

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Thursday, 7<sup>th</sup> December 2017

The House met at 2.30 p.m.

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

### PRAYERS

**Hon. Speaker:** I will make my communication after Order No.7.

### PAPERS LAID

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

The following subsidiary legislation from the Ministry of Lands and Physical Planning:

- (1) The Land (Extension and Renewal of Leases) Rules, 2017 and the Explanatory Memorandum.
- (2) The Community Land Regulations, 2017 and the Explanatory Memorandum.
- (3) The Land Registration (General) Regulations) 2017 and the Explanatory Memorandum.
- (4) The Land Regulations, 2017 and the Explanatory Memorandum; and
- (5) The Land Registration (Registration Units) Order, 2017 and the Explanatory Memorandum.

**Hon. (Ms.) Tuya:** Hon. Speaker, I beg to lay the following Paper on the Table:

The Report of the Procedure and House Rules Committee on the amendments to the Standing Orders.

**Hon. Katoo:** Hon. Speaker, I beg to lay the following Report on the Table:

The Report of the Joint Parliamentary Select Committee on the Election of Members to the East African Legislative Assembly (EALA).

### NOTICES OF MOTIONS

#### ADOPTION OF THE REPORT OF THE PROCEDURE AND HOUSE RULES COMMITTEE

**Hon. (Ms.) Tuya:** Hon. Speaker, I beg to give notice of the following Motion:

THAT, pursuant to provisions of Standing Order No.262 and notwithstanding the provisions of Standing Order No.47(1), this House adopts the Report of the Procedure and House

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Rules Committee on amendments to the Standing Orders, laid on the Table of the House today, Thursday, 7<sup>th</sup> December 2017, and further resolves that the amendments contained therein take effect from 8<sup>th</sup> December 2017.

**Hon. Speaker:** Hon. Members, the Leader of the Majority Party appears to have an interesting and animated engagement. Hon. Members should pay attention. Hon. Soipan has tabled a Report on behalf of the Procedure and House Rules Committee. The proposal by the Committee is that the Report be debated by the House today for the obvious reasons that were given by both the Leader of Majority Party and Leader of Minority Party when they proposed that the Committee sits and considers some of their proposed amendments.

Therefore, in the interest of good order, I encourage every Member to have a look at a copy of that Report so that at some later point, the Members debate the proposed changes and if they are persuaded, then they could adopt the Report. As Hon. Soipan has stated and given notice of Motion, the proposal is that those changes - if carried by the House - take effect from 8<sup>th</sup> December, which is tomorrow. This means that we want to give the leadership of the House, on both sides, the opportunity to apply those rules as amended - if the House agrees with the Committee - effective tomorrow for the obvious reasons that I am sure all Members may be familiar with.

Hon. Katoo, you were to give notice of a Motion.

ADOPTION OF REPORT OF THE JOINT PARLIAMENTARY  
SELECT COMMITTEE ON ELECTION OF MEMBERS TO EALA

**Hon. Katoo:** Hon. Speaker, I request your indulgence that I move it in an amended form under Standing Order No.48. It is just a slight amendment.

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

THAT, pursuant to the provisions of Article 50 of the Treaty for the Establishment of the East African Community (EAC) and Rule 13(5) of the East African Legislative Assembly Elections (Election of Members of the Assembly) Rules, 2017, and notwithstanding the provisions of Standing Order No.47(1), this House adopts the Report of the Joint Parliamentary Select Committee on its consideration of the nominees for election as Members of the East African Legislative Assembly, laid on the Table of the House today, Thursday, 7<sup>th</sup> December 2017, and further resolves that the election be held on Thursday, 14<sup>th</sup> December 2017.

**Hon. Speaker:** Very well, Hon. Katoo. Everybody is now informed that the election will take place on Thursday, 14<sup>th</sup> December 2017.

Let us move on to the next Order.

**STATEMENTS**

BUSINESS FOR THE WEEK COMMENCING 13<sup>TH</sup> DECEMBER TO 14<sup>TH</sup> DECEMBER

**Hon. A.B. Duale:** Hon. Speaker, pursuant to the provisions of Standing Order No. 44 (2), on behalf of the House Business Committee (HBC), I rise to give a statement.

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The HBC met on Wednesday this week to give priority to business. As Members are aware, following a resolution passed yesterday afternoon, the House altered its calendar so that the December recess is scheduled to commence on Friday next week. Therefore, Tuesday next week being a public holiday, the House will resume its normal sittings on Wednesday, 13<sup>th</sup> December 2017.

On Wednesday morning the House is scheduled to consider the following Motions:

- (1) Establishment of a Teaching and Referral Hospital in the Coast region to cater for sophisticated diagnostic, therapeutic and rehabilitative health care in the region, by Hon. Mohamed Ali;
- (2) Designation and Gazettement of Specific Areas and Streets for Demonstrations and Picketing; and
- (3) Establishment of an Athletics Remuneration and Endowment Fund for the purpose of pooling resources for rewarding and supporting sportsmen.

In the afternoon, we will consider the appointment of Members to the Parliamentary Service Commission (PSC) following a notice of Motion which will be given on Wednesday morning. Still on the PSC, there are a number of issues that deal with Members' welfare and we will be happy if the House concludes its nominees to the PSC so that those and other issues are dealt with before we go on recess.

The House will also deliberate the Report of the Committee on Selection on appointment of Members to various Committees. It is anticipated that the Committee will have met and concluded with the allocation of Members to various Committees by Wednesday morning. In the same week, we will continue with the Second Reading of the Statute Law (Miscellaneous Amendments) (No.3) Bill, 2017, the Computer and Cybercrime Bill, 2017 and the Physical Planning Bill, should they not be concluded today.

Hon. Speaker, through you, and without anticipating debate, Members will notice that in today's Order Paper, there is a Motion for a Thursday morning sitting next week. This sitting will give the House an opportunity to consider any pending business on that day. That is the day we are supposed to deal with the matter of EALA. On the agenda of that day, we will consider the Report of the Joint Parliamentary Select Committee on the Election of Members to the EALA. We will also deal with the adoption of the Report of the Committee on Selection of Members to various Committees that will be given to Committee Members. Finally, on that day, we expect to vote for the Kenyan representatives to EALA, which will take place on 14<sup>th</sup> December 2017. I saw some of the candidates campaigning and saying that the elections will be on 13<sup>th</sup> December. I told them that, that was not their function but that of the HBC. The elections will take place on Thursday, 14<sup>th</sup> December 2017.

This will be the first time the House will conduct elections of a bicameral nature. The two Houses will conduct this exercise together. It is, therefore, expected that the two Houses will conduct the process concurrently and exchange results by way of consolidation. This means that the Houses may sit for a longer period on that day. Through you, Hon. Speaker and the Clerk, let us make sure that we do not allow Members to go on foreign and local trips next week so that they have an opportunity to vote. The polling station will be the Chamber and there are 349 voters. The Returning Officer will be the Clerk of the National Assembly. There will be physical

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transmission of results between the Senate and the National Assembly. For those who are used to looking for servers, there will be none on that day.

*(Laughter)*

The two polling stations are not very far from each other. They are just around here. We expect the person who will bring the results to be given maximum security so that they are not altered either in the Senate or the National Assembly so that we have a free, fair, transparent and verifiable election process.

**Hon. Speaker:** I would like to add a minor correction that there are two returning officers and two presiding officers. The presiding officers are the Clerks of the two Houses and the returning officers are the Speakers. Those are the rules of the Community.

Hon. Members, before I make my communication, I wish to draw the attention of the House to the existence of a Supplementary Order Paper. In that Supplementary Order Paper, the matter that Hon. Soipan gave notice about is captured by way of a schedule with what I had called, "Proposed Amendments to the National Assembly Standing Orders." I would encourage every one of you to go through that. Where you have forgotten the existing provisions of the proposed Orders to be amended, make reference to the Standing Orders - copies of which every one of you was given when you first reported as a Member of the House. I assume that every one of you has his or her copy of the Standing Orders like the way zealots would carry copies of the Bible.

Hon. Malulu Injendi and Hon. Sakwa Bunyasi take your seats for a short while.

## COMMUNICATION FROM THE CHAIR

### APPOINTMENT OF THE HOUSE LEADERSHIP OF THE MINORITY PARTY

Hon. Members, this Communication relates to a matter on procedure relating to the appointment of the House leadership of the Minority Party. As you recall, on Thursday, 30<sup>th</sup> November 2017 during the Afternoon Sitting, the Member for Lugari Constituency, Hon. Ayub Savula, rose on a point of order seeking direction of the Speaker on the composition of the list submitted by the Minority Party outlining its House leadership, pursuant to the provision of Standing Order No.20. Specifically, the Member was of the view that the list submitted by the Minority Party violated Standing Order No.20 with regard to regional and gender balance. His point of order related to the Communication that I delivered during the Afternoon Sitting on Wednesday, 29<sup>th</sup> November 2017 informing the House of my receipt of letters dated 16<sup>th</sup> November 2017 and 29<sup>th</sup> November 2017, respectively from the National Super Alliance (NASA) forwarding the names of its House leadership. In reserving the matter for a considered ruling, I mentioned that other Members had also expressed concerns with the list since its communication, notably Hon. Ramadhani Suleiman Dori and Hon. Baya Owen Yaa from the Minority Party.

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Hon. Members, at the time the matter was raised by the Member, you will also recall the intervention of the Leader of the Majority Party and the Member for Seme, Hon. (Dr.) James Nyikal, calling for restraint with regard to the intervention by the Speaker in a matter that, in their opinion, should be left for consideration and resolution by the Minority Party.

Standing Order No.20, upon which the Member's concern is premised, outlines the procedure for the election of the Leader of the Minority Party and Deputy Leader of the Minority Party. Paragraph (4) of the Standing Order is instructive with regard to the submission of the outcome of the election process to the House through the Speaker.

Standing Order No.20(4) says: "The whip of the minority party or coalition of parties in the National Assembly shall forthwith, upon a decision being made under this Standing Order, communicate to the Speaker, in writing the decision together with the minutes of the meeting at which the decision was made."

Hon. Members, a clear reading of Standing Order No.20 reveals that the Speaker has no role in the process of the election of the leadership of the Minority Party and the Majority Party. Under the said Standing Order, the election process is, and remains an internal affair of the party which only communicates the outcome of the process in writing to the Speaker. The Speaker's duty thereafter is limited to ensuring that the list submitted by the Minority Party is accompanied by the minutes of the meeting at which the party made its decision. Indeed, as you may recall Members, on 12<sup>th</sup> October 2017, I issued a Communication directing the Minority Coalition to comply with the provisions of Standing Order No. 20(4) and the rules of the Coalition in communicating to my office the names of its House leadership.

In directing the Minority Party to comply with its rules, I was cognisant of my limited role in the matter and the fact that any disputes arising from the procedure would be resolved purely according to the party's rules and any coalition agreement entered into. Neither I nor other persons who are not members of the Minority Party are fully kept abreast of its leadership contests or disputes. Indeed, as noted in the text: *The Selection of Political Party Leaders in Contemporary Parliamentary Democracies* as pointed out by Jean-Benoit Pilet and William Cross Editions, the authors note as follows with regard to party leadership politics in Australia:

"Leadership politics are governed by the norms and traditions of the party room as they exist at any point in time. Accurate records of party room votes are usually not kept, nor officially reported."

For our purposes, the only evidence the Standing Orders require from the Minority Party is a copy of the minutes of the meeting at which the decision on its leadership was made. I confirmed to the House that the Minority Party fulfilled this requirement and that action in itself settles the matter. I play no other role in the process and any issues raised with regard to the constitution of the Minority leadership or the process undertaken to constitute it therefore fall squarely within the purview of the Minority Party and its internal dispute resolution mechanisms.

Hon. Savula further sought direction from the Speaker on the remedies available to address his concerns. Standing Order No. 20, upon which the Member rose, provides adequate guidance with regard to any dispute or disaffection with the House leadership of the Minority Party. In addition, and in the event the Member's concern relates to the internal democracy of his party or coalition, the Political Parties Act may offer some respite. As Members are aware, the

Political Parties Act established the Political Parties Disputes Tribunal, which pursuant to section 40, is mandated to determine:

- Disputes between the members of a political party;
- Disputes between a member of a political party and a political party;
- Disputes between political parties;
- Disputes between an independent candidate and a political party;
- Disputes between coalition partners.

Hon. Members, in conclusion, I have noted the concern raised by various Members on the apparent gender imbalance in the House leadership of the Minority Party. Though direct intervention into the manner in which the Minority Party decides to constitute its leadership is outside my purview, I am not precluded from reminding the Minority Party of the two-thirds gender principle which is entrenched in the provisions of Article 27(8) and 81(b) of the Constitution. Indeed, the provisions of our own Standing Order No.20(2)(b) enjoin the Minority Party to take gender balance into account when deciding the composition of its House leadership. However, it only extends to me pointing out that. I cannot therefore venture into resolving or attempting to resolve any complaints or grievances that any Member of the coalition of the parties may have against any decision taken and evidently shown to have been taken by the party leadership in making the decision.

Please be guided accordingly. Thank you.

Next Order.

## PROCEDURAL MOTION

### RESOLUTION TO HOLD A SITTING ON THURSDAY MORNING

**Hon. A.B. Duale:** Hon. Speaker, I beg to move the following Procedural Motion:

THAT, pursuant to the provisions of Standing Order No.30 (3)(b) and following the resolution of the House on Tuesday, 5<sup>th</sup> December 2017 altering its Calendar, this House resolves to hold a Morning Sitting On Thursday, 14<sup>th</sup> December 2017 commencing at 9.30 a.m. for purposes of conducting the election of members to the East African Legislative Assembly or considering any other urgent business.

Hon. Speaker, this Procedural Motion is very clear. I have said it in the Statement that I read before on behalf of the House Business Committee (HBC). Thursday is the last day as per the Calendar of the House for the First Session. It will be a busy day. We will be required to adopt the Report of the Committee on the East African Legislative Assembly. We also expect to adopt a report from the Selection Committee on the allocation of Members to various committees. Finally, we will need to elect members to the EALA - It will be a serious election. The campaigns are in top gear now. There are instances where candidates might tie as it happened in the 10<sup>th</sup> Parliament. In such a case, a repeat would be held in accordance with the set rules.

