

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 19th July, 2016

The House met at 2.30 p.m.

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

PRAYERS

MESSAGES

PASSAGE OF YEAR-FIVE CONSTITUTIONAL DEADLINE BILLS BY THE SENATE

Hon. Deputy Speaker: Hon. Members, Standing Order No.41 relating to Messages requires the Speaker to expeditiously report to the House any Message(s) received from the Senate. In this regard, I wish to report that on Tuesday 19th July, 2016, I received Messages from the Senate regarding the passage of the following 11 Bills:-

- (i) Approval of the Access to Information Bill (National Assembly Bill No. 36 of 2015);
- (ii) Approval of the Forest Conservation and Management Bill (National Assembly Bill No. 49 of 2015);
- (iii) Approval of the Protection of Traditional Knowledge and Cultural Expressions Bill (National Assembly Bill No. 48 of 2015);
- (iv) Approval of the Energy Bill (National Assembly Bill No. 50 of 2015);
- (v) Approval of the Natural Resources (Classes of Transactions Subject to Ratification Bill (National Assembly Bill No. 54 of 2015) ;
- (vi) Approval of the Petroleum (Exploration, Development and Production) Bill (National Assembly Bill No. 44 of 2015);
- (vii) Approval of the Fisheries Management and Development Bill (National Assembly Bill No. 18 of 2014);
- (viii) Approval of the Health Bill (National Assembly Bill No. 14 of 2015);
- (ix) Approval of the Kenya National Examinations Council (Amendment) (No.2) Bill (Senate Bill No. 14 of 2015);
- (x) Approval of the Cancer Prevention and Control (Amendment) Bill (Senate Bill No. 3 of 2015); and,
- (xi) Approval of the Seeds and Plant Varieties (Amendment) Bill (National Assembly Bill No. 43 of 2015)

Hon. Members, these Bills were passed by the Senate on 13th and 14th July 2016 with amendments. The Senate now seeks the concurrence of the National Assembly on the 10 Bills, in accordance with Article 110 of the Constitution.

I am aware that the Clerk has since circulated the amendments to hon. Members, in accordance with the requirements of Standing Order No.145. The Bills will stand committed to the following Departmental Committees for consideration:-

| S/No. | Bill | Departmental Committee |
|-------|--|--|
| 1. | The Access to Information Bill (National Assembly Bill No. 36 of 2015) | Energy, Communication and Information |
| 2. | The Energy Bill (National Assembly Bill No. 50 of 2015) | |
| 3. | The Petroleum (Exploration, Development and Production) Bill (National Assembly Bill No. 44 of 2015)) | |
| 4. | The Forest Conservation and Management Bill (National Assembly Bill No. 49 of 2015) | Environment and Natural Resources |
| 5. | The Natural Resources (Classes of Transactions Subject to Ratification Bill (National Assembly Bill No. 54 of 2015 | |
| 6. | The Protection of Traditional Knowledge and Cultural Expressions Bill (National Assembly Bill No. 48 of 2015 | Labour and Social Welfare |
| 7. | The Fisheries Management and Development Bill (National Assembly Bill No. 18 of 2014) | Agriculture, Livestock and Co-operatives |
| 8. | The Health Bill (National Assembly Bill No. 14 of 2015) | Health |

The first seven Bills are part of Year-Five Constitutional Bills that ought to be passed by Parliament on or before 27th August 2016. In this regard, the Committees are requested to consider the Bills and submit reports on them without delay.

(Loud consultations)

Hon. Deputy Speaker: Order, Members! Can you please allow me to finish with the Message?

I wish to remind the House that the National Assembly will only consider the amendments made by the Senate, and not any other parts of the Bill.

Hon. Members, the Seeds and Plant Varieties (Amendment) Bill (National Assembly Bill No. 43 of 2015) was passed without amendments. In this regard, I will proceed to present the said Bill to His Excellency the President for assent in accordance with the provisions of Articles 110(5) and 113(3) of the Constitution.

The two Senate Bills, namely; the Cancer Prevention and Control (Amendment) Bill, (Senate Bill No. 3 of 2015), and the Kenya National Examinations Council (Amendment) (No.2) Bill (Senate Bill No. 14 of 2015), stand committed to the Departmental Committee on Health and the Departmental Committee on Education, Research and Technology, respectively, for consideration.

Hon. Members, I direct that the said Senate Bills be scheduled for First Reading. The Budget and Appropriations Committee should submit to the House its recommendations, pursuant to Article 114 of the Constitution relating to money Bills.

May I, on behalf of the House, take this opportunity to commend the Senate for considering these Bills? In this regard, I beseech this House to also respond by prioritizing the Senate Bills.

I thank you.

Hon. Baiya: On a point of order, Hon. Deputy Speaker.

Hon. Deputy Speaker: What is it, Hon. Baiya?

Hon. Baiya: Thank you, Hon. Speaker. I would like to take this opportunity to thank the Senate for giving consideration and time to the Bills that have constitutional timelines, bearing in mind that we had sought extension for one year, which expires on 27th August, and that there is no provision for a further extension in the Constitution. Among other Bills that have not been brought back from the Senate, is the Physical Planning Bill, which is very important. It was referred to the Senate way back in December, 2015, but it has not been brought back to this House. Given that the Senate could also be proceeding on leave, this is a very important Bill and I would like to seek your direction as to whether the Senate is going to consider it within the timelines of the deadline.

Hon. Deputy Speaker: That has been noted. We can also use our office to find out the status of the Bill and establish where exactly those Bills with a constitutional deadline are, particularly the ones that you have cited.

PETITION

BANNING THE USE OF ASBESTOS AS ROOFING MATERIAL

Hon. (Ms.) Mathenge: Hon. Deputy Speaker, on behalf of Nyeri Town Constituency, I present the following Petition on use of asbestos as roofing material.

I, the undersigned, on behalf of concerned residents of Nyeri Town Constituency, draw the attention of the House to the following:-

THAT, shelter is one of the basics of human needs as it provides us with a sense of security and a place where we can get the warmth we need, grow old with our loved ones and stay comfortable while enjoying life;

THAT, the quality of roofing used in housing is important as it guarantees dwellers protection, good and healthy living, while in some cases roofs are used for rain water harvesting;

THAT, Article 42 of the Constitution recognizes the right of every Kenyan to a clean and healthy environment, which includes the right to have the environment protected for the benefit of present and future generations, through legislation and other channels;

THAT, the residents of Blue Valley Estate in Nyeri Town have for decades lived in houses with asbestos roofing material due to its components of versatility and resistance to heat transfer that makes it readily usable for insulation in cold areas;

THAT, recent research has revealed that exposure to asbestos is hazardous to human health and can cause an aggressive cancer called “*Mesothelioma*” which affects the membrane lining of the lungs and abdomen and presents symptoms similar to those of respiratory illnesses;

THAT, as a result of Mesothelioma Cancer and related illnesses, 55 countries all over the World have banned the use of asbestos as a roofing material, a few of which are USA, New Zealand, Australia and Egypt, with Kenya banning its in 2006;

THAT, further, Australia also banned the same in 2003;

THAT, the costs associated with treating that cancer, just like any other cancer-related illness, is significantly high especially to the poor populations; and,

THAT, the matter in respect of which this Petition is raised is not pending before any court of law or any constitutional body.

Therefore, your humble Petitioners pray that the National Assembly, through the Departmental Committee on Transport, Public Works and Housing:-

(i) Recommends to the relevant Ministry which constructed the houses to immediately stop the usage of asbestos as a roofing material, removal of the asbestos roofs and replacement with galvanized iron sheets in the said estate in Nyeri Town; and,

(ii) Makes any other order or direction that it may deem fit in the circumstances of the plight of the Petitioners, including recommendation for destruction of the roofing materials, once removed, in a manner that will not cause more harm to the citizens, carrying out of a medical survey on all residents of the said estates and the adjacent estates to ascertain that they do not have the said cancer, and provision of health care by the relevant health department to those who might have been affected due to prolonged exposure to asbestos.

And your humble Petitioners will forever pray.

Hon. Deputy Speaker, it takes about 15 years for the cancer to be realized, but for that particular cancer, it takes about 30 years.

(Loud consultations)

Hon. Deputy Speaker: Hon. Members, we cannot hear the Member who is presenting the Petition. Please find some place where you can consult.

Hon. (Ms.) Mathenge: Hon. Deputy Speaker, no wonder we have a high rate of cancer especially within Nyeri. We would want the relevant departments like the Ministry of Lands, Housing and Urban Development, the Ministry of Environment and Natural Resources and the Ministry of Health to look into this as a matter of urgency.

Thank you.

Hon. Deputy Speaker: The Petition stays committed to the Departmental Committee on Health. You will follow due process as you well understand.

PAPERS LAID

Hon. A.B. Duale: Hon. Deputy Speaker, I beg to lay the following Papers on the Table of the House today, 19th July 2016:-

The Coffee (General) Regulations, 2016 and the Explanatory Memorandum.

The Agreement concerning cooperation in Threat Reduction Biological Engagement programmes between the Government of the Republic of Kenya and the Government of the United States of America (pursuant to Section 8 of the Treaty Making and Ratification Act, 2012).

The Office of the Controller of Budget Third Quarter County Budget Implementation Review Report for the Financial Year 2015/2016 (pursuant to Article 228(6) of the Constitution)

The Office of the Director of Public Prosecutions Annual Anti-Corruption Report for the period 1st January 2015 to 31st December 2015 (pursuant to Section 37 of the Anti-Corruption and Economic Crimes Act, 2003).

The Report of the Auditor-General on the Financial Statements in respect of the following institutions for the year ended 30th June 2015, and the certificates therein:

- (i) The National Council for Persons with Disabilities;
- (ii) The State Department of Planning;
- (iii) The Athi Water Service Board;
- (iv) The Kenya Revenue Authority;
- (v) The Geothermal Development Company Limited;
- (vi) The Kenya National Trading Corporation;
- (vii) The Numerical Machining Complex Limited;
- (viii) The Tourism Finance Corporation;
- (ix) The National Assurance Company (2001) Limited; and
- (x) The Kenya National Highways Authority.

Hon. Deputy Speaker: Hon. Chairperson of the Departmental Committee on Health.

Hon. (Ms.) Nyamai: Hon. Deputy Speaker, I beg to lay the following Papers on the Table of the House today, 19th July 2016:-

The reports of the Departmental Committee on Health on its consideration of:-

- (i) The petition by Mr. Elijah King'ori Githima regarding the deplorable state of mental healthcare facilities in Kenya, and,
- (ii) A petition regarding alleged mismanagement and misappropriation of funds at the Kenya Medical Research Institute (KEMRI).

Thank you.

Hon. Chepkong'a: Hon. Deputy Speaker, I beg to lay the following Papers on the Table of the House today, 19th July 2016:-

Two reports of the Departmental Committee on Justice and Legal Affairs on:-

- (i) The Petition for the removal of the Chairperson and Members of the Independent Electoral and Boundaries Commission (IEBC), and,
- (ii) The Independent Electoral and Boundaries Commission (Amendment) Bill, 2016

Thank you.

Hon. Melly: Hon. Deputy Speaker, I beg to lay the following Paper on the Table of the House today, 19th July 2016:-

The Report of the Departmental Committee on Education, Research and Technology on its consideration of the Kenya National Examinations Council (Amendment) Bill, 2016.

Thank you.

Hon. Cheboi: Hon. Deputy Speaker, I beg to lay the following Paper on the Table of the House today, 19th July 2016:-

The First Report of the Committee on Privileges in the matter of the suspension of Hon. James Opiyo Wandayi, MP.

Hon. Deputy Speaker, if it pleases you because this is an exceptional circumstance, you can allow me to make one or two comments. The nature of the report that we are tabling is such that it may not be discussed by Members on the basis of Rule 2 of the Disciplinary Rules Sessional Paper No.2 of 1966 by Hon. Slade. The Rule states that when the Committee on

Privileges does not recommend any disciplinary action, no further proceedings should follow, including the discussion in the House. It would be important for Members to know what we have discussed as a Committee and recommended to the Speaker.

This is also an exceptional circumstance because we are dealing with a specific case of a hon. Member of this House, where the Speaker had asked the Committee on Privileges to discuss the issue of Hon. Wandayi and make recommendations to the House. In this specific case, we held three sittings because we had to do a quick one.

Hon. Members, I want you to be very attentive because I will be saying this only once.

Hon. Deputy Speaker: You will be saying it once and you have already said that there is no discussion. Members should be very keen because it can happen to you. Next time, just know how it will be handled.

Hon. Cheboi: In this particular case, I was privileged to be an acting Chair of the Committee because ordinarily, it is the Speaker of the National Assembly who is the Chair.

There are rafts of recommendations that we made. Hon. Members can access them by going through the Report that we will have laid. Of importance is Standing Order No.111 which was the gist of what we were discussing as a Committee on Privileges where, when a Member is asked by the Speaker to leave the precincts of the Parliament and he refuses to do that and the Serjeant-at-Arms are involved, they lose the remainder of the Session. We had been asked to look at it with a view of trying to make a reasonable change in that particular Standing Order. Indeed, we have made a recommendation. This recommendation is to enhance punishment in case such an act is committed within the Chamber.

The reasoning is basic. As we enhance it, we are also removing the punishment of the constituents who most probably will not--- I say most probably because sometimes the members of a constituency might have consulted with their own Member of Parliament and asked him to do a particular thing here. In most cases, the members of particular constituencies will not have been involved at all. Rather than punish the constituency, it will be better to mete out a punishment on the Member himself. That will help the membership to be a little more disciplined and, indeed, Members have been fairly disciplined.

We have recommended that punishments be enhanced and it will be taken to the Rules Committee of this House to specifically mete out specific punishments. In most cases, we were recommending graduated punishments or punishments in terms of fines like it happens in Germany. As we did this, we also tried to look at many other jurisdictions. We realized that in other jurisdictions like Germany, fines are involved and, therefore, it deters Members. We looked at Wandayi's specific case and I want to state this very briefly. That the reason this came to the Committee and to the Speaker was because three Members of this House, two of them extremely senior, made a request that the case of Hon. Wandayi be reviewed.

The first, the one whom I also consider very senior, is the Hon. Leader of the Majority Party, Hon. Duale, who rose in this House and asked the Speaker to issue a ruling on it. Secondly, is the Deputy Leader of the Minority Party, whom I also consider a fairly senior Member of this House and Hon. Jakoyo Midiwo, who wrote a letter about three weeks after the act. Let us put it three weeks because it was on 19th July and there was also another Member. There was also one other Member for Homa Bay. He wrote a letter to the Speaker on the basis of that. I did not say that Hon. Kaluma is a junior Member. I specifically indicated that the first two were fairly senior Members of this House. When that came, the Speaker asked that the Committee on Privileges sits and discusses this. That is why we have this Report.

In a nutshell, what we have recommended as the Committee on Privileges is that Hon. Wandayi, having served four months, be considered that he has been punished sufficiently. Therefore, we recommend that the Speaker could consider waiving the suspension for the Member.

Thank you.

(Applause)

(Hon. Cheboi laid the document on the Table of the House)

Hon. Deputy Speaker; Order, Members! Hon. Onyonka and Hon. Keynan! Hon. Members, following that tabling of the Report of the Powers and Privileges Committee and the Statement by the Chairperson, I would like to guide the House that Paragraph Two of that Sessional Paper No.2 of 1966 requires that when a report of the Powers and Privileges Committee does not recommend any disciplinary action, there should be no further proceedings whatsoever in respect thereof, other than where necessary, further inquiry and report by the Powers and Privileges Committee. In this regard, following that recommendation of the Committee on Powers and Privileges to lift the suspension, the Hon. Wandayi is, hereby, admitted to the House. His privileges as a Member of Parliament are hereby reinstated. This matter, is, therefore, closed in as far as the suspension is concerned.

