

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Thursday, 18<sup>th</sup> May, 2017

The House met at 2.30 p.m.

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

PRAYERS

QUORUM

**Hon. Speaker:** Can you ring the Quorum Bell?

*(The Quorum Bell was rung)*

**Hon. Speaker:** Order, hon. Members! We have quorum. We can commence business.

PETITION

FENCING OF MERU NATIONAL PARK

**Hon. Speaker:** Member for Chuka/Igambang'ombe.

**Hon. Njuki:** Thank you, Hon. Speaker, for giving me this opportunity to present my final Petition in the 11<sup>th</sup> Parliament. I want to thank you, Hon. Speaker, for all the petitions that I have presented in this House. Most of them have been very successful.

I, the undersigned, on behalf of the residents of Tharaka in Tharaka Nithi County, draw the attention of the House to the following:

THAT, in 1966, Meru National Park was gazetted under Legal Notice No.4756 as a National Park;

THAT, Tharaka Constituency borders Meru National Park to the North, with Ura Gate River as the boundary;

THAT, that natural resource has been a blessing to the people of Tharaka by creating employment, and among the investment being the annual Ura Gate Cultural Festival, therefore promoting the economy and culture of the Tharaka community;

THAT, in the recent past, human-wildlife conflict has been on the rise, mostly due to lack of a perimeter fence along the Meru National Park;

THAT, this has led to the loss of lives, destruction of crops and property;

THAT, the most recent case occurred on 1<sup>st</sup> May 2017, where two people lost their lives and two others were injured by an elephant in Marimanti and Gatunga, and one other person lost his life on 8<sup>th</sup> May within Nkondi area;

THAT, the matter presented in this Petition is not pending before any constitutional or legal body.

THEREFORE, your humble Petitioners pray that the National Assembly, through the Departmental Committee on Environment and Natural Resources:

(i) Prevails on the Ministry of Environment and Natural Resources to ensure that a fence is put up around Meru National Park, along the Ura River where it borders Tharaka Constituency; and,

(ii) Intervenes to have the Kenya Wildlife Service (KWS) ensure that the wild animals are restrained within the park, and prevent any more destruction and deaths in Tharaka Constituency.

Hon. Speaker, your Petitioners will ever pray.

Thank you.

**Hon. Speaker:** Which departmental committee will consider the Petition?

**Hon. Njuki:** Hon. Speaker, it is the Departmental Committee on Environment and Natural Resources, which I believe is headed by Hon. Amina Abdalla.

**Hon. Speaker:** The Petition is accordingly referred to the said Committee. We hope that the Committee can move with speed.

Next Order!

### PAPERS LAID

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

The Reports from the Ministry of Industry, Trade and Co-operatives on Kenya's Industrialisation Transformation Programme, as follows:

(i) The status of matters under the State Department for Investment and Industry;

(ii) The status of matters under the State Department for Co-operatives as at March, 2017;

(iii) The status of the implementation of the mandate of the State Department for Trade as at April, 2017; and,

(iv) The achievements of the said Ministry under the Jubilee Government.

The Report of the Auditor-General on the financial statements in respect of the following institutions for the year ending 30<sup>th</sup> June 2016, and the certificates therein: -

(i) National Humanitarian Fund; and,

(ii) Numerical Machining Complex Limited.

Thank you, Hon. Speaker.

**Hon. Speaker:** Chairperson of the Budget and Appropriations Committee.

**Hon. Musyimi:** Thank you, Hon. Speaker, for indulging me. I beg to lay the following Paper on the Table of the House, today Thursday, 18<sup>th</sup> May 2017:

The Report of the Budget and Appropriations Committee on its consideration of the Division of Revenue Bill No. 2 of 2017.

I thank you, Hon. Speaker.

**Hon. Speaker:** Chair of the Public Investments Committee (PIC).

**Hon. Keynan:** Hon. Speaker, I beg to lay the following Paper on the Table of the House:

The 21<sup>st</sup> Report of PIC on the Audited Accounts of State Corporations  
Volume 1 and 2.

**Hon. Speaker:** Next Order!

**NOTICE OF MOTION**ADOPTION OF 21<sup>ST</sup> PIC REPORT

**Hon. Keynan:** Hon. Speaker, I beg to give notice of the following Motion:  
THAT, this House adopts the 21<sup>st</sup> Report of the PIC on the Audited Accounts of State Corporations laid on the Table of the House, today Thursday, 18<sup>th</sup> May 2017.

Thank you, Hon. Speaker.

**Hon. Speaker:** Next Order!

**STATEMENT**BUSINESS FOR THE WEEK COMMENCING 23<sup>RD</sup> TO 25<sup>TH</sup> MAY, 2017

**Hon. A.B. Duale:** Hon. Speaker, pursuant to the provisions of Standing Order No. 44 (2) (a), and on behalf of the House Business Committee (HBC), I rise to give the following Statement regarding the business appearing before the House for the week beginning Tuesday, 23<sup>rd</sup> May 2017.

The HBC met on Tuesday this week to give priority to the business that will be considered. On Tuesday next week, the House is scheduled to consider the Insurance (Amendment) Bill, 2017 and the Finance Bill, 2017 in the Committee of the whole House. We will also continue with the Second Reading of the Constitution of Kenya (Amendment) (No.6) Bill, 2015, should we not conclude it today. If the Procedural Motion that is on the Order Paper is approved by the House this afternoon, then that Tuesday's business will flow to the next day.

Hon. Speaker, also listed for debate next week are the following Committee Reports, if not concluded today:

- (1) The Report of the Mediation Committee on the Health Bill, 2015;
- (2) The Report of the Public Accounts Committee regarding the Special Audit of NYS Accounts; and,
- (3) The Special Report of the Public Investments Committee on the Duty Free Shops Contracts at Jomo Kenyatta and Moi International Airports.

On Wednesday next week, we will consider the Traffic (Amendment) Bill, 2014 at the Committee of the whole House and continue with the Second Reading of other Private Members' Bills.

As Members are aware, the House will consider the Report of the Joint Parliamentary Select Committee on the election of Members to the East African Legislative Assembly (EALA) this afternoon. Conclusion of the debate will pave way for the exercise of voting for the Kenyan representatives to EALA, which shall take place before the deadline of 2<sup>nd</sup> June, 2017.

Finally, the House Business Committee will reconvene on Tuesday, 23<sup>rd</sup> May 2017, at the rise of the House to consider business for the coming week.

I now wish to lay this Statement on the Table of the House.

Thank you.

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

**Hon. Speaker:** Next Order.

**PROCEDURAL MOTION**

## RESOLUTION NOT TO HOLD TUESDAY SITTING

**Hon. Speaker:** Before that Motion is moved, I wish to draw the attention of the House to the existence of a Supplementary Order Paper. If you are in possession of the original Order Paper, this business may not be appearing. I have been informed that there are copies of the Supplementary Order Paper at the door.

Leader of the Majority Party!

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

THAT, notwithstanding the provisions of Standing Order No.30 relating to hours of meeting, this House resolves not to hold a Sitting on Tuesday, May 23, 2017.

As Members are aware, on 23<sup>rd</sup> May, 2017, the Independent Electoral and Boundaries Commission (IEBC), and as per its election calendar, will be holding a pre-nomination meeting with the aspirants at all county and constituency levels. This is in accordance with the IEBC calendar on Elections 2017.

In this regard, no Member will be available to transact business in this House on that day according to the leadership and the House Business Committee. It is for this reason that I am moving this Motion.

That is where Members are taken through the regulations, the code of conduct and what they are supposed to present on the day they are supposed to present their nomination papers, which will be a week or eight or nine days after that. I have spoken to a number of Members during the week and all of them have shown indication that they really want to attend that constituency and county level IEBC briefing. It will look very bad if our competitors are there and we are not there. It will send a very bad signal. We have agreed that we bring this Procedural Motion so that, only on that day of Tuesday, 23<sup>rd</sup> May 2017, we can allow our membership to go and attend the IEBC pre-nomination briefing for all candidates at constituency and county level.

I beg to move and ask the Whip of the Minority Party, Hon. Mwadeghu - the likely incoming Governor for Taita Taveta - to second.

**Hon. Speaker:** Hon. Mwadeghu.

**Hon. Mwadeghu:** Mheshimiwa Spika, asante kwa kunipa nafasi hii. Naomba niunge mkono Hoja hii tukiangalia kuwa tarehe 23 mwezi wa Mei itakuwa ni siku muhimu sana kwa Wabunge ama watu wote ambao wanatarajia kuomba viti tofauti tofauti, tukianza na cha ugavana - ambacho nitakuwa nakiomba kwa watu wa Taita Taveta - maseneta, wabunge na wabunge wa kaunti.

Mhe. Spika, ni muhimu tuwapatie Wabunge nafasi wahudhurie vikao hivyo kwa sababu ni mengi yatakuwa yanaelezwa. Wasipopata maelezo sahihi siku hiyo, huenda wengine wakashindwa kuwasilisha makaratasi yao ama vyovyote ambavyo vinahitajika na IEBC siku hiyo. Kwa hiyo, naomba tukubaliane zote, Wabunge, kwa kauli moja bila kupinga, tusiwe na kikao hapa Bungeni siku hiyo. Tupatiwe nasafi, twende mashinani, twende kwa kaunti zetu; tuelezwe wazi wazi ni nini kinahitajika.