I urge my colleagues to bear with me because before we go home for Christmas and New Year holidays at the end of this Session, we need to conclude all the urgent matters more so in

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the morning. We should make sure that we place our Members in various committees and then, lastly, conduct EALA elections in order to get the nine Members who will represent us in that regional assembly.

This is a serious matter. I ask Hon. John Mbadi, a Member of the House Business Committee, to second.

**Hon. Speaker:** Hon. John Mbadi.

**Hon. Ng'ongo:** Thank you, Hon. Speaker. In our last HBC meeting, we deliberated on this matter. We should take note that Tuesday, 12<sup>th</sup> December 2017 will be a holiday, so we will not have a sitting yet we have two important matters... Hon. Speaker, there is a Member here who is consulting loudly.

*(Hon. Osotsi shook Hon. (Ms.) Nyasuna's hand)*

**Hon. Speaker:** Hon. Members, there is a new Hon. Member who is shaking Hon. Gladys Wanga's hand loudly. You are not in the village! You are in the Chamber. What is it that is exciting the new Member that much? Is he a nominated Member? We allow Members to consult but in low tones. You can still shake hands gently and we will not hear. You have alarmed me because I thought you were slapping the Hon. Member for Homa Bay. It sounded like you had slapped her - That could be taken as physical assault. Please, shake hands gently. You are a gentleman and she is a gracious lady. Do not do it that way. That can only be done in a public rally. That must be Hon. Osotsi.

Hon. John Mbadi, please, proceed.

**Hon. Ng'ongo:** Thank you, Hon. Speaker. I second this Procedural Motion. In our last HBC meeting, we agreed that since Tuesday, 12<sup>th</sup> December 2017 will be a public holiday, which will take away one sitting from us, we needed, at least, one extra sitting as defined in the Standing Orders; and that will be Thursday, 14<sup>th</sup> December 2017 in the morning to transact important business. What is this important business we have ahead of us?

We have the EALA matter which we must settle before we go on recess. We have to vote for our representatives to the EALA. This is a process. Those of us who participated in the last voting for EALA members, which took place in the 10<sup>th</sup> Parliament, can remember how long it took. It is not an exercise that would take a short time. We felt it would probably take the whole morning or afternoon on Thursday. Our target is to go on recess having concluded placing our Members in the various committees of Parliament so that the matter of committees is sorted out. We need to have MPs sitting in these committees so that whenever they want to transact business, they can go ahead and do so. That is what necessitated one extra sitting. I ask the House to approve this Motion so that we can have an extra sitting on Thursday next week.

Thank you, Hon. Speaker. I second.

*(Hon. Alfred Keter walked to the Dispatch Box)*

**Hon. Speaker:** Hon. Keter, I thought you were coming to pick water. You looked thirsty.

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Before I propose the Question, allow me to recognise the presence, in the Public Gallery, of 22 students from Public Services International (PSI). They are young workers who have visited our Parliament to observe today's deliberations.

*(Question proposed)*

**Hon. Member:** Put the Question.

**Hon. Speaker:** Is it the desire of the House that I put the Question?

**Hon. Members:** Yes.

*(Question put and agreed to)*

## MOTIONS

### INTRODUCTION OF COMPULSORY TREE PLANTING IN LEARNING INSTITUTIONS AND INDIVIDUAL HOUSEHOLDS

THAT, aware that Article 42 of our Constitution accords every person the right to a clean and healthy environment and that Article 69(1)(d) mandates the State to encourage public participation in the management, protection and conservation of the environment; further aware that deforestation is one of the main contributors to climate change; noting that Kenya has not been spared by the effects of global warming and climate change as a result of deforestation amongst other aspects; deeply concerned that this has adversely affected the agriculture sector which is the backbone of the rural economy, and also led to severe drought being experienced in all parts of this country; this House urges the Government to introduce compulsory tree planting programmes in all learning institutions and individual households.

*(Hon. Chepkut on 6.12.2017)*

*(Debate concluded on 6.12.2017 - Morning Sitting)*

*(Question put and agreed to)*

### APPROVAL OF NOMINEES TO VARIOUS CONSTITUENCY COMMITTEES OF THE NATIONAL GOVERNMENT CONSTITUENCY DEVELOPMENT FUND

THAT, pursuant to the provisions of Section 43(4) of the National Government Constituency Development Fund Act, 2015 and paragraph 5 (9 &10) of the National Government Constituency Development Fund Regulations, 2016, this House approves

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the list of nominees for appointment to the following four (4) Constituency Committees of the National Government Constituency Development Fund, laid on the Table of the House on Tuesday, 5<sup>th</sup> December 2017:

#### NAROK EAST CONSTITUENCY

- (i) Rapanket Daniel Koisikir - Male Youth Representative
- (ii) Tapaiya Olngashar Punyua - Male Adult Representative
- (iii) Sointa Kuyoo Parkire - Female Youth Representative
- (iv) Peninah Sein Benson Olturoomum - Female Adult representative
- (v) Dominic Tira Dikirr - Representative of Persons living with Disability
- (vi) William Kabaka Kirtelah - Nominee of the Constituency Office (Male)
- (vii) Gladys Wanjiru Soitara - Nominee of the Constituency Office (Female)

#### GATANGA CONSTITUENCY

*(Additional names to those approved by the House on Wednesday, 8<sup>th</sup> November 2017)*

- (i) Peter Mulwa Mutune - Nominee of the Constituency Office (Male)
- (ii) Naomi Wairimu Ndarua - Nominee of the Constituency Office (Female)

#### MVITA CONSTITUENCY

- (i) Easter Oduor Oremo - Male Youth Representative
- (ii) Omar Shariff Ali Male - Adult Representative
- (iii) Sylvia Buluma Adikinyi - Female Youth Representative
- (iv) Anna Nyambura Female - Adult Representative
- (v) Amina Saud Ali - Representative of Persons with Disability
- (vi) Jamal Ali Mohamed Noor - Nominee of the Constituency Office (Male)
- (vii) Fatuma Mbeyu Khamis - Nominee of the Constituency Office (Female)

### NYANDO CONSTITUENCY

- |       |                         |   |  |
|-------|-------------------------|---|--|
| (i)   | Joseph Rocky Odada      | - | Male Youth Representative                      |
| (ii)  | Marcella Amondi Onyango | - | Female Youth Representative                    |
| (iii) | Hellen Adhiambo Muga    | - | Female Adult Representative                    |
| (iv)  | Zedekiah Odalo Hongo    | - | Representative of Persons<br>with Disability   |
| (v)   | Henry India Odep        | - | Nominee of the Constituency<br>Office (Male)   |
| (vi)  | Eunice Awino Ochieng    | - | Nominee of the Constituency<br>Office (Female) |

*(Hon. Washiali on 6.12.2017)*

*(Debate concluded on 6.12.2017- Afternoon Sitting)*

**Hon. Speaker:** Hon. Members, debate on this Motion was concluded and what remains is for the Question to be put, which I hereby do.

*(Question put and agreed to)*

### MOTION

#### ADOPTION OF REPORT ON AMENDMENTS TO STANDING ORDERS

**The Member for Ruaraka** (Hon. Francis Tom Joseph Kajwang’): Hon. Speaker, I beg to move the following Motion:

THAT, pursuant to the provisions of Standing Order 262 and notwithstanding the provisions of Standing Order 47(1), this House adopts the Report of the Procedure and House Rules Committee on amendments to the Standing Orders, laid on the Table of the House today, Thursday, 7<sup>th</sup> December 2017, and further resolves that the amendments as contained therein take effect from 8<sup>th</sup> December 2017.

Hon. Speaker, this one serves almost as my maiden speech. As you know, I have been resisting a lot of things, including something which has been called “*Njeri*”. Allow me to rise on behalf of the Speaker. This Committee is the Speaker’s Committee that this House resolved to establish just last week.

The Committee met just the other day, according to the Report that has been circulated to hon. Members. The issues were brought before the Committee and resolved unanimously. Members will note that the proposals we have on the Standing Orders are by Members’ initiative. Allow me to just say for the benefit of those of us who are familiarising themselves with the Standing Orders; that the Standing Orders can be amended in different forms with reference to Standing Order 263, one of which is by the initiative of a Member. These

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amendments were proposed by the Majority Party Chief Whip but deliberated by Members of the entire Committee and resolutions arrived at unanimously.

Hon. Speaker, I draw the attention of hon. Members to the Order Paper. You will see summarised forms of the proposed amendments in your Order Paper so that you are able to follow. I will briefly touch on issues of principles. I may not touch on the exact wording of the amendments proposed in the Standing Orders but you can follow me with your revised Standing Orders, which happen to be the 3<sup>rd</sup> edition, not any other edition.

The issue which the House has been talking about, and which we, as the Procedure and House Rules Committee, thought we could capture is how to distribute committees across the House in a way that is impartial and meets the interests of all Members; and in a way that every Member is able to participate in the committees one way or another. This has been a fairly intimate issue amongst Members.

One of the ways in which we are able to absorb all the 347 Members of this House is to expand many of these committees so that all Members, one way or another, actively find themselves participating in a committee. We have also tried to balance the committees so that there is no committee which is superior to another. Since this system runs on committees, every Member must feel equal and useful to the Chamber and all committees must have the same weight, including the committee which I hope I will Chair if I am given the opportunity – the Catering Committee. Those committees are all useful and all Members should feel equal to each other.

There is a proposal to increase the membership of almost all the departmental committees and the select committees. We used to have 19 members but there are proposals to increase the membership of many of them to 23, giving us about 542 slots to share in the House. When you have 542 slots being shared amongst 347 colleagues, you then see that there should be no reason as to why any Member – whether de-whipped or not de-whipped – should not have a Committee to participate in. There are a few committees which may require two or three representations more than the rest, like the Budget and Appropriations Committee. The Budget and Appropriations Committee usually mutates into several subcommittees.

There are also other committees which are very periodic, like the Committee on Selection. In fact, the Speaker's Committee meets only once. The Procedure and House Rules Committee meets only once in five years. We have to tamper these committees. The question is, if you are in the Selection Committee or the Appointments Committee, which has only one sitting in a lifetime, why should you be said to be in one committee yet the rest are running other committees? We have weighed the activities in these committees. If, for example, you are just serving a committee which will last for seven days only, you have other committees which will last you the five years that you are in this House.

Members, another thing that you find interesting, and I hope I have your attention, is that we want to have chairmen of committees responsible to their committees. When we were discussing this matter, we had a very interesting discussion; that 65 per cent of the chairmen who participated in the 11<sup>th</sup> Parliament went home because they were too busy. This Parliament runs on committees. We will always ask you and hold you accountable. We will want you to produce those minutes. We will want you to bring those reports. You will be so busy in the Chamber; you

will be so busy in Nairobi, you will not know what goes on in the village. By the time you wake up, there will be a better representation wanting to come on your behalf. Because the chairman's position is so critical in the committee, we are proposing to make this chairman very accountable and responsible. We call it legislative responsibility of the chair to that committee. Because of that, we are proposing, as you will see here, that if you are a chair of a committee, you will not serve in another committee. You will not be a member of any other committee. You will only be a chair and a member of one committee. That must be very clear so that we do not have chairmen who are busy, or who have travelled abroad, or who are doing some other things. We want this House to move by way of the Bills.

The third thing that will arise is that Members will only serve in two committees. The Committee on Selection will have an opportunity to see how to spread all the committees. Maybe, there will be a few slots which can remain for one or two Members but the principle, according to the Standing Orders, is that every Member will be entitled to two committees so that we can share this thing. This cake is big. I do not know why everybody is jostling for this or the other committee to the extent that Members are not speaking to each other just because of committees. There is also a proposal and we are very bold. Because we want to make chairmen responsible for their committees, we also want to make leaders, both in the House and elsewhere within parliamentary service, also accountable to the positions we give them. One specific one is the Parliamentary Service Commission (PSC).

*(Applause)*

When you go to the PSC, they mutate into several committees. There is Committee on Audit, Committee on Procurement; there are several committees getting into seven, eight or nine. We do not want people to be in committees just to make money because of allowances. We want people to be useful in those committees, put their mind in those committees and help Members. When you are in the PSC, you are there as a welfare person from this Chamber. You do not just go there to make allowances because you are a member of the PSC. Because of that, we are proposing that if you are a member of the PSC, you will not serve in a committee.

*(Applause)*

You will not serve in a committee because you have serious other committees that are going to serve this Chamber. I have seen PSC has, for example, elicited a lot of interest. I would really love to one day serve in the PSC, just to see for myself what happens in this commission that people will just literally die. Actually, they campaign harder to get to the PSC than they campaign to get to this august House.

*(Laughter)*

Whatever it is that is so interesting in the PSC, we will now say: "You cannot serve in these other committees if you are there."

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The other issue of principle that we see here is equitable distribution amongst Members without discrimination. There is nothing called “Government” or “Opposition”. You have for five years tried to explain this. I do not know why Members do not take this home. There is nothing like that in the constitutional order we have today. What we have is the Minority Party and the Majority Party. We have a legislative assembly. At some point, we will be so jealous about the independence of the Legislature that we will all come together to guard the independence of the Legislature; whether you are in the Minority Party or in the Majority Party. We will not have this thing that somebody feels he is closer to the Government if he is in the Majority Party. Then, he can speak nicely and well to the Government. There is nothing like that. It should not be a merit that now you know a Cabinet Secretary (CS). A CS is an officer who is subordinate to you. Why should you feel you now know him and you can talk nicely with him? What we need is a Legislature which can hold the Executive as well as the Judiciary accountable. We make laws; they enforce the laws, or they interpret the laws. This is what we want so that we do not have this thing of people jostling to be chairmen of these committees because then they can talk to the CS for this departmental committee or that. I am sure I am at the tail-end of the Report which Members have anxiously studied and which is before us.

We have renamed few committees. I have told you of my interest. I have to declare my personal interest in this committee which used to be called the Catering Committee. We have renamed it so that it has a better name than it used to have. You will, for example, see it is called “Members’ Services and Facilities Committee.”

