

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 14th October 2015

The House met at 2.30 p.m.

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

PRAYERS

PAPERS LAID

Hon. A.B. Duale: Thank you, Hon. Speaker. I beg to lay the following Papers on the Table of the House today, Wednesday, 14th October 2015:-

The Teachers Service Commission (Code of Conduct and Ethics for Teachers) Regulations, 2015 and the explanatory memorandum.

The Reports of the Auditor-General on the Financial Statements of Constituencies Development Fund (CDF) for the year ended 30th June, 2014 and the Certificate therein, in respect of the following constituencies:-

- (i) Samburu East Constituency;
- (ii) Nakuru East Constituency;
- (iii) Bomet East Constituency;
- (iv) Bomet Central Constituency;
- (v) Endebess Constituency;
- (vi) Cherangany Constituency;
- (vii) Teso South Constituency;
- (viii) Ainamoi Constituency;
- (ix) Kipkelion East Constituency;
- (x) Samburu North Constituency;
- (xi) Sigowet/Soin Constituency;
- (xii) Laikipia West Constituency; and,
- (xiii) Gatundu South Constituency.

Thank you.

Hon. Speaker: The Teachers Service Commission (Code of Conduct and Ethics for Teachers) Regulations is committed to the Committee on Delegated Legislation. It is for that reason that I delayed the Communication that I intend to make so that the Committee Chairpersons would be present. Yes, Hon. Alex Mwiru, the Chairperson Departmental Committee on Lands.

Hon. Mwiru: Thank you, Hon. Speaker. I beg to lay the following Papers on the Table of the House today, Wednesday, 14th October, 2015:-

The Reports of the Departmental Committee on Lands on its consideration of the following:-

- (i) The Community Land Bill, 2015;

- (ii) The Physical Planning Bill, 2015; and,
- (iii) The Land Laws (Amendment) Bill, 2015.

Thank you.

Hon. Speaker: Very well. Let us move on to the next Order.

NOTICE OF MOTION FOR ADJOURNMENT UNDER STANDING ORDER NO.33(1)

UNREST AND DEATH OF STUDENTS AT MASENO UNIVERSITY

(Several Hon. Members stood up in their places)

Hon. Aluoch: Thank you, Hon. Speaker. I rise pursuant to Standing Order No.33(1). I seek leave to move for adjournment of the House to discuss yesterday's violent confrontation between security forces and students of Maseno University that resulted into massive destruction of property, severe injuries to students, deaths of three students and the indefinite closure of the university.

On the evening of 12th October, this year Maseno University students were having students' election campaign meeting outside the main gate of the university when an armed contingent of police officers set upon them brutally injuring the students. The officers chased the unarmed students from the main university compound and their halls of residence. This onslaught continued throughout the night into the morning of yesterday at the end of which the university administration announced the indefinite closure of the university.

I intend that the House deliberates on this issue on the cause of the violent confrontations, the role of the university administration and police in the chaos, and the arrangement being made to reopen the university.

Thank you.

Hon. Speaker: You have the numbers. You should thank the Leader of the Majority Party. It appears like everybody was asleep. They were not listening to what Hon. Olago Aluoch was saying. There is sufficient interest in the matter and you have got the numbers. I, therefore, direct that the House shall adjourn its business at 5:30 p.m. to deliberate on this matter.

The Members walking in can now take their seats.

COMMUNICATION FROM THE CHAIR

PENDING BUSINESS BEFORE COMMITTEES

Hon. Speaker: Hon. Members, this Communication regards pending business before committees. As you are aware, Parliament conducts a lot of its work through committees. In fact, matters pertaining to public petitions, Bills and legislative proposals are routinely referred to various parliamentary committees for consideration. However, it has been noted that on many occasions, there has been inordinate delays in the processing of certain business by some committees.

Hon. Members, as part of its mandate to monitor and oversee implementation of business in the House as contemplated under Standing Order No.171(5), the House Business Committee

(HBC) is of the view that Committee Chairpersons ought to regularly apprise the House on the progress of business before them. This should take the form of brief reports to be presented when determined by the Speaker and should not take more than 10 minutes each. Such reports should provide a summary of Bills, legislative proposals, petitions, statutory instruments and any other business referred to the committees by the House or by the Speaker.

I have, therefore, determined that this reporting will commence from next week Wednesday, 21st October, 2015 in the afternoon. The process shall begin with two Departmental committees following the order in which these committees are listed in the Second Schedule of the Standing Orders. Thereafter, we will also accord an opportunity to other Select Committees to provide progress reports on matters before them.

Consequently, next week, I expect the Chairpersons of the Departmental Committee on Administration and National Security and the Departmental Committee on Agriculture, Livestock and Cooperatives to brief the House on the status of pending business before their respective committees. Due to the heavy financial outlay before the Departmental Committee on Finance, Planning and Trade, some of which have statutory and fiscal deadlines, I will also allow the Chairperson of that Committee to give a status report on the business pending before the Committee during the same Sitting.

To this end, committees are notified that in addition to budgetary approvals, request to hold meetings outside Nairobi including foreign travel will be approved on the basis of conclusion of committee work and should it be necessary, I will not hesitate to suspend travel by any committee that plans to undertake such travels or visits before completing pending business before them.

In conclusion, I also wish to implore upon the Liaison Committee to assist the House in administering these requirements.

I thank you.

(Applause)

BILLS

First Readings

THE ELECTIONS LAWS (AMENDMENT) (NO.2) BILL

THE NATURAL RESOURCES (CLASSES OF
TRANSACTIONS SUBJECT TO RATIFICATION) BILL

*(Orders for First Readings read-Read the First Time and
ordered to be referred to the relevant Departmental Committees)*

Second Reading

THE SMALL CLAIMS COURT BILL

(Hon. A.B. Duale on 13.10.2015)

(Resumption of Debate interrupted on 13.10.2015)

Hon. Speaker: Very well. Hon. Members, from the records, Hon. Aghostinho Neto was contributing and he had a balance of five minutes. Is he in the Chamber? The Member being absent and not desiring to be present forfeits his balance of five minutes. Any other Member is at liberty to contribute. Yes, Hon. Makali Mulu.

Hon. Mulu: Thank you, Hon. Speaker for giving me the chance to make my contribution to the Small Claims Court Bill. This is a very important Bill for this country. By all standards, this Bill is long overdue because it is a very important. This is because it provides a very important opportunity to those Kenyans who have challenges in accessing justice in this country. I have looked through the Bill and I find very interesting clauses in it which will go a long way in assisting Kenyans. For example, if you look at Clause 13 of the Bill, you will find that it says that if a claim has been launched with this Small Claims Court, no other court can take over the matter before that case is concluded by that court. This is very important because these courts are going to target the common Kenyans in the villages.

It is important that this Clause protects Kenyans who are going to take their cases to the Small Claims Courts. Otherwise, we could have a situation where immediately after the claims are launched in such courts, the lawyers have an opportunity to move these claims from those courts to either the Magistrates Court or the High Court and make it impossible for the villagers to access justice.

Another important Clause in this Bill is Clause 20 which talks about how individuals will present their cases to these courts. The Bill says that in a small claims court, individuals will have to represent themselves. You will have to be there personally to present your case. In a situation where you are not there, you could identify a representative but this representative does not have to be a legal practitioner. This means that if my mother is not in a position to present herself, then she can identify somebody within the locality who will not be paid anything to represent her. What does that do? Kenyans who live far from courts can have their matters sorted within the villages and that will make access to justice very cheap in this country.

Hon. Speaker, the other important Clause in this Bill is Clause 21. This is a very interesting Clause because it talks about the language that should be used when these courts are in session. The Clause makes provision for use of English, Kiswahili or sign language, but what is very interesting is that you can also use vernacular or mother tongue to present your case. So, the issue of language barrier when people are presenting their cases in courts is going to be done away with. This means that people will present their cases in a language which they understand better. This is very important for this country because Kenyans who are illiterate will have a chance to express themselves without being represented.

Another important Clause is Clause 34. It is very important and I would like to read it out. It says:-

“All proceedings before the court on any particular day, so far as practical, shall be heard and determined on a day to day basis until final determination.”

What does it mean? We will have speedy hearing of these causes in courts because the people involved are required by law to make sure that at the end of every day they give a final determination. The only provision is if they do not do it in one day they are only allowed a

maximum of three days to dispense of that particular matter. This means that we will not talk about case backlogs where we have issues with delayed justice.

Kenyans will access justice in a very speedy way and this is important for this country. This is very important because if you look at the current problems we have in the courts, you will find that most courts have case backlogs with some extending for five or six years. That is not good in terms of access to justice because of the common saying that justice delayed is justice denied. I think it is important that this clause really takes care of this so that justice will never be delayed.

Another important Clause is Clause 48. It states that if somebody is not satisfied with the findings of the Small Claims Court, there is room to lodge the case with higher courts. You could go to the Magistrates Court, High Court or even to the Court of Appeal. You can actually push the matter to the highest possible level. What this means is that in case anybody feels that he or she has not managed to get justice at that level he or she can appeal. To me, this is very important because Kenyans will get justice without struggling a lot.

This Bill, at the end, will make sure that we have saved in terms of cost. Access to justice is going to be cheap and to some extent it has been simplified because of the technicality in terms of language and approach. This is because the Bill says that it is very easy to lodge a claim. You just need to get a form, fill it in and then move on.

There is this issue of representation which I know lawyers in this country might be raising. They say by denying them the opportunity to represent some of these people even if they want to do it *pro bono* there will be a problem. To me, lawyers in this country or the legal professionals have the opportunity to represent Kenyans at the level of the Magistrate Court, High Court, Court of Appeal and even the Supreme Court. So, I do not know why it should be an issue for them if they are not representing Kenyans at this lowest level where we expect Kenyans not to pay anything. Since the court will be very simple in terms of management by bringing in lawyers, we might be complicating the process again while we want to make it very easy.

With those few remarks, I support this Bill

Thank you, Hon. Speaker.

Hon. Speaker: Yes, Hon. Rose Nyamunga.

Hon. (Ms.) Nyamunga: Thank you, Hon. Speaker. I also rise to support this Bill. To me, it is very timely and important that all Kenyans get access to justice. We have said it even in other deliberations on the issues of courts that we should have a justice system which is all inclusive and open to everybody.

I support the Bill because, first of all, the fact that the Chief Justice is the one who will be appointing the adjudicator or the registrar means that it is given the importance that is required for any court in this Republic. It will give it credibility. This will ensure that most people who go to the court will know that it is like any other Magistrates Court, the High Court or the Court of Appeal. It is only that justice has been taken to the local villages.

The Small Claims Courts should be taken up to the sub-county level. I believe that in counties which are very vast such courts should be taken even up to the ward level. This Bill has a provision that states that the court can be moved from one location to another. This means that if it is convenient for the court to sit, handle cases in specific areas or people who may be too sick or too old to reach the locations, the courts can be relocated to suit everybody. In my view, it is very important that such courts are established at sub-county and ward levels.

Hon. Speaker, you will realise that most people always avoid courts because of cost and the word justice. Judges or magistrates put most people off and as a result many cases go unheard. Women in villages suffer a lot because when most people hear the word judge or court even if they know they have a case, they opt out of such cases. So, the use of a local language, Kiswahili or English gives a lot of credibility to this court and we should support this Bill.

On qualifications, my colleague has already said that most people are allergic to the word lawyer, judge or magistrate. I think we will do something so that we do away with the issue of advocates or lawyers. I am not saying that lawyers are not the right people. However, the experiences that people have had with lawyers taking them round and round in circles have made many Kenyans develop a very negative attitude towards most lawyers.

I like the fact that any person has a right to lodge a case. We have very many cases, be it land issues or issues of succession. This includes issues of small pieces of land and properties here and there. So, this court will take care of anything apart from claims that may be affecting people at that level. Most of us know that there is an attempt to bring justice closer to the people. There is also an attempt by the Chief Justice to have an alternative justice system. So, this one will just strengthen that and it will give a lot of justice to our people at every level.

The fact that anybody can amend their claim or even change it gives it the flexibility that is required. Some people go to court but they are not very sure on what they need. They change it in the process of the deliberations. If you go to regular courts, you will find that most people are even scared of saying what they do not want and they want another alternative. These local courts will give the people an opportunity to amend their cases or abandon them altogether if need be.

I also want to say that there are very many people who are retired judges, magistrates and lawyers. I do not think there is anything that will stop them from taking up such responsibilities. It is better you serve people at that level than maybe sitting at home with a lot of knowledge that would be acceptable in such courts. If there are people who are retired and are interested in serving, it does not matter whether you are a former justice or whatever level of lawyer you maybe. So, I support the Bill. It is very timely. It will go a long way in offering justice to each and every person in this Republic.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Members, before we go to the next Speaker, let me recognize pupils from Happyland Preparatory School, Makadara Constituency, Nairobi County seated in the Speaker's Gallery and pupils from St. Nicholas Primary School, Westlands Constituency, Nairobi County in the Public Gallery. They are all welcome to the National Assembly proceedings.

Yes, Hon. Katoo ole Metito

Hon. Katoo: Thank you, Hon. Speaker. I also rise to support this Bill. Let me start by saying that this Bill will give effect to Article 48 of our Constitution together with Article 169 but very importantly is Article 48 which says access to justice. It says that the State shall ensure access to justice for all persons and if any fee is required, it shall be reasonable and shall not impede access to justice.

Therefore, the main objective of this Bill is to access justice with a very affordable fee. I think this Bill has done exactly that because this Small Claims Courts--- If you look at Clause 3 read together with Clause 34, you will find that Clause 3 talks about timely disposal of all

proceedings, equal opportunity to access judicial services, fairness of the entire process and simplicity of the procedure.

Clause 34 talks about expeditious disposal of the case. What is making access to justice very expensive at the moment for a large population of Kenyans is the fact that these courts are not accessible to the lower levels of this country and again the costs of the entire process are high. But I think that will be cured with this Bill.

If you look at what is happening now, you will realise that the entire process is very rigorous and the Bill is trying to simplify it by saying, under Clause 34, that you just present your case on a particular day and it shall be heard and determined on the same day. If it not possible for determination to be done on the same day, it shall be done on a daily basis until final determination. It goes on to say that in any event judgment shall be delivered not later than three days from the date of hearing.

Just imagine a claim or case being heard on a daily basis and the hearing, determination or judgment is delivered not later than the third day from the date of hearing. That is very encouraging. If I give you an example of what is happening now you will be surprised. Yesterday, a case was being heard in the High Court and I will not mention it. It was pushed to the next hearing date that will be in February, 2016 and yet we are in October. That as they say is justice delayed; justice denied. So, this Bill is bringing that to a halt and ending the process of postponing the hearing of a case to more than six months. This is done within a maximum of three days.

Another thing which is making our justice system very expensive is the legal fee that is required. At times it is very expensive to hire a lawyer. The fee for a legal practitioner or lawyer is often greater than the amount in dispute but, with this Bill you will not even need a lawyer. If you look at Clause 20, it says that the representative of the claimant, for that matter, shall not be a legal practitioner. You will not need a lawyer for this. So, that cost is also being eliminated. Therefore, it is important that this House supports this Bill and passes it so that cases will be disposed of in a timely and fair manner.

As explained under Clause 4(3) of this Bill read together with Clause 11(2) - where we are talking about geographical jurisdiction - to give that effect of access to justice, it is said that it is going to be at the sub-county level or any other units that are decentralized. If it is possible we can even have these Small Claims Court at the ward level but the Bill has said that, at least, there should be one in every sub-county. Therefore, having such courts at that level of decentralization is going to enhance access to justice.