Ukuniambia niwe Bungeni siku hiyo na mimi natarajia kuwa gavana wa Taita Taveta - na wenzangu hawa wote wanatarajia wawe magavana ambao wanastahili - si vyema. Tumekubaliana kuwa hatutaibisha Bunge hili. Wenzetu Wabunge ambao wanaomba viti vya

ugavana watakuwa ni magavana ambao wanaenda kuendesha sera ambazo zimetungwa sahihi na Bunge hili. Tunawahakikishia Wabunge wenzetu hatutawaibisha kwa vyovyote.

Mhe. Spika, umetuelekeza mpaka sasa tunafikia kukunja jamvi. Sidhani kama kuna yeyote ambaye angependa kwenda nje kukuaibisha. Kwa wale ambao watakuwa wanarudi, ni matumaini yangu kuwa nao watakuwa watu wa nidhamu ambao wataendesha shughuli zao bila shida yoyote.

Kwa hivyo, naomba niunge Hoja hii mkono. Naomba wenzangu pia waiunge mkono. Ahsante Mhe. Spika.

*(Question proposed)*

**Hon. Members:** Put the Question!

**Hon. Speaker:** That appears to be the mood in the House.

*(Question put and agreed to)*

I think it is quite clear to, even those that may be making their way into the Chamber, let them not come on Tuesday. I hope they may not make the mistake.

Let us proceed. Next Order.

## BILL

### *Second Reading*

#### THE KENYA TRADE REMEDIES BILL

**Hon. Speaker:** Hon. Members, debate on this Bill was concluded yesterday. What remains is for me to put the Question.

*(Question put and agreed to)*

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

## MOTION

### ELECTION OF MEMBERS TO EALA

**Hon. Speaker:** Co-Chairperson of the Joint Parliamentary Select Committee on the Election of Members to the East African Legislative Assembly, Hon. Katoo ole Metito.

**Hon. Katoo:** Hon. Speaker, I beg to move the following Motion:

THAT, pursuant to 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, this House adopts the Report of the Joint Parliamentary Select Committee on the Election of Members to the East African Legislative Assembly on its

consideration of the nominees for election as Members of the East African Legislative Assembly, laid on the Table of the House on Wednesday, May 17, 2017.

Hon. Speaker, EALA is established under Article 9 of the Treaty for the Establishment of the East African Community (EAC) as one of the key organs and institutions of the Community. I am just going to highlight a few areas because, in order to move the House very properly and to be able to follow the debate on this Motion, my Committee is not really asking this House to approve or disapprove the nominees or the proposed nominees for EALA. That is because, as a Joint Committee, we have not reached that level yet. What we have reached as a Joint Committee - that is the Committee of the two Houses - is that while we were going through the proposed nominees, rules and procedures, we found out that, maybe in a way, we might have violated some of the rules. That is what we are asking this House to do today; to see how we can correct that anomaly. Just for clarity, today's Motion is not about approving or disapproving any of the nominees for EALA. We have not reached that stage.

It is good for Members to know that the Treaty that established EAC has some Articles that are very clear with respect to the election of Members, especially Articles 50 and 51. It will be good for Members to have a copy of that Treaty and be very well versed with Articles 50 and 51. Those are the Articles that deal with the election, read together with the rules or the laws of the respective partner States, with respect to the election of Members of Parliament and, in our case, as a partner State. I think it is Article 99 of our Constitution.

By 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 3<sup>rd</sup> East African Legislative Assembly is due to end on 4<sup>th</sup> June. Therefore, there was need for the Speaker of the National Assembly to cause the election of the Members of the next Assembly in accordance with Article 50 of the Treaty and the relevant provisions of the East African Legislative Assembly Act, 2011, and the rules of procedure relating to election of Members of the Assembly.

Through a Motion by this National Assembly and also the Senate on 1<sup>st</sup> and 2<sup>nd</sup> March 2017, respectively, the Houses of Parliament established a Joint Committee on the election of Members of EALA; consisting of the following Members:

1. Hon. Katoo ole Metito, MP - Co-Chair, National Assembly.
2. Hon. Samuel Chepkong'a, MP – National Assembly.
3. Hon. (Ms.) Wanjiku Muhia, MP – National Assembly.
4. Hon. Ali Wario, MP – National Assembly.
5. Hon. (Ms.) Florence Mutua, MP – National Assembly.
6. Hon. Daniel Maanzo, MP – National Assembly.
7. Hon. Wafula Wamunyinyi, MP – National Assembly.

From the Senate, we have:

1. Senator Kipchumba Murkomen - Co-Chair – Senate.
2. Senator Kimani Wamatangi, MP.
3. Senator Peter Mositet, MP.
4. Senator (Ms.) Mshenga Mvita, MP.
5. Senator Mutula Kilonzo Jnr., MP.
6. Senator (Ms.) Elizabeth Ongoro, MP.
7. Senator Henry ole Ndiema. MP

Hon. Speaker, there was an invitation for applications to be elected to the EALA, pursuant to Rule 4 of EALA rules. That advertisement was carried in the *Daily Nation*, *The Standard* and also in the *Kenya Gazette* of 27<sup>th</sup> April 2017.

The rules and the qualifications required were put in the advert. The presiding officers, in this case, are the two Clerks of the two Houses, while the Speakers of the two Houses are the returning officers. So, the presiding officers invited qualified persons to apply to be nominated for election as Members of EALA. A copy of the advertisement is attached as Annex III to the Report which is before this House.

Article 99 of our Constitution sets out the qualification and disqualification for election as a Member of Parliament. For you to qualify to be elected as a Member of EALA, you should also be qualified in accordance with the rules of a partner State. So, you must also be qualified to be a Member of the parliament of Kenya.

At the close of the application period, the presiding officers had received at total of 99 applications. Out of that, 58 persons were seeking nomination through the Jubilee Coalition while 41 persons were seeking nomination through the CORD coalition. On 5<sup>th</sup> May 2017, the presiding officers forwarded the schedule of the applicants to the respective party leaders for action. Those letters to the party leaders are also attached as Annex IV of this Report. The party leaders were requested to submit the names of nominees for election by the preceding officers. This was done on 11<sup>th</sup> May 2017, which was to be the nomination day.

As there was room for people to apply as independent candidates, they were similarly requested to submit their applications to the presiding officers on the nomination day, which was 11<sup>th</sup> May 2017. There was a pre-nomination briefing pursuant to Rule 7 of the EALA Rules. It was done on 10<sup>th</sup> May 2017 by the presiding officers together with four other parliamentary party leaders. It was actually to be done by the parliamentary party leaders serving in the two Houses. They were updated on the requirements under the Treaty on Nomination of Candidates for EALA. On the nomination day, the presiding officers received nominations papers from parliamentary party leaders and the independent candidates. On 16<sup>th</sup> May, 2017, pursuant to Rule (13) (1), the presiding officers presented the Report on the nomination papers to the Joint Committee. The Report of the presiding officers is attached as Annex V of this Report. The presiding officers informed the Committee that out of the 40 candidates who appeared before them, 35 were cleared and issued with provisional nomination certificates. Out of the 35 who were cleared, 20 were affiliated to political parties and 15 were independent candidates.

Further, the Committee was informed that close to the nomination exercise - that is on Thursday 11<sup>th</sup> May 2017 - they had written to the Independent Electoral and Boundaries Commission (IEBC) to ascertain whether all the provisionally nominated candidates were registered voters as required under Article 99(1) of our Constitution.

Secondly, they also wrote to the Registrar of Political Parties to ascertain the status of party membership of the independent candidates as at the day of nominations.

Hon. Speaker, pursuant to Rule 13(1) of the East African Legislative Assembly (EALA) Rules, the presiding officers forwarded to the Joint Committee the names and the nomination papers of all duly nominated candidates for consideration by the Committee. In addition to the presiding officers, they also presented three complaints which they had received.

*(Loud consultations)*

Hon. Speaker, there is a *Kamukunji* by Nandi County leaders here. Please, protect me. I know they have all won in their nominations and I want to congratulate them, but let them consult in low tones.

I am bringing to the attention of the House the complaints that the presiding officers (Clerks of the two Houses) had received by close of nomination. There is a letter from John ole Ketura, Orange Youth League Chairman, which raises an issue that Eric Kimongole Changorok had not been nominated for election to EALA.

Secondly, there is a letter from Seth Ouma Omolo dated 15<sup>th</sup> May 2017 seeking that Wiper Democratic Movement Kenya submit the names of at least two nominees to Parliament for election in the spirit of Rule 6 (1), with regard to the number of nominees for election for each party.

Finally, there is a letter dated 16<sup>th</sup> May 2017 from the Leader of the Majority Party in the National Assembly which raises two issues:

(i) An objection to the nomination of the 15 independent candidates as their nomination did not comply with Article 99(1) (c) of the Constitution as it relates to garnering support of the registered voters. The candidates, therefore, failed short of the requirement of Article 50(2) of the Treaty. The Hon. Leader of the Majority Party stated that the nomination of independent candidates should be revoked.