*(Laughter)*

It is called “Members’ Services and Facilities”. Those of you who served in the 11<sup>th</sup> Parliament will know my friend and my leader Hon. Jakoyo Midiwo was a very active member of this committee. If there is any committee from which you do not take stress home and you just grow fatter and fat, it is to be in this committee. We have realigned the Standing Orders with the Standing Orders of the other House. We used to have joint committees. They are now not necessary because the other House has taken away those titles and committees. So, we do not need to have those committees.

We have also proposed some of the mandates on the Committee on Selection. It must work in consultation with parliamentary parties at the commencement of Parliament.

We have also established two committees. I am on page 189 of the Order Paper, if you come with me. There is the Committee on National Cohesion and Equal Opportunity. There is no better time than this that we need a Committee on National Cohesion and Equal Opportunity. If we are not going to speak properly about cohesion; if we are not going to have a parliamentary select committee that will hold leaders accountable in terms of national cohesion and equal opportunity, you will always hear this talk of secession that is really ringing in my ear and is making a lot of music in my ear. If we are not going to have a way in which we are going to lead from the front, it is not good. There are people who talk about cohesion and people who do something about cohesion. Talking about it is one thing but, doing something about it is another.

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The last is that we have a special committee on the special funds we have as a House. There is the Special Judiciary Fund; there is the National Government Constituencies Development Fund (NG-CDF); there is the Equalisation Fund, and there are such other funds that are created by the Constitution. It has been felt by the Committee that we create a standing committee that will regulate all those funds that we as the Legislature have made certain legislation to regulate how they are spent by the Exchequer.

I want to thank you Members for giving us an opportunity to make these proposals. These are proposals over which you do not have to be in the Minority Party or Majority Party to accept. They help all of us, whether you are in the Minority Party or Majority Party. So, I expect a bipartisan debate and approach as we analyse these Standing Orders.

Hon. Speaker, I thank you for the opportunity you have given me. I now ask the Member for Kimilili, if you are somewhere, to second these proposals.

**Hon. Speaker:** Member for Kimilili, Didmus Barasa.

**Hon. Didmus Mutua:** I rise to second the Motion for the adoption of the Report of the Procedure and House Rules Committee on proposed amendments to the Standing Orders.

It is very important because this Report will cure the previous injustices that were done on a number of Members. You understand that the role of Members of Parliament is clear. They usually carry out those roles at committee levels. Whether you are a Member of the Minority Party, Majority Party or an Independent MP, we are all equal. Therefore, it is very important that all Members are accommodated so that they can serve in two committees as opposed to what happened previously where you would find one Member belonging to two committees, being a chairman or vice-chairman of another while we have other Members who felt disenfranchised.

It is also very important that the activities of committees continue without being affected by the absence of the chairman or the vice-chairman like has been the case in the past. For instance, some committees could not sit to deliberate on very important matters simply because the chairpersons were attending to other committees or they had travelled out of the country. So, this Motion seeks to ensure that when you are the chairman or the vice-chairman of a committee, you will not have undivided loyalty - You will commit yourself to what is expected of you as you lead that committee.

I also want to clarify to the House that when you are a Commissioner at the Parliamentary Service Commission, that does not stop you from being a Member of Parliament. Therefore, if we exclude you from being a member of the committee then we would be disfranchising you in terms of denying you the right to carry out your duties as a legislator. So, we said that a member of the PSC can also be a member of a committee, but will certainly not be a chairperson or vice-chairperson. That is the clarification that I want to make. I think it was an oversight from the proposer, my good friend, Hon. T.J. Kajwang'. Therefore, it is clear from the Report that when you are a member of PSC you can also be a member of any committee only that you will not be the chairman or the vice-chairman. That is very important because commissioners at the PSC are also Members of Parliament and they too need to carry out their legislative duties at the committee level.

This Motion will ensure that as a Member of Parliament, a son of a farmer...

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

**Hon. Speaker:** Order! There is a point of order.

**Hon. Member:** Hon. Speaker, the Member seconding the Report is doing a good job but he seems not to have read the Supplementary Order Paper which is amending what he is proposing about parliamentary commissioners. Members of the Commission cannot be in other committees. It is being amended.

**Hon. Speaker:** Fortunately I chair that Committee and I can tell you... Since every Member of Parliament essentially plays the three roles of representation, oversight and legislation, even if you are a commissioner you must be accorded the opportunity to play those other roles. The proposal states that if you are a Commissioner, you should not chair a committee or deputise in a committee. That is the report as adopted this morning. That is the proposal. The Mover, Hon. Kajwang', explained the reason when he was moving. He said, the PSC itself has several other sub-committees and they are chaired by those Commissioners. Rather than taking space which could have been taken by other Members who are not in the commission, then go ahead and chair those other sub-committees, allow other Members an opportunity to offer leadership or show their ability to lead in the committees of the House. The Mover made it clear. Hon. Barasa, you may proceed.

**Hon. Didmus Mutua:** Thank you, Hon. Speaker for the wise direction. So, this Motion will cultivate equity among all Members. It will cultivate equity that whether you are independent, from Minority Party or Majority Party, you will automatically be a Member of two committees. For that reason, I beg to second.

**Hon. Speaker:** Hon. Members, before I propose the Question, allow me to recognise the presence of students and pupils from Shella and Manda Primary School in Shella Ward, Lamu County, who are seated in the public gallery. They are said to be the best performers in that county. They are all welcome to observe proceedings in the House.

*(Question proposed)*

**Hon. Speaker:** I see a number of Members who have put requests to contribute to this. Member for Kitui Central, do you want to contribute?

**Hon. Mulu:** Thank you, Hon. Speaker. I think these amendments are quite important. I want to support them. I was just doing a quick calculation in terms of what is being proposed here. This House has 349 Members. If each Member was to get about two committees, that will translate to 698 slots. That means, even with the proposals of chairpersons not being in committees, or being in only one committee, there is a likelihood of some Members getting only one committee. The slots available from the table attached are about 642. As we approve this, there might be need to reconsider some of these facts so that at the end of the day we do not have some Members getting one committee and feeling like they are being unfairly treated. The other thing is about this proposal of chairpersons being in only one committee. In terms of procedure, I am sure chairpersons are elected after committees are already constituted. So, does it mean that if you are then elected a chair you will surrender a committee and then that chance is given to somebody who has been having one? That also needs to come out clearly.

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As we begin the process, there are people who will be in one committee but once the chair is elected, they will surrender and get two. That will make it better so that when people get nominated to serve in one committee, they do not start fighting. We have seen in this House before the process of approval being delayed because some people think there is unfairness in the process.

The other problem is the idea of Members being in only one departmental committee. To me this is a very good proposal. A Member shall not be in two departmental committees. These are realities. Those of us who have served before, know that there is no way you can be effective if you serve in two departmental committees. I want to encourage Members to serve only in one departmental committee. That way, they will be effective. If that is not done, Members will just be making technical appearance - You just get into a meeting for a minute then disappear. You would never know what happens in a committee. Those are the things that should be considered.

I support

**Hon. Speaker:** Let Hon. Washiali elucidate some of the issues proposed here.

**Hon. Washiali:** Thank you, Hon. Speaker. I rise to support the proposed amendments ably moved by Hon. T.J. Kajwang' and seconded by my brother, Hon. Didmus. Before I comment, allow me to congratulate the Committee on Procedure and House Rules.

I made this request just a day before yesterday and it was out of the concern we have had when we were trying to foresee how Members would participate in these committees. When I made this proposal... I want to thank the committee for taking it up very quickly and they convened a meeting. Even today they have made these notes and they have already brought a Motion to the Floor. I am sure this is going to help us cure the problem that we would have otherwise had while identifying Members to serve in particular committees.

Out of experience, because I was in the leadership of the previous House as the Deputy Whip of the Majority Party.... For those who may not know, I have served as deputy whip in two Parliaments: the 10<sup>th</sup> and 11<sup>th</sup> Parliaments. For me to serve as the Chief Whip, I think, is out of the good service I have provided in this House. That is why out of experience I am now able to suggest and propose - I am sure my brother Mbadi is listening to this - amendments that would cure problems that we have experienced in previous Houses. In the 11<sup>th</sup> Parliament, you would find a Member is a commissioner, a chair and a senior member of another committee; serving three committees while in the same House we have a Member who is serving in only one committee. We thought this should not continue while we have this knowledge. That is why I will keep thanking this committee for moving very fast.

The proposal to belong to two committees, one departmental and the other select, provides a lot of fairness to Members. We want to believe that all of us are equal. When you were campaigning in your constituency to come to Parliament, I do not think anybody campaigns much more than the other. Therefore, we come here as equal Members of Parliament. We also need the House and the House leadership to consider us as that. The rest is administrative. Whatever departmental committee the leadership will consider, I think Members will not mind as long as there is an aspect of fairness.

The proposal of a chair participating in only one committee is useful to both the chair and the House and for institutional memory. Previously, you would find that a chair who is also a

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member of another committee... I would want to remember my brother Nooru who is now campaigning to be a member of EALA. He used to be the chair of the committee on agriculture where I served; but he also used to be a member of PIC together with my brother Ichung'wah who I have not seen of late. He used to be a member of the agriculture committee and vice-chair of PIC. So you would find they would choose whichever PIC meeting they would attend and whichever agriculture committee meeting to attend. We are saying this time that, if you are a chair of a committee you must stick to your committee. That is what we are proposing. That proposal will benefit both the Member and the House, so that we have institutional memory which will be useful when writing reports which will eventually end up on this Floor.

I do not want to belabour the point. All has been said and you have also emphasised. It is clear that there is no need for members of the PSC to be chair or vice-chair of any committee. Therefore, I do not want to take a lot of time in trying to support this Motion. When you proposed the Question, some Members were even proposing that you put the Question. It is true Members have been reading the Supplementary Order Paper and they find that these proposals are very clear and they are going to help us have an orderly House.

Once we approve the Motion, for those Members who are not sure, you can come so that we compare notes, especially those on the Majority side, so that if there is anything that is not clear on the Order Paper, because it just came in when we were sitting, we can see how best we tackle it. Otherwise, Hon. Speaker, I wish to support.

**Hon. Speaker:** Before we move on, it is important that you look at Standing Order No.180 on duties of committee chairperson:

“Subject to the provisions of these Standing Orders and the directions of the committee, a chairperson of a committee shall—

- (a) preside at meetings of the committee;
- (b) perform the functions and exercise the powers assigned to office of the Chairperson by the committee, resolutions of the Assembly or legislation;
- (c) be the spokesperson of the committee.”

So, please, if you are not a spokesperson of a committee and a matter is before you, do not open your mouth purporting to speak on behalf of the committee. Only the chairperson can do that. In his absence, the vice-chairperson takes charge. In their absence, it is a person designated by the members to speak. So the rest of you must.... Then look at Standing Order No.182 on sittings of committees. They are to be determined by the chairperson or on a petition made by at least seven members of that committee. But a meeting of the committee may be held outside the precincts of Parliament without the approval of the Speaker. Therefore, it is important that we appreciate that.

More importantly, there was an issue raised by Hon. Makali Mulu before he left; he made his contribution and left. I think the point he raised is useful for the House to consider. That if a chairperson is going to be restricted to being a member of only one committee and you do not know whether you are going to be a chairperson, it therefore means that we must resort to some other practice and/or tradition, which is the tradition which used to exist under the former constitutional dispensation, that any Member duly elected to the House could vie for the position of Speaker and upon election would relinquish the parliamentary seat to which he or she had

been elected. I think we may have to borrow from that practice to avoid a situation where any Member or Members are disadvantaged.

Remember Members, from time to time, do exercise their powers to even vote out chairpersons. As Hon. Makali Mulu was raising that issue, I also thought about a situation where... In the last Parliament, a few chairpersons were shown the door. If they were only in one committee then the person assuming the chair would have to relinquish their membership to that other committee so that that former chairperson, who has been shown the door, serves in another committee. We may have to make provision for that kind of situation going forward. We must not allow for a situation where any Member is disadvantaged on account of the positions that they occupy. Just like we have said even PSC commissioners should be able to serve in a committee, at least.

**Hon. Ng'ongo:** Thank you, Hon. Speaker. Let me take this opportunity to also support the Motion being debated this afternoon on the Report of Procedures and House Rules Committee.

Hon. Speaker, I remember the sitting of the House Business Committee (HBC) actually initiated or originated the need of Procedures and House Rules Committee to sit urgently and review our Standing Orders to help and accommodate some of the actions that we are just about to take. Therefore, I want to agree with this Committee that these changes if adopted by this House take effect immediately.

Hon. Speaker, I agree with the Committee's suggestion that we restrict membership to committees especially departmental committees to not more than two which again was already in our Standing Orders. Even seating in two departmental committees is going to be a tall order in this Parliament and that is what I have realised. This is because if you are lucky to get a departmental committee, you would probably get another select committee or another House Procedures Committee.

The other thing that I wanted to say regarding the proposed amendments is that we have made very modest adjustments to the Standing Orders because we have two competing interests that we were trying to balance. One is to try as much as possible to place our Members in at least two committees so that there is no discrimination. As I said yesterday, some Members would have found themselves in two committees and others in one which could have exposed the leadership of this House to a lot of condemnation, criticism and even raw emotions.

I have been a Member of this House for a while and I know if there is any difficult period of time in the life of leadership of the House, it is during this time. Hon. Speaker, I am sure you will witness it next week when emotions will run very high in this House. That is the time when Members will realise that they will not be able to sit in committees that they preferred to sit in and hence a lot of criticism will fly around. However, I would just encourage the leadership of both sides of the House, and I am one of them, that we try as much as possible to be transparent and involve our Members in participating in choosing their committees.

However, even as we do that, there is a terminology that has come up which I never used to hear of 'Lucrative Committees'. I am yet to understand this terminology of how a committee can be lucrative. This is because my experience here is that the sittings of the committees is almost usually uniform that even the so called Catering Committee that Hon. T.J. Kajwang was talking

about used to meet regularly. I remember there are some Members who did not really want to leave that committee although some also do not want to get to that committee. I am happy it has been re-baptised to something that cannot quickly be related to what it actually does. However, this terminology of “Lucrative Committees” sometimes surprises me. I just hope that our Members want to get to these committees to serve in the best interest of Kenyans and not with some other motives behind because you may be so disappointed when you get to these committees and realise that what you thought is not actually happening there.