If you look at Clause 13, you will find that it is trying to streamline the administration of justice in our courts and I think it is a very important clause. We will not have to jump from one court to the other. When you present a case in the Small Claims Court, the other courts have to wait until a determination is made and, again, if you have presented your case in a higher court, you will not have to bring it back to the Small Claims Court. That is streamlining the administration of justice.

This Bill is very straightforward and is entrenching what we did last week. If you look at Clause 18 of the Bill, you will realise that it is allowing for other means of dispute resolution. I think when we did the Bill on administration and coordination of the High Court, we had this clause in it of allowing other means of dispute resolution. This clause is going to make the entire process simple, fair and not expensive.

The final point and the most important aspect of this court is that it is good to know the ceiling of the small claims being handled by this Bill is Kshs100,000 though the Chief Justice is allowed to increase it through a Gazette Notice if need be.

I want to say that the simplicity as has been said by my colleagues of allowing even other languages other than Kiswahili and English will enable *mwananchi* to express his case using the local language at the grassroots level. So, that simplicity is the main advantage of this Bill because the complicated legal forms and languages are kept at a minimum, if need be. Therefore legal decisions are going to be made quickly and in a cost-effective way.

I beg to support.

Hon. Speaker: Hon. Yusuf Chanzu

Hon. Chanzu: Thank you, Hon. Speaker for the opportunity to support this very important Bill.

Hon. Speaker, some of the reforms Kenyans have been agitating for are contained in this Bill. Kenyans in most parts of the country specifically, the rural areas who are far from major towns like Nairobi have been yearning for aspects of the law which can be useful to them. This can only be achieved through this Bill because with this law in place, it means that it will be easier and cheaper to set up small courts in our rural areas.

Hon. Speaker, the speed at which cases will be handled has been outlined in this Bill. For example, there is an aspect that I find useful, and that is Clause 32. It talks about simplicity. It says:-

“The courts shall not be bound by the strict rules of evidence. Without prejudice to the generality of subsection (1), the Court may admit as evidence in any proceedings before it, any oral or written testimony, record or other material that the Court considers credible or trustworthy even though the testimony, record or other material is not admissible as evidence in any other Court under the law of evidence”.

This Clause is saying that the court will take any evidence that is given but it will be the responsibility of the court to verify the evidence that it has been given. It has been very difficult for those who want to go to court, because it is compelling that the evidence is given on oath but in this particular case, the courts will take any evidence but it is up to them to prove its validity.

The other aspect that I think is credible is the amount of Kshs100, 000, which those who want to file a case in court will be paying. The fee has been prohibitive. In fact, the cost of filing a case has been prohibitive to the extent that a number of people who would have loved to go to court, have ended up not going to court. Payment is also a big problem because you must pay the filing fees and the cost of the suit upfront. That is a problem to those who want to file cases in court.

There is also an alternative aspect of convenience. The Bill here talks about three main advantages. It talks about Small Claims Courts which shall resolve disputes informally, inexpensively and expeditiously in accordance with the principle of law and natural justice. There is also an element of convenience bearing in mind that there will be proximity. It is closer to the people thus making it convenient for them to go and seek justice in court.

There is also another dispute resolution mechanism that we talked about. Being informal means that it is more convenient to those who want to seek justice in court. This is because you do not have to follow the formal ways of going to court.

This Bill also says that, in spite of the fact that it is a Kshs100,000 limit of jurisdiction, the Chief Justice has leeway to set the amount that the courts can adjudicate depending on where it is and when the application is made. That is also a good aspect. You do not have to go to higher courts. That limit can be varied by the Chief Justice as he deems fit.

The other issue on the use of local dialect is a very important aspect. Previously, when someone went to court and he was not literate in English or Kiswahili, it meant that the person had to have an interpreter, but in this case local dialects will be used. That means that those who are listening to the cases will bring locals to listen to them. This is good because the issue of interpretation even in other matters like technical issues has been a big problem. People do not understand what is being talked about. Occasionally they are misled because they do not understand what is being said. So, the convenience of local language is very important.

The other aspect that we need to address is that several Bills have come. We have had a number of Bills coming on these reforms that we are bringing to our justice system. There is the element of how they will be implemented so that when they get to higher levels, there is ease with which they can be done. There is also going to be need for publicity. There are things that we or the Government does for our people, but they are not aware. The issue of civic education should come in so that Kenyans can be informed of such facilities and use them.

On the number of things that we have done including the new Constitution, there are those that carried out civic education, but they did not get to the people. There are a number of people in Kenya who do not know what is contained in the new Constitution, and yet they are the ones who passed it. There will be need for public education through *barazas* once this Bill goes through, to draw attention of Kenyans that there is this facility which is available to them. There are a number of laws we have passed that most Kenyans do not know, for instance, laws on security. Laws are passed but Kenyans are not aware of them because they cannot access such information. That aspect, Hon. Speaker, should be given more emphasis. We can use radio stations to make Kenyans know that we have such a law dealing with small claims. They will understand the advantages of the Small Claims Courts such as low cost, convenience and flexibility. It will be better for us, as a country, if Kenyans are informed about this court.

With those few remarks, I beg to support.

Hon. Speaker: Hon. Michael Onyura.

Hon. Onyura: Thank you very much, Hon. Speaker for allowing me to contribute to this Bill. I rise to support it. Right from the beginning, just by looking at the main objectives of this Bill, which is to resolve disputes informally, inexpensively and expeditiously in accordance with the principles of law and natural justice, I think this has been long overdue. Nothing is more important than the rule of law. This is one of the steps that are being taken to underpin the rule of law.

Hon. Speaker, this is also another way of reducing the congestion that exists in all the courts. It is very disturbing to find that cases can take years to be determined and yet some of them are fairly simple. So, by introducing the Small Claims Court Bill, we will be going a long way in decongesting our courts.

The Bill is emphasizing that whatever is done is done following certain basic principles of the rule of law. On the issue of timely disposal, we say all the time that justice delayed is justice denied. This Bill talks about the principle of equality of everybody and equal opportunity for everyone, fairness of the process and more importantly the simplicity of the procedure. This is in keeping with the general spirit of devolution so that instead of centralizing services and

processes, either in the Capital City of Nairobi or the county headquarters, these should be decentralized as much as possible.

I have noted with encouragement that the Bill talks about the possibility of having such courts in sub-counties. Eventually this should go lower. It should be based at the ward level so that services and particularly judicial services are brought as close to where the people are as possible.

This court should be as flexible and simple in its operations as possible. There should be a possibility of having a mobile circuit within an area that it is operating. It should be flexible as to where it can hold its meetings. That flexibility should also be extended to the hours and days of the week. It should be able to sit on any day of the week and any hour of the day depending on the urgency of the matter. The issue of flexibility will be key to this level of courts.

Again, this is a step in the right direction in trying to encourage the practice and the culture of litigation and people solving their differences in a civilized way. What at times has encouraged people to take the law into their hands and to resort to mob justice is lack of structured ways and facilities like these where they can solve their problems, particularly small ones. We have heard of sorry stories of people fighting and killing each other over very small sums of money. I am sure if they have an avenue like this, it will encourage them to go and seek justice there.

Another good thing that I have seen in this Bill is that it encourages alternative dispute resolution ways. This is good because it will improve certain community ways in which some of these disputes can be resolved. That is encouraged.

The fact that a party appearing before these courts can be accompanied by a personal representative, who needs not to be necessarily a lawyer - it could be the *wazee* or *mama* at home - is good. If they have an issue, they can take a member of the family to go and either represent them or even interpret for them. I think that sort of flexibility and simplicity is very good.

I have looked at the requirement of an adjudicator who is to be appointed to this court having an experience of five years. Personally, I feel that five years experience is on the higher side. Anybody who is an officer of the court with a law degree and who has one or two years experience should be given an opportunity to preside over this court. It will also be important that those who will be appointed to serve in these courts should be given good terms and conditions of service and good career progression so that we can get people who are motivated, committed to service and who know that through that, they can also rise through the ranks.

With those comments, I beg to support this Bill. Thank you very much, Hon. Speaker.

Hon. Speaker: Hon. Kimani Njuguna.

Hon. H.K. Njuguna: Thank you, Hon. Speaker for giving me the chance to air my views on this important Bill. Access to justice is a constitutional right in this country. This Bill is another way of telling everybody in Kenya that justice has not been easy. Much has been said and I do not wish to repeat myself. However, we all know that even for the Hon. Members, it has not been easy to access justice. It has been very expensive in terms of hiring lawyers, filing cases, lack of time and not forgetting that the court structure is very intimidating. It, therefore, means that in spite of the fact that access to justice is a constitutional right, it has not been easy to many Kenyans. This Bill is another way of telling everybody that justice has been made easy. It has been made easy in the sense that small claims, those below and up to Kshs100,000, which in my opinion form about 80 per cent of the cases, shall be solved through the Small Claims Courts. We should not forget that the way of solving these cases shall be very informal. If you

look at the current justice structure in this country, you will realise that it is very technical and bureaucratic. Personally, when I decided to do law, I wanted to find out what was so special with the legal profession. I found out that all of us might perhaps be lawyers, but the procedures of approaching the court is what makes the legal profession technical and out of reach. The fact that anybody can now approach this court and present their case without going through the formalities and technicalities of the court is justice made easy for me.

Secondly, the issue of having a lawyer has been done away with. I have listened to some of my colleagues saying that perhaps the issue of having a lawyer needs to be appreciated and be included in this Bill. I am of a contrary view because we need to find out the mischief that this Bill is trying to cure – which is to make justice accessible to everybody. If we go on saying that lawyers must be there we might go the alternative dispute resolution way. When the alternative dispute resolution was being implemented early in the century, the idea was to move away from the technicalities and formalities of the court. Right now, if you go the alternative dispute resolution way, it will perhaps be even more complicated than the court structures themselves. The structure of the Bill, in doing away with lawyers, will perhaps help our old mothers, grandmothers and grandfathers to approach the court and prosecute their cases without unnecessary legal jargon.

There are those of us who are criticising the fact that five years' experience for lawyers and advocates is required for the position of adjudicator. Taking into account that cases are supposed to be determined as fast as possible – perhaps even using local languages – and the presence of claimants who may not be conversant with the court, you need experienced advocates to prosecute these cases in the shortest time possible. This is taking into account that justice must be delivered. In terms of experience, I have no quarrel with the five-year experience proposal. The adjudicator must be very experienced persons with the local scenario, including knowledge of local languages and other issues. Therefore, five years' experience is okay.

The other thing that I appreciate about this Bill is the fact that we must accept and appreciate the fact that because of the hitherto justice system that is very expensive and time-consuming, when most Kenyans were faced with a case, most of them chose to hire gangs and use unorthodox means to get justice. Therefore, one might decide to hire a gang to retaliate.

The current justice system encourages corruption. If you know you cannot access the justice system and somebody owes you money, going to the chiefs, village elders or the police station was encouraging corruption. If we go the Small Claims Courts way, we will reduce crimes and corruption and in a way demystify the current courts structure, which is very intimidating.

With those remarks, I support the Bill.

Hon. Speaker: Hon. Nassir.

Hon. Nassir: Hon. Speaker, I rise under Standing Order No.95 to request that the Mover be now called upon to reply.

Hon. Member: No!

Hon. Nassir: Let me try and justify my reasoning.

Hon. Speaker: Allow him to prosecute his point. You will also want to contribute at some point and you will want to be heard. Let him be heard.

Proceed, Hon. Nassir.

Hon. Nassir: Hon. Speaker, this is a constitutional Bill and every person who has been standing up to contribute has supported it. Hon. Members have been repeating the same points

over and over again. We have more serious issues that need to be discussed in this House. Hon. Members will have time to move amendments when this Bill comes up during the Committee of the whole House. I beg that my colleagues accept my proposal so that we can move on to more interesting things.

Hon. Speaker: Hon. Members, in as much as there are voices saying “Yes” and “No”, please note that I have just been informed that this Bill has been discussed and debated for four hours since yesterday. In as much as there are people who may have new ideas, I have only been hearing comments about the language to be used in the Small Claims Court. I was expecting to hear somebody asking what the transitional mechanisms in place in this Bill are because it is important to have some transition. There may be some small claims which are pending in other courts and you may need to provide for what is going to happen to them. These are things I expect that the Departmental Committee concerned will address itself to.

May I put the Question?

Hon. Members: Yes!

Hon. Speaker: Hon. Members, you know what Article 122 of the Constitution says. It states that Speakers of Houses of Parliament have no vote. That is the beauty of this new Constitution.

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

The Chairperson of the Departmental Committee on Justice and Legal Affairs, Hon. Chepkong’a, will reply on behalf of the Leader of the Majority Party. Where is your card?

Hon. Chepkong’a: Thank you, Hon. Speaker. Let me take this opportunity to thank all the Members who have contributed to this Bill for the last four hours. That shows that this Bill, and in particular the Small Claims Court, has attracted a lot of attention. It deals with the very fabric of society. It deals with that very small person in the community who has problems and is in conflict with his or her neighbour.

As Hon. Members contributed, they spoke from their hearts because they understood and were conversant with the problems that small litigants go through. As I move that the Bill be read for a second time, you rightly mentioned that there must be transitional provisions.

The Committee considered this Bill and proposed changes to it requiring that parties who are complainants in a Resident Magistrates Court will have to agree to withdraw their cases to be heard by the adjudicator in the Small Claims Courts. We will be moving those amendments during the Committee of the whole House. I thank you Hon. Speaker and the House for being patient and for the very good contributions that you have made towards the establishment of the Small Claims Courts.

I beg to move.

Hon. Speaker: Hon. Members, I want to appreciate what you were saying and, indeed, the interest that you have exhibited. I have just told the lead Clerk-at-the-Table that the fact that very many Hon. Members were still contributing, and as it has rightly been said by the Mover in replying; it shows that Hon. Members understood this Bill, including its intentions, potentials and what it portends for the public, who are the majority of the people Members represent. I appreciate that the enormous interest that you have shown in this Bill is out of the fact that all of you associate yourselves with the Bill and understood it for what it is intended.

(Question put and agreed to)

*(The Bill was read a Second Time and committed to a Committee
of the whole House tomorrow)*

Hon. Speaker: Hon. Members, before I make the next announcement, I would like to recognise pupils from Kapsimbiri Primary from Bomet East Constituency, seated in the Public Gallery. You are welcomed to observe the proceedings.

COMMUNICATION FROM THE CHAIR

ACKNOWLEDGEMENT OF THE WAKI REPORT AS PROPERTY OF THE HOUSE

Hon. Members, before we proceed to the next Order, which is a Motion, I need to make an announcement because I had sought to confirm that we will not be distributing strange documents to Hon. Members. The announcement is with regard to the Report of the Commission of Inquiry into Post Election Violence chaired by Hon. Justice Phillip Waki, Judge of the Court of Appeal.

This Report was tabled in this House during the 10th Parliament on 4th December, 2008. Therefore, it is not a strange document to the House. Anybody who wishes to read and make reference to it is within their rights to do so. But I had to confirm that, indeed, it had been tabled in the House, so that we do not start distributing strange documents with references to them being made by Hon. Members. I am told that copies of this Report are in Room 8. It is available for those who enjoy reading or anybody who desires something pictorial.

Yes, Hon. Midiwo.