(ii) An objection to the nomination made by the Coalition for Reforms and Democracy (CORD) for failing to nominate thrice the number of candidates as per the party slots assigned to them so as to afford the House an opportunity to conduct an election by making the choice or rejecting any of the candidates in line with the election principal that was set by the East African Court of Justice in the Prof. Anyang'-Nyong'o case. The Hon. Leader of the Majority Party stated that in forwarding only four names, CORD sought to deny the House the freedom of choice; to reject any or all of the four candidates. He further stated that even if the number was increased to five, by virtue of the nomination by FORD Kenya party, the House is still being denied a choice to reject four out of the five candidates. He stated that the CORD coalition should, pursuant to Rule 8 (3), avail a written record of the proceedings at which the final decision to nominate its four candidates was made. Copies of those complaints are also attached as Annex VI.

I now want to move the House to the observations of the Committee as follows:

With regard to the entitlement for slots for election under the rules, the Committee considered the issue of entitlement for slots under the rules and it observed that, under Rule 6(1), a party shall be entitled to nominate for election under these rules any number of candidates not exceeding three times the figure arrived at by multiplying the number of elected Members of Parliament (MPs) of that party by such number as the Joint Committee shall determine, and dividing the results by the total number of the elected MPs. Further, under Clause 9 of the rules, a person intending to vie for elections as an independent candidate shall submit his or her duly filled nomination form in the format prescribed in the Second Schedule to a presiding officer in a manner specified in a notice published under Rule 4 and in accordance with Rule 10.

Hon. Speaker, the Committee further observes that in the membership of Parliament, there are four independent candidates out of 416 Members, not including the Hon. Speakers of the two Houses. We have 416 Members both in the National Assembly and in the Senate, which has 67 and none of them is an independent Member. This House has got 349 Members and four of them are independent. Therefore, the entitlement for independent candidates, if you used that formula provided in law, would be 0.086 per cent slots, while that of the Majority and Minority

parties would be five and four slots, respectively. To this extent, therefore, independent candidates were not entitled to a slot in the light of their current composition of Parliament.

Therefore, in making provision for independent candidates, the rule recognises the possibility of a future scenario where independent candidates may be entitled to a slot or slots of the membership of EALA. Yesterday, I was told by one Member who is vying as an independent candidate that there will not be less than 30 independent Members in this House. If that happens, could be, they will qualify for the Fourth EALA membership.

Hon. Speaker, the Committee determined that in light of its decision that independent candidates will not be entitled to be nominated for the present election to EALA, it was not necessary to make a determination on the complaint of a matter of their eligibility as raised by the Hon. Leader of the Majority Party in the National Assembly.

The other observation is that for the future, there was need to amend rules so as to make clear and unequivocal provisions on the matter of nominations and election of independent candidates and, more so, in light of Article 99 (1)(c) of our Constitution, which requires that in respect of independent candidates, while seeking an election to the National Assembly, the candidate must be supported by signatures of 1,000 registered voters in the constituency and, in the case of an independent candidate seeking an election in the Senate, 2,000 registered voters in the county.

Therefore, suppose someone is seeking to be elected to EALA as an independent candidate, how many and which signatures is he going to look for? Is it 1,000 or 2,000 signatures, taking into account that the constituency for election to EALA is Parliament? So, how many signatures of MPs will that person look for? Will that person require signatures of 20 or 30 independent MPs? That clarity needs to be taken care of by us amending our rules.

Hon. Speaker, the most important thing here is compliance with Article 50 (1) of the Treaty and Rule 62 of the EALA Elections Rules.

The most important thing here is compliance with Article 50(1) of the Treaty and Rule 6(2) of the East Africa Legislative Assembly (EALA) Election Rules, which are on the election of Members to the Assembly. Very quickly, Article 50(1) of the Treaty provides as follows for the benefit of Members:

“That the National Assembly of each partner state shall elect, not from among its Members, nine Members of the Assembly who shall represent, as much it is feasible, the various political parties represented in the National Assembly, shades of opinion, gender, other special interest groups in that partner state in accordance with such procedure that the National Assembly of each partner state may determine.”

One definition which was difficult to determine was the meaning of “shades of opinion”. I will leave that to the political class. My good friend, Hon. Kaluma, will tell me what it means. Rule 6 (2) is also very critical and I want to read it for the benefit of Members. It provides that:

“In nominating its candidate, each party shall, as much as is feasible, take into account the need for fair representation of the various shades of opinion, regional balance, gender and other special interest groups in Kenya and shall ensure that, at least, one-third of its nominees are women.”

I thought the Rule should have said one-third of its nominees should be from both gender and not necessarily women but, as at now, that is what it says.

The Committee observed that under Rule 6(1), a party could submit a number of nominees ranging from the minimum number it is entitled to under the Rules and up to three times the number of its entitlement. The Rules says:

“Any number not exceeding three times.”

Even if you are entitled to one slot, you can submit one name because that is what it says, so long as it is not more than three times. Just move along with me and I will explain the hiccups which are here and there. The Committee observed that this Rule provided discretion to the parties as to the number of nominees they would nominate, so long as they did not exceed the maximum number of their entitlement.

I want Members to understand and Hon. Kaluma should pay attention. The Committee took note of the decision of the East African Court of Justice (EACJ) in Reference to Case No.1 of 2006 by Prof. Peter Anyang’-Nyong’o, the Attorney-General and others. I have the court ruling here. Those who went to that Court include the President, Deputy President and Hon. Billow Kerrow as the fourth intervener. There are so many other people and most of them are Members of this House. The Court emphasised that Rules made pursuant to the Treaty should not infringe the provision of Article 50 in so far as that Article conferred the powers whose primary purpose is to provide for the election of nine Members of the Assembly by the National Assembly of each partner state. The Court found that that purpose was defeated by the provision of Rule 7 of the then Rules for Election of Kenya’s Members to EALA, which provides for a fictitious election *in lieu* of a real election.

The Court, therefore, held that the National Assembly of Kenya had not undertaken an election within the meaning of Article 50 of the Treaty. Therefore, Members are encouraged to have this Court Ruling. As Members of the Committee, we deliberated and we were in agreement that rules or laws that contravene court rulings are null and void. It is also noteworthy that, at the time, Rule 7 provided that:

“Upon being certified that the requirement for Rule 6 had been complied with, the House Business Committee shall cause the names of the nine nominees of the parties to be tabled before the National Assembly and such nominee shall be deemed to have been elected as Members of EALA in accordance with Article 50 of the Treaty.”

The Committee, therefore, resolved that in light of Article 50(1) of the Treaty and Rule 6(2) of the Rules, and noting the decision of the EACJ in Reference No.1 of 2006, it was important to ensure that the number of nominees from each of the parties enabled Members of the Parliament of Kenya to conduct an election as required and, in that election, Members had an opportunity to ensure that there is fair representation of the various shades of opinions, regional balance, gender and other special interest groups. Consequently, the Committee resolved that the CORD coalition which had submitted the names of five nominees submits the names of a total 12 nominees so as to enable compliance with the Treaty.

The Committee further noted that for the future, there was need to amend Rule 6(1) since the Court had already ruled that it is not in tandem with Article 50 of the Treaty which requires parties to submit three times the number of their entitlement. We should amend that Rule. I want to fully agree with the parties that they made no mistake in submitting the minimum because the Rule says any number not exceeding three times. The minimum which is one does not exceed three times.

That was not a mistake of the parties at all. Actually, we want to own up as the Joint Committee that it was an oversight by us because we should have seen that before the names were submitted and read the court ruling that nullified Rule 6(1). Therefore, we should have

advised the political parties well in advance that they should submit three times the number of their entitlement. We want to amend the Rules for the future and remove the words “any number” and for clarity, state that every political party shall submit three times their entitlement.

The Committee recommends that the Houses of Parliament resolve as follows:

- (1) Their entitlement to nominate persons for election to EALA are as follows:

Jubilee Coalition – five nominees.

CORD Coalition – four nominees.

Independent Candidates – nil.

- (2) For the future, the Rules should be amended so as to make clear and unequivocal provision on the matter of requirement for the nomination and election of independent candidates in the light of Article 85 and 99(1)(c) of the Constitution.

(3) In line with the decision of the East African Court of Justice in Ref. No.1 of 2006 by Prof. Peter Anyang’-Nyong’o, the Attorney-General and others, the Coalition for Reforms and Democracy (CORD), which had submitted the name of five nominees, submit the names of a total of 12 nominees - which is an additional seven names.

This is the other issue the Committee had. Those seven nominees should come from the list of the 41 applicants submitted to the leaders of the Coalition by the letter dated 5<sup>th</sup> May 2017 from the presiding officers. There was a consideration. Do we open it up for others to apply? We thought we will open a Pandora’s Box. We already have a list of 41 applicants from CORD and then they picked five. They can pick the other seven nominees from that list of 41 applicants.

(4) That, in future, Rule 6 (1) of the rules should be amended to require parties to submit three times the number of persons they are entitled to nominate under the rules.

This recommendation comes to you, Hon. Speaker.

- (5) The presiding officers appoint a new nomination:

(a) To receive and process further nomination from the CORD Coalition.

You will remember that we are operating on timelines. We thought as a Committee that because of this hiccup that has really stopped our work, you should provide the timeline because we cannot beat the deadline with the current scenario.