Hon. Speaker, I was just shocked that even with the large numbers of lawyers the NASA Coalition has, we are struggling to get membership to the Departmental Committee on Justice and Legal Affairs. Actually, I was told by my Whip that only two Members have applied to be in that committee who are even non-lawyers. And I am asking myself really... I think we should place you based on your competence in committees so that if you are a finance expert or accountant like myself, then you would be placed in the Budget and Appropriations Committee, Departmental Committee on Finance, Planning and Trade, Public Accounts Committee (PAC) or Public Investments Committee (PIC), something that is relevant to you. If you are someone with education background, then you should express interest in areas of education. However, there are so many committees where we have a challenge in placing Members like PAC, PIC and Departmental Committee on Transport, Public Works and Housing. The Departmental Committee on Transport, Public Works and Housing has also become so popular in this Parliament yet it never used to be. I do not know why. Maybe we need some research on this. However, I just want to make a plea to Members that you should also be accommodative to your leadership so that if you do not get all the committees that you want, you should realise that we are 349 Members against very limited chances that we have. In the Departmental Committee on Transport, Public Works and Housing for example, we have 45 Members who have expressed interest and probably we only have four slots for it. We will try as leaders to place Members in areas where they have shown interest but you should also understand that as you show interest, others also show interest and we have to balance other interests like regional representation. For example, in my case with the interests of my party, we also have to consider gender which is a constitutional requirement and it is in our Standing Orders and we cannot do away with it.

I also want to talk about the Budget and Appropriations Committee. I can see that we have increased the number of the membership to this committee to I think a total of 27, which is 26 Members plus the chair to make a total of 27. In my view, this committee should have even had little more Members. This is because Budget and Appropriations Committee has a lot of representation in this House. You will realise that reports from the Budget and Appropriations Committee and the Bills or proposals that they look at, are like Money Bills in nature and cannot be amended easily on the Floor of the House. This is because, really, for you to amend matters that touch on taxes and expenditure you require interacting with the Executive and Treasury. Therefore, we deliberately had a heavy representation or a large number of Members going into this committee so that it is almost like the Committee of the whole House. Once they sit, and make a decision which affects operations or activities or whatever it is in this country, there is proper representation of this House. So, even 27 Members may not be sufficient. Again, I said

we are balancing another interest. The interest we are balancing is that we do not want to have too large committees which become difficult to manage.

As I conclude, with these reduced numbers of committees where Members would end up with not more than two committees, I hope that commitment to committees is going to be different. In the last Parliament it was a big shame when Accounting Officers appeared before them but they could not raise quorum and they had to go back. I hope it is not going to happen again. It is not only the watchdog committees but even the ones dealing with other matters, the fact that you have called Members for a meeting they should be there on time so that they transact the business that was scheduled.

My final comment is that I agree entirely that those Members who will be lucky enough to sit in PSC should let other Members sit in other committees because that Commission is in itself a Parliament. You can see the kind of competition we have in PSC. This is another thing that surprises me because up to the 10<sup>th</sup> Parliament, Members did not want to sit in PSC. I do not know the madness that came with the 11<sup>th</sup> Parliament. Hon. Speaker, you are also the Chairman of PSC and whatever it is in that Commission that is making people struggle to come there, you will one day whisper it to me. Maybe it is just a perception or...I do not know what it is. I hope it is not informed by any other thing apart from perception. Let it be perception and nothing else.

Thank you, Hon. Speaker, I support.

**Hon. Speaker:** Well, of course those of you that were here, you would recall that the Members' Welfare and Facilities Committee as is now known used to have its meetings at 1.00 p.m. They would have a portion of the dining hall at Continental Hotel reserved for their meetings at that time. It was a fairly good committee. They would do their meetings and come to the Chamber at 2.30 p.m. As the Members took their lunch, they would also be doing their meeting and then they would come back to the Chamber at 2.30 p.m. It was a fairly attractive committee but because traditionally Members who serve in that Committee do not pay for what they take, that is the language.

Hon Members, I need to get an indication as to how long you want to debate this matter. I can see a number of requests.

Let us hear the Member for Navakholo.

**Hon. Wangwe:** Thank you, Hon. Speaker. First and foremost, I support the Report as it is. I would like to seek clarification from the Committee regarding the two figures appearing on page 13, the arithmetic of which is lacking. On page seven, they say that we have 554 slots. However, on paragraph 8, it is shown that the slots have risen to 642. That leaves us confused. We want this clarified during the Committee of the whole House stage. They should clarify to us what they intend to achieve.

I support the Report on the issue of chairmen not heading other committees. In the 11<sup>th</sup> Parliament, it was so difficult. A Member would be chairing a committee and, midway through, would rush to participate in another committee. Therefore, this is a wise thought. I would want to thank the Committee for putting it very clear that we tighten the committee membership so that the chair can concentrate on the work that his committee is mandated to do. I also thank the Committee for looking into the issue of the Commissioners; that each of them serves in only one committee. As a Member of Parliament, one should not be denied the opportunity to serve in a

committee. On page 10, the Committee made the suggestion that Standing Order 174 be amended except as the House may otherwise resolve, on the recommendation of the Committee on Selection of reasons to state the limits a chairperson or vice-chairperson can serve.

I would suggest that we have the House leadership committed so much. Today people can be magnanimous enough to not take slots in committees. How about the future? You may get a Chief Whip who may want to be chairman of a committee. I would say that we amend it since the Standing Order is for posterity. Let us also include the leadership of the House. We should not just limit it to the chairpersons and their vice-chairpersons. I thank the Committee on their very good conclusions on the various Standing Orders that they have observed. About the Catering and Health Club Committee, many people would think it was just meant for Members' social life. No. This is about this House's membership facilities. All the facilities at the Members' Gym are dilapidated. I want a scenario where Members are treated as officials of this country. We do not want to be fed on food that is stale. Many of the Members are getting stomach upsets because we are being fed on stale food. This is a good committee. Let the Members who will sit in the Committee do what is just for us, as Members.

With those remarks, I support.

**Hon. Speaker:** Let us have the Member for Nambale.

**Hon. Bunyasi:** Thank you, Hon. Speaker. I support the Motion and the Report.

I have a few quick comments. This was timely but it happened so fast. Most of us were not aware that we should submit comments on this Report. I hope we shall get a chance down the road so that if there are sufficient changes to be made, the Committee can be generous enough to look at it again.

I have a comment on the issue of the Parliamentary Service Commission. Without in any way repeating what others have already said, from the comments of the Leader of the Minority Party and others, there is a rush for Members to get into the PSC. This shows that the PSC is very popular. I guess it has a lot of benefits to the House. I request the Committee to look at the possibility of introducing a one-term limit for hon. Members sitting in the PSC. There should be no need for Members to serve over and over again in the Commission.

Hon. Speaker, I know you are consulting with the Deputy Majority Whip.

**Hon. Simba:** --- (*Off-record*)

**Hon. Bunyasi:** That is not what really matters now. Thank you, Hon. Simba Arati for the suggestion. That is one substantive comment I would want to make. I would want this recommendation to take effect prior to next week so that we can stop that rush. There is a huge pool of talent in this House. Let us allow this proposal to be applied without prejudice to any particular individual's interest. What I am discussing here is a corporate matter.

Secondly, during the 11<sup>th</sup> Parliament, frequently, committee leadership was absent in the House. I have seen a huge improvement. They have labelled the seats of the House leadership. I would suggest that they label the seats of the chairs of committees as well. If the chair is not there, whoever is standing in within the confines of the guidelines we have laid down, sits on that chair. If there is nobody there, we will know that they are absent not desiring to be present.

In the 11<sup>th</sup> Parliament, many times questions would be raised on the Floor, but there would be no one to respond to them. Not even a single person from the committees would be

around to even attempt to give an answer. I would, therefore, want the seats of committee chairs to be designated to provide for a simple way of finding out which chair is always empty.

Hon. Speaker, those are the two substantive points I was suggesting; that, membership to the PSC be restricted to a single term. I would have requested that it be started right from next week's election because there is such a rush for positions. There is a lot of talent in this House. Let us tap it and restrict the tendency for some Members to sit in the Commission over and over again. Let us designate the sittings of the committee chairs. In the 11<sup>th</sup> Parliament one had to look around the whole House to find out if there is anyone standing in for a particular committee, particularly when we were seeking to know why there have been delays in responding to questions.

Those are the two adjustments I would make. Otherwise, I thank the Committee. We were told by Hon. T.J. Kajwang' that this might be a Committee that meets only once in five years. Among the new Members, there is a strong push for leadership and participation. The process of revision is supposed to be continuous – perhaps once every Session – so that there is a chance to enrich and upgrade the Standing Orders.

With those remarks, I support.

**Hon. Speaker:** Good point Hon. Sakwa, but of course we may have to address Article 127 of the Constitution on the membership. What you are proposing is there in other commissions. It might be difficult to legislate it in subsidiary law because the Standing Orders are anchored in the Constitution itself. Article 124 of the Constitution has not given us the authority to change what is in Article 127 of the Constitution on the election of Members to the Commission.

For instance, there is a commission whose term is coming to an end like the Salaries and Remuneration Commission (SRC) which was appointed for a six-year term, non-renewable according to Article 230 of the Constitution. Even several others like the Commission on Administrative Justice (CAJ) are non-renewable. Maybe your point needs to be carried. This is because we do not also understand, just like several of you have said, the sudden unusual interest by Members of belonging to a few committees and the Parliamentary Service Commission (PSC).

Hon. Members, may I just seek your indulgence and propose that we do not take too much time at this stage. Remember, you still have to quorate for the Question to be put. From here you need to go to Committee of the whole House on this Motion. If you do not conclude then even the desire that the amendments, as contained therein, take effect from 8<sup>th</sup> December will be in vain since tomorrow is 8<sup>th</sup> Friday December and it is not a sitting day. I can see the numbers are dwindling.

If you allow me Members, can I put the Question that the Mover be called upon to reply?

**Hon. Members:** Yes.

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

**Hon. Speaker:** Hon. Kajwang'.

*(Hon. Kajwang' rose in his place and bowed)*

The new Members may not know what Hon. Kajwan'g has just done. He has risen in his place and bowed to the Chair. That is a form of replying just like it is a form of participating in debate by walking out. All those are acceptable.

*(Question put and agreed to)*

Next Order!

Hon. Members, as we move into Committee of the whole House, I hope you will remember what I have just said. The amendments to the Standing Orders are supposed to take effect from tomorrow. Therefore, do not decrease in number to a level where the Question may not be put.

### COMMITTEE OF THE WHOLE HOUSE

*(Order for Committee read)*

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

#### IN THE COMMITTEE

*[The Temporary Deputy Chairlady*

*(Hon. (Ms.) Tuya) took the Chair]*

#### PROPOSED AMENDMENTS TO THE NATIONAL ASSEMBLY STANDING ORDERS (THIRD EDITION)

**The Temporary Deputy Chairlady** (Hon. (Ms.) Tuya): Hon. Members, we are now in Committee of the whole House to consider amendments to the National Assembly Standing Orders, Third Edition.

*(Standing Order Nos.1-171 agreed to)*

*Standing Order 172 (Committee on Selection)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Tuya): The Mover.

**Hon. Kajwang'**: Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Standing Order 172 be amended in paragraph (1)(c) by deleting the word "nineteen" appearing immediately after the words "not more than" and substituting therefor the word "twenty-one".

On my part as the Mover, I want to be very brief on this. You will see this recurring in several other proposals which we have made. The intention of these amendments is to increase

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with a regular margin in almost all the committees which are in the Standing Orders. If we can increase them by a margin of three or so and they become 21, we will then have about 547 slots, which will be shared amongst 347 Members. This is the thinking of the Committee. That way if every Member is serving in two committees it will be easy for the Committee on Selection to give every Member a committee.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Tuya): Hon. Members, can I go ahead and put the Question?

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

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

*(Standing Order.172 as amended agreed to)*

*(Standing Order.173 agreed to)*

*Standing Order 174 (Criteria for Nomination)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Tuya): Let us have the Mover.

**Hon. Kajwang’**: Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Standing Order 174 be amended by deleting paragraph (3) and substituting therefor the following new paragraph—

(3) Except as the House may otherwise resolve, on the recommendation of the Committee on Selection for reasons to be stated—

(a) no Member shall be appointed to serve in more than two Departmental Committees;

(b) a Member who is a Chairperson of a committee or a member of the Parliamentary Service Commission appointed under Article 127(2)(c) of the Constitution shall not serve in more than one committee.”

Hon. Temporary Deputy Chairlady, the only point to note, as Members have been guided on these proposed amendments, is that no Member shall be appointed to serve in more than two Departmental Committees. Hon. Members, you also need to familiarise yourself. What is a departmental committee, a select committee and a house committee? They are all in your Standing Orders. They may not be the same as the other but they serve the House with equal strength. It is in this amendment that we propose that we will only serve in at least two committees. The amendment in paragraph (b) restricts chairpersons of committees or members of the Parliamentary Service Commission (PSC) not to serve in more than one committee. We

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have explained the thinking in that. However, you can also see there is an exemption clause. That amendment starts with an exemption clause meaning that the House can resolve or there can be good reasons to be stated why a chairperson can also serve in another committee or a member of PSC can still serve in another committee. The House can resolve upon good reasons to be given.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Tuya): Member for Nambale, Hon. Bunyasi.

**Hon. Bunyasi:** Thank you, Hon. Temporary Deputy Chairperson. The wording in Standing Order No. 174, despite the verbal clarification, is still vague. The proposed amendment in Standing Order No. 174 (b) says:

“a Member who is a Chairperson of a committee or a member of the Parliamentary Service Commission appointed under Article 127(2)(c) of the Constitution shall not serve in more than one committee.”

This would imply, as I read it, that the chairperson will not serve in another committee. I thought we had said it verbally that they do not have the time to serve in any other committee. So, does this suggest that you can be a chair but a member of another committee? That is what this is saying and I just wanted to get clarification on that.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Tuya): Hon. Wandayi.

