon. Cheboi): Order, hon. Wandayi. Can I confirm something from you, as you start?

**Hon. Wandayi:** Please do.

**The Temporary Deputy Speaker** (Hon. Cheboi): Did you speak to this Motion yesterday?

**Hon. Wandayi:** No, I did not. I have not.

**The Temporary Deputy Speaker** (Hon. Cheboi): I am sure you know that you are speaking on the HANSARD, and that can be proved. You will proceed, but we will be very keen to know whether you made your contribution yesterday.

**Hon. Wandayi:** Hon. Temporary Deputy Speaker, without really belabouring the point, this House must stand firm with the rest of Kenyans. We want a clean process. We cannot continue to break laws just because we think that it is expedient to do so. The TSC is very important in this country. Perhaps, some people are still forgetful; they think that this is the TSC of yester years. The TSC we are talking about is one that is enshrined in the Constitution. It is one of the constitutional commissions which were created to address specific issues. Therefore, we cannot afford to start on the wrong footing. However long it takes, this process must start afresh and it must be seen to be credible by every Kenyan. Anything short of that will put Parliament in very bad light.

I do not want to belabour that point. For that reason, I want to donate some extra minutes to hon. Ken Obura, who is seated next to me here, so that he can stress the point further.

**The Temporary Deputy Speaker** (Hon. Cheboi): That will not be helpful. You will be taking work that is not yours. I will give an opportunity to hon. Manje.

**Hon. Wandayi:** I want to end by saying that the only justice that we can do to this country is by adopting this Report in its entirety and ensuring that these people go through a process that is defined.

**The Temporary Deputy Speaker** (Hon. Cheboi): Hon. Manje, I had given you the Floor, but I have since changed my mind because you crossed the Floor improperly. I am going to give a chance to hon. Gikaria!

**Hon. Gikaria:** Hon. Temporary Deputy Speaker, I rise to support the Report by the Education, Research and Technology Departmental Committee and the recommendations that they have given. I love the children of my constituency. The performance of those pupils dropped so much and I was hoping that a change at the TSC would improve the performance of both secondary and primary schools.

The reasons that have been given by the Committee are unquestionable. All the nine reasons, especially the first one, where the Teachers Service Commission Act, Section 8(6)(d) was contravened, speak volumes of the extent to which some people are misleading the President. I want to agree with the Chairperson of this Committee because

yesterday she said that this is not an issue about the President or the Government; rather it is an issue of not following the right process.

If you look at the issues which have been raised, including the fact that a panelist ended up being a nominee--- Of course, I am not surprised when he attained the highest score. It was very obvious that he was going to attain that. I am, in fact, surprised that he attained 85 per cent. I think he should have got 100 per cent, having been in the panel of people who knew exactly what was going on. It was obvious that he would get such high marks.

The fourth reason that was given was professionalism; that is all these nominees are from the education profession. Education has always gone down because we also need good managers who can take the level of education a notch higher. I know of a few young teachers within my constituency. They thought that being employed by the TSC was not the right thing. They eventually started their own schools. If you look at the schools which were started by these young guys, you will realize that they are now competing with prominent schools, including one which is owned by the Asian Community.

It has been said that age is not a factor. However, when we passed our Constitution we wanted to involve everybody, especially the youth who would chart the future of education in this country. It speaks volumes that there is not a single young person in this Commission. It means the people who handed over the list to the President were those who practise impunity of the highest order. This House should reject these names.

With regard to regional balancing, there was no inclusion of people with disabilities, yet they participated and even scored high marks as has been adduced by the Chairlady. We need to comply with the Constitution by nominating people with disability.

We should not take education lightly. We ought to be serious about matters of education. I want to support the Committee. This is not a Jubilee issue. If it was, I know the leaders on the Jubilee side would have marshaled forces for us to be able--- I want to believe that the leadership of Jubilee has realized that this is not the right direction to take today. I support the Committee and I give them a thumbs up for doing a good job. At least for once we can go on record that we are a serious House, and that at times we can go beyond political affiliations and tribe.

I support.

**Hon. Kaluma:** On a point of order, hon. Temporary Deputy Speaker. There is a lot of interest in this Motion; I note that it was brought before us yesterday. I am standing under Standing Order 97(1) to request that we reduce the time from 10 minutes to, say, five minutes of contribution.

**The Temporary Deputy Speaker** (Hon. Cheboi): It is clear that we have high interest in this one. The only thing hon. Members should know is that the debating time is long enough, but if that is your wish--- I will obviously not put the Question for now. The interest is sufficient. I will look at your request, hon. Kaluma, in due course.

Please, proceed, hon. Injendi.

**Hon. Injendi:** Hon. Temporary Deputy Speaker, this discussion is attracting a lot of interest. When you have an assignment and then you select a few members to look at the assignment, usually a small group does thorough work. We were a small committee

and, therefore, there is so much that we saw. That is why we said the Kamunge panel lost credibility.