(6) That on the conclusion of the further nomination, the presiding officers forward the lists of the further nominees of CORD to the Joint Committee for consideration in accordance with Rule 13; and finally,

(7) That the Speakers of both Houses of Parliament make a determination, pursuant to Rule 25, extending the timelines required under the rules in order to enable the processes recommended to be undertaken and further extending the latest deadline for the holding of elections to a date not later than 4<sup>th</sup> June 2017.

Therefore, as I said earlier, this Report is not about discussing any nominee. We have not reached that stage. We will do that as a Committee and then table a report on all the nominees. You can then discuss the names and approve or disapprove them as required. It is just for clarity of the law.

With those few remarks, I beg to move and request Hon. Wafula Wamunyinyi to second.

**Hon. Speaker:** Let us have Hon. Athanas Misiko Wafula Wamunyinyi.

**Hon. Wamunyinyi:** Thank you, Hon. Speaker, for giving me this opportunity to second this Motion before the House on the election of Members to the East African Legislative Assembly (EALA).

The Motion before the House is merely bringing to the attention of the House that, in line with our mandate, we provide a review of the procedure and rules of election, and on the

basis of the review, make some recommendations to the House. Without the risk of saying what the Mover has said, I would like to stress that the exercise we are undertaking as a Committee is so important that we need to ensure that we have followed all the rules and procedures to ensure that the exercise is above board.

We neither looked at the eligibility of Members nor the numbers to be tabled or those to be voted on because we have not reached that stage. It is important for each Member to simply note that nominations have not taken place. We need to make corrections in some areas to ensure that when nominations take place, we are in compliance with the relevant articles and statutes, particularly Article 50 (1) of the Treaty and Rule 6 (2) of the EALA Election of Members to the Assembly Rules, 2017.

I want to stress one important point which is the reference that we made on the case that was in court at Arusha. The Committee observed that in the ruling of the matter, the court was very clear as to what kind of elections should take place and whether coalitions should strictly bring the number entitled or an election undertaken from the number. I know that Members have argued that even where you are unopposed, an election should take place. But here, the court was very clear. Looking at the words used, and quoting the ruling once more, it said that: “Conferred power, which primary purpose is to provide for the election of nine Members of the Assembly by the National Assembly of each partner State, the court found that the purpose was defeated by provisions of Rule 7 of the then rules of the elections of the Kenyan Members of the EALA, which provides for a fictitious election *in lieu* of a real election.”

It is important to note that. Members should also look at that. I wish to invite Members to look at that ruling because the court made it very clear that the election of Members to EALA must be a real election and not a fictitious one. That is the basis. I agree with the submission of members’ names as proposed. This proposal is in line with Article 6 (1) which refers to any number. It does not say you multiply it by three times, but the court ruled that it has to be an election. That is why we have brought this before the House so that if the House agrees with the Committee and adopts this Report, the presiding officers will have to start afresh and coalitions will be given time to nominate new people and present them before the House, so that the process by the Committee takes place with new timelines which will be determined by yourself, Hon. Speaker.

I have also noted that, sometimes, our clerks do not get things right. Among the issues given as having been raised in No.3 is regional balance. I agree that, that featured before the Committee, but there was nothing like what is written in this Report as an issue raised. With regard to regional balance, the Committee noted that CORD did not take into account regional balance and, as such, should forward further a nominations list with additional seven members while observing regional balance. There was no such thing and this should be deleted. What we agreed was that both coalitions must take this into account. It was not just CORD. Even the Jubilee Coalition left out a large portion of this country from the nominees given, but we are not there yet to look at the regional balance and what criterion was used in submitting the names.

I also wish to remind colleagues that EALA is such an important arm, particularly, when it comes to issues of integration and ensuring that we, as East Africans, are moving on and there is continuity on matters which have been passed in the past. I wish to request that coalitions look at members who are still eligible, particularly those who have served in EALA and the Pan-African Parliament.

Even for the Pan-African Parliament (PAP), those who are eligible should be given another chance to ensure that we do not elect new ones every time. That does not ensure

continuity. New Members will have to be trained to learn the process of East Africa Legislative Assembly (EALA).

Hon. Speaker, I wish to recommend – from my observation – that it is important to consider re-election of eligible Members because they are entitled to two terms. If one has served only one term and has done well, he should be given a chance to do a second term. This applies to both the Coalition for Reforms and Democracy (CORD) and the Jubilee side.

Having said that, I wish now to second the Motion.

**Hon. Speaker:** Hon. Wamunyinyi, as well as the Mover, you would have done better to supply Members with a copy of that decision of the East African Court of Justice because it is quite comprehensive. But, nevertheless, you have, at least, made references to some of the areas that the judges considered.

*(Question proposed)*

**Hon. Speaker:** Hon. Daniel Maanzo.

**Hon. Maanzo:** Thank you, Hon. Speaker for giving me this opportunity to contribute to this important Motion. I am one of the members of this Committee. I was also one of the lawyers in the East African Court of Justice Case with Hon. T.J. Kajwang' here, led by the late Mutula Kilonzo Senior. We are very much familiar with the reasoning in that judgment. The situation present in Kenya at that time is very much distinguishable from what is the case today. Though we have our own regulations, it is clear from that judgment that each country was to cede some power to the Treaty so that when we make our laws, we comply with the provisions of the Treaty. It is clear that under Article 50 of the East African Treaty, the National Assembly of each partner State shall elect. This is mandatory. But when you come to the definition of an election in the judgment and the analysis, I want to state that what the Jubilee side has done is within the law and the current regulations. Also, what CORD has done is within the law under our current regulations and also under that particular judgment. Probably, while presenting the Report to Parliament, there could have been - and I believe there are still pending issues with the political parties - whereby it is the choice and wish of the Jubilee Coalition to pick three people through a process.

What went on in Arusha is that election, as a process, begins in the political party and it has a certain process that much be complied with. In fact, in this case, each of the coalitions have complied with their own processes. You can see there were very many applicants. Some withdrew and others remained on board. In fact, the gentleman appearing in the Report here to have written a complaint against the Wiper Democratic Movement party later on wrote again and supported the nominee of the Wiper Democratic Movement, Mr. Kennedy Musyoka.

So, this Report, as presented for debate for subsequent approval or rejection by the National Assembly, may have certain misgivings and undertones which are not being put on the table. What is being looked at by presenting this Report here is not the real situation and expectation of both sides of the coalitions. There are other undercurrents. This time round, the Parliament of Kenya or what is happening in the Committee and what has happened so far in the political parties, has not gone against the judgment of the East African Court of Justice which was very well reasoned by judges, several of them come from Kenya. They understood the Kenyan situation very well. We have not breached our own rules. Our rules and regulations or laws generally in that field may have some misgivings - and maybe they weak - that may not hit the point, but it is quite clear from the Subsidiary Regulation 6(1) that the maximum number to

be presented is three. It says any number - meaning even one is a number - so long as there has been a process of election before arriving at that. At the moment, there is a person elected unopposed just like the case of Hon. Moses Kuria, who is a Member of this House. You cannot say that Hon. Kuria was never elected in his constituency. That is what you are trying to say now. Therefore, I want to tell the House that we have complied. There is a reason for us to re-look at our rules in future, which is a common process.

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

Hon. Speaker, I am having a lot of disturbance from my two colleagues. Of course, one was supposed to work under the other and so, the boss should take charge of the other. Thank you. I am told the process is continuing.

The House has not erred this time round. There is no likelihood of any matter going to court. The Jubilee side has followed the regulations and CORD has also followed the regulations. This is a matter that is extremely urgent. The House does not have a lot of time. Between now and 2<sup>nd</sup> June, a decision must be made quickly. We should conduct the final elections of five from the Jubilee side and of the ones who have been deemed to be duly elected or nominated through their political parties unopposed. Those proceedings have already been provided to the Committee. It is clear that there were mini-nomination processes in the respective political parties.

Therefore, although I am a member of this Committee, I differ with this Report. This House should not entertain it. It should reject it and we go on and conduct an election. I do not support the Report and I urge other Members not to support it so that we can save time.

I thank you for giving me an opportunity to contribute on this important matter.

**Hon. Speaker:** Hon. Kajwang' says that the people you said were disturbing you, even if you say one was supposed to be working under the other, they are now working on one another.

*(Laughter)*

Hon. Pukose.

**Hon. (Dr.) Pukose:** Thank you, Hon. Speaker, for allowing me to contribute to this Report of the Joint Parliamentary Select Committee on the elections of Members to EALA.

EALA plays a very important role especially in the integration of the East African communities. Therefore, this is a very important Report. Going through it, you realise that the Committee has done a good job. That is because they have tried to go through Article 51 of the Treaty, which provides that the National Assembly of each partner state shall elect from among its Members, nine Members.

Hon. Speaker, in this Report, you will realise that based on the strength of the parties in the House, independent candidates have been given a 0.086 chance. Now, that figure, if converted to the nearest decimal point, becomes 0.01. You cannot have a 0.01 person! It is not even to the nearest whole number! Therefore, it means the independent candidates have no slot. That is exactly what we are getting from this Report. It was, indeed, unfair to subject the independent candidates to an exercise of collecting 1,000 signatures for them to qualify to apply. This issue should have been published in the newspapers so that they can get to understand what is required of them. Remember we are setting precedence. Considering the current situation

where we have more than 200 people applying to vie as independent candidates, it means that, in future, there is a possibility that they could even account---

With regard to the rules, as an independent candidate for the position of Member of Parliament in the National Assembly, you are required to collect 1,000 signatures. For the position of a Senator, you are required to collect 2,000 signatures. Now, how many signatures should an independent candidate running for the position of Member for EALA collect? It is something that we need to look into. In fact, the Committee ought to have looked at it.