**Hon. Wandayi:** Hon. Temporary Deputy Chairlady, I think it is a matter of interpretation. In my view, it is fairly clear in the sense that it presupposes that once you chair any particular committee, then you can only be in that committee and no other committee. Again, once you are a member of the PSC, you can serve in only one committee. Remember, the Standing Orders do not recognise the Commission as a committee. Therefore, it is talking about “a committee,” which means a member of the PSC can belong to one committee just like a chair of any other committee.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Tuya): Hon. Makali.

**Hon. Mulu:** Thank you, Hon. Temporary Deputy Chairlady. I think we really need to look at the wording of this Standing Order. I am just wondering. For example, if you are the chair of the Committee on Parliamentary Broadcasting and Library, I am wondering whether such a chair would be so busy to a level that they cannot really participate in another committee. I think the wording needs to be changed. Like it or not, there are such committees. For example, if you are the chair of the Departmental Committee on Transport, Public Works and Housing, you do not even have time to sit in another committee but I imagine if you are in what we call Committee on Members’ Services and Facilities and such committees, I think we really need to be careful. Otherwise, we will have members who will be chairs but they do not have much. So, the wording needs to be changed. I think we need to put an exception.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Tuya): I think you have made your point clear, Hon. Makali. I will revert to the Mover.

**Hon. Kajwang’:** Hon. Temporary Deputy Chairlady, for avoidance of doubt so that we are very clear, we are not saying that if you a member of the PSC you cannot serve the House.

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We are only limiting you to one committee so that you can put all your talents and energy in the PSC work. However, because you are a member of this Assembly, we cannot take it away from you. It is your constitutional right to be in this Chamber and you must participate in committees by right. That is your constitutional right which was given to you by the people who voted you here. We cannot take it away. That is why you must participate in one committee even though you are a member of the PSC. However, we are only restricting that you appear in one committee.

The second thing is, yes, Hon. Makali has a point but we are trying to see how we can rejuvenate all our committees so that they are the same things. As I said, if I serve in what we used to call Catering Committee, if I am going to appear before that Committee every 1.00 O'clock, I should have the same respect like all other committees. Another example is the Committee on Implementation. You know a committee is as effective as the chair. If you want that committee to die, you can even kill Public Accounts Committee (PAC). We saw chairmen here of PAC who could not present reports for three or four years. So, if you are the chair of the Committee on Implementation, you must go to the archives and find out what this House said which needs to be implemented and how it can be implemented. So, it is just as good as the chair and members in that committee. We think that the proposals as they are here will capture what we want to do so that we release more committees to members. What we have done in subsection (3) is to release about 68 committees back to the members so that as many members as possible are able to participate.

Thank you very much.

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

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

*(Standing Order 174 as amended agreed to)*

*(Standing Order Nos. 175, 176 and 177 agreed to)*

*Standing Order 178 (Chairing of Select Committees and Quorum)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Tuya): There is an amendment to Standing Order No. 178. Let us have the Mover.

**Hon. Kajwang'**: Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Standing Order 178 be amended by inserting the following new paragraph immediately after paragraph (1)—

“(1A) A member of the Parliamentary Service Commission appointed under Article 127(2)(c) of the Constitution shall not be eligible to stand for election as a Chairperson or Vice-Chairperson of a select committee.”

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Hon. Temporary Deputy Chairlady, the amendment proposed here is exactly the same in terms of rationale with the amendment we have just discussed. This limits members of the PSC and chairpersons or vice chairpersons. They would not be eligible to stand for election as chairperson or vice chairperson. I think I need to explain something that has been brought to my attention by Hon. Osotsi. You will see in the Report we had put together the chair and the vice chair but when we, as a Committee, retreated and when we were now considering the Report, we thought that it would be too much on vice chairs. I do not think vice chairs should be made to have that strict application of that provision. This is because there is something I call legislative responsibility that is repost in the chair and may not be in the vice-chair. That is why we have released the vice-chair. He is not part of what we have just discussed.

Thank you very much.

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

*(Standing Order No.178 as amended agreed to)*

*(Standing Orders Nos. 179, 180, 181,182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193,  
194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204 agreed to)*

*Standing Order 205 (Public Accounts Committee)*

**Hon. Kajwang’:** Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Standing Order 205 be amended in paragraph (3) by deleting the word “sixteen” appearing immediately after the words “not more than” and substituting therefor the word “eighteen”.

*(Question of the amendment proposed)*

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

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

*(Standing Order 205 as amended agreed to)*

*Standing Order 205A (Special Fund Accounts Committee)*

**Hon. Kajwang’:** Hon. Temporary Deputy Chairlady, I beg to move:

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THAT, Standing Order 205A be amended in paragraph (3) by deleting the word “sixteen” appearing immediately after the words “not more than” and substituting therefor the word “eighteen”.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Tuya): I can see that we do not have interest in contributing to this amendment. I will go on to put the Question.

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

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

*(Standing Order 205A as amended agreed to)*

*Standing Order 206 (Public Investments Committee)*

**Hon. Kajwang’**: Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Standing Order 206 be amended in paragraph (3) by deleting the word “sixteen” appearing immediately after the words “not more than” and substituting therefor the word “eighteen”.

*(Question of the amendment proposed)*

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

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

*(Standing Order 206 as amended agreed to)*

*Standing Order 207 (Budget and Appropriations Committee)*

**Hon. Kajwang’**: Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Standing Order 207 be amended in paragraph (2) by deleting the word “twenty-two” appearing immediately after the words “not more than” and substituting therefor the word “twenty-six”.

This is perhaps one of the few committees that we have increased the membership to 26. As you know, the Budget and Appropriations Committee usually mutates into several sectoral

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committees to handle several issues. Others will deal with the National Treasury, others will conduct public hearing and others will be doing reports. We felt that 26 Members will be small enough to be a committee, but also big enough to serve the sectoral interests that we will be expressing in that committee.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Tuya): Member for Nambale

**Hon. Bunyasi:** Hon. Temporary Deputy Chairlady, I fully agree with the rationale of how busy the Committee is and the mutation question. However, a committee of 27 Members, including the chair is the size of the old committees which we had. I was in the Departmental Committee on Finance and National Planning and the number of Members was not enough. We should have had a bigger number of Members in that Committee. This number is rather modest. I doubt that it will help meet that objective of mutation fully while giving the critical number.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Tuya): Hon. Member, you do not have a card. I do not see you here.

**Hon. Ibrahim Ahmed:** I have not logged in, Hon. Temporary Deputy Chairlady. I rise to support the increment of the membership of the Budget and Appropriations Committee because of the sub-committees the Committee is expected to have. One of the sub-committees will deal with legislative matters, another one with the National Treasury and another will coordinate with the different departments. There is need to increase the membership of the Budget and Appropriations Committee unlike other committees because its functions will cut across dealing with chairpersons of different committees.

I support the amendment.

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

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

*(Standing Order 207 as amended agreed to)*

*Standing Order 208 (Procedure and House Rules Committee)*

**Hon. Kajwang’:** Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Standing Order 208 be amended in paragraph (2) by deleting the word “fifteen” appearing immediately after the words “not more than” and substituting therefor the word “seventeen”.

*(Question of the amendment proposed)*

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

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

*(Standing Order 208 as amended agreed to)*

*Standing Order 209 (Committee on Implementation)*

**Hon. Kajwang’:** Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Standing Order 209 be amended in paragraph (4) by deleting the word “sixteen” appearing immediately after the words “not more than” and substituting therefor the word “twenty-two”.

There is a proposal to increase the number of Members in this Committee to 22. That is small enough to act as a committee but big enough to concentrate on implementation.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Tuyu): Hon. Washiali

**Hon. Washiali:** Thank you, Hon. Temporary Deputy Chairlady. I support the Committee. Since the beginning of this sitting, many of the Members who have made their contributions have been raising questions on implementation. This being a very critical committee, it is better we increase its members so that we have all regions represented. By increasing its members from 16 to 22 it will help us reach out to all regions.

I support the amendment.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Tuyu): Hon. Chachu.

**Hon. Ganya:** Thank you, Hon. Temporary Deputy Chairlady. I strongly support increasing the number of members of the Implementation Committee to 22. This is the most important committee for this House. If the Executive is to be assured that it should not take this House for granted, this is the committee that will ensure that any decision we make in form of Motions or asking Cabinet Secretaries questions through departmental committees or any decision that is made is implemented. Unfortunately, it has not been very effective in the past. It is a very effective and important committee of this House. Because of that, I support the increase of its membership to 22.

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

*(Question, that the word to be inserted in place*

*thereof be inserted, put and agreed to)*

*(Standing Order 209 as amended agreed to)*

**Hon. Bunyasi:** On a point of order, Hon. Temporary Deputy Chairlady.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Tuya): What is your point of order, Hon. Bunyasi?

**Hon. Bunyasi:** I stand to be corrected but these numbers we have been talking about have been exclusive of the chairs. We had an even number and with the chair, it would be odd number as it ought to be. But in the previous ones, we are having even numbers here. They sound like the total committee. That will be a problem because you can get hang decisions.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Tuya): Mover, do you want to clarify?

**Hon. Kajwang’:** If I am not mistaken, the Order Paper talks about 22. It means with the chair the total should be 23. I just want to be sure that, that is the expression. That is where it is. The Hon. Member is right to have raised that concern. But it is clear. I am much obliged.

*Standing Order 210 (Committee on Delegated Legislation)*

**Hon. Kajwang’:** Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Standing Order 210 be amended by inserting the following new paragraph immediately after paragraph (1)—

“(1A) The Committee shall consist of a Chairperson and not more than twenty-two other members.”

This is Committee on Delegated Legislation which I love. I remember I served for four years as a member of this Committee. It was thought to be one of those dead committees, but when we became members, we were so robust and made sure that every regulation was brought to the House for approval because the Constitution says that any policy or any other action which has a legislative effect must come to this House including those notices from the National Treasury and Central Bank. They must be brought here and we must approve them. This is perhaps the busiest committee a member can serve.

We propose to amend and increase its membership to 23.

*(Question of the amendment proposed)*

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

*(Standing Order 210 as amended agreed to)*

*(Standing Order 211 agreed to)*

*Standing Order 212 (Committee on Regional Integration)*

**Hon. Kajwang’:** Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Standing Order 212 be amended by inserting the following new paragraph immediately after paragraph (2)—

“(3) The Committee shall consist of a Chairperson and not more than twenty-two other members.”

Our proposal is to increase the number of members of this Committee as contained on page five of the Supplementary Order Paper.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Tuya): We need to rectify the page. It is on page 188 on the Order Paper.

**Hon. Kajwang’:** Yes, it is on page 188 of the Supplementary Order Paper. I am most obliged.

*(Question of the amendment proposed)*

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

*(Standing Order 212 as amended agreed to)*

*Standing Order 212B (Committee on Members’ Services and Facilities)*

**Hon. Kajwang’:** Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Standing Order 212B be amended in paragraph (3) by deleting the word “six” appearing immediately after the words “not more than” and substituting therefor the word “fourteen”.

Like bishops, we have baptised this committee so that it is pleasing to the ear. So it is not “Catering” any more but it is “Members’ Services and Facilities.”

*(Question of the amendment proposed)*

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

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

*(Standing Order 212B as amended agreed to)*

*Standing Order 213 (Appointment of Joint Committees)*

**Hon. Kajwang’:** Hon. Temporary Deputy Chairlady, I beg to move:

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THAT, Standing Order 213 be amended by deleting paragraph (4).

Because the other House has done away with this Committee, we see no reason to retain it. So we propose to delete it.

*(Question of the amendment proposed)*

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

*(Standing Order 213 as amended agreed to)*

*Standing Order 214 (Joint Committee on National Cohesion and Equal Opportunity)*

**Hon. Kajwang’:** Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Standing Order 214 be deleted.

Just as Members will see in the proposals to come, we have split these committees; the one we have just dealt with and the one we are dealing with now so that we will be proposing to have two committees. One will be the National Cohesion and Equal Opportunity Committee and the other one will be the Parliamentary Broadcasting and Library Committee because we are aligning it to what the other House has already done. We propose that we make the amendments as proposed in the Order Paper.

*(Question of the amendment proposed)*

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

*(Standing Order 214 deleted)*

*Standing Order 215 (Joint Committee on Parliamentary Broadcasting and Library)*

**Hon. Kajwang’:** Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Standing Order 215 be deleted.

The rationale has been explained as the amendment proposed in Standing Order 214.

*(Question of the amendment proposed)*

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

*(Standing Order 215 deleted)*

*Standing Order 216 (Appointment and Mandate of Departmental Committees)*

**Hon. Kajwang’:** Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Standing Order 216 be amended by deleting paragraph (1) and substituting therefor the following paragraph—

“(1) There shall be select committees to be known as Departmental Committees whose members shall—

(a) be nominated by the Committee on Selection in consultation with parliamentary parties at the commencement of every Parliament; and,

(b) not exceed nineteen in number.

We propose to amend that Standing Order to reinforce the mandate of the departmental committees and also to increase the membership to 19.

*(Question of the amendment proposed)*

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

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

*(Standing Order 215 as amended agreed to)*

(Standing Orders 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267 and 267(A) agreed to)

*New Standing Order 212C*

**Hon. Kajwang’:** Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Standing Orders be amended by inserting the following new Standing Order immediately after Standing Order 212B—

Committee on National Cohesion and Equal Opportunity

212C. (1) There shall be a select committee to be designated the Committee on National Cohesion and Equal Opportunity.

(2) The Committee shall consist of a Chairperson and not more than twenty-two other members.

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(3) *The Committee shall—*

(a) *monitor and promote measures relating to policy and program initiatives in pursuit of peace and national cohesion;*

(b) *investigate, inquire into and report on all matters relating to inter-community cohesion;*

(c) *monitor and promote measures designed to enhance the equalization of opportunities and improvement in the quality of life and status of all persons, including persons who are marginalised on the basis of gender, age, disability, health status, ethnic, racial, cultural or religious background or affiliation or any other such ground;*

(d) *investigate, inquire into and report on all matters relating to discrimination or marginalization of persons referred to under sub-paragraph (c);*

(e) *make proposals to Parliament including legislative proposals for the protection, equalisation of opportunities and promotion of the welfare of the groups referred to under sub-paragraph (c); and,*

(f) *examine the activities and administration of all state departments and statutory bodies in so far as they relate to the rights and welfare of the persons referred to under sub-paragraph (c).*

*(Question of the new Standing Order proposed)*

*(New Standing Order read the First Time)*

*(Question, that the new Standing Order be read a Second Time, proposed)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Tuyu): Hon. Mwathi Mungai, do you wish to contribute on this amendment?