Hon. Midiwo: Hon. Speaker, I rise to seek your guidance before the Motion on the Order Paper is moved. I am lost as to why this Motion before the House is seeking to establish a select committee while, by your own pronouncement, even though the said Report was tabled in this House, it has never been debated. Should the procedure not be that what the Waki Commission tabled in the House should have been presented here as any other report for debate, led by the Departmental Committee on Justice and Legal Affairs without the so-called “select committee”? We have never debated this Report. I have been around during the 10th Parliament.

Procedurally, the Report should be what we are debating, and not a select committee to critique the Report. That must be something for you to give us guidance on because this is not a new thing. It is not a creation by either the Committee or Hon. Chepkong’ a. It should be the Committee because I have seen that it has been put on Government time. It is not a Private Member’s business anymore. We need to be guided to follow the correct procedures so that we know what we are doing. I foresee the Motion to be drafted talking about a select committee and yet there is a Report before the House.

Hon. Speaker, we would like you to kindly guide us so that we do not create precedents that we have never followed before.

Hon. Speaker: Hon. Midiwo, do you know what a point of order is?

Hon. Midiwo: Yes, Hon. Speaker.

Hon. Speaker: If you do, then you should have done the right thing. A point of order is not a point of argument.

Hon. Speaker: What is your point of order, the Member for Balambala?

Hon. Aden: Hon. Speaker, from the outset, I share a similar view with Hon. Midiwo on the issue that he has just raised. I will wait to hear your guidance on the same.

Hon. Speaker, I rise to seek a further direction from you regarding the matter that is before this House. The proposal on the establishment of the select committee fails to meet the threshold of gender representation as proposed. For that reason, it would be inappropriate. I wish to seek your guidance on the properness of the select committee being formed in terms of whether it meets the threshold of the Constitution or not.

Lastly, on further guidance, we are going through very difficult times as a country – a time when every penny within our public coffers must be wisely utilized.

As Hon. Members know, people have not been paid their salaries. There are lots of issues. A commission of inquiry that was set up by the Government published a very good Report, which is before this House. As Hon. Midiwo rightly said, this House has a right to debate that Report. Would it be wise for us to, again, form a committee to inquire into the Report of the inquiry that was conducted by the Waki Commission? This, in my view, only serves to further drain public coffers.

Hon. Speaker, I seek your guidance with regard to the wisdom that advises this particular move.

Hon. Speaker: Hon. Members, first of all, it is the business of the House to make a decision one way or the other on any Motion that comes before it. Secondly, looking at this Motion, and especially the second paragraph, which reads:-

“Recalling that Article 95 of the Constitution provides that the National Assembly deliberates on and resolves issues of concern to the people; further recalling that in 2010, Parliament amended the Commission of Inquiry Act (CAP. 102) to accord the National Assembly an opportunity to receive and discuss such findings or reports---”

Hon. Members, that text is very important, looking at what it seeks the House to resolve, among other things.

The last one says that the Committee submits its report to the House within 90 days to inform the debates on the subsequent Motion for noting the contents of the Report of the Commission of Inquiry into the Post-Election Violence (CIPEV) which was tabled in the House on 4th December, 2008. So, the Motion as it is does not negate the fact that there will be debates on that Report.

The Motion seeks the approval of the House to set up a select committee which will investigate the various issues that have been alleged here, submit a report which will inform a subsequent debate on noting the CIPEV Report. So, the CIPEV Report has not been removed from the House for debate. That is why I had to confirm with the Clerk that, indeed, the Report is there and not to rely on what is in the Motion.

So, it is up to you, Hon. Members, to either debate or do whatever you wish to do on this Motion including the issue of gender, assuming some of us understand Article 81(b) of the Constitution well enough. Please, make what you may even out of the names. It is within your power to even propose other names in the course of the debate on the Motion. But still the House

is at liberty to either approve the establishment of the Committee to look into the various issues that have been referred to here.

If the Speaker were to begin making a ruling that do not do this or that, I will be exercising some vote. Certainly, from the Chair, Article 122 of the Constitution completely bars me from doing anything like that because then I will be voting. So, I want to leave it to you. You do it how best you understand including what Hon. Abdikadir is saying; addressing the gender component. Is this in accordance with Article 81(b)?

You are the ones to actually make the appointments or to approve these names. You can, therefore, say that this offends Article 81(b) or that offends Article 27(8) of the Constitution which is in the Bill of Rights. All those are arguments that are amenable. Obviously, what I am saying is gratis; it is not supposed to be of help to Hon. Abdikadir when he wants to propose names to comply with the gender component. It is still within your rights to do that.

If we engage in that altercation, it is not going to be helpful. Let me not clarify everything. Just read, make your own interpretation and you are at liberty to decide whichever way. That is why I must completely remove myself from this.

So, just proceed. Let the Mover move then you can engage in the rest as you know best. Proceed.

MOTION

ESTABLISHMENT OF SELECT COMMITTEE TO INQUIRE INTO CIPEV REPORT

Hon. Chepkong'a: Thank you, Hon. Speaker for that clarification.

I beg to move the following Motion:-

THAT, aware that following the 2007 post-election violence, various state and non-state agencies carried out independent investigations, either on their own motion or in the exercise of their statutory functions; further aware that, some of those agencies, including the Commission appointed by the then President to inquire into the matters pertaining to the Post-Election Violence (The Waki Commission), either submitted or publicised their findings and/or reports, which are yet to be discussed by the National Assembly; cognisant of the fact that the matter of possible compromise and allegations of skewed investigations has been of concern to the people of Kenya, including allegations that some of the witnesses who testified before the Commission and other agencies may have been procured; recalling that Article 95 of the Constitution provides that the National Assembly deliberates on and resolves issues of concern to the people; further recalling that, in 2010, Parliament amended the Commission of Inquiry Act (CAP. 102) to accord the National Assembly an opportunity to receive and discuss such findings or reports; this House –

- (a) resolves to establish a select committee to inquire into and report on the allegations of the skewed and compromised investigations by the various state and non-state agencies on the matter of the 2007 Post Election Violence;

- (b) also resolves that the Committee elects its chairperson and vice-chairperson from amongst its Members;
- (c) further resolves that the Committee submits its report to the House within ninety (90) days, to inform the debate on the subsequent motion for noting the contents of the Report of the Commission of Inquiry into the post-election Violence (CIPEV) which was tabled in the House on 4th December 2008 ; and,
- (d) approves the appointment of the following Members to the Committee:-
 1. The Hon. Florence Kajuju, MP
 2. The Hon. Moses Cheboi, MP
 3. The Hon. Kimani Ichung'wah, MP
 4. The Hon. Alice Ng'ang'a, MP
 5. The Hon. David Ochieng, MP
 6. The Hon. Tom. J. Kajwang, MP
 7. The Hon. Boniface Otsiula, MP
 8. The Hon. Samuel Chepkong'a, MP
 9. The Hon. Mati Munuve, MP
 10. The Hon. David Gikaria, MP
 11. The Hon. Jimmy Angwenyi, MP
 12. The Hon. Abdulaziz Farah, MP
 13. The Hon. Mishi Mboko, MP
 14. The Hon. Katoo ole Metito, MP
 15. The Hon. Wilber Ottichillo, MP

Hon. Speaker, as you may have noted this is a matter that is of concern to many people. That is why many people are raising issues. From the outset, I want to quote what Mahatma Gandhi said. He said: "Truth never damages a course that is just". Rick Riordan who wrote a book called *The Red Pyramid* said: "It takes strength and courage to admit the truth".

There are many things that have been said. I was listening to somebody the other day and he told me that one of the things that is clouding this debate is that truth is the new hate speech in this matter. If we run away from the truth, the truth will not run away from us. It will remain the truth. So, it is important for us to unravel the very many things that people have spoken. So, the CIPEV, following the general elections of 27th December, 2007, was established by the then President Mwai Kibaki through a Gazette notice. The terms of reference are contained in the Report that has already been produced and is being circulated. It was supposed to investigate facts surrounding the circumstances related to acts of violence that followed the 2007 post-election violence.

In the discharge of its mandate, the Commission was expected to receive views from members of the public, and to receive any oral or written submissions from any person with relevant information. Under Paragraph 2(d), it was required by the appointing authority to summon any person or persons concerned to testify on oath and to produce any books, plans and documents that the commissioners may require.

Under Paragraph 2(g), it was expected to execute its inquiry with extreme diligence. Under Paragraph 4(3), the Commission was required to produce and submit the final Report and

its findings together with its recommendations to the President who was then the appointing authority and to the Panel of Eminent Persons.

On 16th October, 2008, the Chairman and the Commissioners transmitted the final Report and recommendations to the President. The Report, its findings and recommendations were tabled in Parliament on 4th December, 2008. The recommendations contained in the Report were to be implemented with the full co-operation of Parliament.

The Report recommended, among other things, that a special tribunal be established as a court to seek accountability against persons perceived to bear the greatest responsibility by carrying out investigations, prosecution and adjudication of such crimes. The Report further recommended that in the event that the recommendation with regard to the establishment of a tribunal was not implemented, the Report was to be forwarded to the prosecutor of the International Criminal Court (ICC) to analyse the seriousness of the information received with a view to proceeding with an investigation and prosecution of suspects.

The Report further recommended that the investigations to be carried out must be independent. That is contained in Paragraph 12 of the recommendations. The materials and witness statements, together with the testimony collected or recorded by the Commission, were to be reference materials. So, the tribunal or any other body was expected to carry out investigations independent of the Waki Commission.

In the last one month, many stories have emerged pointing out the fact that there were key players who, by their own admission, procured and compromised witnesses who testified before the Waki Commission, the Kriegler Commission and the Kenya National Commission on Human Rights (KNCHR). It is alleged that in early 2008, there were two distinct political camps fighting for political supremacy and seeking to emerge victors in the contest. It has been strongly suggested by Members of this House and senior politicians outside this House that the Commission of Inquiry into the Post-Election Violence (CIPEV) may have been duped to admit fake witnesses and evidence to recommend innocent persons for prosecution, both locally and internationally.

It is alleged that the Orange Democratic Movement (ODM) and the Party of National Unity (PNU) manufactured evidence and witnesses to fight their local political contests. Senior political personalities have challenged and incriminated each other in the fabrication of false evidence and procurement of witnesses that were used by the Waki Commission, the Kriegler Commission and KNCHR. It is even suggested that those witnesses were sent to the ICC. It has been admitted by politicians from both divides, who were then contesting. I was a serious member of ODM. Hon. Jakoyo Midiwo knows that I was a major supporter of the ODM Party leader. It has been admitted that ODM and PNU created false evidence and witnesses in their quest to defeat each other politically after the 2007 contested general elections. The narrative that is being espoused is that the false and fake evidence was intended for local political consumption, and not for institutions of criminal cases.

We have seen politicians, including people who have been ambassadors for this country - like former Ambassador Mr. Stephen Tarus - who is a former Member of Parliament, admitting to having procured witnesses. Mr. Tarus has admitted that he procured witnesses. Hon. Moses Kuria in 2011, in K24 live interview---

Hon. Midiwo: On a point of order, Hon. Speaker.

Hon. Speaker: What is your point of order, Hon. Midiwo?

Hon. Midiwo: Hon. Speaker, I want to be guided. The Mover of this Motion has to tell us whether we are debating the Kriegler Report or the Waki Report. For example, he has mentioned the name of Ambassador Tarus. The media today quoted Ambassador Tarus as saying that he has never procured any evidence. Why has he mentioned his name? What process are we engaged in? If it is the committee to go and find out, form a committee. I know that Moses Kuria, whom he has mentioned, has said it publicly but Ambassador Tarus has said otherwise. We cannot use the Floor of this House to say untruths about other people. It is unprocedural.

He has also said that ODM has admitted to fabricating evidence against the opposite side. It is not true and he cannot say that without evidence. That cannot be proper debate.

Hon. Speaker: Let me give guidance. As you are all aware, it may well be that we are in the age of ICT and we enjoy social media applications such as Instagram, Twitter and Facebook. Please, do not bring them into the House because I do not know where to find the posts you are referring to. Leave out stories in newspapers, Twitter, Instagram or YouTube. Let us just confine ourselves to matters that we can deal with. It will be easier for everybody.

Hon. Chepkong'a, if it is something that is in newspapers, Facebook or those other fora, please, do not make reference to it.

Hon. Chepkong'a: Thank you, Hon. Speaker. In fact, I was not making any reference to them. It is just that I happen to know Hon. Stephen Tarus. I am sure that Hon. Jakoyo Midiwo has no brief to defend him. These are discussions that went on between us. He has admitted to procuring witnesses and said he would like to be a witness at the ICC. I have not mentioned the former Prime Minister who – I am sure you are aware of this – has mentioned some names of people who appear to have fixed others. It is information which is in the public domain. I do not need to repeat it.

Hon. Speaker, Hon. Moses Kuria was in the precincts of Parliament when he said that he knows of five witnesses whom he procured. He spoke while he was being interviewed by one of the accused persons' lawyers. He did that in the precincts of Parliament. So, I am not quoting any newspaper. If there is anything I am quoting, it is something that concerns this House. I am always very careful, Hon. Jakoyo Midiwo, lest I raise issues which were forgotten long time ago. These are current issues. All these assertions have been repeated several times in various places I do not want to mention.

In light of the constitutional mandate of the National Assembly, contained and particularised in Articles 95 and 125 of the Constitution this House should, therefore, inquire into the veracity of the competing claims so as to bring to closure the political contestations of 2007. The Kenya National Assembly exercises oversight over State officers and State organs. In accordance with this mandate and power, a select committee should be established to verify whether State and non-State agencies, who were paid using public money, acted in accordance with the law or were in breach of the law, in light of the new astounding and astonishing allegations of witness procurement and fake evidence presented to the Waki Commission, the KNCHR and the Kriegler Commission.

Again, I would like to quote Mahatma Gandhi. As you know, he fought for the independence of India and is one of the scions of Indian politics. He said:

“Silence becomes cowardice when occasion demands speaking out the whole truth and acting accordingly.”

Hon. Speaker, this is the occasion to speak the truth. This is not the time to be cowards. This is not the time to run away from what is true.

In ending, I would also like to quote Kelli Wilson who wrote the book *The Clutter Breakthrough: Your Five-Step Solution to Freedom from Clutter Forever*. He said:-

“Our biggest fear is not in expressing the truth but that we will be attacked or belittled because of the truth.”

We should not be driven by fear. Section 163 of the Evidence Act criminalises the procurement of witnesses to give false testimony. The Evidence Act was in existence during the Waki Commission. If somebody procured any false witnesses or came and stated that he or she was coached, he or she was in contravention of Section 163 of our own laws, unless we say we have expunged it from the records. But if it is still in existence, this House has the capacity and the will to investigate some of those matters.

Hon. Speaker, we are restricting ourselves to matters that went to the Waki Commission. We have not talked about the issues of the International Criminal Court (ICC). Somebody will say that this matter is *sub judice*. I have not talked about the ICC. I am squarely restricted to the Waki and Kriegler Commissions. I know there have been very many stories. People think that we are looking for the former Prime Minister. Nobody is looking for him. He is a free man. If people were looking for him, possibly, he would be in jail. But he is a free man. Why would we look for a free man? There is no point of looking for a free person. So, some of those things that are being peddled around have nothing to do with this Motion at all.