In as much as we are giving positions as per the party strength, we must consider regional balance, special interest groups and the interests of our partners. My neighbours, the Ford Kenya team, seems to have been ignored by ODM. Apparently, ODM was given three slots. I want to ask ODM that, as they look into the issues of regional balance, interests and special groups, to also consider a slot for FORD Kenya because they are our neighbours. When you have three slots, you need to surrender one to your partner in the coalition.

**Hon. Mwangi:** To hell with FORD(K)!

**Hon. (Dr.) Pukose:** I can hear the Chief Whip say, 'Ford Kenya to hell!' What are you saying?

*(Laughter)*

They are equal partners. They are your partners and they are my neighbours, for your information. So, I have a right to request that ODM considers them. Tell *Baba* to think about Weta and give him, at least, a slot. By doing that, he will show that you are equal partners within the coalition. You should be able to share a cake. Otherwise, you will be taking Weta for a ride by promising him positions. We want those positions to be given now so that he can also show it to his supporters.

This is a very good Report and I support it. I hope this House will adopt it so that we can align our rules. A judgment was given by the East African Court of Justice (EACJ) which allowed the parties that had made the necessary requirements to submit the names of their nominees to be voted for. In as much as we want to give our brothers who have only submitted the minimum number a chance, it will be good for the other Members to re-submit their names so that this thing can be done before the dissolution of the House. I think in the next three or so weeks, the life of this House will be coming to an end. This is the opportunity for us to make sure that our brothers are not left behind as much as they are our competitors.

With those few remarks, I support this Report. I also hope that the House will approve it.

**Hon. Speaker:** Member for Ugunja.

**Hon. Wanjau:** Thank you, Hon. Speaker. At the outset, I would like to oppose this Report even though I am aware that there is a proposed amendment to the Report which, if it succeeds, I will support it. However, in the meantime, I wish to oppose this Report.

I was listening very keenly to Hon. Katoo ole Metito when he was moving this Motion. I was unable to understand the logic informing the Report's recommendation that the CORD Coalition should bring additional names as nominees. Even if you read the ruling of the EACJ and you read it together with Article 50 of the Treaty and now Rule 6(1), you will clearly understand that there is nowhere any party is compelled to nominate the maximum possible number, which is three times the party's entitlement. If the Jubilee side, in their own wisdom, has chosen to nominate 15 names even though they have five slots, which is three times the five slots they have, there is nowhere in the ruling or anywhere else where we are compelled as CORD to do likewise. Therefore, the nominations by both Jubilee and CORD fall squarely within the rules

firstly, and then Article 50 of the Treaty. The judgement also addresses that matter. My view is that this Report is basically going to take us backwards instead of helping us to advance forward. Therefore, it is going to waste a lot of time and we have no time on our hands.

The true meaning of an election is that people, in this case Members of Parliament, exercise their right to determine who they want to represent the country in EALA. It has also been argued correctly that an election can happen whether we have one or two nominees to a particular elective position. An election does not cease to exist merely because there is one nominee to a particular position. It still remains an election. In this case, I am even surprised because CORD is entitled to four slots and yet, we are being told by the Committee that already CORD has five nominees - which means that CORD has even gone further to nominate more than the number of slots they have under the Treaty, the rules and everything else. What necessitates the Committee's recommendation that Cord nominates three times the number of slots it is entitled to? What is the Committee using to come to that conclusion? Is it the ruling of the court? The answer is no. Is it Article 50 of the Treaty? The answer is no. Is it Rule 6(1) of the EALA rules? The answer is no. We can only conclude that the only thing that is driving this Committee in making those far-reaching recommendations is politics! We must say no to politics as a driver to such a sensitive exercise. If Jubilee was magnanimous enough to bring 15 names, that is fine. Perhaps, it was playing good politics to entice its membership even though they knew that ultimately, only five will go through. CORD, in its wisdom, has submitted four names.

I was not in this House in 2012. We must also remember that in 2012, the Kenya National African Union (KANU) party was entitled to one slot in EALA. That time, KANU nominated only one person. To be exact, it was one Sara Bonaya, who was eventually elected unopposed. She went ahead to represent KANU in EALA. Why was it then not necessary for KANU to be compelled to add more names for elections to happen? We cannot, as a House, entertain this Report. Unless it is amended appropriately to delete that offending section which is compelling us to add more names, we must reject it. I will ask the House to proceed with the elections. I know what is motivating this mischievous recommendation. There are people here who are hell-bent on determining CORD nominates to EALA. There are people here who are hell-bent to fight the minority communities, particularly the Maa Community. The CORD is the only coalition which has nominated a person from the Maa Community, a very distinguished lady and lawyer who needs to represent this country in EALA. The Maa Community has been marginalised for generations from the beginning of this republic or the time we got Independence. If the motivation is to ensure that the CORD nominees, who represent the marginalised communities, are eventually rejected, then the country must see for itself what Jubilee is up to.

With those few remarks, I oppose.

**Hon. Speaker:** Member for Emurua Dikirr. No, you are not ahead of Member for Marakwet East. Sorry.

**Hon. Bowen:** Thank you, Hon. Speaker, for giving me this opportunity and for being keen that I am actually ahead of the Member for Emurua Dikirr. I stand to support this Report. Being the electorate of the nominees or those who are going to be elected to EALA, we have more say in scrutinising the process and the candidates and to make sure that we have the right legislators to the EALA. The EALA is established under Article 9 of the same Treaty which establishes the East Africa Community (EAC). Being the legislative arm of the Treaty, we believe that those who are going to represent Kenya in EALA are going to play a very important

role of legislation, especially legislation to do with the East Africa integration and also on the issue of the East Africa economy and politics.

When we talk of elections, the submission of a single name, two names or exact names of those who are supposed to be elected without giving the electorate, who are the Members of this House and the Senate, the chance to make a choice from the many applicants is very unfair. About 41 Kenyans applied for these positions to be members of the EALA. We are told by our friends in CORD that from the many applicants, they shortlisted using their criteria and they came up with four names. I think it would have been wise if that was also included in this Report. We want to see the procedure they followed, so that we can know how they arrived at four applicants from the many applicants. I think it is important not only to CORD, but even the Jubilee Party so that we can know how these names came about. I am very sure there are so many other candidates whose names deserved to be in this list, but they are not in it for reasons not known by Members of this House.

The Committee did a very good Report. It is also good that we have this debate in this House so that we can get a chance to look at this report and come up with a proper debate and vote on it. Let us not bring party politics here. It is good that all the Members of this House are the electorate of these nine members. I want all of us to reason together and look at the merits and demerits of having the exact candidates and having more candidates so that we can get a chance to choose credible and able leaders to represent us in EALA. I have had time to go through some of the CVs of the many candidates and I have found they have very good CVs. I am very sure that those who are going to be elected to EALA are going to do a very good job of legislation and integration of the East African region.

For us to vote and make a choice, we need our colleagues in CORD to stop playing politics and bring all the names here. Let us have the names of all those who applied. Let us debate an individual after an individual. They were 41. Let us have the merits and demerits of their CVs and then from there, we will be in a position to elect nine members to represent this country.

I support this Report and the recommendations of the Committee.

**Hon. Speaker:** Now let us get some informed views from the Member for Ruaraka.

**Hon. Kajwang':** Hon. Speaker, I thank you for giving me an opportunity to put my voice into this debate. I rise as the assisting Counsel who actually appeared for the parties in the case of the East African Court of Justice No.1 of 2006 led by the able hands of Hon. Mutula Kilonzo. May God rest his soul in eternity.

I also rise because I know that you know these issues because you were faced with the same circumstances in the year 2006. You were the Secretary-General of the most popular party in this part of Africa, KANU, when you had to nominate Sarah Godana Talabo. I do not see my friend, Hon. Duale, in the Chamber. He was in the party too. Faced with that task, you brought only one name and you said that KANU had declared that party unopposed. I like KANU because it knows how to do their things.

*(Laughter)*

Now we have new parties that are fumbling. They do not seem to know how to do things in the way President Moi, with able hands like Hon. Speaker's, would know how to do these things.

Having said that, allow me to disabuse those who are in the Committee who, in my view, were misled by the ruling of the East African Court of Justice. This case is clearly distinguishable from what we have. In that case, what happened was that the partner state, which is Kenya, decided to present names to EALA without passing through these chambers.

In that case, the partner State which is Kenya decided to present names to East African Legislative Assembly (EALA) without passing through this Chamber. The court said that the meaning of election in that treaty is that it must pass through this Chamber for some type of election. The partner states cannot abrogate themselves any right to send delegations to Arusha without passing here. So, you can see that in the ruling, they are explaining exactly what election means. I think that the Committee should look at this. For example, in Page 10, they said that:

“In our considered view, the decision to constitute the National Assembly of each partner States into an electoral college was a deliberate step towards establishing a legislature comprising people of representatives.” They said that every National Assembly should be an electoral college. Sometimes it is good to have people discussing things in their areas of expertise. If you have people trying to summarise law, then they debate issues which are not---. On Page 34, they say:

“In the view of the foregoing, we find it very unlikely that in adopting Article 50 that the treaty contemplated that members would be elected in any other way than a voting procedure.”