For example, the names that were to go there as per the ruling of the court were those of Ms Nzomo and Messrs Kavisi and Twahir in addition to those that were there. The names that went there finally were seven. The question that the Committee is asking is: Where did the name of Ismael Bulu Hassan come from? That is why we are saying that the Kamunge panel may not continue with the process, and we have the power to disband it today. I have been in this Parliament for six months and most of the rulings and Motions have gone through. Sometimes when I walk out there, people talk of the tyranny of numbers. Today, I am pleading with the House that it be the tyranny of ideas. I am urging all of us not to look at individuals. I am very sorry to say that during our meeting today, one of the Members joined us to make a contribution and I am sorry to report that the Member caused us to end our meeting in disarray. When she came over, instead of making a fruitful contribution, she was telling us about Murang'a. She was telling us about the Chairperson. She was pointing fingers at our Chairperson. She was asking what the Chairperson was doing and why she was "killing" her own. The record is there in the HANSARD.

*(Applause)*

If we are to look at individuals, even myself, I will be crying and others will be crying.

**The Temporary Deputy Speaker** (Hon. Cheboi): We are having a problem with sorting out interventions here. So, you have to come to the Dispatch Box quickly.

**Hon. Wambugu:** On a point of order, hon. Temporary Deputy Speaker, Sir. I have been sitting there with my intervention button on. My request is that the people of Murang'a be accorded the respect that they deserve. It is very sad that everybody in this House is talking of Murang'a County. Yes, we believe that one of us is from that place and if there is going to be any fight against the people of Murang'a, then we will not just sit down. We will fight to the end.

**The Temporary Deputy Speaker** (Hon. Cheboi): Hon. Wambugu, your sentiments are not a point of order.

Proceed, hon. Injendi. Kindly, let us not waste time.

**Hon. Injendi:** Hon. Temporary Deputy Speaker, Sir, I mentioned Murang'a because of the Member who joined us and started talking of Murang'a and saying that we were persecuting Murang'a. She said that we would not step in Murang'a if we continued like that. This is recorded. This is a House of order and rules.

**The Temporary Deputy Speaker** (Hon. Cheboi): We have to make progress. Hon. Kamau and hon. Muthoni, you have contributed. Kindly, let us keep order. Let us give him an opportunity to finish.

**Hon. Injendi:** Hon. Temporary Deputy Speaker, Sir, this is a House of order and rules. This is the time for us to confirm that we are a House of rules.

**The Temporary Deputy Speaker** (Hon. Cheboi): There are two other Members standing up and that is out of order.

Proceed, hon. Injendi.

**Hon. Injendi:** Hon. Temporary Deputy Speaker, Sir, this is a House of order and rules. We have always been talking about these rules and order. Time has come when we must respect these rules. Looking at this report and what has happened, no rule and order was followed. I plead with the House, even those who are crying that one of their own is being sacrificed; let us accept that this process was faulty. We will take it back and the same people can come back to us through the right process. I am even sure they will be proud to join the TSC when they have gone through a proper process.

I want to talk about Mwinyipembe who was part of the interviewing panel. How can someone who was part of the interviewing panel appear before the same panel and score the highest marks? Can we allow this kind of process? Is it not a shame? I wish to request the Chair to put the Question because I can see that we are all contributing on the same ideas.

**The Temporary Deputy Speaker** (Hon. Cheboi): That is totally out of order, hon. Injendi. Before I give the Floor to hon. Aden, I want to put the Question on whether we want to reduce contributing minutes to five minutes or continue taking the 10 minutes that we are taking.

**Hon. Members:** No!

**The Temporary Deputy Speaker** (Hon. Cheboi): You are not going to direct me, hon. Members. The Question I am putting is whether we need to reduce the time. I am standing and I can see that hon. Ken is also standing. I want to put the Question as to whether we should reduce the time to five minutes. We will reduce the time to five minutes.

*(Loud consultations)*

**Hon. Aden:** Hon. Temporary Deputy Speaker, Sir, please, protect me from the noise.

**The Temporary Deputy Speaker** (Hon. Cheboi): Can you consult in lower tones, hon. Members?

**Hon. Aden:** Hon. Temporary Deputy Speaker, Sir, I take this opportunity to support the Report and the recommendations by the Committee on Education, Research and Technology. In all honesty, this Committee has done an excellent job and it deserves to be commended in the best possible terms. It has done a great job. An excellent analysis of the process of the recruitment of the proposed names has been done. An impartial approach has also been adopted in analysing the grounds through which persons whose names have been put before were suggested.

This Committee has also done a well-articulated and thought-through observations and recommendations to this House. For that reason, I support this Report. In this country, we must learn to respect and protect meritocracy and professionalism. The panel that recommended the names to the President did not do Kenyans much favour. Looking at this Report, you will see that one Ms. Lydia Nzomo scored 80 per cent in the analysis.

**Hon. Mwaura:** On a point of order, hon. Temporary Deputy Speaker, Sir.

**Hon. Aden:** Hon. Mwaura who is standing next to me is harassing me. He is either granted his point of order or he keeps quiet, so that I can contribute.