So as Members contribute, let us not contribute on the basis of what is being imagined that this Motion contains. It does not contain any of the things that are being said. Neither are we seeking to reopen the envelope. In fact, the envelope is not in Kenya. It went with Kofi Annan. My colleagues here who purport to claim that their names were in the envelope, no one has mentioned to them that they were there. But they claim that they want to see their names. That envelope was flown to New York and it ended up at The Hague. So, it is resident in The Hague. If somebody wants to go and look at the envelope, he is better advised to use Kenya Airways to fly to the Netherlands where he will find it. This envelope is no longer within the jurisdiction of Parliament.

What we are discussing are issues of concern to the people. There are people who have been denied their freedom because of false witnesses and fake evidence that was concocted. People were not given an opportunity. These are the issues. It has nothing to do with tribes. You have heard I have even mentioned one who is of my own ilk; who comes from my own background. It traverses across. When people meet, they have an objective. Since I see my time is up, I thank you for allowing us to debate this matter so that we can extinguish---

Hon. Speaker: You have one minute to complete.

Hon. Chepkong'a: I thank you for giving me the time to conclude.

I beg to move and request the Leader of the Majority Party to second. I thank you.

Hon. A.B. Duale: Thank you, Hon. Speaker. I support this Motion to establish a Select Committee to inquire into and report on the allegations of skewed and compromised investigation by various State and non-State actors or agencies on the matter of the 2007 post-election violence (PEV).

The Waki Commission then, for those of us who served in the last Parliament, was a commission of inquiry into PEV. It was established by the Government of Kenya in February 2008 to investigate the clashes in Kenya following the disputed Kenyan Presidential Elections of 2007. The PEV Report by the Waki Commission, which is commonly referred to as the Waki Report, was partially handed over to President Kibaki and the former Prime Minister, Raila

Odinga, on 15th October 2008. That Report was tabled on the Floor of the 10th Parliament, which I had the privilege to serve. It did not publicly disclose the alleged perpetrators of the 2007/2008 PEV. Instead, the Commission handed a list of alleged perpetrators to Mr. Kofi Annan and in July 2009, Kofi Annan handed over that envelope to one Moreno Ocampo, who was then the prosecutor at the ICC. I do not know what happened, but that Report---

(Hon. Kuria and Hon. Wakhungu consulted loudly)

Hon. Speaker, there is something going on between Hon. Wamalwa and Hon. Moses Kuria, unless Hon. Wamalwa wants to join the list of the many people Hon. Moses wants to be interviewed by the ICC.

(Laughter)

Hon. Speaker: Of course, that is not part of your contribution.

Hon. A.B. Duale: They are distracting me. I ask them to use the facility behind and I am sure the legal team of Parliament can help them.

Hon. Speaker, the Kriegler and Waki Reports, which are the genesis of this Select Committee, were not debated in the 10th Parliament. They were only tabled. I take this moment to apologise to the people of Kenya. As a Member of Dujis then, I did not stand up in the House at that time and ask why the two reports were not brought to the Floor of the House for discussion. That was an omission and I want to take responsibility as a Member of that House.

Article 95 of the Constitution, which Hon. Chepkong'a has read, is very important. It is in the interest of the country, as we go towards healing and reconciliation, that we deal with the elephant in the room. The elephant in the room in this case is the Waki Report.

Hon. Speaker, if you allow me, I looked for the Report from the Table Office and I was told that it is being searched for. I decided to get it myself. I want to take Members who have the Report to page 69. In page 69, subtitled "The Secret Envelope", the Commission says:-

"The Commission had to make a crucial decision on whether or not to name names of those persons alleged by various witnesses to have perpetrated violence at some level. In the end, the Commission recommended for thorough investigations and eventual prosecution of people alleged to have masterminded the violence in parts of the country. This was done in the spirit of natural justice in the adjudication of disputes that everyone is---"

Hon. Speaker: Yes, what is your point of order, Hon. Abdullswamad?

Hon. Nassir: Hon. Speaker, is the Leader of the Majority Party in order? He is quoting page 69 and he says for those who have read and I have read. There is nothing on page 69 about what he is talking about. So, he is either misleading the House or he has managed to see 69 as 96 or 96 as 69. So, unless he tells us he has specifically quoted segments talking about secret documents--- He has talked about segments in this book. It is not an envelope. It is a document in excess of 500 pages and unless he tells us otherwise, he is either misleading or he should withdraw his sentiments and statements.

Hon. A.B. Duale: Hon. Speaker, I am not dealing with a secret document but recommendations of the Waki Commission to investigate the post-election violence (PEV): The recommendations of the Commission of Inquiry into Post-Election Violence (CIPEV). Below it, there is no second document. There is secret envelope. If you allow me, I will continue to read.

This is a document that I have. This is exactly what it is. I did not even finish the essence. If you read that, there are two reports. There is the summarised version of the Waki Report, the Waki Report and a summarised version of the Kriegler Report as they were tabled in this House. I was there. Which one do you have? Do you have the summarised version or the Waki Report?

Hon. Speaker, if I may continue---

(Loud consultations)

Hon. Speaker, there is---

Hon. Speaker: What is the heading of the one you are holding?

Hon. A.B. Duale: Hon. Speaker, what was tabled in this House were the two documents: The summarised version of the Waki Report and the Waki Report itself. I am quoting from the summarised version of the Waki Report and Hon. Nassir can take a walk and get the summarised version. Let me put my idea forward because the most important thing is the content. You do not play because the matter we are dealing with is serious.

Hon. Speaker: Hon. Manson Nyamweya, do you want to contest the fact of a summarised report and the full report?

Hon. Nyamweya: Thank you, Hon. Speaker. You have confirmed the Report which we are debating. You have also confirmed the Report which our Member of Parliament from Mombasa Central is having, I mean Mvita Central.

Hon. Member: It is Mvita Constituency.

Hon. Nyamweya: Mvita Constituency, yes. What he is referring to is a different document which has not been tabled in the House. Let us be guided. He should quote the Report which you have approved; the one which the Speaker showed us today. The document the Speaker has showed us today; the one he said he has referred to. That is what is available. Can you show us that? That document was not tabled in the House.

Hon. Speaker, we need your guidance on this because he is misleading the House.

Hon. A.B. Duale: Hon. Speaker, let me go to the content. Forget about what is here because many Members want to hear the content. In the Waki Report that was presented to President Kibaki and Prime Minister Raila Odinga, a certain portion, called "The Envelope", was not handed to them. It is in this Report.

The genesis of that envelope was this: That over a period of one year, if Kenya will not establish a local tribunal, then Kofi Annan and the Panel of African Eminent Personalities would hand over that envelope to the International Criminal Court (ICC). This is the genesis - whether it is in the big Report or in the small Report. That is where my problem now comes. If you look at the Commission of Inquiry Act, Section 7(1), it says - and I hope he has that because this one is here and you can get it from here - the Commissioners' duties are paid for by the taxpayer or the people of Kenya. At the end, the report of any commission, be it the Waki Commission, Kriegler Commission or Westgate Commission, must be handed over to the appointing authority and the National Assembly. The appointing authority by then, because it was a Coalition Government, was former President Kibaki and former Prime Minister, Raila Odinga.

My point of context is that a section of that Report, in the name of envelope was not handed over to either President Kibaki or Prime Minister, Raila Odinga. That is where we have a problem. The law was broken.

Hon. Speaker: On a point of order by Hon. Eseli.

Hon. (Dr.) Simiyu: Thank you, Hon. Speaker. I did not intend to interrupt the Leader of the Majority Party because what he is prosecuting is very important. However, is he in order to mislead the House because that Commission of Inquiry Act he is referring to was passed in 2010, while the Reports he is talking about were tabled in 2008? The law cannot operate retroactively and I think the Leader of the Majority Party is aware of that.

Hon. A.B. Duale: Hon. Speaker, these are some of the things that astonish me. The Commission of Inquiry Act, its revised edition, is 2012. You will add me more time because I have spent a lot of time on that. What exists today is Section 7(1), whether it was there in 2010 or whether it is there today. Today, if President Uhuru forms a commission to investigate something, that report must be handed over to Uhuru. You cannot give it to President Museveni or anybody else. That is the gist of the matter I am prosecuting.

So, there is a serious flaw there. An envelope was given to people who have no jurisdiction under the Constitution of Kenya. That is basically what I am saying.

Hon. Speaker---

Hon. Speaker: The Leader of the Majority Party is entitled to 15 minutes.

Hon. Member: But, he is seconding.

Hon. Speaker: Whether he is seconding or not. On 11th February 2015 - and I know most of you do not know the several Motions that you pass--- You seem to suffer from momentary lapses of memory. On 11th February 2015, the several Procedural Motions that you passed relating to Standing Order No.97 indicated that the Leader of the Majority Party and the Leader of the Minority Party, when contributing even in a Motion like this where the Mover is entitled to 20 minutes, either of them is entitled to 15 minutes and the rest of you will speak for 10 minutes. Just try to take a walk down memory lane. Those of you who know that, that lane is not very narrow, you can still walk through it. You will find that, that is what you decided on 11th February 2015. So, let us just allow the Leader of the Majority Party. I have actually been told that he has done his 15 minutes but, because of what he is saying and so that he can conclude, I will give him one extra minute.

Hon. A.B. Duale: Hon. Speaker, I will use that extra minute.

So, Hon. Speaker, if we have to take the route of reconciliation, the truth must be told to Kenyans today and generations to come. One philosopher said: "If you tell the truth, you do not need to remember anything." Let us tell the truth so that we do not need to remember the Post-Election Violence (PEV). Let us know who the 16 people are. Justice Waki is a Kenyan. If it was Hon. Duale or Hon. Jakoyo who are in that list, let him tell us so that we heal. It is not about politics. It is not about finger-pointing. Let us move ahead. This Select Committee owes this House the highest threshold of integrity that we can think of. A committee of this House can come and agree---

Finally, it is also said by a philosopher that: "A lie can travel half round the world while the truth is putting on its socks."

Hon. Nassir: *(Inaudible)*

Hon. A.B. Duale: You will say that when you get your chance. Hon. Nassir, it is three years and you should have learnt the art of debate and research. You do not heckle! I said a lie can move half the world while the truth is putting on its socks.

Let us be fair to the country. Let us walk the talk. Of the six people, two still have cases at the International Criminal Court (ICC). They are Kenyans and have families. Let Parliament

rise to the occasion. Let us say enough is enough. Let us know what happened, let us speak the truth and let us heal so that Kenya can move forward.

I beg to second.

Hon. Speaker: Hon. Members, I wish to---

(Hon. Nassir gestured at Hon. A.B Duale across the Floor)

It is not done that way Hon. Nassir. I want to encourage Members to stop this habit of exchanges across the aisles. We are live on television. I am sure we respect one another. That is very important. However, I want to make this announcement. In keeping with the decision that you took on the 11th February, a Motion such as this is limited to a maximum period of three hours given that I had already ruled that the House will rise to adjourn in order to discuss the matter raised by Hon. Olago Aluoch at 5.30 p.m. Given the time we started, you will have spent one hour and 36 minutes. It, therefore, means that this Motion cannot be concluded today unless you move to close it. That is the long and short of it.

By the time you adjourn to debate the matter raised by Hon. Olago Aluoch, you will have spent one hour and 36 minutes. It, therefore, means that debate on this Motion will have to be adjourned and that it will resume tomorrow. I now proceed to propose the Question.

(Question proposed)

Hon. Kaluma: Put the Question.

(Laughter)

Hon. Speaker: The Hon. Member for Homa Bay Town has a way of wanting to always agitate the Chair. The Hon. Deputy Leader of the Minority Party ranks ahead of the rest of you. He is Hon. Jakoyo Midiwo. So, you will appreciate he is not going to speak for 10 minutes, but for 15 minutes.

Hon. Midiwo: Thank you, Hon. Speaker. I have looked at this Motion. I raised issues with you. I have listened very carefully to the Mover and Seconder---

Hon. (Dr.) Simiyu: On a point of order.

Hon. Speaker: There is a point of order from Hon. Eseli.

Hon. (Dr.) Simiyu: Hon. Speaker, this point of order is requesting you to make a ruling on this and guide us because I know you approved the Motion. However, the law that we are basing on is the amendment done in 2010, while the reports were tabled in 2008. So, are we intending to apply this law retrospectively and is that how the law works? So, I would like your guidance on this before we proceed on this debate. This is because, in my thinking, it looks like the whole idea of bringing this Motion, which is a very good idea, is premised on the wrong law. This is because that law was passed in 2010 long after those reports had been tabled.

So, are we going to apply this law retrospectively? That is where I wanted your guidance.

Hon. Speaker: There are some of you who think that I need help. I do not. What the Hon. Member is raising is a simple matter. The Commission of Inquiry Act was amended in 2010 to allow Parliament to deal with debates and reports of this kind. Hon. Eseli, you may have a serious point but you need, at this point, to look at the amendment to that Act.

More importantly, it is fair to be informed and feel buttressed by the provisions of Article 95 of the Constitution, so that whether the Act says this or the other, Article 95 should entitle you, as the National Assembly, to discuss any matter of concern to the people and resolve it. Even if it happened in 1934, if it is of concern to the people of Kenya today, you have a responsibility to discuss and resolve it. Even if we were to completely move away from the amendments to the Commission of Inquiry Act of 2010, you would still, as the National Assembly, acting under Article 95, be entitled to discuss and resolve any matter. For the time being, we shall stand guided in that manner.

Proceed, Hon. Midiwo.

Hon. Midiwo: I will begin Hon. Speaker. That was an interlude. So, my first second has just begun. Listening to the Mover and Seconder of this Motion, I am left without a proper understanding of what the Motion intends to do. I want to thank you for allowing us to discuss the Motion so that we do not look like we are opposing something which the Mover himself has not brought out clearly.

What are we seeking to do with this very in-your-face, weighty Motion? This Parliament has a responsibility. We are the representatives of the people of Kenya. I appreciate that most people sitting here today were not sitting Members of this House when hell broke loose in this country. This Parliament has a duty to our people to make sure that we do right and calm the emotions of our people.

Hon. Speaker, you have watched the prayer meetings, which in content, are the exact same things I have heard the Mover and the Seconder bring out. We have moved from prayers to the Floor of this House. I do not know how that helps our brothers at the International Criminal Court (ICC). I do not understand. I have heard the Mover say that this Motion is not looking to implicate Raila Odinga. We know that. Raila Odinga is on your side. You are the only one who does not know that. Raila has said that he is willing and ready to testify. In fact, I have seen some Members from this House saying that he is not sincere. However, you have been going to prayer meetings asking him to say something. Many people like to play politics but they were not there. Some of us were within sight of William Ruto for almost 24 hours a day during that time.

Hon. Chepkong'a: On a point of order, Hon. Speaker.

Hon. Midiwo: Allow me to speak, just like I allowed you.

Hon. Speaker: What is your point of order?

Hon. Chepkong'a: Thank you, Hon. Speaker. I rise pursuant to Standing Order No.83. Is it in order for the Deputy Leader of the Minority Party to make an assertion that we were not there in 2007? He knows how old I am.

(Laughter)

Is it also in order for him to claim that some of us were not with the former Prime Minister in 2007, when he knows that I was the presidential agent in Eldoret East Constituency for the Orange Democratic Movement (ODM) Party representing the former Right Hon. Prime Minister, Raila Odinga? Is he in order to mislead this House that we were not there with him?

Hon. Speaker: I do not think we need to deal with that because that is a point of argument. Let me dissuade you, hon. Members that, as I read this Motion, I did not see the name of the former Prime Minister or the Deputy President. Are they being proposed as additional Members of this Committee?