This means that these names must be brought here and be voted for. This ruling has nothing to do with the process of nomination. The problem we are now having in political parties, and I can see it is being drawn into EALA, is confusing matters of nomination and election. Nomination is the process by which electoral candidates offer and position themselves for the election process. The issue of how these people arrive from political parties is a nomination affair. Next week when we are called to vote, that will be an election. At this point, we are doing nomination. Nominees cannot tell a coach how to position his people. He will position the right people, in the right content and in the right frame to be able to fight the other side. Fortunately, the rules that we have, have said that you only present at least three but not more than nine. That is very clear. If somebody has a problem with that, you first of all need to amend that rule. You must amend that rule. You cannot fail to amend that rule and force the coach to do something that the law does not intend that he should do.

As I end, because this is very clear in my mind, I like the recommendation by the Committee because first of all, they have captured the spirit in recommendation number one, on how these things should be divided amongst parties. In Recommendation No.2, they seem to be capturing the spirit of the Constitution. However, I do not know how the Committee was misled by quoting this case in which some of us could have been called to offer free legal advice on the effect of this case and the rules that we are talking about. Now, when it comes to recommendation number four, it is true that Rule 6 should be amended. I think that is correct. It should be amended so that political parties have some criteria beyond what has been provided in law. When it comes to recommendations number 5, 6 and 7, it would seem that the recommendation is all about Coalition of Reforms and Democracy (CORD). That CORD should present more names so that this process should go on. I beg to differ. The rule as it is now, mandates the political parties to bring within the prescribed numbers that are there. I think CORD has done that. If you have a problem with it, and people can have problems with it, first of all amend the rule. If you have not amended the rule, these are now nominees before us. When we will be called to vote, we may decide that some of those people cannot be elected. We

may for example, decide that regional balance is a problem. We may for example decide that there is a gender problem. These are all issues that will bear into legislators when we come to vote next week. For now recommendations number 5, 6 and 7 appear to be out of place. For this reason, I would have wished to support this Report, but if the recommendations in 5, 6, and 7 are not amended in the text that they appear, I beg to oppose and advise my friends that it is not keeping in law. There is a different purpose that this will serve but the truth of the matter is, go back to your political party if there is a problem. Of course when you see three people being brought here, there is a reason why the coach is bringing three people. If you are unable to deal with your coach, talk to him, come back and we will vote for you.

Hon. Speaker, I thank you.

**Hon. Speaker:** Member for Emurua Dikirr.

**Hon. Kipyegon:** Thank you, Hon. Speaker. I also wish to make my contribution on this particular issue. First and foremost, I wish to say that I will support it, but I will wish to recommend that some of the recommendations which are made here be deleted. If it was me, this matter of EALA is not a matter of parties. These are people who are supposed to go and represent our nation, a nation of 42 tribes and over 100 parties. When we tend to extend the impunity---

**Hon. Speaker:** Except that from the IEBC and Registrar of Political Parties, they are 68 registered parties not over 100.

**Hon. Kipyegon:** There are briefcase parties which have not seen themselves in the list.

I would not have wished that this House or people who formulated these rules to extend the impunity that we have in Parliament of tyranny of numbers to EALA. EALA should have been a completely different situation altogether, so that we do not have the same mess we normally have in this House extending itself to EALA. EALA is a Parliament formulated by countries that subscribe to the East African Community (EAC). The issues these people are going to discuss there, and I remember when we were debating on this matter sometimes back, we had made a plea that we are expecting names of people with serious expertise on particular issues that have been discussed in that Parliament. I can only see names and we are going by it. We are not going to complain. Some people were complaining that so and so has brought his wife. Others are complaining that he has brought his girlfriend. Others are complaining that he has brought his son. There is something that we have learnt in this country and we only hope that in future, we are going to change the rules so that whichever names we bring here are names of candidates who we believe to the best of our knowledge, are going to present the country like those other countries represent their candidates.

I have no problems with people presenting their sisters or other people because it is a situation we have had in this country. I heard people complaining that Kalonzo Musyoka has brought his son. I have never heard them complaining to *Mheshimiwa* Uhuru Kenyatta who is the President of this country for having his sister nominated as a Senator in the other House. I have never heard people complaining to *Mheshimiwa* Raila Odinga for nominating his brother to this House. I have never heard anybody complaining to Duale, the Leader of the Majority Party for nominating his cousin to be a member of the county assembly (MCA) or the Deputy President for nominating his daughter to some positions. This is a culture. We just have to learn to live with it. Some of us who do not have serious positions and connections will just have to learn to live with it. Do not clean your dirty linen in this House by saying so and so is proposing so and so. Remove the log in your eye before removing the spec in your brother's eye.

So, I just want to look at the qualifications. If somebody qualifies we send them there. They go and mess, we recall them. We need to have in these rules a clause that allows this House to recall the Members who misrepresent us in EALA.

*[Hon. Speaker left the Chair]*

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

Another issue is the question of the people who are supposed to be elected to represent us in EALA. In this Parliament, we have representation from big communities. We have many Kalenjins, Kikuyus, Luos, and Luhyas here. Why do we still need them in EALA? Why? You people are so greedy you cannot even think of the Njemps. We have El Molos, Dorobos in this country who will never see the inside of this Parliament. They will only see it on television. Why can you not give them a chance? We have the Makonde, the new recruits; and the Nubians, who may never have any representation anywhere, not even in county assemblies, Parliament or in the Government. Let us also be good people next time. I am not talking of now. Let us allow this one because we cannot change the rules now. Let us allow these ones to go, but let it be the last. I want to hear the name of an El Molo who does not even know English to be in that Parliament, who will go with a translator. I want a Maasai from the remotest area to represent us there. Why are we greedy? In the next Parliament, we need to change these rules, so that we can have other people like the Sabaots, El Molos, Maasais, Dorobos, Makonde and the Nubians. We are having the 45<sup>th</sup> tribe, the Chinese – the short people – now as Kenyans. We can also have them represent us there.

Another issue which I am not seriously interested in is why people want to change and are now asking parties to present more than five, six or seven people. Election does not mean you must have varieties of people to choose from. We have had nominations in this country. We have had people who come here unopposed, but they are elected Members. If CORD chooses to give us only the number of names we require, who cares? If they do not qualify, we reject them en masse. If they qualify, they go. Jubilee made so many fake promises. Therefore, they want to have over 20 names so that they can throw it to us and say: “It is Parliament which did that. It is Hon. Ng’eno and Hon. Pukose who did that.” They want to throw the blame on us. That is why Jubilee is making a lot of noise saying that we should be given many names. They want COD to propose many names. What for? Do your own selection and give us the names. We will do whatever we want to do. After all, we have vetted people here before. We had the Chief Justice. It was only one name. We vetted and voted. Or what was that? We had the Deputy Chief Justice. We had only one name. We voted and approved the name. So, what is the problem? People should not just make rules to suit themselves.

Lastly, I am wondering why the Senate is involved in this matter. Are there county assemblies in EALA? I do not know why Senators always poke their noses everywhere. There is an amendment to the Constitution which is coming to this House, where we want the two-thirds gender rule implemented. My proposal is, instead of giving ourselves serious headaches, we should make that House a House for women, so that they can represent that gender. They are so good. They can even represent us in the counties and fill the numbers that we are looking for. We have them here and in the Senate. They are poking their noses everywhere. This is not a matter concerning counties. This is something that can make somebody to go to court.

**The Temporary Deputy Speaker** (Hon. Omulele): Hon. Johanna, remember that you made that decision in this House; that the Senate would be involved in this process at this time. It is this House that made that decision.

**Hon. Kipyegon:** Hon. Temporary Deputy Speaker, I stand guided. It was a wrong decision. Even if it was made in this House, it was the ‘*wrongest*’ decision. I do not know if that word exists in the English language.

**The Temporary Deputy Speaker** (Hon. Omulele): A resolution of the people, through this House, cannot be wrong, Hon. Johanna.

Proceed.

**Hon. Kipyegon:** Hon. Temporary Deputy Speaker, you know, I am Russian trained. Therefore, some English words ran away from me. I am only wondering why we have to involve Senators in this matter. This is a matter of the National Assembly. This is a matter of national importance, which does not concern counties.

I support, subject to amendment of the Motion.

**The Temporary Deputy Speaker** (Hon. Omulele): We shall have Hon. Kenta, the Member for Narok South.

**Hon. ole Kenta:** Thank you, Hon. Temporary Deputy Speaker. From the outset, I oppose this Motion as presented. The EALA is a very important institution. I think as a country, we should send our best to that regional stage. We have been taking our cronies, relatives and losers in party nominations to such an important institution. I think it is wrong. That is what we are trying to do.

As a lawyer, I have looked at the law and I think the presentation by the Majority Whip is not well informed, to say the least. I believe it is not well intended. It is ill-motivated and meant to frustrate the decisions made by CORD. Rule 6 talks about the party as follows: -

“A party shall be entitled to nominate for election under these rules any number of candidates not exceeding three times the figure arrived at by multiplying the number of elected Members of Parliament of that party by such number as Joint Committee shall determine and dividing the result by the total number of elected Members of Parliament.”