**The Temporary Deputy Speaker** (Hon. Cheboi): You have only five minutes and it is about to be over. So, you proceed to wind up.

**Hon. Aden:** Hon. Temporary Deputy Speaker, Sir, on the list of the names of the people who were interviewed, there is one particular person, a lady by the name, Ms. Lydia Nzomo, who scored 80.3 per cent. Kenyans want to be served by the best of the best. Why are we taking the cheapest of the cheap?

Hon. Temporary Deputy Speaker, I know that Ms. Lydia Nzomo, who is not in the House, is a Kenyan out there who offered herself to serve this country. I understand her position very well, probably because in the past I have offered myself to serve my country in a position which was a subject of discussion of the Tenth Parliament on this Floor. I scored the best to serve as the Managing Director of Kenya Bureau of Standards (KEBs), but in total disregard to meritocracy and professionalism a person who was listed lower than me on the list was offered the job. For how long must we allow this kind of impunity to continue in this country?

The selection panel went outside its mandate in terms of having one of the persons on the panel to be included in the list. We need diversity in skills. The recommendations given to us by the Departmental Committee on Education, Research and Technology are clear that the persons listed here have a background in education. We need people with a background in management. We need people who understand human resource issues. Therefore, this list lacks diversity in terms of skills. As per the recommendations of the Committee, I support this Motion because the interests of the people with disability have not been taken care of.

**The Temporary Deputy Speaker** (Hon. Cheboi): Hon. Wambugu, I am giving you the Floor. However, as we proceed, kindly let us not repeat ourselves. I have heard quite a number of issues that you are repeating.

**Hon. Wambugu:** Thank you, hon. Temporary Deputy Speaker, for giving me a chance to contribute. I stand to oppose this Report from the Departmental Committee on Education, Research and Technology. First and foremost is to accept the fact that I come from Murang'a County, and there is no crime at all in having an interest in any matter in this country. If there is one nominee from Murang'a County, he should be accorded the opportunity to serve the country like all other nominees

I believe that any report or legislation that is in contravention of the Constitution is null and void. We have a Report here. On Page 27 there is an observation by the Committee. It reads thus: "The Committee observed that the list lacked a mix of professionals with all the nominees having a background in education". I believe that if we are going to have a commission which is going to serve this country well, then it should have more members with knowledge in that field than in any other field. Where does it say in the Constitution that we cannot have people from one background in a committee or a commission?

The last time I stood on a point of order I was addressing the Bill of Rights under Article 27 of the Constitution.

**The Temporary Deputy Speaker** (Hon. Cheboi): Hon. Wambugu, do you need any information from hon. Serem?

**Hon. Wambugu:** Hon. Temporary Deputy Speaker, I have little time and I do not require any information.

I will still refer hon. Members to Article 27, which states that you cannot discriminate against any individual on the basis of sex, religion, colour or even age. I have been following very carefully the debate in this House. People have been talking of this and that age group. It is good to appreciate that most of the members with the best knowledge and experience are above the age of 50 years. There is nothing wrong and it is not stated anywhere that if you are above the age of 50 years you cannot be appointed to a committee. With all the problems and irregularities in this Report, I beg that Members reject it in totality.

We had a problem with regional balancing in this country and that is why we went to the counties; we did that so as to solve the problem of tribalism. However, some people are trying to propagate the same. If we are Kenyans of good will--- This country went down the drain some time back because of people talking about regions, that is Central Province, Eastern Province, North Eastern Province and all that. In the new Constitution we wanted to do away with that, so that we have one country whose people blend well with one another. It is very sad that some Members of Parliament, who are supposed to be taking this country forward, are now coming up with regions and so on.

**The Temporary Deputy Speaker** (Hon. Cheboi): What is your point of order, hon. Nyamweya?

**Hon. Nyamweya:** On a point of order, hon. Temporary Deputy Speaker, Sir. Is the hon. Member in order to repeatedly say--- We have talked about age. The people who have taken up these positions are over the age of 55 years. This is discrimination against those who are less than 50 years old.

**The Temporary Deputy Speaker** (Hon. Cheboi): Good argument, hon. Nyamweya, but not a point of order.

**Hon. Mirenga:** Thank you, hon. Temporary Deputy Speaker. I want to state here that I support in totality the work and Report of this Committee. As a young man, it will be important to note that I will not sit in a House--- I want to commend the Chairperson and Members of this Committee for giving us such a wonderful job. I want to ask all of us in other Committees to try and do our best and give the House this kind of work.

As I was saying earlier, if you look at this Report, the youngest nominee here was born in 1960, about 20 years plus before I was born. So, as a young man, and young law maker, I will not sit in the House and fail to point out that the youth are being left out in appointments. For the first time, however, we are seeing good work happening in this country. We are seeing both CORD and Jubilee Members doing their rightful job of overseeing the Executive. Listening to what my friends from Jubilee have said, I can assure you that finally this House is ready to stop this addiction to impunity that comes from some sections of the Executive.