**Hon. Mwathi:** Thank you, Hon. Temporary Deputy Chairlady. I support this amendment. I commend the Committee because if they did not do this, then what we had removed from the joint committees was going to be lost in the National Assembly.

I support.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Tuyu): Hon. Murugara Gitonga.

**Hon. Murugara:** Thank you, Hon. Temporary Deputy Chairlady, I support the proposed new Standing Order due to the fact that it deals with national cohesion and equal opportunity, a very important aspect of what we, as the Legislature, is supposed to do. We need a Committee that will at all times ensure that the principle of national cohesion is upheld, and that there is equal opportunity to everyone in this country such that none of the regions feels marginalised. It is a very important Committee. Therefore, I support its formation.

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Thank you.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Tuya): Hon. Nyamai, the last contribution.

**Hon. (Ms.) Nyamai:** Thank you, Hon. Temporary Deputy Chairlady, I also rise to support this Standing Order. I recall that this Committee used to exist as a joint committee. There is pending work that is supposed to be done by the National Assembly. So, I commend the Committee for coming up with the National Cohesion and Equal Opportunity Committee, especially at this time when we really need it.

Thank you.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Tuya): Hon. Nyikal, I can see you are protesting.

**Hon. (Dr.) Nyikal:** Thank you, Hon. Temporary Deputy Chairlady, for this opportunity. We must commend the Committee for bringing this Standing Order on cohesion and equal opportunity. This is the basic problem in this country. I know the joint committee did not do much. Make it simple. What we are dealing with here is the problem of ethnicity or tribalism. If you want, call it “discrimination”. If you look at all the problems that we have in the country, they originate from there. At the time of Independence, our forefathers thought we had only three problems; disease, ignorance and poverty. We have now added tribalism and corruption, and the two are heading each other. At least this will deal with the problem of ethnicity. This is implementing a very important aspect of our Constitution in the Bill of Rights, under Article 27. Parts (c) and (d) have been picked right from the Constitution.

Those Members who will have the opportunity to serve in this committee must remember that they have been given the most important committee of this House in terms of cohesion. It can create a nation. As of now, this country is only a state. It is created by instruments of the state, the Constitution, laws, and the Executive, but we do not have cohesion that creates a state in the minds of the people. This Committee, if it does its work, can lead us in that direction.

I support.

*(Question, that the new Standing Order be read a Second Time, put and agreed to)*

*(The new Standing Order was read a Second Time)*

*(Question, that the new Standing Order be added to the Standing Orders, put and agreed to)*

*New Standing Order 212 D*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Tuya): I go on to call the Mover to move Second Reading of the New Standing Order No. 212D.

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**Hon. Kajwang’:** Hon. Temporary Deputy Chairlady, before I propose, it is the practice that we learn. I think it is fair for those of us who are coming for the first time to learn how the Committee of the whole House runs. You have seen you have led us through the amendments of the legislation first. Then, we have come to deal with the New Clauses. Then, we will go to the Schedule. When we come to the New Clauses, we are not amending; we are Reading them for the First Time. These are all contained in the Standing Orders. When you are regular in the Chamber, you do not have to read every page; you will get by way of practice.

I think we should know where we are. Thank you, Hon. Temporary Deputy Chairlady.

*Committee on Parliamentary Broadcasting and Library*

Hon. Temporary Deputy Chairlady, I beg to move:

*THAT, the Standing Orders be amended by inserting the following new Standing Order immediately after Standing Order 212C—*

212D. (1) There shall be a select committee to be designated the Committee on Parliamentary Broadcasting and Library.

(2) The Committee shall consist of a Chairperson and not more than twenty-two other members.

(3) The Committee shall—

(a) consider and report on all matters relating to broadcasting of the proceedings of the House;

(b) advise the House on matters related to public participation;

(c) make reports and recommendations to the House, including proposed legislation on matters relating to broadcasting of House proceedings;

(d) recommend to and advise the House on matters related to provision of library, publications and research services in Parliament, including improvement of the library and research services; and

(e) assist Members in utilizing the facilities provided by the library and research services, including use of information and communication technology.

(4) The Committee shall not deal with matters related to procurement of items or services of the broadcast, the library or research services, or any matter falling within a function of the Parliamentary Service Commission

*(Question of the new Standing Order proposed)*

*(New Standing Order read the First Time)*

*(Question, that the new Standing Order be read a Second Time, proposed)*

**The Temporary Deputy Chairlady (Hon. (Ms.) Tuyu):** Hon. Bunyasi?

**Hon. Bunyasi:** Thank you, Hon. Temporary Deputy Chairlady. I missed to comment on the previous one but I can get it by virtue of recommittal.

On this one, my only comment is that it is a great idea to have this as a free standing Committee. But, I hope they will help and promote it so that Parliament as a whole has their own dedicated broadcast channels that are available and if possible, be run overnight. We ought to be part of the educational programming that is available in the country. This issue of sharing the Kenya Broadcasting (KBC) channel was a good start. I think we should go beyond that.

I support.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Tuya): Hon. Abdisalan, Member for Wajir North.

**Hon. Ibrahim Ahmed:** Hon. Temporary Deputy Speaker, I rise to support. This is an important committee. We need to have a committee that will deal with the issue of library. Information is core and will help Members carry out the necessary research for them to contribute in this House effectively. Doing so, I congratulate the Committee for bringing this on board.

I support.

*Question, that the new Standing Order be read a Second Time, put and agreed to)*

*(The new Standing Order was read a Second Time)  
(Question, that the new Standing Order be added to the Standing Orders, put and agreed to)*

*(First Schedule agreed to)*

*(Second Schedule agreed to)*

*(Third Schedule agreed to)*

*Fourth Schedule (Joint Sittings Rules)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Tuya): Mover?

**Hon. Kajwang’:** Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Fourth Schedule to the Standing Orders be amended in rule 9 by deleting paragraph (1).

This is to align the cross-referencing in the Standing Orders because we have deleted the words “Joint Committees”. So, we must delete them in the Standing Orders.

I propose.

*(Question of the amendment proposed)*

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

*(The Fourth Schedule as amended agreed to)*

*(Fifth Schedule agreed to)*

*(Sixth Schedule agreed to)*

*(Seventh Schedule agreed to)*

*(Eight Schedule agreed to)*

**Hon. Kajwang’:** Hon. Temporary Deputy Chairlady, I beg to move that the Committee do report to the House its consideration of the National Assembly Standing Orders (Third Edition) and its approval thereof with amendments.

*(Question proposed)*

*(Question put and agreed to)*

*(The House resumed)*

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

## **REPORT, CONSIDERATION OF REPORT AND THIRD READING**

### **PROPOSED AMENDMENTS TO THE NATIONAL ASSEMBLY STANDING ORDERS (THIRD EDITION)**

**Hon. Speaker:** Hon. Temporary Deputy Chairlady?

**Hon. (Ms.) Tuya:** Hon. Speaker, I beg to report that a Committee of the whole House has considered the National Assembly Standing Orders (Third Edition) and approved the same with amendments.

**Hon. Speaker:** Mover?

**Hon. Kajwang’:** Hon. Speaker, I beg to move that the House do agree with the Committee in the said Report. I also request my learned friend, Hon. Murugara, to second the Motion for agreement with Report of the Committee of the Whole House.

**Hon. Speaker:** Hon. Murugara?

**Hon. Murugara** seconded.

*(Question proposed)*

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*(Question put and agreed to)*

**Hon. Speaker:** Mover?

**Hon. Kajwang':** Hon. Speaker, I beg to move that the National Assembly Standing Orders (Third Edition) and be now read the Third Time.

I request the Whip of the Majority Party to second.

**Hon. Speaker:** Hon. Washiali?

**Hon. Washiali:** Thank you, Hon. Speaker. I second.

*(Question proposed)*

**Hon. Speaker:** Leader of the Majority Party.

**Hon. A. B. Duale:** I want to thank you, Hon. Speaker, as the Chairman of the Procedure and House Rules Committee for working diligently and, my colleagues who have sat this afternoon to make sure that all is done so that our colleagues can be in two Committees: One departmental and another select.

Hon. Speaker, when I moved this issue, one of the media houses made it a headline. I do not know why they do not want to make headlines out of the many meetings that are held by the Judiciary and the Executive. Members of Parliament play the oversight role. It is through committees that the role of oversight is done. So, there is nothing wrong even if a Member was to sit in five different committees. There is no crime he or she would have committed because we do not sit in those committees to have tea; we sit in those committees to deliberate on issues that affect the people of Kenya. We interrogate public, private and State officers as the people's representatives and it is our duty as per the Constitution. So, I am very happy and sure that the Selection Committee, which I chair, has its work cut out. Hopefully, next week, *inshallah*, at such a time, we should be tabling the full list of membership in committees.

I support.

**Hon. Speaker:** Member for Homa Bay, I can see these days you have chosen to be raising your hand up.

**Hon. (Ms.) Nyasuna:** Thank you, Hon. Speaker. I have not managed to get my card from the last Parliament. I must have misplaced it.

I would like to commend the Committee on Procedure and House Rules, for the job it has done. I think the spirit in these amendments is fairness and equity. Nothing bothers Members more than the fact that some people sit in one committee while others in five or so. If an arrangement has been made where every Member sits in two committees and it is specified that it is one Departmental Committee and one Select Committee, then I think there is nothing more important than what the House has done. You said it correctly that the work of Parliament is done in committees. What we are doing here is on behalf of our constituents and for them to see. This is exhibition. It is the real work.

When Bills and Motions are brought before this House, Kenyans must understand that those Bills and Motions have seriously been dealt with in committees. The public asks why they do not see us. This is the question we are answering by saying, sometimes you might not see

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your Member speaking on the Floor of this House but that does not mean that the Member is not making their rightful contribution as a Member of Parliament. You find that a lot of those Members spend a lot of time working within committees to ensure that we have quality laws brought on the Floor.

As to the number of times Members sit, I think that should not be regulated by anybody. With regard to the number of committees in which Members sit, this House is a responsible one and it has a responsible leader. We also know the time and space within which to finish our work. We should not be really monitored because we are an independent arm of Government.

With those many remarks and knowing that this is the Third Reading and not debate, I support.

**Hon. Speaker:** Hon. Members, we can put this to rest. Is the mood in the House that we put it to rest?

**Hon. Members:** Yes.

**Hon. Speaker:** I confirm that which I am required to do, that the House has the requisite numbers for purposes of Question to be put.

*(Question put and agreed to)*

*(The Standing Orders were accordingly approved)*

Hon. Members, as you may be aware, the Motion read that the amendments as contained therein take effect from 8<sup>th</sup> December 2017. That means that the Members who were approved to sit in the Committee on Selection proceed from tomorrow to do their work so that the House may begin functioning with the engine; the engine being the committees.

We can now move to the next Order.

## MOTION

### ADOPTION OF REPORT ON THE JOINT PARLIAMENTARY SELECT COMMITTEE ON THE ELECTION OF MEMBERS TO EALA

**Hon. Katoo:** Thank you, Hon. Speaker. Before I move this Motion, I would like to remind Members that we intend to finish this Motion today, so that we do the election next week as I had earlier stated. Therefore, I want to plead with Members that we try and wait so that we get numbers to conclude the Motion this afternoon.

Hon. Speaker, I beg to move:

THAT, pursuant to the provisions of Article 50 of the Treaty for the Establishment of the East African Community and Rule 13(5) of the East African Legislative Assembly Elections (Election of Members of the Assembly) Rules, 2017, and notwithstanding the provisions of Standing Order 47(1), this House adopts the Report of the Joint Parliamentary Select Committee on its consideration of the nominees for election as Members of the East African Legislative

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Assembly, laid on the Table of the House today, Thursday, 7<sup>th</sup> December 2017, and further resolves that the election be held on Thursday, 14<sup>th</sup> December, 2017.

I want to request Members to get copies of the Report from Room 8 because I will not go into details in each and every page in the Report.

First of all, let me just briefly talk to the background of the establishment of the EALA. It is under Article 9 of Treaty of the East African Community (EAC). It is one of the key organs and independent institutions of the Community. Article 50 and 51 which will be referred to most of the time in this Report of the Treaty provides for election of Members of the Assembly and the tenure of office of the elected members respectively. Specifically, Article 51 (1) provides that an elected Member of the Assembly shall hold office for five years and is eligible for re-election for a further term of five years. It means that if one is lucky, one can only serve for two terms in the EALA.

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

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

Through a letter dated 7<sup>th</sup> December 2016, the Clerk of the EALA wrote to the Speaker of the National Assembly informing the Speaker that the term of the third EALA was due to end on the 4<sup>th</sup> June 2017 and further requesting that the Speaker calls the election of Members of the next Assembly in accordance with Article 50 of the Treaty, which is the relevant provision of EALA Act 2011 and the rules of procedure on the elections of Members of the Assembly. The election process commenced in April 2017 but could not be concluded before the end of the term of the 11<sup>th</sup> Parliament.

*(Hon. (Ms.) Nyasuna consulted loudly)*

**Hon. Katoo:** Hon. Temporary Deputy Speaker, Hon. Wanga is very excited this afternoon, could you order her to consult in low tones?

**The Temporary Deputy Speaker** (Hon. (Ms.) Tuya: Hon. Members you need to consult in acceptable tones. Yes, Members, you need to consult in acceptable tones. Hon. Wanga, I think you understand that.

**Hon. Katoo:** There is urgent need to conclude the election process for the EALA members to enable the commencement of business of the Assembly. By a Motion adopted by the National Assembly and the Senate on 8<sup>th</sup> and 9<sup>th</sup> November 2017, respectively, the Houses of Parliament established a Joint Parliamentary Select Committee on the Election of Members to EALA, consisting of five Members from each House. I was co-chairing from the National Assembly side and Members were:

1. Hon. Jayne Kihara;
2. Hon. Jeremiah Kioni;
3. Hon. Daniel Maanzo; and,
4. Hon. Florence Mutua.

From the Senate, my Co-Chair was Sen. Millicent Omanga. Other Members were:

1. Sen (Dr.) Abdullahi Ibrahim Ali;

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2. Sen. Aaron Cheruiyot;
3. Sen. Rose Nyamunga; and,
4. Sen. Mutula Kilonzo Junior.