(Laughter)

Why are you introducing them? Unless you want them to be part of the Committee, there is no need to introduce them. Why do we not leave them out? However, you are perfectly in order to say what you want about the Motion.

Hon. Midiwo: I agree with you Hon. Speaker. I know the rules of debate. They introduced it. He said that some of the witnesses they are talking about were used to fix innocent Kenyans, which may be true. We know Ruto was fixed and we know who fixed him. I am going to reveal it as I debate this Motion.

We are at a time in our country where this House can bring closure to the ICC issue. We have an opportunity to do so now that the much sought-after witnesses have volunteered to testify, including my brother, Hon. Oburu Oginga, who was there. I was with him. They are saying that they are willing to testify. It is an opportunity to bring this issue to closure once and for all.

Before the Waki Commission was formed, there was a letter written by the Government of Kenya to invite the ICC to come to Kenya. It was the same Government that formed the Waki Commission that invited the ICC. Some people whose names Prosecutor Ocampo said were in the envelope - because we have not seen the content of the envelope - are walking around freely. Two of our brothers were left at the ICC. I remember President Kibaki and Prime Minister Raila Odinga saying that no Kenyan should be tried away from this country. I remember when we took the vote in the old chamber. Some people speaking today told this country, "Do not be vague. Let us go to The Hague." Now that circumstances are different, let us not be adversarial. Let us find out where the rain started beating us. Let us sort out this issue once and for all.

With regard to the issue of Hon. Moses Kuria, I do not know whether I am living in a lawful country anymore. I want to thank Hon. Chris Wamalwa for pressing Hon. Moses Kuria last night on national television to apologise to Hon. William Ruto. He did. I want to thank him for that. In any civilisation, you cannot admit to a crime like the one he says he did and still walk on the streets.

(Applause)

It is not right. There are lives of our people involved in this issue, whether they are Kikuyus, Kalenjins or Rendilles. This issue is of great magnitude. It is not a joke such that you say you paid people and you are still walking around freely. This issue has caused my brother Ruto and his family sleepless nights for over five years. A Member of Parliament who benefits from taxpayers' money just says that he is willing to go and testify. Testify that you committed a crime? Yesterday, it came to light that there are reports marked "Exhibit 19" and "Exhibit 19A." For those of us who now know, it is the intelligence report that was done during that time. It was done by a Government which was controlled by people who were one-sided. It was not done by the coalition Government. I have heard of the names. There was the National Intelligence Service (NIS) and all those other people. I want the committee that you want to form - if you succeed in forming it, because I am opposing it - to begin with Exhibits 19 and 19A and invite Mr. Gichangi first. We want to hear the political nonsense that we have heard for many years. We are also human beings. We know what you have been doing. You cannot feed us and the

nation with lies and expect us not to react. We know that it just did not happen. There is evidence before the International Criminal Court (ICC). Hon. Kuria says he knows how it got there. They are even saying that they coached witnesses. How shameful? Some of us have endured this. Our people died. Last Sunday, you saw the Deputy President issuing cheques in Eldoret to our families. How shameless can we get as a country? If the intelligence report that I am talking about contains lies, and if whatever it contains implicated my brothers William Ruto and Arap Sang, we must dissolve the NIS. We know that the NIS is an organization which has, over the years, participated in elections – something which is not part of its job description.

Hon. Gikaria: On a point of order, Hon. Speaker.

Hon. Speaker: Let it be a point of order.

Hon. Gikaria: Hon. Speaker, I need your guidance. As you gave us direction as to how to continue debating this matter, you alluded to the fact that this is about the Waki Report and the Kriegler Report. That is what the Mover had said. You told us to stop bringing in the ICC issue into this debate. Is the Member in order to drag issues of the ICC into this debate?

Hon. Midiwo: Hon. Speaker, the hon. Member has been in this House for three years now. You know, if you open a window, Jakoyo Midiwo will walk into it. He mentioned them; I will mention more.

Last year, hon. Members from the United Republican Party (URP) wing of the Jubilee Coalition went to a public rally and accused Nancy Gitau, Gichangi and Iringo of fixing William Ruto. They mentioned the names of those people and said that they were the ones who fixed Ruto. They are now going to prayer meetings and saying “Raila did this, Raila knows this”. How come they did not know it last year? At what point did the situation change? When did Gichangi, Nancy Gitau and Mutea Iringo become innocent? If you know something, it is not for Raila to tell us; it is for you to tell us. Have a look at Exhibits 19 and 19A, and you will regret for bringing up this matter. It is all in your coalition. Stop looking this way and look that way. It is with you.

What I am telling you is that it is better to forgive. We proposed the formation of a local tribunal so that we could sort out ourselves, forgive each other and move forward as a country, just like the South Africans did. This is our country. If it burns, we will all burn in it. Nobody is safe. Therefore, my appeal to the Members of this House and to politicians, generally, is that we should not play politics with the issue of the post-election violence. Yesterday, I saw people who were moved from IDP camps just over the weekend, who are still homeless. You are not homeless. You are playing politics. In fact, when you see hon. Members riding in cars, you should appreciate that they are being facilitated by the same taxpayers’, who are IDPs. Some people kicked them out of their land and homes. What are we doing? Let us find a solution.

I would like to plead with you, Hon. Chepkong’ a. You said that you have been around long enough. I want you to be true to your age. There is no parliamentarian who has the capacity to do the investigation that you are seeking to do. Where this thing belongs is the Government. The President has powers to withdraw the intelligence report, which you are saying contains lies. That is the report the ICC is said to be heavily relying on. Begin from home, as charity begins at home. First of all, withdraw everything that the Government sent to the ICC. Bring them back home and take some of us as defence witnesses. Hon. Raila and Hon. Oburu have said that they are willing to give evidence that will exonerate our brother. You talk about the envelope. Who fears the envelope?

Hon. Member: Raila!

Hon. Midiwo: Raila does not fear the envelope. If Raila's name is in the envelope, then Kibaki's name is there as well. Stop being one-sided! If Raila's name is there, so is Kibaki's. Let him go and rot in jail because he is the one who stole Raila's election victory. He must take responsibility. Raila never did anything. He won the election. You know it, Hon. Duale; because you were there. None of these people can deny that Raila won the 2007 election by over---

(Laughter)

Hon. Speaker: The Deputy Leader of the Minority Party is obviously an eloquent contributor. So, I expected that he would excite a few of us.

Hon. Members, you recall what I said about the time we are to adjourn. I hope that hon. Members who have placed requests have done so to contribute to the Motion. Do not tell me that you are expecting something else to come. It is this one.

Proceed, Hon. Joseph Manje.

Hon. Manje: Thank you, Hon. Speaker, for giving me the chance to contribute to this very important debate. I would like to oppose the Motion for one reason.

(Applause)

This particular issue will remind us what happened in 2007/2008. Many Kenyans do not want to open this can of worms. You have heard what Hon. Jakoyo Midiwo has said. It has started to activate the country to where it was in 2007. From this debate, it is very clear that the Waki Report is based on fake evidence. Why do we want to open fake evidence – evidence which does not have material facts? The proposed Select Committee will be trying to analyse the Waki Report for us. We can read the Report on our own, debate it and draw conclusions. I do not see what we stand to achieve through this particular Motion. We are taking this county in the wrong direction at this particular point in time. We should remember that the last elections were based on the unity of Uhuru and Ruto. By them coming together, they resolved the issue of the 2007/2008 post-election violence. We now want to go to the past and revive those issues. It is as if we want to re-submit the Waki Report in a different form. That is exactly what the proposed Select Committee will be doing. They do not have the machinery that Justice Phillip Waki had. We should remember that Waki had all the information he wanted. Suppose we come and say that apart from the six suspects, we have 16 other suspects. What will we do with the other 16 suspects? Do we want to go ahead and look for other justice? Do we want to take other people to The Hague? Before we discuss this Report, we should know what we want to achieve, as a county. I do not think we will go far with this matter. What we should do is to implement and that is what the Waki Report was all about. By taking the envelope to The Hague, they were trying to implement the recommendation of the Report.

So, let us get the recommendations and continue. Actually, one of the recommendations of the Kriegler Report was that we should embrace ICT in the elections, which we implemented. If we want to do something at this particular time, we should implement what was recommended. I wish we are going to the recommendations to see whether it is possible to implement some of them, instead of going that direction.

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

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

Suppose we open this can of worms and some people in the country take it in the affirmative, that what was said in the Waki Report is true, what will we be telling Kenyans? For how long are we going to take our country emotionally in a political sense? This is not the right time to open the Waki Report again. It is past tense. Remember even in the Bible there is a woman who was told that if she looks back, she will become a pillar of salt. She became a pillar of salt. It is in the Bible and in the Koran. So, we should not look back. Let us look forward and build our country. This is all what we are saying. This is not the right time to open a can of worms.

I also want to reiterate what is going on in the country. You remember what Hon. Kuria said about coaching witnesses; the fake witnesses. If they are fake, why do we want to open something that is based on fake witnesses? What will we be achieving for the country? Do we want to tell the country that we want to discuss something that is fake? That is not the right way to go. You have heard what Hon. Jakoyo has said. We want to interrogate what the National Intelligence Service (NIS) was doing at that time, which cannot be now.

With those few remarks, I want to oppose this Motion. Let us forget the past and continue. That is the way forward in this country. I beg to oppose.

(Applause)

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Thank you. Next on my request list is the Hon. Member for Kathiani.

Hon. Mbui: Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity. This is a very interesting Motion that we are debating. I know that towards the end of 2007 to early 2008 it was part of Kenya's darkest history. That is because 1,000 people died or were killed, tens of thousands were maimed and over 600,000 Kenyans were displaced. In fact, it affected all Kenyans. About 42,000,000 Kenyans were affected by the post-election violence. Soon after that, in the interest of justice, Members of this House at that time decided that they would discuss and ensure that the cases were dealt with in the country. But there is a slogan that came up at that time because Members were saying: "Do not be vague, let us go to The Hague." Now eight years later, we have a case going on at the International Criminal Court (ICC). It started with six victims. The case is crumbling. There are only two victims left in the ICC case. Hundreds of thousands of Kenyans are still displaced because, as you are aware, as recently as last week, the Deputy President was giving cheques to Internally Displaced Persons (IDPs) to resettle them. Despite all that, the wounds are healing. Kenyans are healing. But this idea of constituting a select committee to discuss the Waki Report is something I strongly oppose on the following grounds:

(Applause)

It is opening old wounds. I heard the Leader of the Majority Party say that we need to heal. For us to heal, we cannot start poking holes in a wound and then say that we are going to

heal because of that. For us to heal the wound that has taken so many years and is now a scar, it needs to be left. Let it be. I believe that opening that Report and coming up with a new committee to discuss this is opening an old wound.

The other issue is that the IDPs are still suffering. Every time we discuss this in this House, we are actually touching those wounds and we are annoying those people. It is important to be realistic to the suffering of IDPs and ensure that we do not keep talking about this issue.

I also understand that this Report was tabled in the House. The previous Parliament had the same powers that this Parliament has. So, it does not make sense that a report is tabled on the Floor of this House and then, years later, another Parliament comes in and says we want to discuss that report that was already tabled. I do not think it makes sense for us to discuss that report now because it was tabled in the previous Parliament.

The other issue is that the ICC case is ongoing. I suspect that there is this belief that by discussing this here, we might be trying to affect that case. It is important to understand that the case in the ICC does not depend on what we say in this Parliament, prayer rallies, *barazas* and TV shows. The case is ongoing and it is based on evidence. The more we discuss these things in this House, the worse we make that case. In fact, if anything, we are just saying that we are not serious about justice for the people that are suffering.

There have been allegations of fixing. They have been canvassed by Members of the Government side that are doing it out there. The issues of fixing are becoming a pain in the neck. Every day, when you imagine how much the Kenyans in those cases are suffering every time people open their mouths and say that so and so procured witnesses or so and so was paid as little as Kshs2,000 to destroy a life, is something we do not want to bring to this House.

I strongly oppose. I want to remind the House that just before the last elections, the party leader of the Wiper Democratic Movement (WDM), His Excellency Kalonzo Musyoka, carried out shuttle diplomacy. He went all over the world to ensure that the cases were not taken to ICC. Unfortunately, some of the people that are shouting that we start discussing it here are the ones that opposed the shuttle diplomacy.

(Applause)

In fact, they almost insulted our party leader. So, I want to say that you make your bed and lie on it. So, this is the time to lie on that bed.

As I finish, the Speaker said that we have so much work to do. The substantive Speaker said that the National Assembly has so much work in committees that we do not have time to even go out to discuss issues. In fact, he talked about stopping foreign travel. Now instead of doing the serious business we have, we have started to discuss a Report that was tabled here in 2010.

I oppose. We have a lot of work to do. If we are going to allow every report that has been tabled in this House to be discussed by a select committee, then after that another select committee, we will be wasting the taxpayers' money and it is not fair to this country. Kenyans do not have time and do not support this. On behalf of the people of Kathiani, I oppose.

Thank you very much, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): On behalf of the people, you are actually representatives. The next on my request list---- Hon. Members, we have 40 requests. The next is the Member for Ugunja, Hon. Opiyo Wandayi.

Hon. Wandayi: Thank you, Hon. Temporary Deputy Speaker for giving me the opportunity to contribute to this very critical Motion.

(Loud consultations)

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): You are out of order, Hon. Members.

Hon. Wandayi: We are faced with a crisis of monumental proportions as a country. This country is at crossroads. I listened very carefully to the Mover of the Motion and the Secunder. What has emerged in my understanding is that this Motion really has nothing whatsoever to do with the Waki Commission or its findings. This Motion has got everything to do with the ICC. On that premise, I proceed.

We are told every day that the truth shall set us free. The holy Bible says the truth shall set us free. I am happy that the truth is finally setting us free as a country. We are also told that when the gods want to destroy you, they first fatten you. Ultimately, they make you mad and you start talking to yourself. In the process of people getting mad and talking to themselves, the truth has emerged. The truth has eventually emerged as to who concocted evidence that landed our brothers at the ICC. We are faced with a situation where---

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Order, Members! Order, Hon. Wandayi! When the Speaker is speaking---

Hon. Wandayi: Hon. Temporary Deputy Speaker, thank you very much.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Order, Hon. Wandayi, even if you are the one on the Floor! Members, I want to remind you to debate the Motion which is for the establishment of a select committee. As much as you want to introduce your words, the Motion is about the establishment of a select committee as proposed. You can add your words, but let us be guided by the Motion.

Hon. Wandayi: Hon. Temporary Deputy Speaker, I am guided, but remember I am usually very clear in my mind as to what I talk about. We cannot escape the fact that eventually, the people who concocted evidence and coached witnesses to make false testimonies against innocent Kenyans have emerged.

The elephant in the room is not the so-called Waki envelope. We do not know as Kenyans what is in that envelope. We do not even care who received it. What we care about is that people have come out to confess that they concocted evidence that landed people at The Hague. So, the least this country can do is to demand that, firstly, Hon. Moses Kuria goes a step further than just confessing and apologising to William Ruto and name his co-perpetrators of the crime. More importantly, he must also go ahead and disclose his master. He must tell us who sent him to procure the witnesses and evidence. We know Moses Kuria was not acting on his own volition. He was a jobless Kenyan and a very junior member of the Party of National Unity (PNU).