Hon. Temporary Deputy Speaker, there are sets of what I would call coincidences that have come out of this Report. Firstly, an earlier interviewer was later on interviewee and he became number one. Secondly, a name of a person who was not on the original list was sneaked onto the list that was eventually forwarded to Parliament, and he is now being debated. Somebody has been nominated more than twice. In both instances, his name came to Parliament and was rejected. It is also important to ask the Executive to drop this gentleman, whose name keeps on appearing on these lists, and Parliament keeps on rejecting it. This is subjecting this individual to a lot of humiliation. As a Kenyan, I feel for him. Therefore, I would urge the Executive not to include his name in the list

again for purposes of ensuring that we protect Kenyans, just as we swore to protect the Constitution.

**The Temporary Deputy Speaker** (Hon. Cheboi): What is your point of order, hon. Kombe?

**Hon. Kombe:** Hoja ya nidhamu, mhe. Naibu Spika wa Muda. Mambo yote yanayozungumziwa hivi sasa ni marudio. Kwa hivyo, ninamwomba Mbunge aliyewasilisha Hoja hii ajibu ili tukaangalie shughuli nyingine.

Ahsante.

*(Applause)*

**The Temporary Deputy Speaker** (Hon. Cheboi): That is a request I can see the mood of the House is in favour of, but kindly let us dispense with a few more hon. Members. Let them speak to it and then we will ask the Mover to reply.

**Hon. Mirenga:** Thank you very much, hon. Temporary Deputy Speaker. I also want to agree with him having read the mood of the House---

**The Temporary Deputy Speaker** (Hon. Cheboi): Proceed, hon. Ng'eno.

**Hon. Kipyegon:** Ahsante sana, mhe. Naibu Spika wa Muda. Mimi pia ningependa kumuunga mkono mwenyekiti wa kamati hii kwa sababu ni lazima tuyatilie maanani masuala ya elimu.

**The Temporary Deputy Speaker** (Hon. Cheboi): Hon. Ng'eno, in my understanding, supporting the Chairman and supporting the report are two different things.

Proceed, anyway.

**Hon. Kipyegon:** Mhe. Naibu Spika wa Muda, ningependa kusema kwamba ninaiunga mkono Hoja hii kwa sababu sisi Wakenya wakati mwingine tunachukulia elimu kuwa si kitu cha maana.

Watoto wetu wanaumia shuleni kwa sababu ya utenda kazi duni wa TSC. Ni lazima tubuni tume ya TSC itakayozingatia maslahi ya walimu. Tukizingatia masuala yaliyozungumziwa hapo awali, watu wengi wameuliza iwapo sheria ilifuatwa. Ningependa kusema kwamba wanakamati hao walifuata sheria na kufanya kazi ya maana. Kwa mara ya kwanza katika historia ya Bunge, wameonyesha kwamba Bunge si muhuri wa kupitisha matakwa ya kibinafsi ya watu fulani. Wabunge si ng'ombe wa kupelekwa mtoni na kurudishwa bomani. Sisi ni watu ambao hutekeleza wajibu wetu kwa mujibu wa sheria. Ningependa kusema kwamba mwenyekiti na wanakamati wake walifanya kazi nzuri sana. Hii siyo siasa ya mahali moja ama nyingine.

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

**The Temporary Deputy Speaker** (Hon. Cheboi): Hon. Keter, what is out of order?

**Hon. Kipyegon:** Mhe. Naibu Spika wa Muda, haya ni masuala ya elimu ya Kenya nzima.

**The Temporary Deputy Speaker** (Hon. Cheboi): Order, hon. Ng'eno! What is out of order, hon. Keter of Nandi Hills?

**Hon. Alfred Keter:** Hon. Temporary Deputy Speaker, I rise under Standing Order No.95 (1), on closure of debate; it says:-



“95(1) After the question on a Motion the Mover of which has a right of reply has been proposed, a Member rising in his or place may claim to move “That the Mover be now called upon to reply”, and unless the Speaker is of the opinion that such Motion is an abuse of the proceedings of the House, or an infringement of the rights of Members, the question “That the Mover be now called upon to reply”, shall be put forthwith and decided without amendment or debate, and if that question is agreed to, the Mover may immediately reply to the debate, and as soon as the Mover has concluded, or if the Mover does not wish to reply, immediately, the Speaker shall put the question, subject to paragraph 3 of Standing Order 53.”

**The Temporary Deputy Speaker** (Hon. Cheboi): Okay, that is a valid point of order but it is not being raised for the first time. He has just put it differently.

**Hon. Alfred Keter:** Hon. Temporary Deputy Speaker, after reading the mood of the House---

**The Temporary Deputy Speaker** (Hon. Cheboi): Hon. Alfred Keter, I can see the mood of the House. I had indicated that I was going to give a chance to, probably, two more Members and then I would put the Question.

*(Loud consultations)*

Hon. Members, I have 42 requests.