It is good for Members to know what the Committee was mandated to do. It was, first of all, to suggest appropriate timelines for purposes of identification, nomination and election of EALA members, which we have done. I think most of the things that I am not going to say were in my statement last week, when I updated the House on the progress. The Committee was also mandated to consider the nominees, oversee the election process and report to the respective Houses within the timelines stipulated in the election rules. Thirdly, the Committee was mandated to do any other function as contemplated under the EALA (Election of Members of the Assembly) Rules, 2017, within the timelines stipulated in the said rules. This process had timelines, and all these rules are annexed as Annex II in the Report. That is why we want to conclude it today. The deadline as per the timelines is Thursday next week. We should have completed the whole process. So, the election timelines are in the Report.

I just want to mention two things. One, there was an entitlement for nomination. The number of candidates that each party shall be entitled, in accordance with Rule 6(1), to nominate is three times the figure arrived at by multiplying the number of elected Members of that party by such number as the joint committee shall determine and dividing the result by the total number of elected Members of Parliament, which is 416 because of the two Houses. Under Rule 9, a person intending to vie for election, independent of political parties - because the rules say it is the political parties that nominate members to go to EALA - has to submit duly filled nomination forms in the format prescribed in the Second Schedule to a presiding officer, in this case, the Clerks of the two Houses, in a manner specified in the notice published under Rule 4. As I said last week, we published a Gazette Notice and in newspapers in accordance with Rule 10. I raise this issue because it will come up. We are even aware that there are some court cases about the eligibility of independent candidates.

This Committee fast-tracked everything. We had only three sittings and we completed the work. We did an invitation for application for EALA in accordance with Rule 4. After that, there was the list of applicants per political parties. As I said, they were 208 applicants in total: 111 from the Jubilee Party, 43 from ODM, eight from Wiper, four from ANC, four from EFP, four from KANU, three from FORD-Kenya, two from KPP, two from PDR, one from FAP, one from DP, one from PNU and 24 independent candidates. Mind you, there are only nine slots for grabs.

Then there was a pre-nomination briefing which was done in accordance with Rule 7. It was done on 27<sup>th</sup> November by the presiding officers, basically to party leaders in the two Houses, the Majority and Minority leaders. They were briefed. Then there was the nomination day, which was 30<sup>th</sup> November 2017. In the report presented by the presiding officers to the joint committee on the nominations process, out of the 208, the NASA Coalition returned 12 names and the Jubilee Party returned 15 names. The sorting was being done by the political parties themselves. But the independent candidates were all received by the presiding officers because they do not have political parties. There were 24 independent candidates, but 13 did not make

past the nomination desk. They were disqualified by the presiding officers for lacking some documents. They were not able to meet the threshold as required by the rules.

Therefore, those who were accepted are the 27 from the political parties. The total number of candidates cleared was 31 and they were issued with nomination certificates. They were 26 nominees affiliated to political parties while five were independent candidates. Only five candidates made it past the nominations desk. The reason why they were 26 and not 27 for political parties is that there was one candidate affiliated to the NASA Coalition who could not make it on the day of nominations to bring his papers. But as a Committee, we reinstated his name yesterday because we found that his complaint was very genuine. Again, the name came on time. We have the whole list of the 12 nominees from NASA.

This is very interesting. A point which is very good for Members to note is that the presiding officers noted that one of the nominees of the Jubilee Party, namely, Ms. Julie Njeri Waweru, is serving as a public officer. She is one of the directors of the Kenya Youth Enterprise Fund, and she was among the 15 who were returned by the Jubilee Party. Being a director of the Youth Fund, the presiding officers had provisionally accepted her nomination papers on the strength of the court decision by Justice D.K. Njagi Marete, in *Eric Cheruiyot & 7 Others versus the IEBC & 7 Others*, issued on 29<sup>th</sup> March 2017. The court declared that Section 43(5) of the Elections Act, 2011 was unconstitutional, in effect allowing public officers intending to vie for political office to continue serving in their respective offices and only be required to resign after being nominated by their political parties to contest in an election. I think this case was in the Kericho High Court. However, the presiding officers went on to note that, that decision by Justice Marete has been stayed by a Court of Appeal sitting in Embu County. Another one is Mr. Eric Cheruiyot versus 15 others on 27<sup>th</sup> September 2017. This had the effect of suspending the decision of Justice Marete and, therefore, reinstating the provisions of Section 43(5) of the Elections Act, 2011 which mandates public officers to resign at least six months before an election in which they intend to contest.

I want Members to understand this very well. It is in public knowledge now that NASA Coalition is entitled to four slots and they should bring three times the four slots to make it 12 while Jubilee Party is entitled to five slots and, therefore, they should bring three times the five, which is 15. However, this will not be the case because the Committee has disqualified two nominees. So, the numbers are going to be 11 for NASA and 14 for Jubilee. The case I have just mentioned is of a nominee from the Jubilee Party. The other one is from the NASA Coalition. The presiding officer also pointed out that Ms. Winfred Mutua, a nominee of the NASA Coalition is a sitting Member of the County Assembly of Machakos.

Hon. Temporary Deputy Speaker, it is just good to make the Members aware that Article 99(2)(a)(d) of the Constitution provides that an MCA is not qualified to be elected as a Member of Parliament. This, therefore, means that Ms. Mutua does not qualify to be elected as a Member of EALA in accordance with Article 50(2)(b) of the East African Community Treaty. The article says that they should not be sitting members of other legislative organs or public officers. The presiding officers however, provisionally accepted her nomination papers to enable the Committee to make a decision on whether she qualifies for election to EALA in accordance with

its powers under the EALA rules. They brought her name to the Committee, but it disqualified these two nominees.

In addition, and as I said earlier, there were only five independent candidates who made it to the nomination desk. However, there are a lot of requirements for independent candidates to be eligible for this election. So, some of them had to be clarified by the IEBC and the presiding officers wrote to the IEBC on 1<sup>st</sup> December to confirm, first, whether, as required under Article 99(1)(a) of the Constitution, each provisionally nominated candidate is registered as a voter and is in the voters' register held by the Commission. Secondly, whether as required under the same Article 99(1)(a) of the Constitution, the persons whose signatures were submitted by the independent candidates to support their nominations are registered voters. For an independent candidate, the nomination papers have to be accompanied by 1,000 signatures. Therefore, the presiding officers wrote to the IEBC to confirm whether those supporting the nominations of independent candidates are registered voters in the respective constituencies, who should be, at least, 1,000 in a constituency or 2,000 in a county.

The presiding officers also wrote to the Registrar of Political Parties to ascertain whether the independent candidates meet the conditions set out in Section 33(1)(a) of the Elections Act which states *inter alia* that a person qualifies to be nominated as an independent candidate for parliamentary, presidential and county elections for purposes of Articles 97, 98, 137, 177 and 180 of the Constitution if that person has not been a member of any political party for at least three months preceding the date of election. That is for an independent candidate.

Hon. Temporary Deputy Speaker, we got the replies. Out of the five independent candidates who made it past the nomination desk, it was found that four of them are all registered as members of the Jubilee Party and, therefore, they are not independent. So, we as a Committee also disqualified those ones because they are not independent candidates. So, in essence, only one independent candidate again went past that second stage. It was a very rigorous exercise. Again, we went further on that and one person was partyless. I think he was called Mr. Eric Wanjohi Gatheru. The others are members of the Jubilee Party as far as the Registrar of Political Parties is concerned. This was Mr. Cheruiyot Kemei Tamogei, Ms. Hellen Makone, Mr. Billy Baltazar and Mr. Humphrey Kimani Njuguna. So, those other four flopped there. The only one, Mr. Eric Wanjohi Gatheru, who was partyless, was also somehow found to be unqualified at the next stage. He was not able to provide the 1,000 signatures of registered voters. It was a requirement that they furnish the IEBC with a soft copy of those 1,000 signatures which he did, but the number could not really reach 1,000. So, he could not meet the threshold. Remember there was a time a certain group tried to ask for 1,000,000 signatures to change the Constitution and when their soft copy was sent to the IEBC, they fell short of their numbers. Even these nominees were not able to meet the required threshold. So, in essence, out of the 24 nominees or candidates who applied under the independent category, nobody was found to be qualified to be in the final list. Therefore, I want to very quickly say that the list of those unsuccessful candidates is here, namely, the independent candidates who applied and were not successful and the reasons were given.

We also received three complaints not necessarily from the public, but from three nominees or candidates who were asking to be admitted and one of them was the one I said

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earlier was called Mr. Justus Mochoge who was a nominee for the NASA Coalition. He is the one I said could not make it on the nomination day to bring the nomination papers, but his name was in the list that came on time. The Committee was convinced that the reasons given were genuine and we admitted his papers. There was also another nominee by the name Mr. Jimmy P. Luka who wrote a complaint letter saying that the Committee should reject all the nominees of the NASA Coalition owing to the fact that they did not include anyone with disability in that list. However, the Committee went through the rules and we found that it is a fact that there are no rules that require political parties to nominate one of its nominees living with disability. This was in Rule 6(2). The rule just says they should consider all shades of opinions and you can consider that disability, but if the list came and there was no one with disability, then it was not really a reason. That party might have considered persons with disabilities in other positions. The Jubilee Coalition nominated Dr. ole Sankok and Senator Mwaura to represent people with disabilities in the National Assembly and the Senate, respectively. When the slots are so few, it is not a requirement that they should be everywhere.

There was another complaint by Hon. Lawrence Sifuna. He said that he could not make it to the nomination desk on the nomination day because his car broke down. We found that not to be sufficient reason for rejecting or including him on the list of nominees. Even though he could not make it, he could have complained to the party he was affiliated to for the party to include the names.

I finalise with the recommendation of the Committee. I said that the Jubilee Coalition is entitled to five slots, but we have 14 nominees. Choose five from the 14. The NASA Coalition is entitled to four nominees out of the 11 candidates whose names made it to the final list during the nomination day. I have given reasons as to why we have rejected the two and the independent candidates. I just want to mention the names of the successful candidates on each side of the political divide. If you have the Report, you have the names of the nominees, their identity card number, age, gender, county and their status to establish if they are living with disabilities.

Very likely, that is how the ballot paper will look like when you come to vote. The only addition is for the administration of Parliament, through the Clerks of both Houses, to see ways in which we can make the ballot papers more user-friendly. One was inclusion of the photos of the nominees, just to make it more like the normal ballot paper during normal elections.

The candidates whose names made it to the final list on the Jubilee side are:

- (i) Hon. Simon Ng'ang'a Mbugua, Nairobi County;
- (ii) Aden Mohamed Noor, Mandera County;
- (iii) Mr. Charles Ayako Nyachae, Kisii County;
- (iv) Hon. Lawrence Mpuru Aburi, Meru County;
- (v) Miss Wanjiku Muhia, Nyandarua County;
- (vi) Miss Elizabeth Wambui, Nyeri County;
- (vii) Hon. Abdulaziz Ali Farah, Mandera County;
- (viii) Miss Irene Cherop Masit, Elgeyo Market County;
- (ix) Miss Florence Jematiah Sergon, Baringo County;
- (x) Mr. Justin Bundi, Tharaka Nithi County;
- (xi) Miss Eunice Wanjiru Karanja, Trans Nzoia County;

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- (xii) Mr. Jackson Kipkemoi Kosgei, Baringo County;
- (xiii) Miss Dorice Donya Aburi, Kisii County; and,
- (xiv) Dr. Muriuki Mureithi, Nyeri County.

When it comes to the date of the election, Members will be requested to pick five out of the 14 candidates. Out of the five to be picked, two will be women and three will be men. Use your discretion as Members to capture all the shades of opinion during your voting, including regional balance, gender and age. The age of each and every candidate is also provided.

From the NASA Coalition, we have the following 11 candidates whose names made it to the final list:

- (i) Hon. (Dr.) Oburu Oginga, Siaya County;
- (ii) Mr. Kennedy Musyoka Kalonzo, Kitui County;
- (iii) Mr. Norman Magaya Amugira, Kakamega County;
- (iv) Hon. Fatuma Ibrahim Ali, Wajir County;
- (v) Hon. Abdikadir Omar Aden, Garissa County;
- (vi) Miss Beth Mutunga Syengo, Machakos County;
- (vii) Hon. Abubakar Zein Abubakar, Mombasa County;
- (viii) Miss Loy Mwandu Mwavvya, Kakamega County;
- (ix) Miss Angela Mueni Munyasia, Machakos County;
- (x) Miss Jane Moronge Marwa, Migori County; and,
- (xi) Mr. Justus Osongo Mochoge, Kisii County.

Out of the 11 outgoing EALA Members, Kenya Chapter, Hon. Abubakar Zein Abubakar is the only one who made it back to this list. I do not know if he will make it to the final four from the NASA Coalition.

Hon. Temporary Deputy Speaker, in accordance with Rule 16 of the EALA Rules, the Joint Select Committee on Election of EALA Members has powers to reject any name for the reasons that have been stipulated. Rule 16 gives the Committee powers to reject a candidate without necessarily asking for a replacement, if it is apparent that after rejecting the candidate, the candidates remaining on the list will not affect the election based on the various shades of opinion. The question to be answered is: If you reject certain names, will the names remaining on the list still capture all the dynamics of regional balance, gender and age?

If that is the case, you move on. If after rejecting certain names the list left will not allow this House to exercise its discretion in doing elections, if it will not allow this House to attain those demographics and dynamics, the Joint Committee can order for a fresh nomination. I want to make it very clear that the Committee's decision to reject the two nominees who happen to be from the female gender, does not affect the list. The NASA Coalition had nominated six women and their entitlement is one woman. Therefore, if you reject one, you can still get one out of the five. The Jubilee side nominated seven women and they are entitled to two. After we rejected one woman, we remained with six women. We can get the two women from the six remaining nominees. Therefore, there was no need of ordering for fresh nominations.