Hon. Members, for avoidance of doubt, all Standing Orders remain intact including Standing Order No.111 relating to the action to be taken on refusal to withdraw and the recourse to use of force is still enforceable. I am aware that there are proposals for amendments to the Standing Orders currently being considered by the Procedures and House Rules Committee. It is, therefore, instructive that we all await the Committee's recommendations on this matter.

I wish to thank the Committee for diligently working within the timelines given by the House and for their continued good work as in the periodic reports. Thank you. Let us start with those Members who have just laid their Papers. Hon. Chepkong'a, you can start.

Next Order!

NOTICE OF MOTION

ADOPTION OF REPORT ON PETITION FOR REMOVAL OF IEBC COMMISSIONERS

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

THAT, this House adopts the Report of the Departmental Committee on Justice and Legal Affairs on a Petition for the removal of the Commissioners of the Independent, Electoral and Boundaries Commission (IEBC) tabled today, Tuesday, July 19th 2016 and pursuant to Standing Order No.230.

(Loud consultations)

Hon. Deputy Speaker: Hon. Members, today, the consultations are too high. The Hon. Emase and Hon. Mary can you find somewhere to sit if you want to consult. The Hon. Chair for Foreign Relations, order, Members! We are trying to get Business going in the House.

Hon. Chepkong'a: Thank you, Hon. Deputy Speaker. I see Hon. Gethinji, the Chair of the Departmental Committee on Defence and Foreign Relations is lobbying Members. In view of the fact that the High Court in Petition No.356 of 2014 expunged all adverse references in the special audit report dated 6th June 2014 upon which the Petition is premised, I find that the Petition as submitted does not disclose sufficient ground, as contemplated under Article 251 of the Constitution, for the removal of the Chairperson and Commissioners of IEBC.

Hon. Deputy Speaker, this is a very important Petition. In light of parliamentary notice--- I am not explaining anything. I just wanted to say that too many people have been making too many roadside comments with regard to this House. The question of the appointment of the IEBC Commissioners lies with the National Assembly and we are not begging. That is our responsibility. So, when someone from the other House says that we are interfering, we do not know. It has nothing to do with the governor.

(Loud consultations)

Hon. Deputy Speaker, you know it is bad manners for some Members of Parliament to shout at others and they know this. Some of them are well known Members and senior in ranking. They should be leading by example. Someone by the name John Maxwell said; "Example is not the main thing but it is the only thing." Surely, when others who are---

Hon. Deputy Speaker: Hon. Chepkong'a, yes, in as much as you want to find some reasoning on the other side, you are also just giving notice of Motion. Just give the notice of Motion and when the debate time comes---You know this is a very sensitive matter.

Hon. Members: Order! Order!

Hon. Chepkong'a: I am not talking about this. However, on a point of order---

Hon. Deputy Speaker: Yes.

Hon. Chepkong'a: On a point of order. Is it in order for some Members of Parliament to convert themselves to become the Speakers of this House, to maintain law and order, when we know who the Speaker is?

Hon. Deputy Speaker: Hon. Members, please allow Hon. Chepkong'a to finish.

Hon. Chepkong'a: Secondly, if it is a question of shouting, I also have the capacity to shout. I must be allowed to shout back when those ones shout at me.

Hon. Deputy Speaker: No. No. You are a gentleman.

Hon. Chepkong'a: If that is the precedent, I must be allowed also to shout at them.

(Loud consultations)

Hon. Deputy Speaker: Hon. Chepkong'a, honestly, we have a lot of business today. That was just a notice of Motion. We have other notices of Motion. We have one by Hon. Christantus Wamalwa. No. That is not a notice of Motion. Are you giving? I will get you the right place where you can prosecute what you want to prosecute. Have we finished with those who are giving notices of Motion? Yes.

Next Order!

Hon. Deputy Speaker: There are none. Hon. Wamalwa, I can allow you. Hon. Wamalwa, just give me one minute to recognise our visitors.

Hon. Members, in the Public Gallery, we have students from Ngumo Boys Secondary School, Kibwezi West Constituency, Makueni County and Bondeni Primary School, Embakasi

Central Constituency, Nairobi County. We also have in the Speaker's Gallery students from Olerai Girls Secondary Schools, Kajiado East Constituency, Kajiado County; Loodariak Secondary School, Kajiado West Constituency, Kajiado County and State House Prince. These are various schools from Nairobi County and Limuru Girls High School, Kiambu County. You are all welcome to the National Assembly. Hon. Wamalwa!

**NOTICE OF MOTION FOR ADJOURNMENT
UNDER STANDING ORDER NO.33**

BURNING OF SCHOOLS IN THE COUNTRY

Hon. Wakhungu: On a point of order, Hon. Deputy Speaker. I rise to seek leave of the House to request for adjournment on a definite matter of urgent national importance to discuss the increased cases of school burning in the country.

Hon. Deputy Speaker, pursuant to Standing Order No. 33(1) I seek leave for the purpose of discussing the increased cases of school burning in this country. While the education system is meant to create national development and advancement, the cases of torching of schools in the country have been counteractive towards this goal. Within the last six months, more than 100 schools have been burnt by students and this has been reported in many counties like Kisii, Trans Nzoia, Nakuru, Vihiga, Meru and Embu among other regions. These cases have caused great losses to the schools as property worth millions have been destroyed. Further, parents and indeed the Government have incurred increased extra expenses in the restoration of these institutions.

Hon. Deputy Speaker, the Ministry of Education, Science and Technology is seemingly unable to deal with this matter which is of great importance. I therefore, seek for the adjournment of the House in order to discuss this matter so that we chart the way forward on possible lasting solutions to this recurring problem.

Thank you.

Hon. Deputy Speaker: Okay. Do you have Members who support that we adjourn?

(Several Hon. Members stood up in their places)

Okay. That is more than 20 Hon. Members. That is okay Members. You may sit. We have counted and you are more than 20. Because of the business that we have, we can set aside one hour for you. So, from 5.50 p.m. we can proceed with that adjournment. What is your point of order Hon. Jakoyo?

Hon. Midiwo: On a point of order, Hon. Deputy Speaker. I rise under Standing Order No. 173 to seek a considered ruling from the Chair arising from the activities of the so-called "Chepkong'a Committee".

(Loud consultations)

Hon. Deputy Speaker: Order, Members! Hon. Jakoyo, can you name the Committee you are talking about? There is no Committee called Chepkong'a!

Hon. Midiwo: Hon. Deputy Speaker, it is the Departmental Committee on Justice and Legal Affairs.

Hon. Deputy Speaker: Hon. Members, can we hear him? He stood on Standing Order No. 173.

Hon. Midiwo: Hon. Deputy Speaker, I am shocked at the lack of command of English by my friend Hon. Chepkong'a because what I am going to raise will show that I use the correct expression. However, to satisfy him, it is the Departmental Committee on Justice and Legal Affairs.

On 8th June 2016, the Whip of Coalition for Reforms and Democracy (CORD) Coalition Hon. Mwadeghu wrote to the Speaker of the National Assembly. Just to read one paragraph of that communication to the Speaker, the first ones says "The Coalition for Reforms and Democracy (CORD) is concerned that the Jubilee Administration has taken over the affairs of the Departmental Committee on Justice and Legal Affairs in the matters of Independent Electoral and Boundaries Commission (IEBC) and other necessary electoral reforms. As a consequence, the members of CORD can no longer meaningfully transact committee business."

Hon. Deputy Speaker, that letter was received by the Speaker and it was responded to by the Speaker allowing what the Standing Order says "to withdraw our members". I want to take this opportunity to jog your memory. Back in the year 2011, the then Departmental Committee on Justice and Legal Affairs had similar problems and issues. I was then the Chief Whip of the Orange Democratic Movement (ODM) and because our counterparts in the coalition had decided to take over the committee, we used what was legal in parliamentary parlance and we de-whipped our members until we talked. The ruling I am seeking from you moving forward so that we are clinical--- This is a House of rules and records. I want a legal opinion from the Office of the Speaker read on the Floor like it was read back on 11th May 2011 and a few other rulings to do with that controversy which we had.

Hon. Deputy Speaker, after the coalition sorted out the issues, the Constitutional Implementation Oversight Committee (CIOC) was tasked to deal with the issues of the Departmental Committee on Justice and Legal Affairs until those issues were resolved. We politically resolved those issues. The ruling I want you to communicate to this House is whether a committee can still exist when one part of the House has no membership in it.

(Loud consultations)

Hon. Deputy Speaker, the Members are shouting. You can understand the times we are in. We are in times of lawlessness. The Report by Hon. Chepkong'a and his team is before this House. Is it okay for a committee to discuss issues in a report which is already tabled in Parliament? Read Hon. Gumbo's report, I want that particular specification from the Office of the Speaker. I say this with conviction and respect to the rule of law. Hon. Chepkong'a is saying that we are making noise about this issue. We are making noise about it because we see that there is more than meets the eye. We could have told them what they were recommending yesterday, even before they leaked it to the Press today. We see where this is going.

I want to plead with you, with all humility, to find any legal reason beyond any reasonable doubt that a committee of this House can exist on its own, and that other jurisdictions can or cannot use that particular option that is open to the whips where systems fail to work. If you take away that particular tool, then I do not see any reason for us to have the Standing Orders and the divide that we have in the House. The reason of quorum is not enough to call a gathering of Members of this House a committee. Standing Order No. 173 stipulates how a committee of this House is constituted.

I thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Hon. Chepkong'a, do you want to make a comment? I can allow a few people to make comments. You will get the communication later.

Hon. Chepkong'a: I thank you, Hon. Deputy Speaker. I rise pursuant to Standing Order No. 107. I do not know whether Hon. Jakoyo Midiwo was here. I had forgiven Hon. Mwadeghu for the false information, but Hon. Midiwo has raised the same issue. I rise on a point of order to request that when you make your ruling, we have this matter referred to the Powers and Privileges Committee for the Committee to investigate whether the Minority Party Whip, indeed, deliberately gave false information to the effect that the Departmental Committee on Justice and Legal Affairs deliberately refused to allow Members of the CORD coalition to participate in its deliberations. This is a very serious matter.

When the substantive Speaker was seated there, I was persuaded to withdraw my point of order. I had requested that the Members of the CORD coalition should not be allowed to come back to the Departmental Committee on Justice and Legal Affairs until they say whether they were denied an opportunity to participate in the Committee proceedings. If it is true, action ought to be taken against the Chair who refused to allow them to participate. If it is deliberate false misinformation by the Minority Party whip, then he should be named in the House. It is bad manners for Members of Parliament to impute improper motives on other Members. I do not need to be the chair of the Departmental Committee on Justice and Legal Affairs. Hon. Mwadeghu can apply for that position and convince all the members of the Departmental Committee on Justice and Legal Affairs to elect him, so that he can allow Members of his coalition to participate, if he thinks that they have not been participating. The letter in which they made allegations against the Departmental Committee on Justice and Legal Affairs ought to be investigated before even the question of Hon. Midiwo is raised. This is a very serious matter.

The Departmental Committee on Justice and Legal Affairs is composed of 29 Members of Parliament; 18 from the Jubilee Coalition and 11 from the CORD Coalition. If it is a question of participation, we will allow them to have their say. We have always acted in a consensus manner. We have never taken a vote except in the Petition of Mr. Wafula Buke. In all other instances, we have participated in this Committee through consensus. It is unfair for somebody to come here and say that the CORD coalition was denied an opportunity to participate in the Committee's proceedings, and that is why they were de-whipped. They were not de-whipped. They withdrew from the Committee to deny us quorum. Quorum in any committee is nine members. I sit in the Committee as the Member for Ainabkoi Constituency, elected on a United Republican Party (URP) ticket. I was not elected on a Jubilee ticket. I do not represent the Jubilee Coalition in Parliament. I represent the URP. We have nine parties in the Departmental Committee on Justice and Legal Affairs. So, for somebody to belittle me by saying that I represent a party which I do not is unacceptable. He should go and read how I came to this House. Let us not insult the people of Ainabkoi. They elected me as a URP member, and they are very sane.

Therefore, we must be very careful.

Hon. Deputy Speaker: Your point has been made.

Hon. Chepkong'a: Hon. Deputy Speaker, before you make your ruling, I have risen on a point of order to request that the letter for de-whipping Members of the CORD Coalition be referred to the Powers and Privileges Committee. We will appear before it and an inquiry will be conducted to determine who is wrong. Article 50 of the Constitution is very clear. Anybody who exercises any authority must exercise fair hearing and fair administrative action, which is in a

Bill that we passed in this House. We talk about the rule of law. Let me tell Hon. Jakoyo what the rule of law means. I attended the *Magna Carta* Conference when the United Kingdom (UK) was celebrating 800 years of the rule of law. They said nothing can be prevented that is not forbidden by law, and no one can be forced to do anything which is not provided for by law. Why am I being prevented to do something which the law does not prevent or why am I being asked to do something which the law does not allow me to do? That is the rule of law.

Hon. Deputy Speaker: Hon. Chepkong'a, you have made your point. Leader of the Minority Party!

(Loud consultations)

Hon. Nyenze: Thank you, Hon. Deputy Speaker. Protect me from the Members.

Hon. Deputy Speaker: Members, let us give each other a chance to speak.

Hon. Nyenze: Thank you, Hon. Deputy Speaker. I want to clarify one thing so that when you give your wise ruling on this matter, you can consider it. The CORD Coalition had withdrawn its Members when those deliberations were taking place. Now that we have resumed, there are new Members we have put in those places where we had withdrawn or discharged others.

Hon. Deputy Speaker, this is a House of rules. Standing Order Nos.173, 174 and 176(1) have to be followed. Since one part of the coalition is part of the House, if one part removes their Members, are the deliberations by that Committee taken as if it is the whole agreed way? It is not the House because it is only one side – Jubilee - that was represented.

Since we had withdrawn Members and we have only put new ones – and not the same Members who were there - in my very strong opinion, I feel that the Departmental Committee on Justice and Legal Affairs was not properly constituted at the time when those deliberations took place.

(Hon. (Dr.) Pukose consulted loudly)

Hon. Deputy Speaker: Order, Members! Hon. Pukose, you want to speak. Can you wait and indicate that you want to speak. Let us not shout across at each other.

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

Hon. Deputy Speaker: Let there be decorum. Finish Hon. Nyenze!

Hon. Nyenze: Thank you, Hon. Deputy Speaker. You have to protect me from some Members because when they speak, I always keep quiet however irritated I feel. So, it is the same. They should listen to what I am saying. If you dispute, rise and say your point and I will listen to you however incorrect it is.

In your very wise considered ruling, which I know you will give, I also want you, for this country to progress properly--- There is one Joint Select Committee of both Houses that both Jubilee and CORD have negotiated and which have to give a report within 30 days to this House. Their work is still being diluted by the Departmental Committee on Justice and Legal Affairs.

(Applause)

Hon. Chepkong'a is my very good friend. We respect each other. I cannot say something in a disrespectful manner because I respect him. But for this country to move forward, even on

that Joint Select Committee which is working here, their biggest fear is that we are running parallel committees. We should give them room to do their work and report to this House? We negotiated through many demonstrations and loss of property. A *matatu* was burnt and there was loss of life. Can we give that Committee room to deliberate and reform the electoral laws of this country? Their complaint is that the Departmental Committee on Justice and Legal Affairs is running a parallel Committee and we do not know under whose orders.

To finish, I just want you to consider only those two points; the Members who have been forwarded to the Committee are new and the Members we withdrew did not participate in those deliberations. Was that Committee properly constituted under the Standing Orders?

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Hon. Pukose. Give him the microphone.

Hon. (Dr.) Pukose: Thank you, Hon. Deputy Speaker. I want to clarify a few things. It is the CORD leadership that withdrew their Members from the Departmental Committee on Justice and Legal Affairs and not the House or the Committee.