**Hon. Kipyegon:** Mhe. Naibu Spika wa muda, hata mimi ninaonelea tufupishe mjadala huu ndiyo---

**The Temporary Deputy Speaker** (Hon. Cheboi): Hon. Ng’eno, since you have the Floor, you are not in a position to make such a proposal.

Proceed and conclude.

**Hon. Kipyegon:** Mhe. Naibu Spika wa Muda, nikimalizia, ningependa kusema kwamba ninaunga mkono Hoja hii, ndipo orodha hii itupiliwe mbali. Hata ipelekwe wapi, tutasema kwamba tunaipinga kwa sababu tulizoeleza.

**The Temporary Deputy Speaker** (Hon. Cheboi): Yes, hon. Ombaka.

**Hon. (Ms.) Ombaka:** Thank you, hon. Temporary Deputy Speaker, for giving me this opportunity, which I have been waiting for, for so long. I have finally got it.

I am a Member of this very distinguished Committee that came up with this Report, and I want to support it because, as we have emphasized since we started debating this Motion, the process was flawed. What is the process that was flawed? A process is a step-by-step way of doing something in order to come up with a product. So, all that was done was wrong and questionable. It was never transparent. It was totally biased. It starts with who the interviewer interviewing those who turned up to be interviewed is. The interviewer turned out to be a candidate. That, in itself, makes the process very wrong. That was the beginning of the process.

So, when the first step of a process is wrong, the process gets flawed all the way to the end. That is the first mistake. An interviewer becomes a candidate to be interviewed, when he had already interacted with the interviewers. He was very familiar to the interviewers. He knew the kind of questions that were coming. He was a friend to the interviewers. What do you expect? The strangest of things is that an interviewer

became a candidate, and that candidate became number one. That was a failure in the first step of that process.

After the names of the successful candidates were forwarded to the appointing authority, another name was sneaked into the list. It is number 16, with 44.4 marks. That name was initially not there. That is another flaw. The name was not the correct one, and that makes it very funny. I am jumping to the last point because everybody now knows that the whole process was flawed. We have highlighted here that people with disabilities were not considered. When we know---

**The Temporary Deputy Speaker** (Hon. Cheboi): Hon. Ombaka, kindly, let us not repeat ourselves. The issue of disability has been raised quite a number of times.

**Hon. (Ms.) Ombaka:** Hon. Temporary Deputy Speaker, there were also two persons with disabilities in that interview. Thirdly, there was a person living with disability, who was not considered. That is a flawed process. So, why were the two not thought of, when giving us the list of those who should be nominated? I do not want to belabour this point because we have talked about it so much. However, the process was biased. It would be shameful for us, as hon. Members, to approve a wrong process and claim to be doing the right thing.

As a Committee, we met several times over this matter. We vowed that we would not be influenced by our ethnic backgrounds or by our party affiliations, or by the geographical areas we come from.

As a Committee, we met several times over this matter. The Committee vowed when we were meeting several times over this that we will not be influenced by ethnic backgrounds, party affiliations and geographical areas. We were in the Committee as people interested in supporting the country and coming up with a right product.

I support this Report and appeal to the whole House to give it a chance. Thank you.

**The Temporary Deputy Speaker** (Hon. Cheboi): Okay. The second last person I am giving is hon. Tuya. By the way, I will pick the last one randomly. I will not follow the list. So, let us proceed.

**Hon. (Ms.) Tuya:** Thank you, hon. Temporary Deputy Speaker. I rise to support this Motion in its entirety and wish to say that I applaud the work of the Departmental Committee on Education, Research and Technology for demonstrating a decision---

**Hon. Kang'ata:** On a point of order, hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Cheboi): What is your point of order hon. Kang'ata and be quick? Go straight to the point.

**Hon. Kang'ata:** Yes, hon. Temporary Deputy Speaker, Sir. I call upon the members of staff to confirm whether the hon. Member speaking contributed yesterday in respect of this Motion.

**The Temporary Deputy Speaker** (Hon. Cheboi): We actually do not need to check from the members of staff here. We will ask her personally. Did you contribute yesterday, hon. Tuya?

**Hon. (Ms.) Tuya:** Hon. Temporary Deputy Speaker, I am sure I do not have a look alike in this House. So, I did not contribute and I would appreciate if the Member would stop taking my time.

Hon. Temporary Deputy Speaker, I was saying that the Departmental Committee on Education, Research and Technology has made a very conscientious decision which is

what we swore as Members of this House on the day we came in. I have heard on several occasions Members being encouraged in a presidential system to vote with their conscience and to make decisions with their conscience. I think this is an exemplary example that we are getting from the Departmental Committee on Education, Research and Technology. It is also making a decision where in future this House shall not be taken for granted.

Hon. Temporary Deputy Speaker, we are voting against a flawed process. We are not voting against any Member who went for the interview. I think the Report of the Committee is very clear that these members are eligible to reapply and go through a process which is foolproof and I think that is what we are saying.