For us to reconcile as a country, the truth must be told. The truth is that the people who fixed our two brothers currently at the ICC are known. They are sitting on that side of the aisle with their masters outside. It is important that we do not try to trivialise a serious issue such as this one through mischievous Motions such as the one Hon. Chepkong'a is proposing. If for sure we are serious as a country and we want to address the historical injustices and reconcile and

heal, what we should have done as a matter of priority is to discuss the Truth, Justice and Reconciliation Commission (TJRC) Report with a view to having it implemented like yesterday.

(Applause)

That Report has solutions to the historical problems this country has endured. However, to try to divert attention from the core issues of mis-governance and confessions by Hon. Moses Kuria through this mischievous Motion is to miss the point. Therefore, I oppose this Motion because of the manner it is crafted. Unless it is amended to accommodate the interests and viewpoints of the majority of Kenyans, I oppose it very vigorously.

It is important for us to understand that the problems in this country start and end with the ruling coalition. Why do I say so? We have a coalition of supposedly equal partners, but now it has come out clearly that one partner is so junior that it continues to be oppressed by the senior partner. The senior partner in the Jubilee coalition is the one responsible for the tribulations of our brother and comrade, Hon. William Ruto, and his brother arap Sang’.

(Applause)

The earlier we accept this fact, the better. There needs to be reconciliation between The National Alliance (TNA) and the United Republican Party (URP) before this country can move forward. However, if this marriage of convenience continues to hold, it is a recipe for chaos. It is shameful that you can fix your brother and partner in a coalition and continue to escort him to the gallows and then you pretend that others are responsible for his misfortunes while you are praying for him to be jailed. Inwardly, you are praying that he be jailed and outwardly you pretend that you are concerned about his welfare. Nothing can be more shameful than what we see happening in the Jubilee coalition.

Therefore, I wish to oppose this Motion in its entirety and propose that if you want us to move forward together, you make amendments, including totally changing the names proposed to sit on this Committee to give the URP wing a majority of membership because they are the people being oppressed.

Thank you, Hon. Temporary Deputy Speaker.

(Applause)

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Order, Members! Hon. Robert Pukose, the Member for Endebess.

Hon. (Dr.) Pukose: Thank you, Hon. Temporary Deputy Speaker. Speaking after the crocodile tears of hon. Opiyo Wandayi--- At this stage, you pretend you are a comrade to William Ruto and you think that we are being oppressed. URP has not complained that we are being oppressed. We consider ourselves part and parcel of this Government.

In the same breath, I oppose this Motion on the basis that we will be opening wounds.

(Applause)

We will be going back to who fixed who, who did not fix who and who did this and that. This issue of who fixed who is taking this country in the wrong direction. The Deputy President and Joshua Sang, who come from my county, their families are traumatised because of what happened and where they are today. They are carrying a responsibility for which their hands are clean. They have no blood in their hands. Every day when we speak in the Press about who fixed William and Joshua, we are going the wrong way. The Motion partly says:-

“---resolves to establish a select committee to inquire into and report on the allegations of the skewed and compromised investigations.”

When you talk of allegations, how can we substantiate those allegations? Everybody will make various allegations. You already have a predetermined idea about what you want to investigate. I look at it and ask myself: The Committee we are establishing, will it sit at the Kenyatta International Convention Centre (KICC) from morning till evening collecting views and from whom, or will they be travelling to various areas?

The work of the Waki Commission was done in four months. We want the Committee that we are establishing to look into the Report of the Waki Commission in three months. Before I joined politics, occasionally we used to say that after the Government forms a commission, then it will form another commission to investigate the first commission and another commission to also make a report on the second commission. We are getting ourselves into that scenario. I do not want to be part of this.

With those remarks, I oppose this Motion.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Isaac Mwaura.

Hon. Mwaura: Thank you, Hon. Temporary Deputy Speaker. If at all Hon. Moses Kuria is listening to the sentiments of this august House and Kenyans, he must regret his utterances. Indeed, we may not be very old like Hon. Chepkong'a or Hon. Jakoyo Midiwo but we have now lived in this country enough to know that if you peddle a lie, it will eventually catch up with you. The last elections were won on a lie that Raila Odinga is the one who took people to The Hague. That is the truth. Now, because the President's case has collapsed---

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Order, Hon. Mwaura.

Hon. Members, those who have put their cards on intervention, please remove them if there is nothing out of order and then you can put them in when there is need. You are blocking us from knowing who is on the right point of order and who wants to give information. I want to see who is on a point of order, if there is one.

Hon. Mwaura: Thank you, Hon. Temporary Deputy Speaker. The issue is, as we speak now, the case of President Uhuru Kenyatta has collapsed, and because the case has collapsed---

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Grace Kiptui from Baringo County!

Hon. Mwaura: She just walked out.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Your card is on intervention.

Hon. Mwaura: Let me proceed, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Member for Turkana Central. Is there anything out of order?

(Hon. Nakara spoke off record)

Can you remove your card from intervention then? That is not the way to do it. Carry on, Hon. Mwaura.

Hon. Mwaura: Thank you, Hon. Temporary Deputy Speaker. Because the President's case has collapsed, it is now the issue of trying to create smoke screens, so that the real issue is not addressed. There is a Kiswahili saying that "*Ukitengeneza kitanda utakilalia wewe mwenyewe*". Right now there are political casualties as a result of the lies that have been peddled in this country. As we speak, when you look around, there are people who have never got justice as a result of this political buccaneering. My question is, does this Motion, in its composition and drafting advance the case of William Ruto? The answer is no; it does not. Does this case bring justice to the Internally Displaced Persons (IDPs)? The answer is no. Does this Motion have a substantive matter to address? The answer is no because we are supposed to be discussing allegations.

When you talk about allegations, it means that anybody who makes any comment out there can be investigated. Our Parliament is not that idle. It is not idle to the point that we are even trying to scrutinize, in my opinion, the evidence that has been adduced. We were in this country when people like Mbuti Gathenji constituted a committee to investigate that which would go to the ICC.

When we speak about resolution, I would want to imagine that we will look at how we nominate Members to select committees in this House. You have a select committee of your friends, which does not even meet gender and regional balance because there is no Teso or special interest groups. Then you come and tell us to extend time, so that you can continue earning allowances. What will happen if that report is tabled here on the Floor of the House? Does it mean that we are going to solve the issue of people who died?

I stand to oppose this Motion. It is a question of wasting taxpayers' money. Already this Parliament is being accused of misappropriating funds. How can we account for the fact that we have even extended timelines to pass Bills that have constitutional deadlines, yet today we spend the whole afternoon discussing something that is not going to bring any justice to anyone in this country?

(Applause)

Hon. Temporary Deputy Speaker, it is time we said enough is enough. We cannot continue to play politics with the ICC issue. The only way you want to hoodwink the Rift Valley voters is by dragging in the name of Raila Odinga every time, so that he continues to be said he is the one who took people to The Hague. The truth of the matter is that that is not the case. Raila Odinga did not take his own comrade, the number one negotiator for the Grand Coalition Government, to The Hague. The people who took William Ruto to The Hague are known. They are the people who controlled the Government machinery. That is the truth. Those are the people who were recording phone calls. Those are the people who were monitoring communication. Let us also remember that the reason why we are debating the ICC is because of bungled elections. This should be a lesson to this country that we need to have free and fair elections, period.

We cannot continue to have a situation where we are discussing about the effect of 2007 elections, with the intention of using that politics towards the 2017 elections. The Bible is very clear. It says that the truth shall set you free. In fact, it goes further to say that out of the abundance of the heart, the mouth speaketh. I really thank you, Hon. Moses Kuria, for setting

Kenyans free to know the truth, but we must not proceed out of those utterances to come to this august House to waste parliamentary time advancing falsehood. Kenya must rise from its ashes. We need to move forward. We need to heal, but if you want us to give you the political score, we are ready to score; after all, it is a competition.

I oppose the Motion. Thank you.

(Applause)

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

Hon. Lati: Hon. Temporary Deputy Speaker, I thank you very much for giving me this opportunity. I actually support this Motion. I have been sitting in this House and I have seen Members standing but everybody seems to miss the point of this particular Motion. If you look at this Motion, the purpose of this committee is only one. It is very clear on the Order Paper. It is to inquire and report on the allegations of the skewed and compromised investigations by the Waki Commission and other State and non-State agencies. That is exactly what it will do. I ask my friends---

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

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Order. There is an intervention by Member for Kisumu West.

Hon. Aluoch: Thank you, Hon. Temporary Deputy Speaker. My intervention is this. When this Motion was brought to this House, I raised an issue with the Speaker and I said let us look at the legality of the Motion. The Speaker said that it would be raised during debate. Despite the fact that I oppose the Motion, I want the House---

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Order, Member. Now you are debating. It was an intervention and the ruling was made by the Speaker

Hon. Aluoch: Let me raise my point, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Order, Member. A ruling was made by the Speaker and you cannot rise to start debating on an intervention.

Hon. Lati: Please allow me to prosecute my case.

Hon. Temporary Deputy Speaker, on this one, I am not partisan and I know the country is not partisan in one thing. I know that both sides of the House and our country at large have come around on one thing, that the Deputy President, William Ruto, was fixed. We all agree on that. We also agree that this Waki Report and the others that were done by State and non-State agencies were somewhat skewed, and some witnesses were corruptly got, as Hon. Kuria has come out very clearly.

With that in mind, I ask all who are here today: Does anybody in his right mind not think that when we form a committee to investigate the corruption that was done and the problem in terms of getting witnesses, and if we discredit those witnesses that will not help the defence of William Ruto? I know all of us--- I do not want us to politicise everything. There is somebody here called William Ruto whose life is at The Hague. I want us as Kenyans, with the agreement we have now, to say that we want to William Ruto to get out of The Hague; to do everything possible to make sure that he gets out of The Hague rightfully. There is something that is very clear here that can help him.

If the Waki Commission and the rest got these witnesses corruptly and if the witnesses are fake as has been alluded to by Members here, including Hon. Kuria, then this committee can help us to discredit these witnesses and help William Ruto. That is one thing that we share. We share that the witnesses were fake and I do not see why we should shield Waki and his team. I do not understand why we should shield Waki. I do not understand why we should make this thing partisan. We are here because our country needs to get the truth. We are not going to inquire into the victims of---

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Order. Hon. Member, the time is 5.30 p.m. You will have your six minutes in the next sitting or the most appropriate time to debate.

Hon. Members, as per the ruling by the Hon. Speaker before on the Standing Order No.33 on adjournment on definite matter of urgent national importance, the time now is 5.30 p.m. We will have one hour and 24 minutes to debate on the same Motion.

Hon. Members, you can go to prepare and get ready for it and I, therefore, invite Hon. Aluoch Olago to move his Motion.

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

UNREST AND DEATH OF STUDENTS AT MASENO UNIVERSITY

Hon. Aluoch: Thank you, Hon. Temporary Deputy Speaker. This Motion of adjournment is based on what transpired in Maseno University on the evening of 12th ---

(Several Hon. Members withdrew from the Chamber)

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Members, those who are leaving can do so in a parliamentary way. Hon. Aluoch needs to move his adjournment Motion. Let us do what we are doing in a parliamentary way.

Thank you. Hon. Aluoch you can carry on.

Hon. Aluoch: Hon. Temporary Deputy Speaker, this Motion is based on what transpired around Maseno University on the evening of 12th and the night of that day up to the morning of the 13th when students of the University were making final arrangements for their elections. They gathered at the gate of the University for that purpose. The police from Maseno Police Station and other nearby police stations descended upon them with *rungus* and firearms and beat them up. The beating continued until the next morning up to the 13th in the afternoon. At the end of it all, three students died, several properties were damaged, many students were injured and finally the University's administration closed the University indefinitely.

To understand this in proper context, I want to state that Maseno University is in Kisumu West Constituency. For the last 15 years since 2000, this University has never been closed because of students' unrest. This is the first time it is happening. The circumstances were that the Vice-Chancellor (VC) is on normal leave and was supposed to resume today. He was asked not to report despite the fact that he wanted to but, even after all this happened, the Chairperson of the University's Council still told the VC not to report. In which situation, if such a thing

happens where people die, property is damaged and even if the Chief Executive Officer (CEO) is on leave, will the CEO not be asked to report back and take charge? In this case, the CEO is on normal leave. He wants to report back and he is told “Do not come back.”

Secondly, last week on the night of the 7th and 8th, a funny coincidence happened. Arson occurred at the University and burned down the administration block that houses the finance office. The records that were destroyed were not students’ records. They are finance records. Why would a fire be set up the middle of the night under circumstances that ask for criminal investigations to destroy finance records and not the records of the students?

Thirdly, the intrigue of what is happening at Maseno University is this: The term of the current VC is expiring in February next year. Interviews for the incoming VC have been done and selection has not been completed, but that is not important. The important thing is that the University’s Council has taken sides in the election of the students’ leadership to the extent that there was a candidate who was referred to as “the candidate of the administration” who apparently was not popular. As a result of this, in the recent one month or so, the administration has been expelling student leaders who are popular. The matter is in the High Court in Kisumu. The whole idea was to eliminate competition, so that this candidate who is pro-administration remains alone in the race.

What happened finally was that after three students had been killed, the University proceeded to close the institution even without a council meeting. The chairperson of the Council decides to close the University on her own. The dean of students, a gentleman who is long past retirement age and who is very unpopular with the students, has been informed and advised on which candidate to support and give facilitation for. Because of all this, I am aware that politicians from Kisumu County in particular have kept off the elections of the students’ leadership. We are aware that candidates have been going round politicians asking to be facilitated, and to be given money for campaign purposes. My colleagues and I have made it very clear that they went to study and not to politic, and that if they want to politic then they should politic with the support of their colleagues and not money from outside the university.

So, for Maseno purposes, it cannot be said that politicians interfered. The interference is from the administration. As matters stand now, the question that this House needs to ask is this: In dispersing the students on the evening of the 12th, did the police use excessive force?

(Hon. (Dr.) Pukose consulted loudly)

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Pukose, please consult in low tones. Just carry on, Hon. Aluoch.

Hon. Aluoch: In their attempts to disperse the students on the evening of the 12th into the night and the morning of 13th, did the police use excessive force? I ask this because the students were not armed at all. They were a very happy lot. They were singing and generally very jovial.

Secondly, could it be that the University’s administration deliberately incited the police against the students, so that the elections did not take place because their candidate was not going to win?

Three, could it be that the fire of last week that destroyed financial records is connected to the incidents of the 12th in such a way that records cannot be traced?

Fourthly, could it be that the council of the University is not interested in the current VC coming back to resume duty when his leave is over?

These are the issues that I would like the House to look at, so that Maseno University can be brought back to normalcy. It is a national institution and it is in our interest all of us in this House to look into this.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): The Hon. Member for Balambala, Hon. Abdikadir Omar.

Hon. Aden: Thank you for the opportunity to speak to this very important Motion, Hon. Temporary Deputy Speaker.

I must say that the incident at Maseno University and the loss of lives of very young, productive and what we can call the crop for the future of our nation due to what I can literally call as *mheshimiwa* has put it, “a very careless management of the situation which unfolded.”

Hon. Temporary Deputy Speaker, the universities must wake up to the reality that it is not in the old days where the administration would dictate how the students go about the management of their affairs. Even in secondary schools these days, what we used to call class prefects and headboys are now subjected to what is called student leadership elections, including in the lower levels of learning. For that reason for Maseno University and the manner in which this particular incident is being handled is very wrong. We seek very serious answers to the questions raised by the hon. Member. How much is the negligence of the administration of that University as being one of the causes of this thing? Could this incident have been averted and those lives saved?