(Loud consultations)

Hon. Deputy Speaker: Order, Members! What is happening? Is it because you have just come from recess? Members, we have business to transact.

Hon. (Dr.) Pukose: The Committee was looking at a Petition that has been raised by a Kenyan. Once they did their Report, they have brought it to the House. This is a Report of the House. It is no longer in the Departmental Committee on Justice and Legal Affairs. The Motion has even been moved. So, it is this House to deliberate and make a decision on it. On the issue of whether the Committee was properly constituted or not, it is CORD that caused the problem of the constitution of the Committee. They should not blame the House.

Hon. Deputy Speaker: We do not want to spend too much time on this matter, hon. Members. You have asked for a ruling. I just wanted to get the feel of what the membership---

An hon. Member: It is now the property of the House.

Hon. Deputy Speaker: It is now the property of the House. Hon. Richard Onyonka.

Hon. Onyonka: Asante, Dada Naibu Spika. Ukiliangalia hili jambo, wakati huu nchi ya Kenya inashtuka sana kwa sababu tuna Kamati mbili. Wakati tulipoanza kuchangia jambo hili la Tume Ya Uchaguzi na Mipaka humu nchini, vyama vya kisiasa viliketi vikakubaliana ni akina nani watakuwa wanaketi kwa kamati hiyo, Walizungumzia hili jambo ili kujaribu kutatua shida ambazo ziko katika Tume hiyo. Lakini hapo hapo, Mhe. Chepkong'a ameendelea na Kamati yake ambayo ilianza kufanya kazi hapo mbeleni. Kwa hivyo, shida iliyoko ni kuwa ingekuwa vizuri wakati utakapotoa uamuzi wako, ujaribu kuwasaidia Wakenya ili waelewa ni kwa nini tuko na kamati mbili ambazo zinazungumzia jambo ambalo kila Mkenya analiona - suala hilo moja. Nia ya kuwa na kamati mbili kujadilia hili jambo ni nini na watatua hilo jambo namna gani?

Wale ambao wanazungumzia hili jambo kutoka nje wataleta hoja zao hapa ndani wapatie Kamati hii ndio tuzungumzie. Tukiamua wakati huu tukubaliane na Hoja ambao ndugu yetu Chepkong'a ameleta, ile kamati iko pale nje haina kazi ya kufanya. Ni lazima kuwe na uelewano kwa sababu wakati huu Wakenya wanataka tukubaliane tuache mizozo.

Kwa hivyo, nakusihi kwa hekima yako utakapoandika uamuzi wako, utuelezee kinaga ubaga ili tujaribu kuelewa vile tutatua shida hii.

Asante, Mama Spika.

(Loud consultations)

Hon. Deputy Speaker: Order, Members! One minute I am *Mama Spika*, the next I am *Dada Spika*. Let us leave it at that.

(Hon. Cheptumo consulted loudly)

Hon. Cheptumo. We have discussed this sufficiently.

Hon. (Ms.) Mbarire: On a point of order, Hon. Deputy Speaker.

Hon. Deputy Speaker: Hon. Mbarire, what is the problem? She is on a point of order. Yes.

Hon. (Ms.) Mbarire: Mhe. Naibu Spika, nimesikia Mhe. Richard Onyonka akikuita Mama Spika. Najua hakuna Mama Spika ama Baba Spika katika Bunge hili. Spika ni Spika.

Kwa hivyo, anapaswa kurekebisha akuite jina linalofaa unapoketi katika Kiti hicho. Akina mama wako nyumbani!

Hon. Deputy Speaker: Let us have Hon. Onyonka.

Hon. Onyonka: Ningependa kumjibu Dadangu, Mheshimiwa Mbarire, kuwa ukimwita mwanamke “mama” ni kumtunukia heshima kubwa sana. Kwa hivyo, katika kutatua shida hii, ni kuhakikisha kuwa Wabunge wenzangu, kama mama Cecily Mbarire, wamefundishwa lugha ya Kiswahili ili lugha yao ijumuike na kuwa safi.

Hon. Deputy Speaker: Order, Members! We will not continue in that line. Can we now leave that to rest? I do not mind being called *mama* or *dada* Speaker.

(Laughter)

Let us have Hon. Cheptumo. Let us move on.

Hon. Cheptumo: Thank you, Hon. Deputy Speaker. Let me say the following on the issue raised by Hon. Midiwo. I am a Member of the Departmental Committee on Justice and Legal Affairs. We are discussing a very serious issue. It is in the mind of every Kenyan. The situation we face now was created by the Coalition for Reforms and Democracy (CORD). The coalition withdrew its membership from the Committee. The business of the Departmental Committee on Justice and Legal Affairs cannot be suspended simply because CORD withdrew its membership. The quorum for any Committee to proceed with its business is nine.

In that Committee, we were discussing a Petition that was brought to this House by a Kenyan. The Report that has been tabled before the House is one that was considered by the Committee which, in my considered view, was duly constituted in terms of the quorum that was established. For CORD to purport to give the impression that the Committee was not properly constituted is, in my view, incorrect.

As you make your ruling on this particular matter, I want you to look at the Standing Orders. Our Standing Orders are based on the Constitution of this country. The Departmental Committee on Justice and Legal Affairs, with 18 Hon. Members who remained after CORD withdrew its membership, is legally constituted, in my considered view as a lawyer. We should not play to the public gallery.

I want Hon. Midiwo to listen to me. Hon. Midiwo is trying to show that there is a serious crisis in this country by saying that what we did as the Departmental Committee on Justice and

Legal Affairs was not proper. He is also trying to link what is being done by this Committee and what is being done by the Joint Select Committee of this House to bring confusion to this country and the House. There is nowhere in the Constitution and the Standing Orders where the operations of our duly constituted committees can be suspended by the existence of a Joint Select Committee. I respect my brother Midiwo because he is one of the most senior Members in this House. As a respected leader, he should guide this House and country so that we do not cause panic outside there.

As a Member of the Departmental Committee on Justice and Legal Affairs, my submission is that, in your ruling, you should find that the Report before the House, and the discussion by the Committee was properly done. There is no challenge posed whatsoever by the existence of a Joint Committee of the Senate and this House, as alleged by my colleague. This House is supposed to guide the nation. We are aware that Kenyans are waiting to find out what will happen with regard to this Report. Let us discuss issues of the legality of this Report when debating it, but not before the debate is done.

Hon. Deputy Speaker: Let us have the Leader of the Majority Party.

Hon. A.B. Duale: Thank you, Hon. Deputy Speaker. Hon. Chris Wamalwa, I am a ranking Member of this House and the Leader of the Majority Party.

The matter raised by Hon. Jakoyo is one that needs the Chair's guidance. As you make your communication, you need to look at the following:-

First, there is nothing in the Standing Orders that says that under a presidential system of government, there is no Hon. Member of Parliament who represents the Government in Parliamentary Committees. Hon. Members represent the people. That is very clear.

Secondly, in the Standing Orders, party strength is considered when the Selection Committee, which I chair, is nominating Members to committees. Even when there is lack of quorum in a Committee, there is no Committee that sits and says that until and unless a certain Member of a certain party comes, deliberations of that Committee will not take place. There are reports of Committees which have been tabled in this House in the last three years. Out of the 29 members of a Committee, 15 or 16 of them who adopted the report were from one political party. Those reports have been debated and considered. There are a number of them. Your guidance must be based on the Standing Orders. Is there a provision in the Standing Orders that says; "If Hon. Aden Duale is not sitting in that Committee, the business of that committee cannot continue?"

Thirdly, and more fundamentally - and you must answer this question - hypothetically, if today I decide to withdraw all the Members of the Jubilee Coalition from the Budget and Appropriations Committee, during the budget cycle, does that mean that the remaining members cannot discuss the budget?

Hon. Members: Yes!

Hon. A.B. Duale: I am not asking you. I am putting this question to the Speaker. I have never been a classroom teacher. You are not in a classroom. I am talking to the Speaker. I want to inform you that we are not in a classroom. My questions are being directed to the Speaker in the determination of that communication.

Hon. Member: We know we are not in class. We are Members of this august House!

Hon. A.B. Duale: Relax. Of course, I am addressing the House and you are a Member of the House. We are not in City Hall.

(Laughter)

Hon. Jakoyo will tell you---

Hon. Simba: On a point of order, Hon. Deputy Speaker.

Hon. Deputy Speaker: Order, Hon. Simba Arati! We cannot have two Hon. Members standing on a point of order.

Hon. A.B. Duale: I am on a point of order. This is the problem of not reading the Standing Orders. We need to interrogate our Standing Orders. The matter Hon. Jakoyo has raised is true. My counterpart, the Leader of the Minority Party, was not in the House last Thursday. The Members whose names we are approving this afternoon are the same Members. Therefore, there are no new Members.

Secondly, there is no Committee sitting outside Parliament. Even the Joint Select Committee is sitting within the precincts of Parliament. Hon. Members are not in Safari Park. They were there for only one day. He kept on referring to the Committee as being in Safari Park. They were sitting in the Senate Chamber this morning.

The matter before us is serious. The issues concerning the Independent Electoral and Boundaries Commission (IEBC) that took some of our colleagues to the streets are now back to Parliament. It is now within the confines of the leadership of both Houses. Whether it is under the Joint Select Committee or the Departmental Committee on Justice and Legal Affairs, the matter is with us. The two Committees can sit. We will sit in the House Business Committee (HBC) and sort out this issue. The matter before us is bigger than our politics within Committees.

We have given Hon. James Orengo and Hon. Kiraitu Murungi the privilege to be Chairmen of the Joint Select Committee, just like we have given the Member of Parliament for Ainabkoi Constituency. They are not superior to Hon. Chepkong'a. We do not need to bring this matter to the House.

In fact, Hon. James Orengo, Hon. Kiraitu Murungi and Hon. Chepkong'a should have a cup of tea at the Parliament lounge and sort out the issue. We have brought people from outside to look for the solution within 30 days. If the three leaders sit, with the support of the leadership of the House and our two Speakers, I am sure we will deliver within 30 days. As the HBC, we have decided to suspend all the legislations concerning electoral reforms at the Third Reading. They can be discussed at the Second Reading, where it is not a big deal. But we will suspend all of them at the Third Reading. When the Joint Select Committee comes with the relevant amendments, then they will be included in the Bill at the Third Reading, where their inputs can be carried on board.

Hon. Deputy Speaker, you must tell us in your communication that there is nowhere in the Standing Orders that, if certain Members of a political party withdraw their membership, it will cause a collapse of the function of Parliament. Parliament has an overall role to oversight, represent and legislate. If Hon. Duale decides not to come to Parliament, it does not mean that its oversight role is curtailed. The matter is important. As you give guidance, I am sure we will sit down as the leadership of the House and give what the Kenyan people want within the provided 30 days.

Hon. Deputy Speaker: Hon. Members, we have sufficiently heard views from both sides. We cannot have everybody. There is a clear limit. I will give a chance to Hon. Nyikal.

Hon. (Dr.) Nyikal: Thank you, Hon. Deputy Speaker. I want to appeal to my colleagues that as leaders of this country, we must sometimes go with the dictum, which I think the legal

people here will agree with me. Sometimes, the principle of natural justice may be more important than the letter of the law, if it is in the interest of the country.

What we are dealing with are two issues here which have been canvassed. One is about a decision which has come from the Departmental Committee on Justice and Legal Affairs, and there is a feeling on one side that this decision was reached in the absence of other Hon. Members. I raised this matter before we went for recess, when we went on what I call filibustering. We would have put these Hon. Members in that Committee and they would have taken part and this would have been solved.

The other aspect is this: All this is in the context of going through a period when there was so much anxiety regarding the issues of IEBC in this country. We put in place a Joint Select Committee. Everything that goes on within the Houses should be seen to be heading that way, but not in any way competing with that Committee.

The Leader of the Majority Party himself says they have seen it right to suspend all Bills relating to the IEBC issue until the Third Reading. I would like him to hear this: That principle also implies to all Committees dealing with matters relating to the IEBC. They should be suspended until we get to the appropriate time in the Joint Select Committee. If we do not do that, we are not serving this country well. The Joint Select Committee we have put in place is so important to the people of this country. Therefore, we must be seen as leaders to be giving it all the support it needs, but not weakening it in any way. I plead with you that, that should be the principle that should guide your ruling.

Otherwise, we do not want to go back to where we have been a few weeks ago. That is possible.

Hon. Deputy Speaker: Hon. Members, we have heard from both sides of the House. You have asked us to give a considered opinion. If I interpret what you have said, it is an opinion on whether a Committee of the House is properly constituted when one side or coalition is not there. That is one of the questions we will address.

Secondly, it is the question of whether there are interfering or parallel rulings. In other words, does the mandate of the Committee cease when a Select Committee is put in place? Were the Committees supposed to completely stop what they were doing? All those things are going to be part of what we will be looking at in our communication. Therefore, allow us to look at it legally and in whichever other ways then we can give that considered opinion from the Office of the Speaker.

Hon. Members, allow us to move on. Remember we have less than one hour to move the Adjournment Motion on a matter of urgent national importance.

Can we move on?

BILLS

Third Reading

THE VALUE ADDED TAX (AMENDMENT) BILL (*Question put and agreed to*)

(The Bill was accordingly read the Third Time and passed)

First Readings

THE COMPETITION (AMENDMENT) BILL

THE PUBLIC PRIVATE PARTNERSHIPS (AMENDMENT) BILL

THE SACCO SOCIETIES (AMENDMENT) BILL

THE PRIVATIZATION (AMENDMENT) BILL

THE INSURANCE (AMENDMENT) BILL

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

RE-APPOINTMENT OF MEMBERS TO THE DEPARTMENTAL
COMMITTEE ON JUSTICE AND LEGAL AFFAIRS

THAT, pursuant to the provisions of Standing Orders 175, and further to the resolutions of the House of October 08, 2013 and April 28, 2016 on appointment of Members to respective Committees, this House further approves the re-appointment of the following Members to the Departmental Committee on Justice and Legal Affairs, who had been discharged by the nominating Party:-

- (i) The Hon. Olago Aluoch, M.P.
- (ii) The Hon. T. J. Kajwang', M.P.
- (iii) The Hon. Fatuma Ibrahim Ali, M.P.
- (iv) The Hon. Peter Kaluma, M.P.
- (v) The Hon. Ben Momanyi Orari, M.P.
- (vi) The Hon. David Ouma Ochieng, M.P.
- (vii) The Hon. Neto Agostinho, M.P.
- (viii) The Hon. (Bishop) Mutua Mutemi, M.P.
- (ix) The Hon. Christine Oduor Ombaka, M.P.
- (x) The Hon. Mwamkale William Kamoti, M.P.
- (xi) The Hon. Benjamin Andayi, M.P.

(Hon. Katoo on 6.7.2016)

(Resumption of Debate interrupted on 6.7.2016 – Afternoon Sitting)

Hon. Deputy Speaker: Hon. Millie Odhiambo had a balance of seven minutes. If she is not in the House, then any other Member can contribute.

Hon. Members: Call the Mover to reply!

Hon. Deputy Speaker: Is that the feeling of Members?

Hon. Members: Yes!

Hon. Deputy Speaker: Should I call upon the Mover to respond?

Hon. Members: Yes!

Hon. Deputy Speaker: Leader of the Majority Party!

Hon. A.B. Duale: Hon. Deputy Speaker, this Motion was debated conclusively and what now remains is for us to conclude. My prayer to the Whips and the leadership is that they will not withdraw Members again and bring them back. It is allowed in the Standing Orders, but it is not good work. So, I ask my colleagues that next time, we hope these colleagues will serve for the remaining part of the Session until 2017.

I beg to reply.