What is clear again from the Report of this Committee is that the selection panel misled the President and we are not voting against the President by voting in support of this Motion. It is in support of the Committee's recommendation that the selection panel has to be overhauled in its entirety because they clearly misled the Executive in arriving at this decision.

Hon. Temporary Deputy Speaker, the other thing which is very glaring in this process is that we are killing the spirit of transparency in the institution that is the TSC. It is comical that the youngest member nominee in this list is 53 years old. Where are the youth of this country who can serve and make sure that we have a clear institutional memory within TSC to make sure that the education sector is well grounded?

Hon. Temporary Deputy Speaker, we want to say that the process was arbitrary, ridden with impunity and a process where Parliament is being taken for granted and being taken as a rubber stamping institution. That is what we are voting against. I believe I am the last speaker to contribute to this Motion and I support one 100 cent.

Thank you, hon. Speaker.

**The Temporary Deputy Speaker** (Hon. Cheboi): You have no right to declare your position. I am giving the last person and that is going to be hon. Dalmas Otieno and then I will put the Question.

**Hon. Anyango:** Thank you, hon. Temporary Deputy Speaker finally for giving me this chance. As we draw to the close of this debate, I know you will remember that this is one of the few commission positions that were remaining after the Salaries and Remuneration Commission (SRC) was done and we have another two slots for the Parliamentary Service Commission.

**The Temporary Deputy Speaker** (Hon. Cheboi): Hon. Dalmas, you are too tall for the microphone. I do not know if you are going to bend a little.

**Hon. Anyango:** I have to bend a little. Hon. Temporary Deputy Speaker, I want to draw the attention of the House to Article 250(4) of the Constitution. I wish to read it as we draw towards the close. It says:

“Appointments to commissions and independent offices shall take into account the national values mentioned in Article 10, and the principle that the composition of the commissions and offices, taken as a whole, shall reflect the regional and ethnic diversity of the people of Kenya.”

Hon. Temporary Deputy Speaker, we only have a few slots remaining and it is important to point out that we may breach this provision, that certain regions or certain ethnic groups have too many of these appointments to commissions at the cost of other regions and ethnic groups. I point out that because I have seen somewhere one county has

several commissioners and there are several counties in whichever way you may want to describe Kenya, whether by the old provinces or in any other respect or by ethnic groups.

Hon. Temporary Deputy Speaker, so, my last point is that I support this Motion and we should be very furious with panels that have been appointed under the law. Never take the House for granted and never expect that when we are doing our critical role in vetting, the Republic is in competition with the rest of the world and being in competition with the rest of the world, a commission like the TSC---

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

**The Temporary Deputy Speaker** (Hon. Cheboi): You are on a point of order, hon. Jamleck. You have had many today.

**Hon. Anyango:** You are risking a lot my brother.

*(Laughter)*

**Hon. Kamau:** It is okay. Just a point of order to my good friend here, hon. Dalmas Otieno, who I happen to have served in the same Cabinet in the Kibaki Government.

**The Temporary Deputy Speaker** (Hon. Cheboi): Let us leave that aside. Proceed.

**Hon. Kamau:** Hon. Temporary Deputy Speaker, my point of order is: Could he have been one of the people, since he was in the Kibaki Government, who actually engineered that extra name to be put in that Report?

**The Temporary Deputy Speaker** (Hon. Cheboi): Now, I think that is insinuating an improper motive. You are totally out of order.

Proceed, hon. Dalmas and do not even respond to that one.

**Hon. Anyango:** Hon. Temporary Deputy Speaker, I warned my brother that he was risking and honestly I regret that you can be a nuisance because of Murang'a today.

*(Laughter)*

Hon. Temporary Deputy Speaker, I was saying that we are in competition as a Republic with the rest of the world and that a commission like the TSC is a commission in which we can have a professional expert, respected and knowledgeable person literally from each county.

Some people want to maneuver and play around with the House. Let us reject all the names and support this Commission.

**The Temporary Deputy Speaker** (Hon. Cheboi): There have been two requests that I call upon the Mover to reply. I want to point out this before I put the Question; on the one hand from where I am, I can see a lot of interest in people who want to contribute. For those Members who have already contributed, it is immoral for you to force a Question to be put in this matter. I could see hon. Neto, hon. Mishi and others wanting to speak.

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

**Hon. (Ms.) S.W. Chege:** Thank you, hon. Temporary Deputy Speaker for giving me this chance. I know there are many hon. Members who wanted to contribute. I would like to donate a few of my minutes to some of those hon. Members. I will give hon. Kajuju two minutes. Hon. Rasso will get one minute, hon. Keynan, one minute, hon. Tonui, one minute and hon. Dukicha one minute. I think that will be enough. Thank you.

**Hon. (Ms.) Kajuju:** Thank you, hon. Temporary Deputy Speaker; I thank the Chairperson of the Departmental Committee on Education, Research and Technology for donating this time. I am happy that she is the one who has caught my eye and not the Speaker's eye.