Parents in Kenya pay a lot of hard-earned money to send their children to university. It is very discouraging to see that those universities are closed and even some parents lose the lives of their children. This is very sad and it is a situation that, indeed, has prompted us to speak on this matter today.

It is not only Maseno University that has serious issues in terms of management and administration. This should be a learning point, so that those other hotbeds of potential future violence coming out, can be averted in good time.

Hon. Temporary Deputy Speaker, in the region where I come from, Garissa University, unfortunately the only university in the northern region that we have is still not back on its feet properly. There is not adequate support from the national Government to that university. What happened was unfortunate. We regret it but that should not be a reason to deny young Kenyans in the northern region their rights and wishes to study in universities like the rest of Kenyans. We urge the Government to ensure that the budgetary support to that university is not denied but given. That particular university and its administration are also urged to ensure that they put infrastructure in place to offer learning in the institution.

This is a very important issue and many of my colleagues wish to have their word into it. I just want to say that I join Hon. Olago Aluoch in bringing what is happening at Maseno University right now to the national limelight, and urge the Government to investigate the role of the police - the heavy handedness of the police on such innocent lives. When students come out to express their wishes of who they want to have as their leader that should not warrant bullets or *rungus* that take away their lives.

We must be able to tolerate the freedom to express ourselves and exercise democracy even at that level of learning. Maseno University issue is a sad one. Immediate investigations must start. The era of police killing innocent Kenyans and getting away with it appears to

continue. Many lives are being lost in the hands of police under the pretence of the fight against terror.

In my region, disappearances of people and surfacing of bodies in some places are still going on to this very day. For how long should we, as a country, continue to encourage this, and not to stop or bring to an end the brutality being perpetuated by our own forces that are paid using the taxpayers' money? The Maseno University incident and the police brutality against victims in the name of terror must come to an end and Kenya must wake up to the times that are envisaged in our Constitution.

Thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Nicholas Gumbo. Member for Rarieda. Members, guided by the same Standing Order, I remind you that no Member shall speak for more than five minutes.

Hon. (Eng.) Gumbo: Thank you, Hon. Temporary Deputy Speaker, for the opportunity to contribute to this Motion of adjournment. As I contribute, let me join my colleague Hon. Olago Aluoch, the families of the students who have lost their lives--- On my own behalf and on behalf of the people of Rarieda, I send my heartfelt condolences. These lives that have been lost were young lives which are promising.

I am a parent, I have children in universities and I honestly do sympathize from the bottom of my heart with the families that have lost their loved ones. This is because in most families in Kenya, a chance in a public university is a promise to a good future. So, to lose a life in this manner is the most unacceptable way. Even as we do this, I think it is time that we looked at the management of our public universities in general. The tendencies by the university councils to want to interfere with virtually everything that goes on in universities, including student elections, is a most despicable act and must be condemned.

There are universities today whose leaderships want to literally put their fingerprints on everything and anything that happens in them. This is most unacceptable and has to be condemned. If we are to inculcate the principles of democracy, we have got to start early. Let the students campaign. Let the universities not be commercial institutions that they have been converted into, because this is not helping us at all.

It is completely inconceivable and unacceptable. I know the Vice-Chancellor of Maseno University is a good friend of mine. I know there have been problems between the Council and the Vice-Chancellor. However, to be told of a situation where the Chief Executive Officer (CEO) of an institution cannot be allowed back into an institution in a time of emergency, is the most unacceptable thing. How are our universities being run? I think incidents such as these, much as they are regrettable and unacceptable, may be an opportunity for us to go deep into carrying out thorough audits of public universities. Most Members here got their education from public universities just like me. I had the privilege of getting education from public universities. Incidents such as these, much as they are regrettable, should also be an opportunity for us to carry out thorough audits into what is going on in our public universities.

You have heard of what is happening in the universities. Whether it is the University of Nairobi, you have heard of the tussles between the Vice Chancellor and the Deputy Vice-Chancellor, Finance and Administration. You go to Jomo Kenyatta University of Agriculture and Technology (JKUAT), Kenyatta University and Egerton University and it is the same. Some of the courses being offered, the consideration being given in offering those courses is anything but ensuring academic excellence from our universities. Let the universities go back to what they

were intended to be, namely institutions of higher learning, bastions of knowledge where we can produce the next generation of Kenyans, people in whom we can have hope to carry this country forward.

I do not want to take too much time on this, but as a House we have to condemn the tendencies happening in our universities today, where our universities, instead of being academic fountains, are instead becoming tribal enclaves. At times the quality, or lack thereof, of degrees that are awarded depends on considerations other than academic excellence. We have even been told these days there is something called sexually transmitted degrees (STDs).

The quality of education in our universities is going down so rapidly. This House must pronounce itself on what is going on in public universities and stem this decline in universities. I have seen people who purport to have First Class Honours degrees, but who cannot even write an application letter. Why are we keeping quiet when universities are giving STDs instead of giving students degrees that can move this country forward?

I support and I condole with the families of the dead students.

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

Hon. (Dr.) Pukose: Thank you, Hon. Temporary Deputy Speaker, for allowing me to contribute to this adjournment Motion. I am one of the saddest Members in this House because one Joshua Maingi, a student who died in Maseno University shooting, happens to be my constituent. This is a child of a peasant farmer, who has been eking out a living in an area called Khalwenge in my constituency and they come from a place called Koronga. I am aware he is going to be buried on Friday. This is a very sad moment because when this young man left his village to go to the university to get his degree, everybody was happy. We are sad today that he is going to come back in a coffin, not out of his own mistakes but out of a careless policeman's shooting of innocent children, who were busy engaging in elections.

This is not the first incident that has happened. More often than not we have heard of stray bullets hitting innocent Kenyans when going about their day to day activities. I think it is high time that the Independent Policing Oversight Authority (IPOA) acted. It must hold policemen accountable; according to me, IPOA is sleeping on its job. About two months ago, a young man in my constituency called Eliud Muneria went to the forest to look for firewood and he was shot by Kenya Wildlife Service (KWS) *askaris*. This is an issue that is being investigated. Up to now, two months down the road, the file has not come back from the Office of the Director of Public Prosecutions (DPP). We have not seen any action being taken by the police. We ask ourselves whether this is the way the police operate. Is it acceptable for the police to continue executing innocent Kenyans while the Independent Policing Oversight Authority (IPOA) is not doing anything? I do not know how many Kenyans must be killed for them to hold culprits accountable and have them prosecuted. Even in this case, we want the police and IPOA to do thorough investigations and hold the policemen who executed this young man accountable. They must face the full force of the law. They must be prosecuted, so that justice is seen to be done and not delayed. For the young man who was shot by the Kenya Wildlife Service at Endebess in the forest, two months down the road, nothing has happened. You then ask yourself whether we are really in Kenya. It seems that there are some Kenyans who are more important, or equal, than others. If you are a poor man, you are just shot and that is it.

This should come to an end, especially when it comes to universities. Many of us, who were in university many years ago, have seen university administrations trying to influence who

makes up the student leadership - an issue which they should leave to the students to decide. When students decide who their leaders will be, they then hold them accountable and the leaders are responsive. These are the people who will take students' grievances to the university senate and resolve them; they will result in smooth running of our universities.

We have also seen an issue in Eldoret University, which has not been resolved to date. This could just be the tip of the iceberg on what is happening in our universities. It is high time that we look at what is happening within our institutions of higher learning, so that we do not have innocent Kenyans losing their lives.

With those few remarks, I support the Motion for adjournment.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Is the Member for Tiatiy in the House? Hon. Members, let us remember to carry our cards with us.

Member for Kibra, Hon. Kenneth Okoth, you have the Floor.

Hon. Okoth: Thank you, Hon. Temporary Deputy Speaker. I rise to contribute to this Motion for adjournment and thank the Hon. Member for Kisumu West for bringing it to the House. It is an important national issue.

The education sector in this country is in a crisis. This explosion of violence, death, destruction and confusion that has happened at Maseno University is just the tip of the iceberg. It is what we see happening in a lot of universities in this country, which have been reduced to dens of tribal and ethnic mismanagement, where the leadership, surrounded and encouraged by their localities, politicians and influential leaders, think that each of the public universities should not be national institutions, and should instead be small ethnic enclaves controlled by their own people. We saw this in a number of universities that I had the privilege to visit as a Member of the Departmental Committee on Education, Research and Technology. Kenyans really think of the universities that we requested to be brought to every county as opportunities to be ethnic cocoons for their own purposes and not for purposes of enhancing education.

Maseno University is an exception in that sense. The leadership of Maseno University has been diverse. It is a shame that amongst the issues that have been raised, there is a link between possible financial mismanagement at the school, high-handedness in the administration and interference in the conduct of student affairs, allowing the students to practise their own democracy, and most importantly, succession issues – who will form the next leadership at that university. In the background of all this, the losers are the children, the young people who are getting educated there and their parents. Many parents will sell everything they have. If it is a fisherman's family, they might even sell their fishing boat to pay for the child to attend Maseno University, with the hope that the child will turn out to be highly educated person who can contribute positively to this nation, earn well and support the rest of the family.

Hon. Temporary Deputy Speaker, it is high time that instead of this House constituting a select committee to look into post-election non-issues, we put together a national select committee to look at the status of higher education in the country. Why is it that our tertiary education institutions, with the capacity to accommodate over 45,000 students, received 11,000 applications only? Our universities, which are oversubscribed, are giving so much false hope to students. As Hon. Gumbo pointed out, many of them have First Class Honours Degrees yet they cannot even write an application letter. The sector is in a crisis. What has happened at Maseno University should be looked into very carefully. Discipline and good management should be restored. This is a wake-up call to all the other public universities in this country.

There are a lot of private universities in this country that are coming up strongly. They allow students to run their own student affairs very effectively. There is nothing wrong with students managing their own affairs. I was a student leader at a private university and we managed our affairs very well. It is a shame that the campus leadership of some public universities policies interfere with students' affairs. We need to learn from the private universities, which find ways of engaging students in governance without causing conflict.

It is also time for this nation to form a select committee to look into the crisis in higher education and see how we can better run our universities to ensure that young people acquire relevant skills that will help them to contribute to the prosperity of this nation for purposes of achieving the goals of Vision 2030. There is no point getting a degree, a Master's degree and a doctorate degree and end up being jobless for over 10 years, and have nothing positive to contribute to the development of this nation.

Hon. Temporary Deputy Speaker, I would like to wrap up with condolences to the people of Maseno University. We will remember you in our prayers. We stand in solidarity with the families of the young people who lost their lives. All of us should look for ways of ensuring that our universities are managed well.

Finally, I would like to thank Hon. Olago Aluoch for giving us an opportunity to discuss this issue.

Thank you.

Hon. (Prof.) Nyikal: On a point of order, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Nyikal, nothing is out of order. What you are raising had better be a point of order, because we are not students in this House. Please, quote the Standing Order that has been breached, otherwise, you will be out of order.

Hon. (Prof.) Nyikal: Hon. Temporary Deputy Speaker, I wanted to say that the issue of Maseno University mostly affects---

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Member for Seme, you are out of order! You know the procedures of this House. You are completely out of order.

Proceed, Member for Bondo.

Hon. Ogolla: Hon. Temporary Deputy Speaker, it is unfortunate that we lost lives of students in student elections. It is---

(Loud consultations)

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Members, let us allow Hon. Ogolla to contribute. I know that some hon. Members, including the Member for Muhoroni, want to say something and your time is coming.

Hon. Ogolla: Thank you for the protection, Hon. Temporary Deputy Speaker.

Three days before the event at Maseno University, a similar event happened at the Jaramogi Odinga University in Bondo. It is unfortunate that in students' elections, we have lost lives and property, and the level of conflict between public universities and the communities around them has risen that high. I am raising this point, knowing that the manner in which we handle students' elections need to be looked at. Universities must look back and see how students' politics should be run, with a view to managing them well in future. May be, these are lessons to be learned. Universities really need to learn how professional elections are done,

particularly those of doctors and lawyers. They conduct their elections through a very serious and quiet process that does not involve what we are seeing. It is important that in future university managements look seriously into the way elections in universities are conducted.

The other important thing to look at is exactly how the police intervene in these processes. Police intervention, in my view, is really getting out of hand. There are times they either delay or incite other players like villagers. We have seen this. There have been incidents where students get into problems with boda boda riders and *manambas*. We saw this in Kibabii, Masinde Muliro and Bondo universities. It is a very bad situation. You get *manambas* and the general populace kilometres away organising themselves to attack students and the universities. There is something very wrong in how the police handle the universities. One fact that we must remember is that many universities have moved out of cities and major towns. Many of them are in the villages, in the middle of rural communities that require a lot of understanding in how they behave and interact with the communities. This is something the police particularly need to understand. There is no way students will move more than two kilometres from the university premises to get into towns and markets to attack boda boda riders, touts and other people; in response, the touts reorganise and chase the students back to the university without intervention of the police. As I have said, this happened in Bondo three days before the incident at Maseno University. It happened at Masinde Muliro and in Kibabii universities. It is something we cannot encourage.

The other thing that is important is that university administrations look for excuses from time to time, which is not useful. The manner in which the administrations handle student elections--- They give some students space to run around looking for money. They end up with a lot of money to the extent that sometimes chaos are unavoidable. I want to believe that the way a university looks at students' elections must change if at all elections are going to be useful to them in any way. If at all they want representation, it needs to come from a proper direction of the students.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Thank you.

Hon. Chris Wamalwa, Member for Kiminini.

Hon. Wakhungu: Thank you, Hon. Temporary Deputy Speaker. At the outset, I want to condemn the incident that happened in Maseno University. I send a message of condolences to those who lost their loved ones.

It is the joy of a parent when their child makes it to the university. It brings hope that things are going to be better in future. It is only education that makes us equal and has no equal. It is very unfortunate.

We were told that the Vice-Chancellor was on leave. The principles of management dictate that when the Chief Executive Officer (CEO) is away, he has to leave somebody acting. In this case, in line with the university structure, if the Vice-Chancellor is away, definitely the Deputy Vice-Chancellor should be in an acting capacity. It leaves many questions unanswered. I was listening keenly when Hon. Olago was talking about this. There is no way the chair of the university council can come and give a communication for closure of a university. In case, there was a conflict of interest, it needs to be investigated.

Maseno is a national university. In line with the Fourth Schedule of the Constitution, universities are under the national Government and we know they get students from all over this

country. So, *pole* Hon. Oloo and the people of Kisumu. We know that students are from all over Kenya; they come from Mombasa and western among other places.

Democracy must be allowed to prevail. This is an issue which has been happening in many universities. We do not want university administrations to work under duress, or to influence student leadership. Students must be allowed to exercise their democratic rights and elect leaders to represent them at the senate level or whatever administrative level it is. The university administrations should not impose leaders on students. We condemn the management for trying to impose a leadership on the students.

I was listening when some Member said that some university students get first class honours but they cannot even write an application letter. Having been a lecturer at one of the leading universities in this country, I want to say that is not true. I do not think any university student who has finished studies cannot write an application letter. The Commission for University Education (CUE) is the body in charge of regulation and standards of university education in this country. The CUE will agree with me that, that assertion is not true. I want to confirm that it is true every graduate getting first class honours in local universities must be able to write an application letter.