(Question put and agreed to)

Hon. Deputy Speaker: Next Order!

APPROVAL OF RATIFICATION OF DEFENCE COOPERATION
AGREEMENT BETWEEN KENYA AND UK

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

THAT, this House adopts the Report of the Departmental Committee on Defence and Foreign Relations on its consideration of the Agreement between the Government of the Republic of Kenya and the Government of the United Kingdom of Great Britain and Northern Ireland concerning Defence Cooperation, laid on the Table of the House on Wednesday, 6th July, 2016, and pursuant to the provisions of Section 8 of the Treaty Making and Ratification Act, 2012, approves the ratification of the Agreement between the Government of the Republic of Kenya and the Government of the United Kingdom of Great Britain and Northern Ireland concerning Defence Cooperation.

Hon. Deputy Speaker, first, I thank all the Members of the Departmental Committee on Defence and Foreign Relations for their diligent input into this matter and for the work they have put in considering this Defence Cooperation Agreement. I also thank all the members of the secretariat from the Office of the Speaker and that of the Clerk of the National Assembly for their logistical support in assisting us to pursue this endeavour.

(Loud consultations)

Hon. Deputy Speaker: Hon. Members, the consultations are too high. We cannot hear the Member moving the Motion.

Hon. Gethenji: Thank you, Hon. Deputy Speaker. It is important to highlight in this post *Al-Qaeda* world that we live in that any opportunity that we have to cooperate with our friends and neighbours in terms of defence cooperation and sharing of information and intelligence should be welcomed and embraced. We live in a world where the Islamic State in Iran and Syria (ISIS) and the *Al Shabaab* are persistent and common threats in our particular territory here in Kenya and East Africa. Terrorism and radical Islam is posing a global threat to the world. Anything that boosts our capacity in our defence forces in terms of our relationship of working in the military sphere must be embraced. We are now at a unique position in the history of this country where the defence cooperation, which we have had with the Government of the United Kingdom of Great Britain and Northern Ireland, has been finally condensed to an agreement which is subject to our Constitution.

For the benefit of the Members of this House who may not have had a chance to go through the Report given that it was tabled just prior to the recess which we have returned from today, I will take the opportunity to go through the salient and key points of the agreements so that Members may be enriched as we proceed to debate and ratify this milestone and historic agreement.

On 23rd February 2016, the Leader of the Majority Party in the National Assembly tabled on the Floor of the House a Cabinet Memorandum on the ratification of the agreement between the Government of the Republic of Kenya and the Government of the United Kingdom of Great Britain and Northern Ireland concerning defence cooperation pursuant to Section 8 of the Treaty Making and Ratification Act of 2012. This agreement was subsequently committed to the Departmental Committee on Defence and Foreign Relations for consideration and report to this august House. Once ratified, the agreement shall become part of the Kenyan laws as provided for in Article 2(6) of the Constitution, which provides that:-

“Any treaty or convention ratified by Kenya shall form part of the law of Kenya under this Constitution.”

In considering the agreement between the Government of the Republic of Kenya and the Government of the United Kingdom of Great Britain and Northern Ireland concerning defence cooperation, the Committee held several sittings. It received a comprehensive brief from the Legal Counsel of the National Assembly pursuant to Article 118(1)(b) of the Constitution on public participation and Section 8(3) of the Treaty Making and Ratification Act of 2012. The Committee placed several adverts in the local dailies on 24th March 2016 requesting for submissions of memoranda on the subject matter.

Unfortunately, there was no immediate and direct response. However, as part of the public participation that this Committee is bound to hold, the Committee held sittings with representatives of the Ministry of Defence as a key stakeholder in this matter, the State Law Office, Members of Parliament from Meru, Tharaka Nithi, Samburu and Laikipia counties. The Committee also made an inspection visit to the British Army training installations in Nanyuki.

Hon. Deputy Speaker, the defence cooperation between Kenya and the United Kingdom dates back to Independence and has been marked by the deployment of British Forces for training at a number of locations in the Republic of Kenya and training opportunities for members of our defence forces availed by the Government of the UK in the UK. The Republic of Kenya has an existing Memorandum of Understanding (MoU) with the Government of the United Kingdom of Great Britain and Northern Island on defence cooperation. The MoU provides a framework for pursuing cooperation in the defence sector between the Republic of Kenya and the UK of Great Britain and Northern Island.

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

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

Sections 37 and 283 of the Kenya Defence Forces (KDF) Act contemplate the conclusion of an agreement to provide for the legal status and exercise of jurisdiction by the service authorities of visiting forces within the Republic of Kenya.

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

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. (Eng.) Gumbo, what is your point of order?

Hon. (Eng.) Gumbo: On a point of order, Hon. Temporary Deputy Speaker. I have no intention to interrupt the moving of the Motion by the Chairman of the Committee.

(Hon. (Ms.) Katana consulted loudly)

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. (Ms.) Aisha and your colleagues, please, consult in low tones.

Hon. (Eng.) Gumbo: After looking through this Report, I have noticed that it is a bit unusual in the sense that there are observations and recommendations by majority and minority Members of the Committee. I would like to seek your guidance because the format of this Report is unusual. Suppose this Report is adopted, what happens to the two views that have been expressed? Suppose it is rejected, are we rejecting the recommendations by the majority or by the minority Members? As it is, this Report is two reports in one.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Chairman, do you have another Report for perusal by the Speaker?

Hon. Gethenji: Hon. Temporary Deputy Speaker, we have the Report of the Departmental Committee on Defence and Foreign Relations.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. (Eng.) Gumbo, please, complete what you were saying.

Hon. (Eng.) Gumbo: I want your guidance on this. In my understanding, when you have a report which has a majority and a minority view, then in essence, you have two reports. Being an unusual Report, the Chairman should have guided us on what we are adopting. Are we adopting the Report by the majority or the minority of the Members of the Committee? If the Report is rejected, what are we rejecting?

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. (Eng.) Gumbo, you are a Chairman of a very powerful Committee in this House and I am shocked you can ask that. I am sure you know the rules with regard to majority versus minority report. In this Report, the minority view is for noting. Majority Members of the Committee approved this Report. That is what we are considering.

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

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Wamalwa, what is your point of order?

Hon. Wakhungu: On a point of order, Hon. Temporary Deputy Speaker. I am a Member of the Departmental Committee on Defence and Foreign Relations and a ranking Member of this House. Looking at this Report, there is a minority report and I dissented. Page 32 of the Report lists Members who recorded a dissenting view, namely, Hon. Jakoyo Midiwo, Hon. Elijah Memusi, Hon. (Ms.) Joyce Lay and Hon. Onyonka. My name is missing yet I did not sign the majority report. This shows a lot of inconsistencies. I want us to suspend this debate until a proper report is tabled on the Floor of this House. I dissented yet my name is not in the minority report. The Chairman is aware of it. I doubt the accuracy of this Report. Will I be in order to say that we step down this Order until a proper report is tabled on the Floor of the House?

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Chairman, would you like to clarify that?

Hon. Gethenji: Hon. Temporary Deputy Speaker, the dissenting view that Hon. Wamalwa is raising is clarified in the minutes of the meeting. I guess Hon. (Eng.) Gumbo already knows the Report we are adopting, namely, the Report of the Departmental Committee on Defence and Foreign Relations regarding the defence agreement between Kenya and the United Kingdom of Great Britain and Northern Ireland. Under the Treaty Making and Ratification Act, it is very clear that there are only two options available for this august House, either to ratify or not. Let us put that to rest.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Chairman, in your Report, I can see a minority view from four Members. Are we discussing a Report that was approved by the majority?

Hon. Gethenji: We are discussing the Report that was adopted by majority of the Members and taking into consideration minority views of those Members who raised issues and their issues have been noted in the Report and accommodated as per the Standing Orders. We will ratify the majority views and the ratification of the defence cooperation between Kenya and the UK.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): That is now clear. I will not allow any more points of order until the Chairman completes his presentation.

Hon. Gethenji: Thank you, Hon. Temporary Deputy Speaker for your indulgence and for setting the record straight. Sections 37 and 283 of the Kenya Defence Forces (KDF) Act contemplate the conclusion of an agreement to provide for the legal status and exercise of jurisdiction by the service authorities of visiting forces within the Republic of Kenya. This also necessitated the conclusion of the Defence Cooperation Agreement (DCA) with the UK which was signed on 9th December 2015 and once ratified, will then supersede the current MOU.

The objective of the DCA is to enhance cooperation between the Republic of Kenya and the UK by creating a framework for exchange of experience and knowledge for the mutual benefit of the two countries. The DCA contains 26 articles which I will read to allow Members to enrich the debate which is to follow.

There is the preamble which sets out the reasons and aspirations for which the DCA is made. Article 1 is the interpretation clause. Article 2 identifies the aims of the DCA. Articles 3 and 4 outline the scope of the DCA and the forms of cooperation to be pursued by the parties respectively. Article 5 outlines how the DCA will be implemented. Article 6 outlines instances under which the host or sending nation may exercise jurisdiction over visiting forces. Article 7 regulates the usage of arms and other defence articles. Article 8 outlines measures to ensure protection of the environment. Articles 9 and 10 regulate access by the visiting forces to the host countries defence facilities including their training areas. Article 11 provides a framework under which civil claim may be pursued against the visiting forces.

They may import or export goods. Articles 14 and 15 of the Defence Cooperation Agreement govern issues relating to finance. Articles 16 to 19 regulate the usage of identification documents by the visiting forces, registration of service motor vehicles and investigation of accidents, which is one of the issues which has been prevalent there before. Articles 20 and 21 regulate the provision of healthcare by the visiting forces. Articles 22 regulate the protection of information. Article 23 regulates the interaction between the visiting forces and local communities in the host nation. Article 24 creates an institutional framework for the implementation of the Defence Cooperation Agreement and creates an intergovernmental liaison committee for trial of offences concerning murder and grievous harm against territory of the host country.

Articles 25 and 26 provide for settlement of disputes, entry into force and duration of the agreement. There are factors that inform the negotiations of this Defence Cooperation Agreement. We were to negotiate a comprehensive agreement that takes into account the Kenyan context, which has been an issue before, and to deal with the concerns which are material to this country, namely, constitutionality and compliance with the Kenyan laws and reciprocity, which is the relationship between the two countries and how each will benefit from the agreement. Then there is transparency, including access to facilities, remuneration and inspection, private leases, licensing and disposal of assets. Victims' protection and compensation was also considered in the agreement as was criminal jurisdiction and impunity, and environmental protection, which is an enormous concern. Civil liability and immigration issues as well as taxation issues were also considered in the agreement.

Negotiations for this agreement involved all relevant stakeholders, including the Attorney-General's Office, the Ministry of Foreign Affairs and International Trade, the National Treasury, the Kenya Revenue Authority (KRA) and the Office of the Director of Public Prosecutions (DPP). The Ministry of Defence led the Government of Kenya negotiations and shares responsibility for implementation of this Defence Cooperation Agreement with the Ministry of Foreign Affairs and International Trade. The Ministry of Defence also serves as the Executive agent for the implementation and negotiations of supplementary agreements under the DCA.

The Defence Cooperation Agreement does not propose any amendments to our Constitution. This is most welcome because that would have been a very steep hill to climb. In terms of national security interests, the Defence Cooperation Agreement provides for joint training and exchange of experience and intelligence. This will increase the capacity of the KDF to deliver its constitutional mandate. The Defence Cooperation Agreement requires Kenya to cooperate with the United Kingdom in training, mutual visits and intelligence information exchange. Kenya is further obliged to comply with the provisions of the Defence Cooperation Agreement, which outlines the instances under which the host nation or the sending nation may exercise criminal jurisdiction over visiting forces.

With regard to the requirements for implementation of the Defence Cooperation Agreement, the Ministry of Defence will be required to nominate, at least, two senior officers, not below the rank of Colonel and, at least, two senior civilian Government officers to the Intergovernmental Liaison Office. This office is a new creation of the Defence Cooperation Agreement. It is an instrument which allows for dispute resolution, which was not there before. It is a welcome addition to this arrangement. The policy and legislative implications of this agreement would be implemented in accordance with the existing domestic legislation and no new policy or legislative interventions are required in the implementation of the Defence Cooperation Agreement.

With regard to the financial implications of this agreement, the two Governments are required to share expenses arising from joint activities under the Defence Cooperation Agreement. Some activities under the scope of the Defence Cooperation Agreement touch on the mandate of the counties, such as humanitarian operations like veterinary and health care outreach services, protection of the environment and mapping and land survey. The process leading to the adoption of the Defence Cooperation Agreement was negotiated by the Ministry of Defence, pursuant to the provisions of Sections 37 and 283 of the KDF Act. The execution of the Defence Cooperation Agreement was preceded by negotiations between the two Governments. The Ministry of Defence adopted a multisectoral approach in negotiating the Defence Cooperation

Agreement through the involvement of relevant Government ministries and agencies such as the State Law Office, the Ministry of Foreign Affairs and International Trade, the National Treasury and the KRA.

The Defence Cooperation Agreement was signed by the two Governments on 9th December 2015. It was determined that no additional expenditure of public funds is foreseen in the implementation of the agreement as the cooperation activities contained in the Defence Cooperation Agreement are already ongoing and being undertaken under the terms and framework of the existing memorandum of understanding.

Some concerns were raised in the ratification of the Defence Cooperation Agreement that led to a few Members of the Committee dissenting on this Report. The Committee observed that under Article 6 of the agreement, the sending nation has jurisdiction where the offence is solely against the property or security of the visiting forces or the sending nation, the person or property of another member of the visiting force, the civilian or a dependent arising out of an act or omission done in the course of official duty by any member of the visiting forces, while jurisdiction in all circumstances should vest on the host nation. The Committee was of the view that the Cabinet Secretary should pick up the issue with a view to proposing amendments to the same so as to have the host nation vested with jurisdiction in all matters.

The Committee observed that under Article 9, the sums of the licences on Laikipia Air Base and Kahawa Garrison do not reflect the situation on the ground. The tabulation of the amount to be paid for licence fees was pegged on the evaluation of the permanent infrastructure in the training area and not on the commercial value of the land. In comparison, the United States of America (USA) pays Djibouti US\$ 63 million, which translates to about Kshs6.6 billion a year for the use of Djibouti Air Base for the Horn of Africa group. Further, the amount indicated only relates to Laikipia Air Base and Kahawa Garrison and nothing is mentioned of the other facilities. The Committee noted that the Cabinet Secretary should consider proposing amendments and negotiating for an increment, including annual increment of the fees on the annual roll over this Defence Cooperation Agreement.

The Committee noted that there was compensation arising on civil claims. Article 11 of the Defence Cooperation Agreement provides for a framework where an aggrieved person may obtain compensation. This is the first time the Kenyan people, who may have been affected, can have an avenue to voice their grievances and get compensation for the same. You will recall this matter has been in the history of our relationship between the visiting forces and our nationals. This has squarely been addressed through the articles of the Defence Cooperation Agreement to the satisfaction of the Committee and all the negotiating parties.

The Committee observed that an intergovernmental liaison committee is established under Article 24 of the agreement. It is tasked with, among other things, deciding specifically on jurisdiction. The liaison committee is composed of not less than four members from either party and it provides for an opportunity to ensure interests of Kenyan citizens are well advanced. The Committee further observed that the CS should ensure that the same is cascaded downwards to the community level where a matter affects the community so as to ensure that specific interests of communities are well articulated and catered for.

Hon. Temporary Deputy Speaker, the fifth article, we observed is Article No.26 dealing with the entry into force or the duration, amendment and termination. The Committee observed that whereas under Paragraph 4 on amendment, the provision makes reference to Paragraph 1. The same should refer to Paragraph 2 and not 1 as indicated. This is just ordering of the paragraphs. Further on termination, the Committee was of the view that the six months

termination notice is a short period and proposed that the CS should consider proposing amendments in future on the same with a view to extending it from six to 12 months.