I appreciate the effort that has been put by this Committee in bringing forth this Report. I support it. There is a reason why the TSC was entrenched in the Constitution. The past Constitution never used to have the TSC. When Kenyans realized the importance of the TSC they decided that it must be a constitutional body that ought to measure up to all the values that are in the Constitution. If a process has been flawed by bringing on board members who are expected to be approved by this House, then it can never be. It would be null and void; *ab initio*. Why is it that when it is a Meru who is number one on the list with 80.3 marks then that process is not questioned and the person is not put on the list? Why is it---

**The Temporary Deputy Speaker (Hon. Cheboi):** Hon Kajuju, your minutes are over. Hon. Dukicha!

**Hon. (Ms.) Kajuju:** What I am saying is that we will support this Report. The Committee has done its work. These people are eligible once this Report is supported. I support this Report 100 per cent and I honour the Committee and its Chairperson.

**The Temporary Deputy Speaker (Hon. Cheboi):** You are out of order, hon. Ms. Kajuju.

**Hon. Dukicha:** Ahsante, Bw. Naibu Spika wa Muda pamoja na mhe. Chege Sabina. Nataka mnisikize vizuri. Nimengojea hii nafasi kwa muda mrefu. Nimeinua mkono, nimekaa chini--- Nasimama kuunga mkono Hoja hii. Kule Tana River ninakotoka sisi huwa wa mwisho kila mwaka matokeo ya mitihani ya kitaifa inapotokea. Kama si sisi basi ni Lamu. Ikiwa hatutaangazia masuala haya kwa undani Tana River itaangamia na mimi sitakubali kitu kama hicho.

Kamati hii imefanya kazi yake vizuri. Sasa kamati itupatie majina ya watu wanaostahili kupata nafasi hizo. Hili si suala la jamii na Wakenya.

**The Temporary Deputy Speaker (Hon. Cheboi):** Your time is up. Hon. Keynan!

**Hon. Keynan:** Thank you, hon. Temporary Deputy Speaker. I take this opportunity to thank the membership of the entire Education Committee for an excellent job done. This is what is expected of a Committee of the House.

I heard a Member say that Parliament was usurping the powers of the President. Indeed, that is not true. The work of Parliament is to assist the President in governing the Republic of Kenya. I want to refer hon. Members to the provisions of Article 4 which states that Parliament shall protect this Constitution and promote the democratic governance of the Republic of Kenya. Article 95(2) states that the National Assembly shall deliberate on issues and resolve them according to the concerns of the people of Kenya. We are here to assist the President. We want the President and the Executive to serve the people of Kenya in accordance with the law.

**The Temporary Deputy Speaker** (Hon. Cheboi): Your minute is over! The Chairperson!

**Hon. (Ms.) S.W. Chege:** Hon. Temporary Deputy Speaker, Sir, we have agreed with the Member that I respond. So, I will go ahead and respond. First of all, I want to thank every Member of this House for supporting the decision of the Committee.

Secondly, I would like to say that this is not Sabina's decision, but the decision of the Members of the Committee on Education, Research and Technology of this House. I also want protection from the House because I have been personally threatened by an hon. Member through his *Facebook* page. He is also using the same page to incite the Members of Murang'a County. I have been told not to step in some areas of Murang'a County.

*(Loud consultations)*

**The Temporary Deputy Speaker** (Hon. Cheboi): That is a very serious allegation, hon. Chair.

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

**The Temporary Deputy Speaker** (Hon. Cheboi): I overrule all points of order. Members, we have really done very well.

*(Loud consultations)*

Can we allow the Chairperson to finalise? Proceed and finalise. I want to urge the Members to stick to this for us to finalise.

**Hon. (Ms.) S.W. Chege:** Finally, if hon. Alice Wahome reads Section 8 of the TSC Act---

**The Temporary Deputy Speaker** (Hon. Cheboi): Hon. Duale, you have a point of order and you have just walked in?

**Hon. A.B. Duale:** On a point of order, hon. Temporary Deputy Speaker, Sir. I want to repeat for third day that you do not conduct the House business through a chorus.

**The Temporary Deputy Speaker** (Hon. Cheboi): What is your point of order?

**Hon. A.B. Duale:** Hon. Temporary Deputy Speaker, Sir, my very good friend, the Chair, has made a serious allegation. Her life is in danger and because it is on the HANSARD, and she is able Chair of the Committee, she brought a very good report she cannot get away with such a serious allegation. She must substantiate who is threatening her. Otherwise, she withdraws and apologises for the allegation.

**The Temporary Deputy Speaker** (Hon. Cheboi): The only reason why I will not really pursue that very strongly is because she did not name a particular person. So, proceed and finalise.

**Hon. (Ms.) S.W. Chege:** Thank you, hon. Temporary Deputy Speaker, Sir. As I conclude, I urge this House to support this Motion not for the sake of us, but for the sake of the future of this country and our children.

**The Temporary Deputy Speaker** (Hon. Cheboi): I will put the Question, and it is important for the Members to understand that those who will be voting yes, are those who are in support of the Committee Report. Those who will be voting no, will be opposing the Report.