Therefore, it is for each party to decide. It does not say another party should instruct another party on how to go about this matter. That is what they are trying to do. Jubilee is trying to say “this is what CORD should do.” They should stay on their lane and let CORD stay on its lane. If you look at the rule critically, it does not say the minimum. It talks about not more than three times the number a party is entitled to. Why should they tell CORD that they should have had a minimum of nine or whatever number? I believe that argument is misplaced.

When they cite the court decision, as one of my colleagues has just said, that was a wrong interpretation of the decision of the court because the law has not been changed. If the decision was made in 2006, what has stopped this Parliament or Jubilee from amending the law for the last 11 years? This is an afterthought that should not affect any party apart from themselves.

The other day, I heard a Member here say that they intended to block a very senior EALA Member from assuming the position again just because they assumed that she rigged them out. I would like to put Jubilee on notice. They have continued to marginalise a particular community in the Rift Valley. If you look at their names, there are three members from one community and none from other communities. What they are trying to do is to marginalise that community not on their side, but on the ODM side, which should not be accepted. Any Member who thinks that they can use this Parliament to settle political scores is wrong. If you lost in a nomination, you

lost and you cannot transfer that frustration to this House. You cannot use this House to settle political scores.

Hon. Temporary Deputy Speaker, the Report is not tenable in law. Therefore, it should be thrown out to allow this House to proceed with its work. It does not matter whether a party brings one nominee or 100 nominees. I believe it is acceptable.

Somebody made reference to Article 50 in his proper interpretation. It means that the nine Members should be from diverse backgrounds and from both genders. However, it does not say anything about the multitudes of people who may apply. Looking at the law upside down is the wrong way of dealing with this issue. I do not think the Treaty requires that we go into the multitudes that come from each country. I do not think that is what they are talking about. They are talking about the nine. I believe when we pass it, the nine should include all manner of people and professions. This House is the one to decide, not the political bigwigs across the political divide. Unfortunately, that is what they are trying to do. They are trying to make this House a rubberstamp. It is time we rejected that kind of manipulation.

With those remarks, I oppose.

**The Temporary Deputy Speaker** (Hon. Omulele): Very well. We shall have a contribution from Hon. Joyce Ekai, the Member for Turkana.

**Hon. (Ms.) Emanikor:** Thank you, Hon. Temporary Deputy Speaker, for giving me this chance. Mine is very brief. I am concerned about the timing. You can see the anxiety that is in the House. We should get into this business as soon as possible considering the tight schedule that we have regarding the coming general elections, and considering IEBC timelines.

I urge that the Motion be brought early next week because a delay in disposing of this Motion will have a negative impact in terms of the attention it deserves. I also urge political parties to address any anomalies arising from non-compliance with the procedures or the relevant statutes so that the Motion can be brought here for consideration. Looking at the Independent Candidates phenomenon, because it has been mentioned in the Report, in future, this issue will tilt the balance across the political divide. It is critical that this phenomenon is considered in future. We cannot wish it away.

As far as the issue of the number of nominees is concerned, I think the provision for nominating three times the number that a political party is entitled is intended to increase the democratic space that we always brag to have embraced.

Finally, I support the Member for Emurua Dikirr on his argument for consideration of minorities, women and people living with disabilities. This will provide the diversity that is required.

Thank you for the time you accorded me, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Omulele): Very well. We shall have contribution from Hon. Gladys Wanga.

**Hon. (Ms.) Nyasuna:** Thank you very much, Hon. Temporary Speaker. I am unable to support this Report in its current state given the seriousness and the fundamental nature of the recommendations that has been made, more so recommendations number 4 to 7.

I have proposed an amendment. If it is approved, I will move it to ensure that the Report is revised into a form that can be supported. The EALA is very important to this country. Perhaps Kenyans do not understand just how important the EALA is. It is strengthening, widening and deepening East African relations. It should be understood that EALA is at the centre of legislation in the East African Community is concerned. My concern, however, is the basis on which Recommendation No.3 was arrived. The recommendation says that CORD

should forward more names in addition to the names that are on the list yet the law is very clear. Where did this recommendation come from? From where did they get the idea that the names to be submitted must be more than the number of slots that a party is entitled to? Regulation 6(i) has been quoted here several times. I just want to quote it again for the record. It requires a party to nominate any number of candidates, but not to exceed three times the number of slots it is entitled to. The Committee's recommendation has created confusion by suggesting that a party must nominate three times the number of slots it is entitled to.

Saying that CORD has nominated few candidates than the required number of candidates is being dishonest. It is a political strategy and this is a political process. So, every side and team puts forward its best and puts forward its best game. Where do we get the idea that an election can only happen when there are more names than the number required? We have Hon. Moses Kuria, for example. He came to Parliament without a single elector of Gatundu South Constituency having cast a vote. He was a single candidate. He is here as an elected Member of Parliament. The political parties have just concluded their nominations. We have seen many parties blocking certain individuals from clinching the nomination certificates. This is in order to ensure that you present to the electorate a formidable team of candidates that can be elected. That is exactly what the Jubilee is doing. They have requested certain candidates to step down, promising to give them other jobs once they form the next Government. That is the same strategy being applied. The CORD is within its legal rights to presents the four names for the electors to vote "Yes" or "No".

Our Legal Counsel, Hon. T.J. Kajwang', has already spoken to the genesis of the court case that was presented here as a basis for us to act differently. I will be moving an amendment, on behalf of our coalition. If it is accepted, this Report will become acceptable and we will move forward. However, we cannot engage in some wood work, come up with a Jubilee political strategy and make it look like it is the law. It is not the law. I have stated here that if Rule 6(i) intended that a political party should nominate three times the number of slots it is entitled to, it should have been amended to say so. However, since it has not been amended, it remains the law that we should be dealing with. This is what we have. We may wish to use this process to exert our authority or to show somebody dust. I am sorry, the law accepts only the names that will be submitted by the coalition.

The importance of the EALA is such that we, as a country, cannot just keep sending new people all the time, just like the Members of this House would add value to the politics of this county by coming back to Parliament. That is why we have all been struggling in the nomination so that we could come back. I am sure if I am re-elected during the general elections, I will not perform my duties the same way I did in 2013, when I first stepped into this House. I am much more experienced and, therefore, I will add more value to the politics of this country than I did at the beginning of my term in 2013. That is why, as CORD, we are presenting names of persons like Hon. Judith Nayai Ramaita Pareno and Abubakar Zain Abubakar. These are people who have been at EALA before. They will take with them the institutional memory that is required.

Hon. Temporary Deputy Speaker, Section 6(2) states that in nominating its candidate, each party shall, in as much as its feasible, take into account the need for fair representation of various shades of opinion, regional balance, gender and other special interest groups. It means minorities or communities that have not necessarily been considered. We present that Hon. Pareno, who is a very senior lawyer and comes from a minority community, deserves to be considered. It is the same argument for Hon. Abubakar Zain.

The other group that must be looked at is the youth. We must have youthful persons in the East African Legislative Assembly (EALA) for us to be said that we are considering every group possible. That is where Kennedy Musyoka comes in. He brings in the youthful element. People made propaganda and Hon. Ng'eno said it. Why are we so firm in trying to remove specks from other people's eyes when we have logs in our own? Whenever we have an opportunity, many times we bring in people who are close to us if they are qualified to hold those positions. Even the people who speak the loudest are the ones who practice that the highest. This is about a youthful qualified Kenyan getting into EALA in order to bring a youthful element in that Assembly. I think we should not ignore that fact.

As I conclude, I agree with my sister, Hon. Emanikor, on the issue of timing. I do not intend to anticipate debate in any way, but if this House is not going to be sitting next week on Tuesday, then we need to look at the timelines. Otherwise, if the amendments that I am proposing to delete Recommendations 3, 5, 6, and 7 are admissible, then I will support the Report.

**The Temporary Deputy Speaker** (Hon. Omulele): Very well, we shall have contributions from Hon. Ali Rasso Member for Saku.

**Hon. Dido:** Thank you very much, Hon. Temporary Deputy Speaker. I looked at this Report and the first question that I asked myself is whether a ruling of the EACJ can provide a bedrock on how candidates to EALA can be nominated.

The law must cut across or fit all. If we allow the law to be fleeting and applied selectively, then we will not be doing justice in this House. The EALA is the legislative arm of the EAC. It is a very important institution for the partner States of the EAC. It provides the democratic representation of the people of the six States with the addition of Southern Sudan. Parties are getting slots on a *pro rata* basis. It means the majority party in the Houses of Parliament should send more Members to EALA. On that one, there is no contestation. The discussion is about how parties select and bring forth names to this House for final confirmation.

This House acts as the electoral college of the Republic of Kenya. When parties decide to bring forth names of those they feel should be candidates to EALA, this House will be turned into a rubber stamp. We must make a decision on that. If that is not the case, parties must go on record to clarify what the best practice should be. The nine individuals we are supposed to elect here will be the Kenyan delegation to EALA. They are expected to represent Kenya and not the parties they are affiliated to. So, this issue must be approached in a bipartisan manner. The way we are addressing it now in terms of what parties must do, we are likely to send a divided team to EALA.