The Report concludes that the National Assembly approves the ratification of the agreement as it is in Kenya's national interest. The Committee is, therefore, thankful to the offices of the Speaker and Clerk of the National Assembly for the logistics and technical support accorded to the Members for its sittings and during the sittings.

I, therefore, beg to move the Motion that this House adopts the Report on the Ratification of the Agreement between the Republic of Kenya and the Government of the United Kingdom of Great Britain and Northern Ireland concerning Defence Cooperation for consideration and approval by the House pursuant to Section 8 (4) of the Treaty Making and Ratification Act, 2012 and Standing Order No.199.

For clarity, I wish to go through the recommendations that Members do not have. The recommendations of the Committee are that:-

1. The House approves the ratification of the agreement as it is in Kenya's national interest.
2. Directs the Ministry of Foreign Affairs to prepare instruments of ratification and exchange the same with the Government of the United Kingdom of Great Britain and Northern Ireland.
3. Authorises the CS for Defence to take the necessary actions.
4. The Kenya Government should support *miraa* growing farmers and promote the marketing of the crop internationally as this was a key point that was raised by the Members from Meru and Tharaka Nithi counties being one of the areas they have found a challenge with this Report and this relationship.

We also thank the Government of the Republic of Kenya for what it is already doing in supporting the farmers from Meru and Tharaka Nithi with the Kshs1 billion fund that the President launched recently. We ask that the Presidential Task Force on *Miraa* be expedited. We also request the Ministry of Foreign Affairs and the Ministry of Industrialisation and International Trade to fast-track efforts to locate and identify markets for this important agricultural crop for the people of Meru and Tharaka Nithi counties to continue to benefit from the commercial activities.

Having said that, I wish to invite my sister, Hon. Nyokabi, to second the Motion.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Before Hon. Nyokabi, let me recognise Kinyui Girls Secondary School from Matungulu Constituency, Machakos County. Welcome to the National Assembly.

Hon. (Ms.) Gathecha: Hon. Temporary Deputy Speaker, I rise to support this Motion on the Ratification of the Agreement between the Government of the Republic of Kenya and the Government of the United Kingdom of Great Britain and Northern Ireland concerning Defence Cooperation.

This particular Report enhances, irons out and outlines the Defence Cooperation Agreement between the two nations and establishes a framework in terms of how we should proceed in our agreement in use of our military space, use of training that enhances capacity and the framework we should operate in, in exchanging experience and knowledge for the mutual benefit of both countries.

We live in dangerous times. We know that we are surrounded by threats, especially in the Horn of Africa where there is insecurity. This country is in need of enhanced training and opportunities to exchange knowledge and learn better skills in terms of how to deal with terrorism. Our military should benefit from the capacities of better trained nations. We have an

environment that gives us five climatic zones that present an opportunity to be a centre of excellent training and learning how soldiers can adjust to different climatic conditions in a single day in their training.

This is a unique opportunity and landmark for our country. It offers experience and the kind of land mark that is completely unique. These training grounds should not be taken advantage of or taken for granted because no other country has training facilities that are available here.

This agreement also outlines how visiting defence forces should conduct themselves. In Laikipia and Nanyuki, we find many *chotaras*, evidence of women who have been victims of unbecoming behaviour of soldiers. These soldiers should provide some expertise and leadership within their areas. This Defence Cooperation Agreement will ensure that the fatherless children in this country and those born out of exchange visits of the soldiers are protected and the soldiers are held responsible for engaging in activities that are against the rights of the locals. There will be opportunity and recourse for them to get speedy justice. The soldiers who engage in such activities will be held responsible and accountable under the Defence Cooperation Agreement. It will hold them accountable for their actions and deliver compensation to *wananchi*.

This agreement also speaks about the environment and how it should be protected. We know that visiting armies come in with equipment or arms. These arms will be subject to inspection in terms of how they will be handled and used in the country. This is important because when we take a look at weapons coming into this country, given the fragile nature and the warring nations around us, it becomes important for us to regulate the coming in of weapons into this country, especially during this period when we are going to the election year.

It also regulates what the forces can and cannot do with regard to the weapons that come into the country. For example, in this agreement, they cannot sell the weapons that come into this country which means that as a nation, we are protected. It also means that they will not engage in activities that would destabilise the nation. That is a significant achievement because as a sovereign nation, one of the key things that we stand for is to ensure that we are protected and our citizen rights are protected. We do not allow anybody to just come into the country and run whatever programmes they would want to under the guise that they are more civilised and advanced. This will ensure that this agreement benefits the local setup and operates within the constitutional rights of the country. The Defence Cooperation Agreement does not propose any amendments to the Constitution as the framework and terms of engagement are not in violation to any of the protocols in the country.

I wish to address the issue of finance. While we support this agreement, we understand the issue of contention that has been raised by Members of the Committee in terms of the exchange and the financial part of it. It seems completely unfair that Ethiopia will be getting US\$63 million while Kenya gets Kshs7 million in this agreement. That is one area that most people would have an issue with. As I had mentioned earlier, Kenya has five climactic zones. We cannot compare that with what is available in Ethiopia. It is important that as we sit down as a nation to renew our agreement, we need to take a look at the amount of funds we use when we send our students to the UK and the USA for training and what we get in return. When it comes to the issue of finance, probably, we need some sort of adjustment in that area. We have facilities that need to be expanded and worked on. We need to take a look at our agreements in a manner that takes into consideration development in terms of the military, skills and capabilities, working with our environment and ensuring that as a nation, we are getting full value.

While it is not commercial value, given our unique area and the situation we have in Somalia, it becomes important for us to get sufficient revenues to ensure that we defend our borders and our soldiers. We should ensure that they are well-armed, taken care of and well-housed. Those agreements should be in this particular agreement.

With those few words, I beg to second the Motion.

(Question proposed)

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): I will now give the Floor to Hon. Chris Wamalwa.

Hon. Wakhungu: Thank you, Hon. Temporary Deputy Speaker. I rise to oppose this. As I said earlier, I am a Member of this Committee and I dissented. We had discussed this with the Committee. When you look at the amount of money the UK Government is supposed to pay the Kenya Government for training, taking into consideration disturbance of the environment, they are only paying Kshs19 million for a whole year. We compared this with many other jurisdictions. In Djibouti, payment is about Kshs6 billion. We asked ourselves why we should be paid a lower amount. As a Committee, we sat together and looked into this. Unfortunately, according to the Treaty Making Ratification Act, we do not have any option. There is nothing that we can do. When it comes to treaties, the agreement is Government to Government. It is governments that normally engage the specific country. For it to take effect, it must be ratified by Parliament. This treaty had already been ratified. We are now renewing it. When renewing, it is important for the House to be considered.

Secondly, there is the issue of *miraa*, which is a source of livelihood for our colleagues from Meru.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): What is your point of order, Hon. Gethenji?

Hon. Gethenji: Hon. Temporary Deputy Speaker, with great respect and humility, my good friend, Hon. Chris Wamalwa, is a PhD holder, a lecturer at the University of Nairobi, an erudite man and a Member of this House. He has come to the Floor to mislead the nation that this treaty has already been ratified. He needs to go back to school to learn the meaning of “ratification”. We are here trying to ratify the agreement. It has not been ratified. There was an MOU. This is the first time in the history of independent Kenya that we have a proper Defence Cooperation Agreement, subject to the Constitution of the Republic of Kenya, 2010.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Chair, you have not understood what Hon. Chris Wamalwa has said. Maybe you should listen to him.

Hon. Gethenji: I listened very carefully, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): You did not understand what the Hon. Member was saying.

Hon. Wakhungu: Hon. Temporary Deputy Speaker, that is the problem with being a sycophant. I never said that. The Chairman has been misleading this Committee. The House can see that his listening capacity is a problem. I never said that. Could he listen as I repeat? This agreement had already been ratified and is now coming up for renewal. It was already in existence. This is a renewal package of the Defence Cooperation Agreement. These people have already been training here. Renewal is done on a ten-year basis. We thought it should come down to five years. He is misleading this House.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Member, you also need to listen to the Chair, so that you can state facts. Let us have the Chair.

Hon. Gethenji: Hon. Temporary Deputy Speaker, I stand by my earlier comments. My Hon. brother needs to go back to school. This is not a renewal. This is the first time in history the Defence Cooperation Agreement is being executed and subject to the Constitution of this Republic. For him to tell us that this is a renewal is a fallacy, total misrepresentation and misunderstanding of what we are here to do. He does not know what he is doing in that Committee.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Wamalwa, accept the point and move on with your contribution.

Hon. Wakhungu: Hon. Temporary Deputy Speaker, I cannot take a misleading point. You need to listen to me. This British Army has been training here in Kenya. How many years has it been training? If there was no agreement before, they would not have been training here. The Chair is misleading. We are to ratify the agreement. Ratification has not yet been done. The challenge comes in the Treaty Making Ratification Act. All the agreements or treaties that Kenya is signatory to and have been ratified by Parliament become part and parcel of our laws. That is agreeable. We know that. I have proposed an amendment to the Treaty Making and Ratification Act. The provision given in the Act is to either ratify or pass it with reservations. The issue of reservations works against our wish. That is why we are saying that we will bring an amendment to the Treaty Making and Ratification Act. We are here to ratify.

Hon. Temporary Deputy Speaker, the challenge we have is that much as we have cooperation with UK, we have merits and demerits. There are issues that are of concern to us. An example is the UK paying the Government of Kenya Kshs19 million a year. It is like Kshs1.2 million a month. This is negligible and totally insignificant. We had an opinion that we are being underpaid after looking at other jurisdictions. Djibouti is paid around Kshs6 billion. We should increase this amount. Instead of the mere Kshs19 million, we should look at the benefits that cannot be found anywhere. Look at the issues in Nanyuki where they have been impregnating ladies, there are their children there yet they go away without parenting.

Secondly, our *miraa* has been banned from being taken to the UK. *Miraa* is part and parcel of the welfare of the people of Kenya particularly the people of Meru. They brought a petition to us, we looked at it and they were saying that it must be give and take. As we ratify this agreement for their troops to continue training in Kenya, can they lift the ban on our *miraa* for the benefit of the people of Meru?

(Applause)

As a result of their training exercises, we have accidents, rape cases and the perpetrators are not tried by our laws. They want to use their UK law. In Kenya, the Constitution of Kenya takes precedence. The sovereign power belongs to the people of Kenya. It does not matter where one comes from. These are our concerns. That is why we need to amend the Treaty Making and Ratification Act, so that we do not just pass laws with reservations. Once that is done, the law can be implemented. This was also alluded to by the Committee on Regional Integration which is chaired by Hon. (Ms.) Kajuju. Many things are being passed here, but Parliament is being used as a rubberstamp. Article 1 of the Constitution talks about the sovereign power of this nation as belonging to the citizens. It can be exercised by the citizens directly or indirectly through the democratically elected representatives who are in this House.

Article 95 of the Constitution clearly stipulates that Parliament should discuss and resolve issues that affect this country.

(Hon. Gethenji gestured at Hon. Wakhungu)

The Chairman of the Departmental Committee on Defence and Foreign Relations agrees with me and that why he is smiling. We discussed that issue when we met in Nanyuki. We asked ourselves how we will rectify this in future. We are not here to please Britain at a time when there is Brexit from the European Union (EU). We currently have the United Nations Conference on Trade and Development (UNCTAD) in this country where they are discussing issues of trade. However, these powerful countries and multinationals come here because of their selfish interests. It is not good for us to blindly rubberstamp something just because it is coming from Europe without taking into consideration the interests of the *mwananchi*.

At the EU, all our exports are going to attract 5 to 22 per cent tax which means they are going to be more expensive when they reach there. They cannot compete with their goods. That is why Tanzania, in its own wisdom, refused to sign this European Partnership Agreement. We cannot take our goods there yet they are going to attract 5 to 22 per cent. The Government must take care of the interests of the people. We should not act to please multinationals or the international community while our people are suffering. That is why I stand here strongly, as I look in the eye of my Chairman, to oppose, oppose and oppose.

I oppose.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Okay. I now give the Floor to the Member for Igembe Central, Hon. Iringo.

Hon. Kubai Iringo: Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity to contribute to this Motion.

From the outset, I oppose it. It appears somebody somewhere is trying to act to please somebody without looking at the interest of the people who have already claimed that they suffer and have suffered in the hands of the people we are trying to make agreements with.

In moving the Motion, the Chairman said that the UK is happy to come and have their exercises and activities with us. That is because in Laikipia and around Nanyuki where they stay, there are five geographical zones clustered together within a radius of less than 50 kilometres. Therefore, it is a great advantage to them because that is where they experience the desert, forests, rivers, and any other kind of climate and achieve what they want at the same time. At the end of the day, what we earn as Kenyans is a mere Kshs19 million. When they go to other countries, they take aeroplanes to transport their members to other camps to experience different climatic conditions. They pitch camps there and pay billions. Why the hurry? Why can we not negotiate with these people for a better figure?

I come from Meru and most of the time these people are on the roads especially in Nanyuki Town where young soldiers run havoc in bars and nightclubs. If they commit murder or harm anybody, they are flown back home and they say they are going to try them there. They leave people suffering and traumatised in Kenya as if we do not have courts of law. In areas like Buuri, Laikipia and Timau, we have many children who are born of the soldiers.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Member, can we give a chance to the Chairman on a point of order? What is out of order from what the speaker is saying?

Hon. Gethenji: Hon. Temporary Deputy Speaker, I am aware of his sentiments. I understand where he is coming from. Unfortunately, he is misleading the House that what will happen post this the Defence Cooperation Agreement is what has been happening in the past. What is important for all Members of this National Assembly and the public to understand is that this Defence Cooperation Agreement is now curing all the challenges and the areas of weakness that we suffered under the MOU.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Chairman, allow the Members to give their views. Those are just his views.

Hon. Gethenji: I just want him to understand that this will be cured by the Defence Cooperation Agreement.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): You will say those things in your closing remarks.

Hon. Kubai Iringo: Thank you, Hon. Temporary Deputy Speaker.

The Chairman is trying to eat into my minutes. I know he put it there and I heard him saying it, but we have half cast boys who are 20 to 30 years. Has he factored them in his Report? How will he address their plight? Will their fathers come for them? That is the question we are asking. We are not talking of the future. Can we go back to the past in terms of what had happened before? Some women have been raped by these soldiers. Have we factored their plight in the Report? Have we factored how they are going to be compensated?

The banning of *miraa* is the bone of contention. I was in the team that went to London. When we went there, we found that the banning of *miraa* was more political than there was any legal basis of them saying that they do not want *miraa* there. It is not because it was a drug or anything. It was just political. It is very unfortunate that the person who was at the helm of banning *miraa* when she was the Home Secretary is May Theresa. The same Theresa is now the boss in the UK. Things are worse.

If they want to trade with us and have a balance of trade, why did they close the *miraa* market there? What harm had it done to them? Furthermore, they do not chew *miraa*, but it is the Somalis there who chew *miraa*. The UK Government went on and banned *miraa*. Today, we have destitute families in Meru. In Igembe Central Constituency, we are giving handouts to people who used to drive cars and who own stone houses.

We are giving relief food to people who had big *miraa* farms because the *miraa* is drying due to lack of market for it. We pleaded with them to give us a grace period of five or 10 years so that we could see how our people could readjust, but this did not happen. They did it overnight after we left UK. Why are we rushing to ratify this agreement for them to get their army trained here, safeguard their interests and get employment for their youths when our farmers are suffering and cannot take their children to school? They have no means of income. These people go to their Member of Parliament, like me, to give them money to pay school fees. If we were selling *miraa*, this problem could have been solved.

