

# REPUBLIC OF KENYA



## ELEVENTH PARLIAMENT

### THE NATIONAL ASSEMBLY - FOURTH SESSION

#### COMMUNICATION FROM THE CHAIR

##### No. 017

### ON THE MANNER FOR CONSIDERATION OF ANNUAL REPORTS SUBMITTED TO PARLIAMENT BY CONSTITUTIONAL COMMISSIONS AND INDEPENDENT OFFICES

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**Honourable Members**, you may recall that on Thursday, March 10, 2016, the Honourable Member for Rarieda, (Eng.) Nicolas Gumbo, M.P., on a point of Order, sought the Speaker's direction on how the House should address itself to annual reports submitted to Parliament by constitutional commissions and independent offices in accordance with Article 254(1) of the Constitution. The commissions and independent offices contemplated above are established and listed under Article 248(2) and (3) of the Constitution, respectively. In his submissions, the Hon. (Eng.) Gumbo underscored that the reports contain matters that concern the people of Kenya and that in keeping with the mandate of the National Assembly to deliberate and resolve such matters as envisaged under Article 95(2) of the Constitution, and there is need for direction on how to deal with such reports. Hon. Gumbo added that whereas the Constitution provides that such reports ought to be tabled, it is silent on how the House should express itself on the reports and the manner in which such reports ought to be considered.

**Honourable Members**, the matters of accountability raised by Eng. Gumbo resonates well with the spirit of the Constitution of Kenya, 2010, which sets high benchmarks for financial probity, accountability and transparency. Indeed Article 254(1) of the Constitution obligates constitutional commissions and independent offices to submit their annual reports to the President and Parliament. As a matter of fact, the

constitutional commissions and independent offices occupy a central role in architecture of government. Indeed Article 249(1) of the Constitution envisions the objects of those Commissions and independent offices as being: *to protect the sovereignty of the people; secure the observance by all State organs of democratic values and principles; and promote constitutionalism.* A reflection on the weighty nature of the spirit and intent by which constitutional commissions and independent offices are anchored in the Constitution, I agree with the Hon. (Eng.) Gumbo that reports generated and presented to Parliament by these bodies ought not be wished away. There is indeed an urgent necessity to put in place a framework on how to consider such reports.

**Honourable Members**, the Constitution is alive to the fact that Parliament, as the representative institution in democratic governance is responsible for, and must at all times pronounce itself on any matters(s) as and whenever submitted to the House. Whereas Article 254(1) of the Constitution is silent on the how Parliament should address itself to the reports submitted by Constitutional Commissions and Independent Offices, the manner of consideration and the timeline within which consideration of such reports should be concluded, a parallel can be drawn from the provisions relating to consideration of other forms of reports submitted to Parliament, particularly audit reports. Article 229 of the Constitution states, and I quote –

*(8) "Within three months after receiving an audit report, Parliament or the county assembly shall debate and consider the report and take appropriate action"*

On the same thread, honourable Members, it has been the practice of this House that whenever a report(s) is tabled before the House, the Speaker has either outrightly or on discretion referred the report to a relevant Committee of the House for consideration. Thereafter, the House has always considered the report in light of the observations and/or recommendation(s) of the Committee to which the matter was delegated. It is on this backdrop that even-though Article 229 of the Constitution does not expressly commit financial reports presented to Parliament by the Auditor-General to the Public Accounts Committee for consideration, the Committee continues to dutifully scrutinize the said reports on behalf of the House as and when referred to the Committee.

**Honourable Members**, in view of the foregoing, annual reports submitted by constitutional commissions and independent offices undoubtedly require thorough scrutiny by the House. If I were to invoke the provisions of Standing Order 1 and apply the provisions of Article 229 it would then follow that the House should consider the reports submitted by constitutional commissions and independent offices and take appropriate action, taking into account the observations and recommendations contained in the reports being tabled in the House by relevant Committees House after scrutinizing the reports submitted by the commissions and independent offices. For avoidance of doubt, I wish to guide the House as follows:

1. **THAT**, the annual Reports from Constitutional Commissions and Independent Offices, upon being tabled in the House, shall stand referred to the relevant Departmental Committee within whose purview the mandate of the Constitutional Commissions and/or Independent Offices fall. The Departmental Committees of the House will then consider the reports according to their respective mandates. Nothing shall preclude the Departmental Committees from setting up sub-committees for expedient disposal of such reports; and
2. **THAT**, for purposes of the future practice in respect to such reports, I direct in accordance with Standing Order 1 that consideration of the said reports shall proceed in a manner similar to that accorded to consideration of audit reports by the Public Accounts Committee and within the timelines stipulated under Article 229(8) of the Constitution, which is three months. Thereafter, the House will debate and consider the reports of the Departmental Committees and take appropriate action.

**I thank you!**

**THE HON. JUSTIN B.N. MUTURI, EGH, MP**  
**SPEAKER OF THE NATIONAL ASSEMBLY**

**Tuesday, March 29, 2016**