About a month or so ago, we saw similar incidents happening in Kibabii University. We need to put these unrests to an end. I condemn police brutality. Hon. Olago said that the police must have used excessive force. The university students held their demonstrations, which are allowed. Article 37 of the Constitution allows every citizen to picket, demonstrate and assemble. If in any case there is proof that the police used excessive force, the law must take its course and those police officers must be punished. We are challenging the National Police Service Commission to take action. We know the OCS of that station and we should be told the police officers who were in Maseno University at the time of the unrest, and who used excessive force leading to the loss of life of students.

As I finish, I have lost a friend in Trans Nzoia Country, Andrew Mwangale. I want to take this opportunity to send a message of condolence to the Mwangale family. Mwangale is a former Minister in this country. The body is in Los Angeles. We are praying with the family. I know they are crying, but the Lord will wipe their tears.

I thank you, Hon. Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): The Member for Kapenguria.

Hon. Chumel: Thank you very much, Hon. Temporary Deputy Speaker, for giving me this chance to also join my colleagues, especially the Member of Parliament for that area, in mourning with the bereaved families. It is so saddening to have a young man whose parents, neighbours and Kenya as a whole had built hope in, die so soon. On my own behalf and on behalf of the people of Kapenguria Constituency and West Pokot County, I send my condolences to the family, the university and the neighbours in Endebess Constituency of Trans Nzoia County. I am a neighbour to them. Trans Nzoia and West Pokot counties are neighbours and close friends.

Most of the problems Kenya is facing are caused by the police. Most of the deaths during the post-election violence were caused by the police. That is why we are now facing a lot of problems. It is as if police incite communities instead of uniting them, because they are the people who are supposed to bring law and order.

Hon. Temporary Deputy Speaker, even the information they are giving is also dividing Kenyans. If a question is raised here about who killed that young man, the Inspector-General

(IG) will not accept that the police killed. That is why Kenyans need to do a lot, especially in the police service, so that we have people who can serve Kenyans in a passionate way.

Our children are not safe in most of our universities. We have parents here. The other day I lost two people from Kapenguria in Eldoret. Mr. Cherotum was a lecturer and so was Mr. Lepogoit at the University of Eldoret. How can people lose lives in an institution of higher learning?

(Hon. (Ms.) Odhiambo-Mabona consulted loudly)

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Millie Odhiambo, you are too loud in your consultations.

Hon. Chumel: Thank you for protecting me, Hon. Temporary Deputy Speaker.

Up to now there is no report indicating the cause of death. I also appeal to the Departmental Committee on Education, Research and Technology of this House to become more serious in education matters. We were in a mess recently. Our teachers went on strike for five weeks and there was no attention. Nobody brought even an adjournment Motion as our brother Hon. Olago Aluoch has done. So, it seems as if this House is not working. That is what I am concerned about.

I will stop there and say that I support the adjournment Motion.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Member for Mvita, Hon. Abdullswamad.

Hon. Nassir: Asante sana, Mhe. Naibu Spika wa Muda. Leo nimeamua kuongea lugha ya Kiswahili ili pengine – nasisitiza neno “pengine” - wale wanaohusika wafahamu maneno yangu na hisia za Wakenya kwa jumla.

Tarehe 12 Oktoba 2015, katika Chuo Kikuu cha Maseno, wanafunzi walikuwa katika hali ya kufanya siasa zao na kupiga kura. Wanafunzi hao waliingiliwa na wakafukuzwa katika chuo chao. Walitandikwa na hatimaye maisha ya Wakenya watatu yakapotea. Mali ilipotea na wengi zaidi wakapata majeraha. Nataka kuuliza swali ambalo nimeuliza siku nyingine na wengi wameuliza. Swali hili linaenda kwa maafisa wa polisi. Ni maswali matatu.

(Hon. Kaluma consulted loudly)

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Order, Hon. Kaluma. We cannot run this Parliament as if we are in our village.

Hon. Nassir: Asante, Mhe. Naibu Spika wa Muda.

Nina maswali matatu. Kwanza, mpaka lini tutaendelea kudhulumiwa na wenye bunduki za kisheria? Pili, mpaka lini wakuu wa polisi watakuwa na nyoyo kutokuwa na hisia za Wakenya? Tatu, mpaka lini tutazuia hisia na hamasa za wale wenye kudhulumiwa mashinani?

Nataka kutoa mfano mmoja uliotokea katika maeneo ya Mvita. Ni jambo la kusikitisha lakini majambazi - na jambazi hana jina jingine ila “jambazi,” wala muovu hana jina jingine bali “muovu” - walifika na wakampiga risasi askari aliyekuwa analinda benki fulani. Baada ya kumpiga risasi, wakampokonya silaha aina ya G3. Suala ni lile lililotekelezwa na polisi baadaye; likawa ni la kusikitisha zaidi. Nataka kusisitiza kuwa hatuyaungi mkono na tunayakashifu masuala ya bunduki kuwa mikononi mwa majambazi. Lakini, la kusikitisha likawa ni watu takriban 180 kuingiliwa katika mitaa na kushikwa.

Naibu Spika wa Muda, katika watu hao 180, mmoja ni bubu; hawezi kuzungumza wala kusikia na mwingine ana akili punguani. Sasa fikiria askari awezaye kwenda kumtoa mtu mwenye akili punguani nyumbani, kumshika na kumuweka ndani. Vijana wa miaka 14 na 16 wanaofaa kuingia katika shule walikuwa katika mahakama siku ya pili. Sheria ambayo imewashitaki ni kuwa walipatikana wanarandaranda barabarani.

Mtu ambaye naweza kumuita babu yangu kwa umri wake, mimi kama Mbunge wa Mvita, amefurishwa uso kwa kutandikwa. Mengi yalifanyika. Watu wengine takriban 180 zaidi walitolewa; si kwa sababu ya jambo lingine bali kushindwa kutoa hongo. Wangapi wamepotezwa? Hivi juzi pekee katika maeneo ya Majengo, mwingine amepotezwa na hatujui hatima yake ni ipi.

Nasema hivi, tulifika hapa na kuchukua kiapo kuwa tungewawakilisha waliotupigia kura. Leo, tunatoa uhakikisho wa kitu kimoja: Kwa mujibu wa njia za sheria, tutahakikisha tutaweka sheria ili walio na nafsi za dhuluma na wenye kuchukua sheria katika mikono yao, itafika siku kila aliyeteswa tutakaa chini na kuangalia tukiweza---

(Hon. Nassir spoke off the record)

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Your time is over, Hon. Member.

Hon. James Nyikal.

Hon. (Prof.) Nyikal: Thank you, Hon. Temporary Deputy Speaker. May I, on behalf of the people of Seme Constituency, pass my condolences to the students and families who have lost their beloved ones?

It is sad that these students lost their lives in the process of exercising their democratic right as enshrined in the Constitution. I must say that people who are charged with the responsibility of administering public institutions must take our new constitutional order into consideration, internalise it and realise that public participation is a right of everybody.

Free and fair election is a key element in public participation and democratic processes. Every time you find that there are problems in elections, be it for students or wherever, you will find that there is an effort to succumb to inhibition of free expression of the people's rights, and to stop free and fair elections. In this case, and as Hon. Olago has indicated, there seems to have been interference by the administration in favour of preferred candidates. Whenever people try to have preferred candidates in any process, the result is often violence. This is because people want to have the freedom to express themselves and elect people who lead them.

Be that as it may, it is also important that in the new constitutional order the people responsible for enforcement of law and order must realise that the control of civil unrest must not be like in the olden days of beating people up, using strong arm tactics, using firearms and causing disorder that results in people's deaths. We in the new dispensation are going to see a lot more of people expressing themselves. If the security forces insist on using such mechanisms, a lot more people are going to die and I think we need to look at that.

We are aware that there are administrative issues in Maseno University. Whenever you find the administration trying to get preferred candidates, it is often that things are not run well and the general feeling is against the administration. So, they try to find leaders that can be compromised. I think the administration must ensure that issues are sorted out without using students. It is also very telling---

(Hon. Ken Obura consulted loudly)

The Temporary Deputy Speaker (Hon.) (Ms.) Mbalu: Hon. Ken Obura, Hon. Member for Kisumu Central, you either walk out of this Chamber or you go to the consultation rooms. I give you the last warning.

Hon. (Prof.) Nyikal: The fact that the administration block was burnt down completely is also suspicious. One may not know whether the unrest was used to conceal some information that could have led to unearthing some administrative issues that are not financially correct.

So we need to get at the bottom of what happened in Maseno University. When you see public institutions having frequent administrative problems, very often it has to do with the funding process. We have noted that the priorities for funding of public universities in this country seem not to be correct. We have noted, particularly with Maseno University and Egerton University, that they get Kshs40 million a year for development, while Kenyatta University gets over a billion. How do you explain that? This may be the underlying point. On what has happened in Maseno University, we should look deeply not only into the student issues and administration, but also into overall funding and running of universities in the country.

Thank you.

The Temporary Deputy Speaker (Hon.) (Ms.) Mbalu: Let us have the Hon. Member for Mbita, Hon. Millie Odhiambo

Hon. (Ms.) Odhiambo-Mabona: Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to contribute to this debate. At the outset, I would like to say that what we have witnessed in Maseno University was a backward action from our police. These are things that we saw in the early 1980s. It is totally unacceptable for a country that has opened up democratic space. I am hoping that action will be taken against the police who perpetrated this heinous act against innocent young students.

We know that youth are very exciteable; even when, sometimes, students tend to go a little overboard, we must deal with them according to their age. I do not think that the students at the university had guns, so that you say that the police were responding with equal force. If we leave this to go on, we might have a situation spiralling out of hand as happened with the cases that we saw in the early 1980s and 1990s when we were in school.

I also take this opportunity to condole with the families who have lost their young ones. We know what parents go through to educate students. Sometimes you find that this is an only child in a family that they have managed to take up to university. Those of us who are Members of Parliament know how much we always contribute to educate just one child in a village. Recently, a young boy whom we were supporting through the Constituencies Development Fund (CDF) was killed by thugs in Kisumu; he happened to be the only member of his family who had ever been to college.

This act should not be let to pass. It also gives us an opportunity to interrogate the way our universities are run. It is not just the issue of administration but the issue of ethnicity and the way we further ethnicity in some of the colleges.

I know a case that was forwarded to me at some point where Kenyatta University expelled 20 students who were all Luos after students rioted. Where students are rioting, how are you able to tell that these are Luos or are from a certain community? Sometimes even the administration in universities further very negative and unconstitutional tendencies.

I want to thank Hon. Olago Aluoch for bringing this Motion and I urge that action be taken. It is not up to me to say who should speak but you can see the Hon. Member for Kisumu Town really agitating to catch your eye, because this is a matter that touches his constituency.

Thank you.

The Temporary Deputy Speaker (Hon.(Ms.) Mbalu): Hon. Member for Turkana Central

Hon. Nakara: Ninakushukuru sana Naibu Spika wa Muda kwa kunipa nafasi kuchangia Hoja hii ya dharura iliyoletwa na Mhe.Aluoch.

Jambo la kwanza, ningependa kutoa rambirambi zangu kama Mbunge wa Turkana ya Kati maana kuna wanafunzi wanaotoka katika eneo langu la Bunge na wanaosomea sehemu hiyo. Ningependa kutuma rambirambi zangu kwa familia ambazo zimepoteza watoto wao.

Jambo la pili ni kwamba maisha yaliyopotea ni maisha ambayo yalikuwa na matumaini makubwa katika nchi hii. Wazazi wao na nchi pia ilikuwa imewaangalia kwa njia moja au nyingine kuleta tofauti, maendeleo au kuleta elimu yao kubadilisha maisha ya wazazi wao na kutumikia wananchi wa Kenya.

Jambo la askari kutumia silaha zaidi ya wale watu ambao wanaenda kukubaliana nao limekuwa jambo ambalo tumerudia mara nyingi. Hao wanafunzi hawakuwa na silaha wala hawakutisha maisha ya askari kiwango cha kutumia risasi kuwaua. Kisheria, maisha ya askari pia inalindwa, lakini ni lazima pia askari aone adui ama mtu ambaye anakabiliana naye kama yuko na silaha ama hana ili ajue jinsi ya kukabiliana naye. Imefika wakati ambapo lazima askari wetu waende wapate mafunzo na elimu jinsi ya kutumia silaha, kwa maana mtu anapojiriwa katika kazi ya askari wengine wanaishi miaka mingi bila kuenda kwa mafunzo au kwa elimu ya kujua kuendeleza kazi yake mbele. Imefika wakati ambapo askari akiua mtu, naye pia lazima aadhibiwe vikali ili iwe mfano kwa wengine. Kila mara askari anapoua mwanafunzi ama mtu yeyote kesi hiyo inaenda polepole mpaka “inakufa”. Hakuna hatua yoyote inayochukuliwa dhidi ya askari huyo. Ningependa kuona kwamba wanaohusika na vifo vya hao wanafunzi wamepatikana na mkono wa sheria ili nao wapitie uchungu ambao wazazi wa hao wanafunzi wanapitia sasa.

Licha ya hayo kuna mambo ambayo pia yanachangia mambo hayo kutendeka katika vyuo vyetu. Jambo la kwanza ambalo Mhe. Millie Odhiambo amesema ni ukabila. Ukabila umezidi katika vyuo vyetu vikuu. Utakuta kwamba kuanzia juu mpaka katikati ni kabila moja. Wakati kuna jambo ambalo limetokea katika vyuo, utaona kwamba linahusu kabila majo ambalo pengine wanabishana kisiasa na lingine; utaona kabila hili likifukuzwa ndiyo chanzo cha mambo yanayotendeka katika chuo. Tuangalie mambo hayo.

Ni lazima makabila yote yawakilishwe katika chuo kikuu kuonyesha sura ya Kenya kwa maana tuna makabila zaidi ya 40. Ni lazima katika vyuo vyote, kama mmoja ni wa kabila fulani, wa pili awe wa kabila lingine.

Kuna siasa kutoka nje ambazo zinaingia kwenye vyuo. Sisi kama wanasiasa, tunaleta siasa za vyama na kuziingiza kwa wanafunzi. Hili ni jambo linalochangia wanafunzi kugawanyika na kuwa na ule mtindo wa kuchukiana na kuanza ukabila wakiwa bado shuleni.

Naibu Spika wa Muda, jambo lingine linalochangia kukosekana kwa nidhamu kwa wanafunzi, ni ile hali ya sisi kama wazazi kuwapa fedha zaidi. Wanafunzi wanatumia fedha hizo kwa njia moja au nyingine kuharibu maisha yao.

Kwa ufupi, ninaunga mkono wale wanaosema hatua ichukuliwe kwa wale askari waliotumia silaha kuangamiza wanafunzi.

Ahsante, Naibu Spika wa Muda.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Order Members! We appreciate the requests. If it were not for the procedures of this House, I would have given this chance to the Leader of the Minority Party, then the Member for Homa Bay, then the Member for Kisumu Central, who was interrupting the House this afternoon; I am sure he wanted to contribute to the Motion and so were Members for Kisumu East, Muhoroni, Baringo, Kabuchai, Kabondo Kasipul and Nyaribari Chache.

ADJOURNMENT

Since this is a House of rules and procedures, Hon. Members and the time being 6.30 p.m., it stands adjourned until Thursday, 15th October, 2015 at 2.30 p.m. I thank you all.

The House rose at 6.30 p.m.