The law on balance of payment is very clear. Every country will struggle to see that what we export equals to what we import, so that we can be at par. If they bring in things politically, why can we not also go the political way? We can open up our *miraa* business, compensate us for all the damages they have done and sit down and do a treaty which will be properly tailored, so that it can be acceptable especially to the *miraa* growing communities. We should be looking at what we get from these people, but not what they are getting. Colonialism is gone and let it be known that we are a sovereign State. Therefore, we should negotiate this one to fit our interests also.

I oppose.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): I now give the Floor to Hon. Jakoyo Midiwo.

Hon. Midiwo: Thank you, Hon. Temporary Deputy Speaker. I rise to oppose this Report. Whether it is renewal or a new agreement, I think this country deserves respect from our former colonial masters. The historical injustices in Laikipia must not go without noting by this Parliament. We can never be a rubberstamp. Those of us who sit in the Committee questioned this agreement. We went to Laikipia and listened to people and Members of Parliament. You have heard the Member from Meru talking. We are not telling the UK Army to go away. We are telling them to negotiate. If we do not have issues with the British Government, then we need not have issues with any other government.

On the issue of land, we were told by the CS, Defence, that the charges being imposed here are because of the value of land. The land in Laikipia that gave them opportunity to raid is so cheap as to be only Kshs7 million. The land in Laikipia that gave the world opportunity to stage the Gulf War is so cheap to be only Kshs7 million a year. I think it is absurd for our military to do what they are doing to us. They use Kahawa Garrison as storage at Kshs19 million. That cannot be accepted. That cannot have my vote. We are willing to engage the British. We are the Departmental Committee on Defence and Foreign Relations, but we have a duty to the woman who was raped and to the people whose limbs have been blown off by Improvised Explosive Devices (IEDs) in that area.

If this House cannot help reparate the people of Laikipia, who will? All we are saying is that they should sit with us and engage us. We are now awake and not as stupid as we used to be. I plead with my Committee Chair, the conflict of land, particularly in the Rift Valley, is not something this country can wish away. In Laikipia, there are British citizens who have lived there for a long time. They have 50,000 acres of land and one lion and we are calling them conservationists. We will never again do that through this House of Parliament. The issue of land is why Kenyans are so hostile to each other. You cannot move people *en masse* to another region of the country and let them keep having perpetual wars and friction over issues of land. Here is an opportunity. The reason why we reduced land tenure from 999 years to 99 years in the Constitution was to get some of this land back and resettle our people who were moved from the Nyeri area. You cannot have somebody keep one lion and be so happy to call them conservationist. As a country, where is the moral authority of the Government? We want to live with the British.

Now they are talking about Brexit because they are feeling smothered by foreigners. That is why they want to restrict how foreigners go into their country. If we are not feeling that the land of our people in Laikipia is being occupied by foreigners illegally, but politicians are stamping authority, we are not good enough to be the leaders of this country.

I oppose and this thing must not pass this House. I say this to Members, particularly those from the Jubilee Coalition, because dissensions are largely coming from those in CORD. Members from the Jubilee Coalition fear authority, which is a very good thing, but reason with authority.

Hon. A.B. Duale: On a point of order, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Leader of the Majority Party, what is your point of order?

Hon. A.B. Duale: Hon. Temporary Deputy Speaker, yes, we fear authority. Imagine who is talking. If *Baba* comes through that door, Hon. Jakoyo will collapse.

(Laughter)

He will stop speaking. So, it is better to know that all of us respect the leadership we have. I have been in that party with Hon. Jakoyo. When *Baba* coughs, some of us kneel down.

(Laughter)

I want him to oppose the Report. Yes, we respect and fear authority, but this is one man who is elected because of fear. He literally kneels down for *Baba*. I used to kneel down for *Baba* sometimes back. So, all of us fear authority.

Hon. Midiwo: That is with a light touch. I understand what my colleague, Hon. Duale, is saying. All I am telling them is to engage their authority. Fear is a very bad thing. Members of the Committee, particularly those from the Central Region whose people have suffered for decades and decades, fear to discuss. Why was there the *Mau Mau* Rebellion? There was the *Mau Mau* Rebellion because our people were being moved from their ancestral land unlawfully. You even have a Committee Chair who is from that area and whose people are also affected. He fears authority.

Hon. Temporary Deputy Speaker, let me tell you that we fear *Baba*, but we reason with him. On this particular issue, *Baba* even called me because the British called him. I told him: “*Baba*, you love Kenyans. You are the only non-tribal politician I know in Kenya. Let me deal with this issue.” *Baba* backed off. I told him: “*Baba*, do not talk about this. The people of Laikipia are your people. Please, let me get back the land for the suffering people of Laikipia. Let me give the Maasai, Kikuyu and Samburu their land. They do not have limbs and their women have been raped by the British soldiers.” So, we fear *Baba*. By the way, people who have knelt down to *Baba* include the current President and his deputy.

They fear *Baba*. Even now he scares them to death. *Baba* is a great man. He sent me to defend the rights of these people. Article 6(4) of this proposed agreement allows that, if these people shoot anybody in Nanyuki Town, rape a woman or do anything adverse and unlawful in our country, the only thing we can do is to have them tried on our land by the British. The law of this land is supreme.

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

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Gethenji, what is out of order?

Hon. Gethenji: On a point of order, Hon. Temporary Deputy Speaker. Hon. Midiwo is raising very emotive and correct issues. He is, however, misleading the House that the only thing we can do is have them tried by the British on our land. He should read the Report which states that the visiting forces are subject to the jurisdiction of the Kenyan laws and the Constitution. We even have an inter-governmental liaison committee which is an appeal body that deals with any dispute that is not agreed on by the two sides. This body will adjudicate and determine where the jurisdiction would be for the particular offence. It is not correct for Hon. Jakoyo, a senior leader of his standing, to mislead the House and the nation. Let us be honest.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Jakoyo, I hope you have heard the clarification from the Chairman.

Hon. Midiwo: I have heard him mislead the House. The same Article he is referring to talks about diplomats and foreign affairs mandarins dealing with rape and land cases. That one

can handpick civil servants to sit without a framework to deal with the wrong things done to our people. Hon. Chairman, I would like to address you for a minute, you are a Chairman of Nyeri Town---

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Midiwo, please, address him through the Speaker. You know the rules.

Hon. Midiwo: Hon. Temporary Deputy Speaker, this is the Member for Tetu which is the heart where *Mau Mau* was bred. What were these people fighting over? This is the opportunity to sit them down even if we do not get it now. He is the Chairman of the Departmental Committee on Defence and Foreign Relations and there is a President from your area. He should think about what happened to his people. What happened to us in 2007 was because of the pressure raised by lack of land and resources taken away from our people. How can a House of Parliament ratify this? Kikuyus, Samburus and Merus are Kenyans.

Hon. Temporary Deputy Speaker, I was commenting on a minority report, which I read and being a leader on this side, I indulge you to give me only five minutes.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): I will just give you one minute to wrap up.

Hon. Midiwo: We have been asking the British to give us remains of our hero, Dedan Kimathi. They recently admitted that they killed him. We are only asking for his bones. We have been asking for compensation of our *Mau Mau* veterans. Why is this so difficult?

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

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Chairman, let him just finish. Hon. Jakoyo, you have 30 seconds to conclude.

Hon. Midiwo: We are playing politics with the British. You are playing your politics badly. You are selling the rights of your people.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Your time is up. I now give the Floor to Hon. (Ms.) Paulata Korere.

Hon. (Ms.) Korere: Thank you, Hon. Temporary Deputy Speaker. From the outset, I want to oppose this Report. I listened to the Chairman of the Departmental Committee on Defence and Foreign Relations making his contribution and it is sad that after 50 years of Independence, some Kenyan citizens are not independent from their colonial masters. I speak from experience because I have been affected by activities of the British Army. For the last 40 years, the British Army has been exercising in one of our group ranches in Mukogodo. It is true they raped so many women and in my location, I have an administrator who was born out of such.

They leave unexploded ordinances in the field which have killed our children, animals and maimed so many people. The list is long. In 2003, through a Non-Governmental Organisation (NGO) I was working with, we managed to take the British Army to a British court and we were awarded compensation for some of their atrocities. However, this compensation was not fully honoured by the British Government. After we took them to court, they withdrew from Mukogodo and moved to the farms of the British who still own huge chunks of land in Laikipia.

It is ridiculous and shameful to mention that the British Army only pays Kshs19 million to train in Kenya while I know for a fact that they pay some of those private ranches hundreds of millions because they are owned by Britons. That is a great shame.

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

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Gethenji, what is your point of order?

Hon. Gethenji: Hon. Temporary Deputy Speaker, while it is true that under the past MOU there were arrangements with the British Government and private ranchers, this is not the case under this Defence Cooperation Agreement. It is important that Members read the Report to understand what is contained therein because the arrangements that were there between private ranchers have been nullified. The only arrangements are with the Government of Kenya on their training grounds to share facilities and train together. That is the upshot of this agreement. It is not paying settler farmers money directly from the British Government.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): I hope you have heard from the Chairman. Proceed.

Hon. (Ms.) Korere: Hon. Temporary Deputy Speaker, we should bring these issues to light. We trust the Chairman of the Committee because being a Kenyan, we expect him to shield us from the atrocities of these white men. Those private ranches are owned by the British who are Kenyan citizens and they are only taking their colonisation a step ahead. If they have millions to pay private ranchers, why do they then not pay group ranches that they have trained on, in the last 40 years without paying? Training by the British troops in our lands especially in Samburu and Laikipia is one of the historical injustices that need to be addressed. Today, we have women who are outcasts in their communities because they are involuntary half casts as a result of their mothers being raped by the British Army men. These are the habits these people are introducing to our land. Before I came to this Parliament, I must confess I was in a very silent village of Doldol, which is in a very reserved community. I used to read about gayism and homosexuality. I thought this was a fallacy.

Hon. Temporary Deputy Speaker, some of these things are real. They have been introduced by the British to our own sons. We are afraid. I am very scared when I speak about this because homosexuality is very rampant in Laikipia. We are even worried that they could be funding some people to run for elective positions with the proceeds from homosexuality. If we finally get them on the Floor of the House, we can be influenced to pass laws like the ones they have in the western countries.

(Laughter)

I urge the Chairman of this Committee to go back to the agreement and see how the Government of Kenya is benefitting.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Onyancha, what is your point of order? Hon. Korere, hold on.

Hon. Omagwa: Hon. Temporary Deputy Speaker, the Member contributing has suggested that the British are supporting people to run for elective office from Laikipia. Can she substantiate?

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): What exactly do you want her to substantiate? Hon. Onyancha, please be clear. What do you want her to substantiate? Give him the microphone.

Hon. Omagwa: Hon. Temporary Deputy Speaker, the Member has said that there are people planning to use proceeds of homosexuality to support people to run for public office from Laikipia. Can she substantiate this? Is it true?

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Yes, Hon. Paulata.

Hon. (Ms.) Korere: Hon. Temporary Deputy Speaker, I do not know why my friend is jittery and yet he does not come from Laikipia. I said there is a possibility to use the proceeds of homosexuality to support people to run for public office.

As I wind up, I am looking at what is in the agreement for me, the people of Laikipia and the people of Kenya. The Government of Kenya is not desperate for Kshs 19 million in a year from the British Government. That is not the case. If we have to support this Motion, the Committee must go back to the assignment and make the British soldiers and their Government respect the people of Kenya and the people of Laikipia. The Committee must make sure that whatever we get from the British Government benefits the locals. Compensation should be made to historical injustices meted out to the people of Laikipia ranging from rape, use of our land, our cattle being killed by bombs and women and children being maimed by the bombs before we enter into any agreement with the British Government.

In all possible terms, I oppose the Report.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): I give the Floor to Hon. Kang'ata.

Hon. Kang'ata: Thank you, Hon. Temporary Deputy Speaker. Allow me to support this Report. This is a very important document. I draw your attention to Article 2(6) of the Constitution which provides that any treaty that is ratified by Kenya will be part of Kenyan Law. The effect of that is once we ratify this agreement it will become part of our Kenyan law. Therefore, if you were to look at Article 2(6) of the Constitution, what we are discussing here is like an enactment of a new law.

I support this Report for several reasons. Winston Churchill said if you are not a rebel at the age of 25, you have no heart, and if you are not a conservative at the age of 35, you have no brain. I say so because the advantages that Kenya will derive by our association with the British supersedes the very many disadvantages which Members have drawn attention to.

One issue which has been raised concerns the amount of money which Kenya will be given by the British Army once we ratify this agreement. The Kshs19 million is very little money. I agree with that but Kshs19 million is not the only benefit that Kenya will derive from this agreement. We must look at the skills which we will obtain from the British like the military skills and the intelligence that we will share with the British Army. These cannot be quantified in terms of Kshs19 million. They are more expensive and important to our Kenyan State.

Most importantly, there will be money that will be channelled to that camp by the British Government to support their personnel. Even if that money is not coming directly to us, it will strengthen our economy. Therefore, we export very little, and we struggle to obtain money to support our importing and exporting trade. Our balance of payment is very negative. Therefore, it makes sense for us to do anything to get any dollar which is coming to this country. If you were to diversify our society, and have a very strong export economy, I agree we may have some leeway for us to counter these people.

I know of Osaka in Japan where they have raised issues concerning the American bases there. However, our country is not Japan. We must be rational.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Kang'ata. Give me a minute. Who is that shouting? Is it the Member for Matungulu? What is your point of order?

Hon. Mule: Hon. Temporary Deputy Speaker, you did not hear my voice. I did not shout. I apologise for the Member who has shouted in this House. I rise under Standing Order No.95 to call for closure of this debate. The mood of the House is clear. We cannot legalise rape in this House.

Hon. Members: No!

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Member, obviously, you have not read the mood well. Hon. Kang'ata, please complete your contribution.

Hon. Kang'ata: Hon. Temporary Deputy Speaker, a lot of money will be channelled into this country because of our association with the Britons. In any event, we must always take into account that the British can go to Tanzania and Uganda. I am not certain as to whether Kenya has a strategic reason for this base to be established in Nanyuki. I have heard the oppression that has been done by the British people in Nanyuki. I agree we need to counter that. That has been addressed in the agreement. For the first time in the history of this country, we have provided a clause which says these people will be subject to the laws of this country like the Constitution, the criminal law and other regulations of this country. It is the first time we are experiencing such kind of operation. For a very long time, most foreigners operating in this country, particularly those operating at the best of a state have been shielded against criminal prosecution. Therefore, I support the Motion to the extent that the Ministry of Foreign Affairs and International Trade has negotiated an agreement which makes the British people become subject to the Kenyan law. The agreement which allows the British people to become subject to our laws is a progress which we must thank the people who negotiated the agreement.

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

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Let the Member complete what he is saying. I will take your point of order after he has completed.

Hon. Kang'ata: Hon. Temporary Deputy Speaker, I have been made aware that, indeed, mechanisms exist for redress for the problems that have occurred in Laikipia. If, for instance, you have a child whose parentage can be traced to the British Army, there is no law barring you as a mother to vindicate your claim before the Chief Magistrate Court in Laikipia or even in Nyandarua.

On the issue regarding land, I have heard a leader from the Minority Party argue that it is time we started reclaiming land from foreigners. That is not good talk. We have seen countries like Zimbabwe go to the dogs because of an attempt to do land redistribution which is a noble goal but failing to take into account productivity. When the new owner gets that land, will he be able to put it to better and more productive state? I agree the whipping of emotions where we tell our people that it is time we started sub-dividing land or kicked out foreigners makes a lot of sense. It is a very popular notion. Surely, do you want to take our country the Zimbabwe way where you give people land and yet they cannot put it to productive use?