The Joint Committee held only three sittings because we were very thorough. We sat up to around 6.00 p.m. We wanted to expedite the election of the EALA Members because we did not want to hold EALA in abeyance. After the nominations of 29<sup>th</sup> November, which was done

by the presiding officers, there was a detailed briefing done to the political leadership of both Houses before the actual nomination exercise, which was carried out on 30<sup>th</sup> November. Our rules state that public participation should be done. Thereafter, on 1<sup>st</sup> and 4<sup>th</sup> December 2017, which was Friday and Monday respectively, the presiding officers gave the public an opportunity to inspect the nomination papers and submit any complaints they may have had with respect to the nominated candidates.

I want to report that there was not even a single memorandum which was written in support or against any of the candidates. The public wrote nothing. Members of the 11<sup>th</sup> Parliament know very well what I mean when I say for or against. This is because very soon you will start vetting Cabinet Secretaries (CSs), Principal Secretaries (PSs) and other State officers and you will start receiving a lot of memoranda from individuals or institutions in support of certain candidates or against others.

Consequently, on 5<sup>th</sup> December 2017, the presiding officers forwarded the names and nomination papers of all duly nominated candidates to the Joint Committee for consideration. Therefore, it is now my pleasant duty and privilege on behalf of the Joint Committee, to present the Report on the Election of Members to EALA for your consideration.

I beg to move and with your permission, request Hon. Florence Mutua, who is a Member of this Committee to second.

**The Temporary Deputy Speaker** (Hon. (Ms.) Tuya): Hon. Mutua.

**The Woman Representative for Busia County** (Hon. (Ms.) Florence Mutua Mwikali): Thank you, Hon. Temporary Deputy Speaker, for giving me an opportunity to second this Report on the Joint Parliamentary Select Committee on the Election of Members to EALA. Before I do that, allow me to make my maiden speech in the 12<sup>th</sup> Parliament.

I want to take this opportunity to sincerely thank the people of Busia County for giving me a second term to serve them. I would like to assure them that I will not fail them and I will give it my best as I always do.

As a Member of that Joint Committee, I must commend the entire Committee and its secretariat led by our very able Chairman, Hon. Katoole Metito. He listens to us and most of the ideas he has talked about came from Members. He accepted the ideas and they were incorporated in the Report. We hope the Jubilee Party will give him one of the committees to chair because he is very able. The Committee worked tirelessly and within very tight deadlines. We want our EALA Members to report on time because they are already late.

I also want to take this opportunity to thank the Office of the Registrar of Political Parties because it was very co-operative and it ensured that we got all the information we required on a timely basis. We all know that EALA is one of the key organs of the East African Community (EAC). When it comes to voting next week, it is important for Members to remember gender balance, as it is a key agenda in both Jubilee and NASA. Some people might be confused and choose names as they appear alphabetically. It is also important to remember regional balance because the rules are clearly laid out on the ballot paper. As stated on the ballot paper, one can vote any number of nominees they want provided they do not exceed the required number, namely, nine for both Jubilee and NASA.

All the rules have been strictly followed as our Chairman has said. We ensured that the right number of candidates was nominated this time round. Jubilee, as qualified, was to nominate 15 candidates and NASA 12 candidates. As our Chair has said, due to non-disclosure by some of the candidates, two of them were disqualified. Therefore, the ballot papers will have 14 candidates for Jubilee and 11 candidates for NASA. No independent candidates qualified as our Chairman has clearly stated. I just want to wish the nominees all the best bearing in mind that we need integration more than ever in the EAC. Recently, we have seen a few incidences from our partners which may hinder further integration.

We request our nominees who will go there to work hard because they are already late. We want thorough integration done and the EALA Members should be comfortable with each other. I, therefore, urge the nominees to seriously legislate on deepening integration through free movement of people, labour, capital and speed up regional development which is very important. When the nominees get to work, they should legislate and fight for harmonised taxation systems, equitable and fair trade practices. What comes to mind is my county, Busia, because business ends at the Malaba border on the Ugandan side. We need those practices which deny our people business to be reviewed, so that people can work in a good environment.

The counties at the borders need serious consideration in the EALA budget. My county, Busia, has a lot of traffic and hence this has seriously stretched our facilities especially health facilities. The challenges are many and we hope EALA will legislate on such issues among others once fully functional. I wish the nominees the best.

I second the Report. Thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. (Ms.) Tuya): Hon. Members, I will now propose the Question.

*(Question proposed)*

Members, I have a total of 12 requests and I will go by the list as it appears here. I will start with Hon. Dennitah Ghati, Nominated Member.

**The Nominated Member** (Hon. (Ms.) Dennitah Ghati): Thank you, Hon. Temporary Deputy Speaker for giving me an opportunity. Allow me to make a small maiden speech in this 12<sup>th</sup> Parliament.

First, I want to sincerely thank my party, the Orange Democratic Movement (ODM) for nominating me to the 12<sup>th</sup> Parliament. Of course, I served in the 11<sup>th</sup> Parliament as the Migori County Woman Representative (CWR). I also want to thank the people of Migori County for having given me an opportunity to serve them in 11<sup>th</sup> Parliament. You all know that the issue of marginalisation is very rampant in this country and having come from the Kuria Community in Migori County, the people of Migori County gave me that opportunity, which I am sure I did not disappoint as the Woman Representative for Migori. I sit in this 12<sup>th</sup> Parliament as a nominated Member of Parliament. I thank my party. Most of you who were in the 11<sup>th</sup> Parliament know that I joined the 11<sup>th</sup> Parliament and then along the way, I was involved in an accident that somehow challenged my campaigns. Basically, my party decided that I had to be nominated. I thank my party leader, The Right Hon. Raila Amolo Odinga.

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Having said that, I wish to thank the Committee on Selection. I tell my people that as a nominated Member of Parliament, I am still a Member of Parliament equal to elected Members of Parliament. So, I will discharge my duties as a Member, especially representing the people of Migori, more so, persons living with disability in this country. As you are aware, right now, as I represent my party and my NASA Coalition, I was nominated to also represent persons living with disability. Before I even go ahead, I thank our brothers from the Jubilee Party side who decided to nominate a person living with disability to EALA. Hon. Kato mentioned that persons with disability had applied for consideration for nomination to EALA. He said that because the political parties had already considered persons living with disabilities elsewhere, they did not consider them. They felt that somehow that maybe EALA had a lot of responsibilities. However, I want to say that, as a country, we are struggling to make sure that persons living with disabilities are integrated in all positions of leadership whether national, regionally or even internationally. I am sure we shall reach there where an issue of people living with disabilities will not arise in terms of considering persons to represent this country even at international levels.

I must congratulate Ms. Elizabeth Wambui, a person living with disability on the other side of the Jubilee Party. I urge that proper consideration is given to this person without necessarily looking at her disability. The EALA is one of the best Parliaments we have in the region. It is, therefore, my hope that the members who have been nominated, and who we are going to vote in next week, are going to articulate the issues that really affect our country. It is my hope that these members are going to understand their work and defend our country out there, especially after this country comes out of the situation we are in now. I hope these members are going to bring in that bright face to our country, especially at the regional level. I am happy that in the Jubilee Party side and the NASA side, the Members of the Committee on Selection decided to integrate the issue of gender. I am a gender activist and I have just seen that the Jubilee Party has seven women out of the 15 and our NASA side has six out of 11. We are making progress, especially when it comes to integrating the issue of gender and ensuring that gender is mainstreamed in all our businesses. It is my hope that even as we get into election that is going to take place next week, we need, as a House, to show the world and our country that we are very cognisant of the issue of gender mainstreaming.

I thank the Committee for the issue of regional balance. It is my hope that on the voting day, this House will also consider nominees that come from marginalised areas. I have seen that a lot of the members who have applied are former Members of Parliament, which is good. This is because they are going to present our issues at that level. All the Members who sat in the 11<sup>th</sup> Parliament are competent enough. I hope we are also going to integrate new members into this, especially members that come from marginalised communities like mine which is Kuria. I want to say here that even in my own community, there is a member here who I would definitely love to support and seek the support of the other Members. She is Jane Moronge Marwa. If given an opportunity to represent our issues, she will articulate them. I know it is a voting process next week and I am very sure that we are going to move forward. She is a lady who has worked for the coalition. She will also be considered amongst other members that will be considered. So, I

take this opportunity to, once again, make my contribution and say that we are headed in the right direction.

I wish all the nominees success next week. I hope we are all going to vote with our conscience so that we are all happy and comfortable coming out of a situation that we have found ourselves in.

Thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. (Ms.) Tuya): Hon. Nyagaka Tongi.

**Hon. Tongi:** Thank you, Hon. Temporary Deputy Speaker, for the opportunity also to speak to this Motion. First, I thank the Chairman of the Joint Parliamentary Select Committee, Hon. Kato, for a job well done. Indeed, as Hon. Florence said, this is a well organised Member of Parliament. I have known him for many years as a very disciplined person. Clearly, the Report the Committee has presented to Parliament today demonstrates the kind of qualities he and his team have. They did the job in a record of three sittings. That takes quite a lot of sacrifice and that is the kind of sacrifice we need for the good of our country. We are proud of what the Committee has done and we are sure we will copy this good practice for the good of the country.

It is not enough to say that we are looking for qualified people to represent us in EALA. The people we are going to choose to represent us will be the face of the country. Therefore, we have to really think through the process of voting. We are going to get people who are going to represent Kenya not just within the constituency, but also who will represent the face of Kenya. They will articulate issues which are going to affect the country and come up with proposals and agenda which is going to drive the East African agenda forward. They should be people who can negotiate with Ministers from our partner States. That requires people who have skills, experience and the knowhow to drive that agenda.

Looking at the list which has been given to us, I am proud to say that the Committee really took its time to look at the list. It represents the face of Kenya and the kind of people who have been shortlisted are qualified. They are people who can drive the agenda of Kenya going forward. We have had challenges in East Africa with Uganda and Tanzania. These are challenges which will be mitigated and cured by having competent Members of EALA. In this list, there are people who have served Kenya in a very special way. They have sacrificed a lot to add their names to the list for purposes of ensuring that we have order in the country, which will make Kenya appear organised before the international community. This will ensure that we have a peaceful transition in terms of politics and economic agenda. These people will use that experience to propagate our agenda at that level as well.

Looking at the list carefully, I will mention a few of the names given there. Dr. Oburu Oginga is a very seasoned politician. He is a man with a lot of experience and one who has served Kenya in many capacities such as a Minister. He has served in many other fora. Given an opportunity, I am sure he will use that experience for the good of the country. Maybe with him being there, Migingo will never be an issue again. We hope he will use that experience to make a difference if he is lucky to get favour from God and get a chance to serve us at that level.

There is a little boy here who is also growing up to be a serious leader someday, namely, Kennedy Musyoka Kalonzo. Knowing him as a young man growing up, I have faith that he has what it takes to drive that agenda forward. I am sure he will be in good hands to be mentored by

the people who have been shortlisted here. Those who will make it to that level will guide him. In that way, we will have succession. You can remember Okonkwo who kept on asking where the young suckers were so that they could take over from the old ones when the old ones are cut off. These are the kinds of people who will drive the Kenyan agenda and replace the old ones when they are gone. We need to train the people we will choose, both the old and the young.

Mr. Charles Ayako Nyachae has been nominated by the Jubilee Party and represents the Kisii Community. This is a gentleman who has served Kenya in many capacities. The last assignment was as the Chairman of Commission for the Implementation of the Constitution (CIC). We all know the kind of job he did. He midwived the transition of Kenya from the old Constitution to the new one and we know that he did a good job with his team. These are the kind of people who will represent Kenya at that level. He is a man who has experience and courage and given an opportunity, he will articulate the agenda of Kenya.

We need to be conscious of the fact that the people that we will elect to represent us at EALA are not just people who will be earning a salary. We are not looking for people who are looking for employment. We want people who can understand the issues at hand, express themselves and command respect. They will be negotiating with Ministers on matters of taxation and economic issues. We need very experienced people who can do that. In my mind, I have no doubt at all that Charles Ayako Nyachae has that capacity. Given an opportunity, he will serve people diligently.

This is just to mention but a few because there are very many qualified names. I do not want to mention each name and describe their competences. We are a House of rules and have a list of people who understand Kenya. We have seen these people in action and we will make an informed decision for the good of the country and posterity so that our people can get value from the representation in EALA. We are competing with Tanzania and Uganda who will be giving their best. We cannot be left behind by choosing people based on politics alone. We also need to look at what it is we will be giving there. When they sit on committees, they should make contributions which will be respected because such contributions represent the face of Kenya. We are all expected to give the best representatives to EALA so that when they speak, Kenya speaks.

With those many remarks and in the interest of time because I can see my colleagues also want to speak to this Report, I want to stop there. Hon. Temporary Deputy Speaker, thank you very much for giving me the opportunity to contribute to this Motion. I urge my colleagues to kindly not use regions or party bias when voting next week. We should look at the interest of Kenya and put it as number one. These people will represent Kenya. They will be ambassadors of Kenya. They are people who will speak the Kenyan agenda at that level. They must have the experience, expertise and the knowhow it takes for one to articulate those issues.

With those few remarks, I support the Report.

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

**The Temporary Deputy Speaker** (Hon. (Ms.) Tuyu): Are you on a point of order, Hon. Osotsi?

**Hon. Osotsi:** Yes, Hon. Temporary Deputy Speaker. This is a very important Motion. When I look around, it looks like we do not have quorum.

**The Temporary Deputy Speaker** (Hon. (Ms.) Tuya): Hon. Members, it is clear on the calling of the Member that we do not have sufficient quorum. I, therefore, order the Quorum Bell to be rung for 10 minutes.

*(The Quorum Bell was rung)*

### ADJOURNMENT

**The Temporary Deputy Speaker** (Hon. (Ms.) Tuya): Order Hon. Members! As a matter of order and procedure in this House, the bell has been ringing for the last 10 minutes. Therefore, as per the Standing Order No.35(2), we will adjourn the House. The time being 6.32 p.m., this House stands adjourned until Wednesday, 13<sup>th</sup> December 2017 at 9.30 a.m.

The House rose at 6.32 p.m.