*(Question put and agreed to)*

Hon. Kanga'ta, order! Next Order!

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

Order! Those Members who are leaving, leave quietly. I was very particular that the ayes had it.

*(Loud consultations)*

**Hon. Ng'ongo:** On a point of order, hon. Temporary Deputy Speaker, Sir. The House has become unmanageable.

**The Temporary Deputy Speaker** (Hon. Cheboi): Just a minute, hon. Mbadi. Let us have the Members who are leaving the Chamber leave, then you can raise your point of order.

**Hon. Ng'ongo:** On a point of order, hon. Temporary Deputy Speaker, Sir. Even though the House has remained with very few Members, I have a point of order following what has just transpired in the debate that we have just concluded. Members of Parliament enjoy a special privilege, especially for whatever we do in this House and the reports that are brought to this House. Even though we treated the matter which hon. S.W. Chege reported to this House lightly, I feel that this is going to set a precedent. I request the Chair to make a Statement when we next sit that matters of this House should be taken seriously. A Member of this House and a Chair of a Committee, or any Member of a Committee or any Member participating in the debate of this House should not be victimised in whatever way. The matter should not be trivialised.

**The Temporary Deputy Speaker** (Hon. Cheboi): Hon. Mbadi, you are making a very valid point, but I am saying that Sabina did not pursue that matter to the end. Secondly, she still has options. So, let us leave that to rest. The matter has been sorted out. Your sentiments have been taken.

**Hon. Ng'ongo:** Hon. Temporary Deputy Speaker, Sir, just allow me. We need to bring back the dignity of the House. I even see the media criticizing Members for whatever we say in this House. It is wrong and we need to make that Statement. You should not criminalize what Members say in this House.

**The Temporary Deputy Speaker** (Hon. Cheboi): Order, hon. Mbadi! The issue of the media criticizing the Members of Parliament is okay. They can do it. There is no problem. The issue which I think you are pursuing and made a lot of sense, is the allegation which hon. Sabina made, but she did not pursue it further than the mention of it. She had the time and she has also other avenues which she can use. So, let us leave that to rest.

**Hon. Chepkong'a:** On a point of order, hon. Temporary Deputy Speaker, Sir. I beg your indulgence. I have been trying to rise on a point of order pursuant to Standing Order No.83 as read together with Standing Order No.90. The Report that has just been approved this evening is a report of a Committee and not a report of the Chair. Of course, I am an ICT person and if you look at the bloggers that blog in the internet, they make all

sorts of accusations against the Chair. Many of those who have been contributing in opposition to this Report have not declared their interest in accordance with Standing Order No.90, which is a serious breach. It is, in fact, disorder. In fact, some of the Members should be named.

For the benefit of those who may not be aware, and who have been in this House for a long time and have never read the Standing Orders, let me read it. Some of us are very new but are aware of the Standing Orders. It states as follows:-

“90. (1) A Member who wishes to speak on any matter in which the Member has a personal interest shall first declare that interest.

(2) Personal interests include pecuniary interest, proprietary interest, personal relationships and business relationships”.

We are aware that the Members who have been speaking here have personal relationships with some of the nominees in the Report that has been dismissed, but have not stated so.

**The Temporary Deputy Speaker** (Hon. Cheboi): Hon. Chepkong’a, I have listened to you. You are making a valid point, but it is just a sweeping point. It is not specific. If you really wanted to name any Member, you know the procedure, hon. Chepkong’a. You are a senior lawyer. Really, I do not want us to dwell on that. We had called the next Order. That is the position. The rest of the things can be sorted out through other avenues. Nobody was mentioned and if a person was to be named, the procedures are there.

Proceed, hon. Keynan and no more interruptions.

**Hon. Keynan:** Thank you, hon. Temporary Deputy Speaker, Sir. Every Member has, sometimes, the right to interrogate any issue. However, I beg that you rule some of these frivolous points of order out of order

**Hon. Kamau:** On a point of order, hon. Temporary Deputy Speaker, Sir.

**The Temporary Deputy Speaker** (Hon. Cheboi): What is your point of order?

## QUORUM

**Hon. Kamau:** On a point of order, hon. Temporary Deputy Speaker, Sir. Actually, I am rising under Standing Order No.35. There is no quorum in this House.

**The Temporary Deputy Speaker** (Hon. Cheboi): That is a perfectly valid point of order. I order that the Quorum Bell be rung for 10 minutes.

*(The Quorum Bell was rung)*

Hon. Members, unless you are a Whip you are stopped from walking out of the Chamber now. Even Jamleck, who wants to get Members in, that is not his work today.

## ADJOURNMENT

**The Temporary Deputy Speaker** (Hon. Cheboi): Hon. Members it is clear that we cannot raise the requisite quorum. Therefore, the House stands adjourned until next week on Tuesday, 8<sup>th</sup> October, 2013 at 2.30 p.m.



The House rose at 6.15 p.m.