In my assessment, it makes sense when you look at a country like the UK where land is owned by about 10 to 15 per cent of the population. Land in that region is under large-scale farming. Our fixation with land, in my assessment, does not make sense. In the new world where we live, we now have better and more objective forms of wealth on and above land. You can own land, intellectual property which is registrable or you can have a share. We need to start looking away from that. As long as a person has land and he is putting it to productive use, we need to celebrate that person as opposed to the notion of coming up with ideas which will take us back to regimes which collapsed. We must agree that under the new world private property must be respected.

In my assessment, if you look at the benefits Kenya is going to derive in terms of skills transfer, rent and provision of jobs, I can tell you that the Members saying here that the British are making our people in Laikipia suffer--- The moment that base is closed, Laikipia will become a ghost town. I can bet that with my life. The day the British vacate Laikipia, there will be mass

unemployment in Nanyuki Town and the value of land will decrease. That is the day we shall start thinking about where we will get an investor. We must look at the British from that point of view of being investors. In fact, we know of instances---

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Member, your time is up.

Hon. Members following the ruling of the Speaker earlier today, we are now going into the Motion for Adjournment. The Motion is being moved by Hon. Chris Wamalwa. Hon. Wamalwa, you have 10 minutes and subsequently, Members will have five minutes to contribute.

Hon. Wamalwa, you have the Floor.

MOTION FOR ADJOURNMENT UNDER STANDING ORDER NO.33

BURNING OF SCHOOLS IN THE COUNTRY

Hon. Wakhungu: Hon. Temporary Deputy Speaker, I beg to move the Motion for Adjournment pertaining discussion of a definite matter of national importance on increased cases of schools being burnt in the country.

While the education system is meant to create national development and advancement, cases of torching of schools in the country have been counteractive towards this goal. Within the last six months, we have seen numerous schools being burnt. To be precise, in today's news, more than 100 schools have been burnt in less than six months. These cases have caused great losses to these schools in terms of property worth millions that has been destroyed. Further, we note that parents and the Government have incurred extra expenses in the restoration of these institutions.

The Ministry of Education seems unable to deal with this matter. It is high time this matter was declared a national disaster.

In my county of Trans Nzoia, and in particular, Kiminini Constituency, a girls' school, which is sponsored by the Catholic Church was burnt about two days ago. I know the students in that school have been disciplined and the head teacher has been on top of things. I do not understand what is happening. Rarely does a day pass without a school going up in flames. What is happening? This cuts across the country. It happened in Kisii, Machakos and Meru but not in North Eastern. Maybe there is a reason why it has not reached North Eastern. Hon. Duale, do not be sure. Tomorrow it might appear there and as we speak they are listening. So, watch out. Do not say that. It might be on fire anytime.

This is a serious matter that this country must look into. If you look at the Constitution, you will find that it clearly stipulates that Parliament must debate and resolve issues that affect Kenyans. We note with concern that we are almost going to third term. This is the term we expect examinations to be done. This is the time our students and pupils should be preparing for the Kenya Certificate of Secondary Examination (KCSE) and the Kenya Certificate of Primary Examination (KCPE) respectively. Right now, some schools in my constituency do not have money for emergency to cater for Form Four students because dormitories, books and beds have been burnt. Where do we stand? This is something we must resolve and people should know what to do.

The Cabinet Secretary, Dr. Mating'i is sleeping on the job. He should have come and held a crisis meeting, at least, to put strategies in place to mitigate against this. He is the policy

maker and he is the one driving the Ministry. We have only known him on the roadside pronouncements he has been making pertaining to the running of schools. We have heard the banning of prayers for examinations and yet we know prayers have done miracles.

In this country we know the International Criminal Court (ICC) cases and Hon. Duale will agree with me that he has been going all over to pray for the ICC cases to be terminated. Prayers should be allowed because we need spiritual intervention. Why the Cabinet Secretary (CS) has banned prayers---

Hon. A.B. Duale: On a point of order, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hold on for a point of order.

Hon. A.B. Duale: Hon. Temporary Deputy Speaker, I have a lot of respect for Hon. Wamalwa. Is he in order to interfere with the way I communicate with the Almighty God? His leadership and him do not pray; they do not know how a church or a mosque looks like. He should just approach me with some courtesy and tell me because I am a man of prayer. I pray for the nation and I will continue doing that.

Hon. Wakhungu: Thank you, Hon. Temporary Deputy Speaker. I am happy the Leader of the Majority Party has acknowledged that prayers are important and, indeed, we should allow prayers to continue in schools. Some are mission schools that are sponsored by churches and other religious organisations. We believe in prayer.

Mathew Chapter Seven in the Bible says that if you seek, you will get. I am a prayerful person. I do not see why the CS should wake up and say that we should not allow prayers to continue because they lead to cheating. We want him to table any empirical study which shows that there is a positive correlation between prayers and cheating as far as examinations are concerned. We know the responsibility for examinations lies with the Kenya National Examinations Council. It is responsible for the setting of examinations, marking and safe custody of those examinations. I am happy with the measures that have been put in place. The secretariat that was there before has gone. Prof. Magoha is now the Chairman of the Kenya National Examinations Council (KNEC). I trust that with Prof. Magoha leading that institution, the issue of cheating in exams will be something of the past.

In terms of regulations or policy-making, the key stakeholders must be involved. We have seen the Kenya Union of Post-Primary Education Teachers (KUPPET), the Kenya National Union of Teachers (KNUT) and the Parent-Teacher Association (PTA) complaining. We want to ask the Cabinet Secretary, Dr. Matiang'i, whether he consulted the stakeholders on the pronouncements he has been making or these are just sideshows.

Article 118 of the Constitution is very clear in terms of participatory and involvement of stakeholders as far as making of laws is concerned. This is worrying. That is why we are asking questions. Does the burning of schools have anything to do with the pronouncements of the CS? We want an answer to that question.

Secondly, is there an issue with the management of these schools? Where are the principals? It has always been desired that principals must stay within the school compound to provide leadership. When students have grievances, are they given room to air them? These are the questions we are asking. It is high time respective principals tell us what is going on.

In terms of security in schools, we call upon the CS for Interior and Co-ordination of National Government and the police, who enforce security to tell us who are responsible when it comes to burning of schools. Are they the students or outsiders? If they are outsiders, how do they get entry into these schools? These schools have watchmen. We are asking difficult questions that need answers.

The only gift you can give your children is education. We are where we are today because of education. Education makes us equal and has no equal. As you sit for your exams, the status of your father or mother does not matter. We are all equal. With success through education, the sky is the limit.

There are poor children who come from families which cannot afford school fees. At a time like this, poor schools have issues. Is the national Government or the county government coming in, in case of emergency to help build these schools? These schools have been built using National Government Constituencies Development Fund (NGCDF). We do not have money to construct these schools again. What will we do? We are, therefore, asking those critical questions. By now, the CS should have a task force in place to look into this issue and provide lasting solutions. I do not know where the Chair of the Departmental Committee on Education, Research and Technology is. This is something which is very critical and the Committee should summon the CS and the head teachers of those schools that have burnt down. If possible, they should even summon those students since there may be cases of indiscipline.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Wamalwa, the Vice-Chair of the Departmental Committee on Education, Research and Technology is present. Are you there, Hon. Melly? You will be able to comment.

Hon. Wakhungu: I am happy Hon. Melly is always there. He should be promoted to be the Chairman of the Committee. I am happy about it because he has been on top of things and I congratulate him. When such an important Motion is being debated, we expect the Committee to be well-represented. I salute you Hon. Melly for your good work. We need answers. Once there are students who have discipline cases in one way or another, the law must take its course.

The Leader of the Majority Party wants to say something.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Members, as I said, everyone should take five minutes each so that many Hon. Members who are affected can speak.

Let us have the Leader of the Majority Party.

Hon. A. B. Duale: Hon. Temporary Deputy Speaker, you will excuse me from the five-minute rule because of the position I hold in this House and as per the Standing Orders.

First, I want to thank Hon. Chris Wamalwa. He has brought many issues but on this one, I agree with him. It is a serious matter and I want to thank him because we must deal with it.

Secondly, this House should not be a House of lamentation. This House is under obligation to set up a Select Committee, if it feels the Departmental Committee on Education, Research and Technology did not take this matter seriously.

We did it in the 10th Parliament. In the 10th Parliament, we had a Select Committee that conducted investigation into the burning of schools. In my opinion, the Committee of this House must move speedily, visit all the counties and give a report and recommendations to this House. In the last nine years, there were 350 reported cases of school burning.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Melly, do you have a point of order? Is there something the Leader of the Majority has said?

Hon. Melly: Thank you, Hon. Temporary Deputy Speaker. I want to state categorically that the Departmental Committee on Education, Research and Technology has taken this matter seriously. We have summoned the CS twice.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Melly, you will contribute when I give you an opportunity to do so.

Let the Leader of the Majority Party continue.

Hon. A.B. Duale: Hon. Temporary Deputy Speaker, that matter should have had a timeline. The Committee should report within three weeks.

In the last nine years, 350 cases were reported of students burning schools. There was even loss of lives. The year 2015 had the highest number of such cases in Kilifi and Machakos. There is nothing unique about Kisii. The media is raving about Kisii. The 350 cases occurred across the country. Ninety nine per cent of the schools affected are county or sub-county public schools. The Teachers Service Commission (TSC) is a stakeholder in this matter. The teachers who are in these schools must be interdicted. So far, they have only interdicted eight teachers in the last three or four years and yet 98 schools were affected this year.

There are many moral questions that this country must ask itself. This has something to do with cheating in examinations. We must call a spade a spade. Education, from primary to secondary to the university is for sale in our country. The highest bidder obtains a degree anywhere. You have seen people going to university, they do not go to class but on graduation day, you find them in large numbers. There are students who score an “A” of 84 points but when they are admitted to the School of Medicine or Engineering they drop out in the first year. This has never happened in Kenya before.

The mushrooming of private universities must be looked into. We have formed a culture of cheating. Corruption is not just about stealing money. It also involves stealing examinations. Stealing a spouse is also corruption. Stealing a husband or wife just because you have a few coins in your pocket is cheating. The happenings in our schools mirror the situation of the social fabric of the Kenyan society.

In 2013, barely two months after this House was sworn in, somebody brought pigs here with Duale’s name and castigated the entire leadership of the House. I said it here and I still stand by what I said. How do you elect a pig and after two weeks you are blaming him? This is a Kenyan societal problem.

These children come from our homes. We are their parents. The blame should go to the parents and the teachers we entrust these children with. The blame should also go to the Board of Management (BOG), the local community and the security agents in those schools. It is not an easy matter when schools are torched every night.

By last weekend, over 15 schools were burnt. That should be an issue of national security. I am happy the Cabinet Secretary for Interior and Coordination of National Government has come in and formed a committee to investigate this matter.

The Departmental Committee on Education, Research and Technology does not have the luxury – if its Members are, they should listen to us - to wait for that. I am the Chairman of the Committee on Selection and the Leader of the Majority Party. We can de-whip them if they fail to live to the expectations. The Committee of this House should not turn itself into disrepute. Why do you have to wait for Hon. Wamalwa to bring a Motion for Adjournment? Today, we should have had a report with serious recommendations.

I saw Cabinet Secretary, Dr. Matiang’i in the Senate and I asked him what he was doing there. This is because there is no burning of Early Childhood Development Education (ECDE) schools. The Senate looks after the counties which deal with ECDE. I have just come from my constituency. The nursery schools are doing very well. It is this House that must deal with the strikes. The relevant Committee must go to Trans Nzoia, Kisii and Garissa, sit with the parents and get intelligence reports from our National Intelligence Service (NIS). There is a problem and we must know it today.

The problem with some leaders in this country is that they take their children to good private schools where there are no strikes. It is because the owners of those schools protect them. Ask yourself why private schools are not being burnt. It is because somebody is protecting his investment. We are under obligation to protect the infrastructure and investment in public schools. It is this House that appropriates money. We build those schools with the National Government Constituencies Development Fund (NGCDF) and the grants we get from the national Government. Therefore, it is our obligation to protect those schools from arsonists.

At the end of this Motion, the Departmental Committee on Education, Research and Technology should be given a timeline to come and explain to this House. We will ask the Speaker. You do not call the CS and have a cup of tea with them.

I am the Leader of the Majority Party but let me confess. Some of the Chairpersons of Committees are treating the CSs very nicely. Please, let us represent the people. Let the TSC, the CS and even the OCPD come here. There might be a different angle to this issue. Maybe there is a group of arsonists who are burning these schools. It might not even be the students. We need to find out whether it is the students or arsonists. This is because there was allegation in one of the schools in western Kenya that an intruder came to the school to light a dormitory. We want to know whether by blaming the children we are blaming the wrong people.

The Kenyan leadership must reassess itself. If we breed violence, our children will breed and commit violence. If we preach peace, our children will preach peace. As leaders, we are not very good role models to our children over the weekends.

I am sure that among the many CSs I have seen, Dr. Matiang'i is to a certain extent one of the hard working Cabinet Secretaries for Education. I have lived here for long. I have met the late Hon. (Prof.) Saitoti, Hon. (Prof.) Ongeru and the late Mutula Kilonzo who were Ministers for Education.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Duale, your time is up. Other Members really want to contribute on this issue. Please, conclude.

Hon. A.B. Duale: Thank you, Hon. Temporary Deputy Speaker. Let me conclude on the HANSARD. Dr. Matiang'i has exceptionally performed well. He needs our support and we need to critique him. As a Parliament and as a Committee, we need to give him guidance and support.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Okay. I now give the Floor to the Member for Awendo Constituency, Hon. Jared Opiyo.

Hon. Opiyo: Thank you very much, Hon. Temporary Deputy Speaker for giving me this opportunity to contribute to this matter.

This is a very grave matter. In the last one month, I have had nightmare in my constituency. Two of my very senior schools were affected. A dormitory was completely brought down at Kokoro Boys High School. The other one is at Awendo School of Excellence. This is where we spent money for Economic Stimulus Programme (ESP) recently. The NGCDF has also spent a substantial amount of money to bring other infrastructure in the same school. A dormitory was brought down and in less than one week, another dormitory was brought down in the same school. We are staring at a calamitous situation in the education sector and something needs to be done.

We had a meeting in our Departmental Committee on Education, Research and Technology and many issues were raised. We were supposed to have a meeting with the CS so that he can explain to the Committee what is happening. We can brainstorm as stakeholders in the sector to see how best we can curb this problem. We were told that the CS sent a note this

morning that he was meeting the Senate Committee on Education. I am on record asking what he was doing in the Senate, while what is being burnt is not a nursery school but our high schools.

The Office of the Speaker must really pronounce itself as to the various mandates of the various Committees and whether our colleagues in the Senate are creating committees outside their mandate, thereby disorganising our operations as committees.

Hon. Temporary Deputy Speaker, I agree with other speakers who have spoken that what we have is a question of security and the culture we are bringing up as a nation. We must rethink what we want our children to be like.

As the National Assembly, we must decide what we want to do with our schools. We cannot tie the hands of our administrators. There is absolutely no form of punishment in high schools today. You cannot pinch or give a place to dig because that will be abuse. There is nothing you are supposed to do as an administrator of a school. You are then told to take charge or take care. What are these people supposed to do? We must start engaging our security forces, including the police to take care of our institutions.

In the case of Awendo School of Excellence, there were students who were suspected to have burnt their dormitory. They were roaming in the village and they were not within the school compound. What is the principal supposed to do? If something of this nature happens in a sub-county or county and the OCPD or County Commander of Police is around and no adequate action is taken, it might not be right to only blame the head teacher. Security officers are going scot free and yet property belonging to the public is going up in flames.

As a nation, we must decide whether we want to have our cake and eat it. Therefore, we must give the teachers a mechanism of dealing with indiscipline rather than tying their hands and wanting them to take charge of those institutions.

Thank you very much, for allowing me to make my contribution.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Okay. I now give the Floor to the Member for Baringo County, Hon. Grace Kiptui.

Hon. (Ms.) Kiptui: Thank you, Hon. Temporary Deputy Speaker for the opportunity. I rise to contribute to this Motion by Hon. Chris Wamalwa. I thank him very much. As we stand here, more than 40 schools have been set ablaze. What is more worrying is that this is all over the country. The way it is done seems to be systematic. This is a grave situation simply because the people who are alleged to do these acts happen to be young and are the future for this nation.

In that respect, our Constitution enumerates several national values which if we all abide by, be it the young people or the old ones, we will live together in peace as a nation. However, peace is now threatened by these actions. A young person who is less than 20 years is driven into an act of destroying an entire building or several buildings that parents have worked hard to build through *Harambees* which we attend every weekend. The NGCDF has also been used there. This is the case and yet they know the value of education. They also know that they need facilities in schools but without remorse they bring them down in a few minutes.

I think the causes of these evil acts must be thoroughly investigated and the perpetrators punished. I appeal to our security forces, especially the National Intelligence Service (NIS) to come to the aid of the nation. They should investigate and tell us what they have found. The other time we said that we need NIS to help security forces in this country with intelligence because information is power. They need to share whatever they have found out. The Departmental Committee on Education, Research and Technology has the right to summon anybody including the Director to tell Members what they have found out in their investigations.

I agree with my colleague that by removing all forms of punishment in schools, we are giving a lot of leeway for wayward children to influence even the good ones. It is high time we looked back.

The other day I went to a secondary school and the children introduced themselves. The head girl introduced herself as the “governoress”. She also said that there is a governor and yet these are very big titles. I do not think these people have reached a level where they can command or rule the rest of the students. This is because they still need guidance. Very good schools are being destroyed, for example, the students of Kabarnet High School are now at home or if they went back, then that must have been yesterday. That is the only school in Baringo County that we can say is the best.

This is very sad and we need the Departmental Committee to take the lead. They need to summon the Cabinet Secretary and everybody else to tell us what is happening. As a word of advice, the Cabinet Secretary for Education needs to employ public relations with all the stakeholders in the Ministry. He may have good intentions but he is a lone ranger in the way he does his things. Everyday pronouncements without consultations will backfire.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): I now give the Floor to the Member for Mvita, Hon. Nassir.

Hon. Nassir: Asante sana, Mhe. Naibu Spika wa Muda. Hili ni jambo la kusikitisha. Tunaishi katika nchi ambayo kwa miaka tisa, shule 350 zimeteketezwa. Kama wenzetu walivyotangulia kusema, asilimia 99 ya shule hizi zote ni za umma. Iterio Boys High School ilichomwa kwa sababu vijana walikatazwa kuangalia mechi ya Euro 2016. Kukatazwa kwao kuangalia mechi hiyo ni dalili tosha kuwa walimu walikuwa wanawapatia ruhusa ya kujivinjari wakati ambao wanafunzi wanafaa kuwa shuleni.

Wataalamu katika sekta ya elimu wanasema kuwa baadhi ya shida tulizonazo ni wanafunzi wana hofu na taharuki kufanya mitihani. Pili, hatuna njia mwafaka ya kupeana nasaha kwa wanafunzi hawa kwa sababu walimu---

(Hon. Opiyo consulted loudly)

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Please, Hon. Jared, allow the Member for Mvita to make his contribution.

Hon. Nassir: Ninashukuru sana kwa sababu nilikuwa ninasikia *short wave* huko nyuma. Pili, wizara husika na Serikali hazijachukua njia mwafaka ya kuangalia shule hususan shule za mabweni. Hapajawekwa njia mwafaka ili walimu wapewe mafunzo ya kuzungumza na wale wanafunzi.

Ninataka nichukue mfano wangu mimi pamoja na wabunge 16 wa Seneti na Bunge la Kitaifa. Mhe. Anami alikuwa mwalimu wetu wa muziki. Leo hayuko hapa na sisi. Ninatamani, kupitia kwako Mhe. Naibu Spika wa Muda, sauti ifike kwa wakenya wengine. Tulipokuwa shuleni, wakati mmoja wafanyakazi waligoma. Wafanyakazi wote wa shule ya Lenana School ambayo ni ya kitaifa waliamua kugoma lakini kwa sababu ya ukakamavu na urafiki wa walimu, na kwamba walimu hawakuwa na ubinafsi hususan mwalimu mkuu, tulipanga kujipikia wenyewe. Chai ya asubuhi ilikuwa inapikwa na mwalimu mmoja au wawili lakini waliokuwa wanasimamia walikuwa ni wanafunzi wa kidato cha kwanza na cha pili. Chakula cha mchana kilikuwa kinapikwa na walimu ilhali cha jioni kilipikwa na watu waliojitolea. Tuliendelea bila shida yoyote kwa muda wa takriban wiki tatu. Hakuna chochote kilichomwa wala hakuna jambo lolote lililotokea. Hii Kenya ni moja. Ninawasihi kuwa lazima turejee katika enzi zile za karne za

zamani jinsi watu walivyokuwa wanafunzwa katika shule. Wabunge 16 wako hapa na sote tumetoka shule moja. Tuna nidhamu ya hali ya juu.

Asante sana.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): I now give the Floor to the Member for Njoro, Hon. Kiuna.

Hon. J.K. Ng'ang'a: Thank you, Hon. Temporary Deputy Speaker for giving me the opportunity to talk about this national crisis. I would like to thank my brother, Hon. Wamalwa for bringing this Motion. For the first time, I am agreeing with him because we are Members of the same Committee and I normally differ with him on so many issues.

I would like to support this important Motion that is long overdue. When we were on recess last week, I summoned all principals from my constituency, the District Education Officer (DEO) and the Deputy County Commissioners to address the issue of demonstration and arson in secondary schools. We realised that this was happening because parents had left the role of discipline to teachers and schools. Instead of making sure that they discipline their children and teach them to be law abiding citizens, these parents just dump them in various learning institutions, either day or boarding schools thus absconding their cardinal duty as parents.

We also realised that the teaching staff undermine each other and some teachers tend to incite students to demonstrate so that it is seen as if the principal is not doing a good job. We also realised that there is a cartel among the teaching staff which normally sneaks in some drugs and incites students to have a certain perception about the school. This has contributed to demonstrations and cases of arson.

There is also an issue of covering up or destroying evidence. There is one secondary school in my constituency which had a case of corruption, and since the ones involved wanted to cover the fraud, they sent an arsonist to burn the staffroom and the teachers' bookstore to destroy evidence.

As national leaders, we should look into the discussions, debates and demonstrations that we engage in. These children tend to emulate elected leaders and civil societies who are always demonstrating. Some of them even say that if their parents can be teargassed, why not them? They think that they can also try. We need to urgently look into that issue.

Thank you, Hon. Temporary Deputy Speaker. I support this Motion.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): I now give the Floor to Hon. Bishop Mutua.

Hon. (Bishop) R. Mutua: Thank you, Hon. Temporary Deputy Speaker for giving me an opportunity to contribute to this important Motion. I would like to thank Hon. Wamalwa for bringing it.

We cannot remove spiritual nourishment from schools and replace it with dry guidance and counselling that has no fear of God and expect good results. We went wrong when we removed chaplaincy from schools. We are now producing students who have no fear of God in their hearts, and can experiment to see what happens.

Our schools are not governed well. We are living in a period when we must have a mechanism of consensus building within our schools. The era of threatening students who burn schools that they will face the music is gone. Our head teachers are still using the old system; they tell students that their parents will pay if they burn schools. It is not a question of parents paying for what students destroy. We need to go deeper and address underlying issues that make them do that. We should address these issues. Calling parents and telling them to pay for the destruction caused by students is not addressing the issues. The issues remain untouched. We

should look at how solutions are sought, how our students are counselled and how we administer opportunities.

Another issue that requires urgent attention is the fear that with the crackdown of loopholes that were used in schools to cheat in exams, those students who are ill-prepared feel scared and the only way out is to make sure that nobody sits for exams. We should approach these issues in a very sober way.

We should also address enmity where teachers are not working as teams but as competitors. A lot of undermining within the school system contributes to unrest in schools and therefore, we need to be careful on how long head teachers stay in a school before they become institutions unto themselves and everybody begins to misbehave. They cannot misbehave out of fear. There is a difference between peace that comes out of respect and that that comes out of fear. We should address fear in our institutions so that we have peace because of respect and not because of fear. When there is fear, people have a way of reacting. People that might be propagating this kind of behaviour might be very far and because they want to disturb schools, they can instigate and incite students to burn schools.

I have two proposals. Teachers should discuss with students some of the issues they are against as opposed to punishing them. There is no amount of punishment that can deter somebody who is already frustrated. We need to give them an ear and address their issues.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): I now give the Floor to Hon. Macharia.

Hon. Macharia: Thank you, Hon. Temporary Deputy Speaker. I am one sad Member when we talk about burning of schools. I want to commend Hon. Wamalwa. I wanted to bring this Motion but I was told that he had already brought it. In the last two weeks, five schools have been burnt in my constituency.

Hon. Temporary Deputy Speaker, five schools is a big number. Michinda Boys Secondary School has been torched twice. There was also rampage in which window panes were broken twice. That is a record number of four times. It is sad to say that irrespective of these criminal acts of arson happening in the schools in my constituency, no student has been arrested. Arson is a criminal offence as stipulated under Cap. 334 of the Laws of Kenya. It is sad that the OCS, Elburgon, had arrested eight boys, whom he released later on without carrying out any investigation. The boys from Michinda Boys Secondary School are also suspected to have torched Elburgon Secondary School. The boys were arrested near that school, which was torched later on, but the OCS released them.

As a motivation from the fact that nobody is being arrested, girls from Kambala Girls Secondary School torched their school. I am happy to say that the OCS and the OCPD, Molo, arrested eight girls. They were arraigned in court yesterday. Chandra School was successfully burnt and two attempts were made on PCEA Elburgon School and Molo Secondary School. We attended a stakeholders meeting on Saturday, and we said unequivocally that we must see arrests because the perpetrators are criminals. They have torched their school twice. We got reports from that school yesterday that about 13 boys who were suspects went to school and disappeared later on. We do not know what is meant by “disappeared” because they were summoned and were supposed to be arrested.

I have been talking to the Cabinet Secretary, Dr. Matiang’i, who gives me an ear every morning, including today. I have been trying to give him remedies on what must be done because I do not understand how 13 boys and their parents can run away from a school that has a gate and

watchmen. This country has a system of investigating crimes. The students who are causing mayhem all over should be arrested. The students were saying that they wanted their girls to be sent back to the school, which used to be mixed. I find this myopic. Some of the students are claiming that school rules are very harsh and that the second term is too long. Some of these things are a matter of policy. I believe that the Ministry of Education together with the DCIOs and others can tackle this kind of unrest in our schools.

It is important to note that in some instances, fingers have been pointed at some members of staff and teachers who are trying to sabotage some of the head teachers. Finally, they are pointing fingers at insurance companies. That is why I still demand that the Inspector-General (IG) and the CS arrest the suspected arsonists of Michinda Boys Secondary School so that we can understand the motive behind the burning of schools in my constituency.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): I now give the Floor to Hon. Onyancha. I will give Hon. Melly the last chance as the Chair of the Committee.

Hon. Omagwa: Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity to contribute.

Burning of schools is gross indiscipline and this is happening in our schools. Three schools have been burnt down in my constituency. These are Omobera Girls High School, Nyamesocho School and Magena High school. Those are too many for one single constituency. This crime must be punished severely. Passing the buck over these problems that exist in our schools to the CS in charge of Education is a bit pedestrian

Hon. Temporary Deputy Speaker, if anybody is claiming that CS Matiang'i has done anything wrong, I think, the wrong thing he has done is that he has become tough on cheating in examinations. He has become tough on people collecting and receiving school fees on *M-Pesa* lines. If he has become a bad man, it is because he is insisting on quality not just for our primary schools but also for our secondary schools and universities. This is how wrong he is. It behoves on us, as leaders and parents, to assist the Ministry of Education and not to castigate the CS.

We have issues with the sponsorship of schools. In one school that I have just mentioned, I am on record as having discussed with the sponsor about the management of the school. The sponsor said that because he thought the Cabinet Secretary for Education is a new person, he had to be given time to study what was happening in the school. A dormitory was burnt after a few months. Everybody was up in arms asking what we should do. They are asking me and everybody else to sit down. This is not something that we do not know.

In our school setup, we have senior teachers. We have the Principal, the Deputy Principal and someone called "Senior Teacher". By the way, that is not even provided for in the rules but a position of "Senior Teacher" exists. What do you expect of this senior teacher who ranks third and all the time he is thinking about when the Deputy Principal will become a principal so that he can also move up? There are problems within our setup. Discipline is a problem even among staff members.

Society is also giving a bad example to children. When we behave the way we do, children copy us and begin burning our schools. If we do not mete out severe punishment against the crime of arson, we will lose it completely.

This is a serious matter that should be addressed both by a Committee of Parliament and us, as leaders.

Thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Melly, you have the Floor.

Hon. F.K. Wanyonyi: On a point of order, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Wanyonyi, there really cannot be anything out of order once the Member who was on the Floor has sat. So, let us just leave Hon. Melly to complete.

Hon. Melly: Thank you, Hon. Temporary Deputy Speaker. I rise to support this Motion. Burning of schools has caused a crisis in the education sector. I agree with Hon. Wamalwa but I want to point out that it is not by pointing fingers that we can solve this problem.

As the Departmental Committee on Education, Research and Technology, we have severally summoned the CS, the PS and even the TSC officials on this issue. This is affecting everyone in our country. My constituency has one of the first schools that were burnt. Over the weekend, I had to walk a long distance to talk to some girls on why they should behave in their schools. It is something that is affecting the whole country. It also affects each one of us.

To be clear on this, the Departmental Committee on Education, Research and Technology has sat down severally and pointed out some of measures the CS has to put in place to ensure law and order is restored in schools. One of them is to implement the Wangai Task Force Report and the Koech Report which among others recommended that discipline in schools be looked at holistically. It should not be an issue of the head teacher, the senior teacher or a few individuals. It should be an issue of societal concern. If you look at the recommendations of the Wangai Report, the Koech Report and others, you will realise that if they are implemented to the letter, law and order shall prevail in schools.

I also want to point out that one of the causes of burning of schools is lack of discipline. I want to point out as a former teacher that children are not caned these days. There is no manual work in schools and there is no alternative form of punishment which has been provided. The guidance and counselling department in our schools has not taken root.

We have summoned the CS to be candid. We had summoned the CS and the PS this morning, but unfortunately, they went to the Senate. As a Committee, we have also written to him that he should appear before us next week. We want to solve this matter once and for all.

I also want to point out that if a society is not disciplined then our children will not be disciplined. Our children copy even the leadership of this country. They copy the way we make pronouncements and demonstrate on the streets.

In the school set-up, we have the issue of drugs and substance abuse which starts with the societal values. Our society has gone down. When we stand here as leaders and point out what others have not done, it also starts from our homes, our houses, our shops and our streets where you will find that a child can easily buy drugs and access petrol. Most of our schools are not well-guarded.

As the Departmental Committee on Education, Research and Technology, we have given the Ministry of Education a timeline and we want to see this done. Through the CS and the education fraternity, including the KNUT, the TSC, we want to see this menace dealt with. For that reason, we have given ourselves a timeline of two weeks. We shall do all that is within our mandate and report to this House exactly what the causes of these fires are, and what recommendations are to be put in place to ensure that law and order prevails in our schools.

ADJOURNMENT

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Members, the time being 6.30 p.m., this House stands adjourned until Wednesday, 20th July, 2016, at 9.30 a.m.

The House rose at 6.30 p.m.