I sit on the Departmental Committee of Defense and Foreign Relations and also the Committee on Regional Integration and I know the value of EALA. I know the need to send the best to EALA. The way parties pick their best is up to them, but the final die must be cast by this House. For that reason, if we say that it is either our way or the highway, as the other side seems to say, then it does not send a very good signal.

Rule 6(3) clearly requires political parties to nominate thrice the number of candidates as the party slot. Indeed, that is the law. If we are going to amend it here and in this House, then let it be so. However, if we want to side step the law because it does not suit us at that moment, that it not just. I have heard even good lawyers in this House saying that for this particular case, because of tyranny of numbers, we should side step the law. We are not doing the right thing.

**The Temporary Deputy Speaker** (Hon. Omulele): Hon. Ali Rasso, I hear you quoting the law. Could you be referring to Rule 6(1).

**Hon. Dido:** Rule 6(3) as is in the Report.

**The Temporary Deputy Speaker** (Hon. Omulele): Very well, proceed.

**Hon. Dido:** With those remarks, I beg to support this Report. However, I wish to recommend that we need a bipartisan law that fits both sides so that we can send a unified delegation to EALA.

**The Temporary Deputy Speaker** (Hon. Omulele): Very well, we shall have contribution from Hon. Peter Kaluma.

**Hon. Kaluma:** Thank you, Hon. Temporary Deputy Speaker for allowing me to speak to this matter. My understanding of what we are doing is that once we elect these Members, they become representatives of our nation in EALA. Immediately we elect persons here, they will be representatives of Kenya to EALA. They will not represent Jubilee or CORD. I am picking from what Hon. Rasso was speaking to. Ultimately, we need a unified front, that is, representatives of our nation in the community of nations called the EAC that we have decided to be party.

So much has been said about this process, but my understanding of this law is that it about how we process Members and citizens of our nation to represent us in EALA. The language I am getting from Rule 6(1) of the subject rules under consideration is that it takes the political parties to nominate. The rule is talking about an entitlement to political parties. The parties shall be entitled to nominate. The task of nomination is to be undertaken by the parties under their rules of nomination. It is not the business of anybody to micromanage political parties. Of course, political parties will be undertaking nominations looking at the roles and this being an entitlement, the membership who will be privileged to be nominated and brought here will be executing in EALA if successful.

Let me at the risk of a repetition read Rule 6(1):

“A party shall be entitled to nominate for election under these Rules any number of candidates.”

Do we need interpretation on what any number of candidates means? Any number is from one to whatever numbers which are permissible in law. Then, it says:

“Any number of candidates not exceeding three times the figure arrived at by multiplying the number of elected Members of Parliament of that party by such number that the Joint Committee shall determine and dividing the results.”

The arithmetic is provided there. I am emphasising that a political party is told to nominate any number of candidates and bring to both the National Assembly and the Senate for consideration for election, but not exceeding three times the positions or the slots available. That is my understanding. Where are we then? Are we rightly before this House as Members of Parliament reading through this law which was passed by this House seeking to determine whether or not the minority side of the CORD Coalition through its constituent parties nominated properly. CORD has complied.

Hon. Temporary Deputy Speaker, with your permission, I want to take the House through the recommendations being done. This is matter which I wanted to seek directions, but, because I am informed, I will not seek directions. Time has come, Rule 6(1) being that clear, for us to determine whether recommendation Nos.3, 5, 6 and 7 by the Joint Committee are lawful. I would request the Members to think with me on this matter, looking at our sources and hierarchy of laws.

We have been referred to a decision by the EACJ made in 2006. In terms of our sources of law, I wanted to refer to the provisions of the Judicature Act Section 3. The substantive Temporary Deputy Speaker, being a lawyer, knows and fully appreciates what I am doing. It

deals with the matter of sources of law that are binding. It is not just providing the sources, but also the hierarchy of laws. When interpreting and determining what law is applicable, the first law to look at is the Constitution of Kenya, Section 3(1)(a) of the Judicature Act Cap 8 of the Laws of Kenya and all other written laws which are statutes, rules and others. Section 3(1)(c) of the Judicature Act states:

“Subject thereto as far as those written laws do not extend or apply, the substance of the common law, the doctrines of equity and statutes of general application in force in England by 12<sup>th</sup> August 1897 and the procedure and practice observed in courts.”

That is what we call judicial precedence. I would like to emphasis and tell you that when you have a court determination such as this one which has become the basis of the Joint Committee’s recommendations herein, it takes the very last consideration in terms of guiding the decisions of a body such as Parliament or a court of law. Look at these recommendations keenly. We are being told that contrary to the provisions of Rule 6(1), the constituent parties of CORD should go and add some numbers. Essentially, we are being told that we should follow a court decision before we follow a statutory provision duly legislated and approved by this House. The point I am raising is one which I need to share an opinion with the Chair of the Joint Committee. I do not know how long the Deputy Majority Whip will take.

**The Temporary Deputy Speaker** (Hon. Omulele): Proceed Hon. Kaluma.

**Hon. Kaluma:** I am addressing the House on the legality of Recommendations Nos. 3, 5, 6 and 7. I have just referred the House to the provisions of Section 3 of the Judicature Act, Cap 8 of the Laws of Kenya. I have emphasised that it deals with the matter of the sources and hierarchy of laws. We have a situation in Recommendation No.3 where this Joint Committee wrongly against the provisions of the Judicature Act Section 3 is ignoring Rule 6(1) and the idea of hierarchy of laws as provided in our own laws and in their consideration and be bound by a decision and implement it.

First, we are putting a limitation on the nominating party that is not contemplated by the rules. Second, we are also elevating a court decision to a level of supremacy to a statutory law, a law legislated and approved by this Parliament as other Parliaments across the region contrary to the provisions of Section 3 of the Judicature Act. If the House agrees with me, Recommendation 3 is outrightly illegal and also Recommendation No.4, which requires a party to submit three times. A statute passed by this Parliament says that a party will pass any number, but not exceeding three for each slot is also unlawful. If the House agrees with me to that extent, then Recommendation No.6, that the time should be extended and others should also follow, is also unlawful.

Let me end by saying that the danger in Recommendation No.7, we are sending a team to EALA to represent our country. We cannot be a country which in the eye of the EAC is manifesting itself always as being engaged in small fights.

**The Temporary Deputy Speaker** (Hon. Omulele): Hon. Kaluma, you have two minutes to make that legal point.

**Hon. Kaluma:** Thank you, Hon Temporary Deputy Speaker. Recommendation No.6 says that time should be extended. When we extend time for Parliament to do this simple thing, essentially, we are holding back the operations of EALA. As a House, we must take our country out of the dishonour and the manifestation of disorganisation that we will be giving to the Member States of EAC in this regard. Some have said that if fixed numbers to be brought here, then it is not an election. That is a fallacy. Many of us have in the past come here unopposed, but still under the Constitution and under the Elections Act, they are still elected Members of this

Assembly. The fact that you are unopposed in terms of any contestations does not remove the fact of an election. I uphold the position and request that my colleagues agree to a situation in which the parties are not micromanaged. Let us have a number that is permissible within the law and let us act.

Let me conclude by requesting the Jubilee side that we have so much to do as the 11<sup>th</sup> Parliament in the short time remaining before the next elections. Those are not issues we should take too much time debating. It would have been even better if we had indications from the majority to our side just making it clear to us who they want us to vote for so that we finish this thing in two or five minutes and focus on the remaining business.

Thank you for the indulgence. Thank you for the opportunity to contribute.

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

**Hon. Bowen:** Thank you for giving me this opportunity, Hon. Temporary Deputy Speaker. Even before this Report came before this House, we should have looked at its admissibility. Hon. Kaluma is talking about people who were unopposed. Here is a case where we have 41 Kenyans who applied and now there are some parties who---

**The Temporary Deputy Speaker** (Hon. Omulele): Hon. Kangongo, you are out of order. That is a point of argument. You will have an opportunity to make your point.

Before I give this opportunity to the next speaker, I would like to recognise the presence in the Speaker's Gallery of students from Nzoia Sugar Company Primary School from Kanduyi Constituency in Bungoma County. We welcome them to watch and learn from the proceedings of this august House.

I would also wish to recognise the presence of students from Moi Primary Kabarak School from Rongai Constituency in Nakuru County. I also want to extend a welcome to them to watch the proceedings of this House. They are watching the proceedings from the Speaker's Gallery. I would just like to let them know that I was a student at Moi High School Kabarak so you come from a very good school and you are welcome to this House.

I would like to give this opportunity to Hon. Ali Wario, the Member for Bura.

**Hon. Wario:** Asante Mheshimiwa Naibu Spika wa Muda, kwa kunipa fursa hii ili niweze kuchangia Hoja iliyo mbele yetu.

Kwanza kabisa, nimesimama kuunga mkono Ripoti hii kwa sababu mimi ni mwanachama wa Kamati ambayo imetayarisha na kuileta Ripoti hii mbele yenyu. Kufikia sasa, hakuna tetezi lolote kuhusu ugavi wa nafasi za Wabunge wa Bunge la Afrika Mashariki. Muungano wa vyama vya Jubilee imepewa nafasi tano na muungano wa vyama vya CORD umepewa nafasi nne. Kwa bahati mbaya, waaniaji wa kujisimamia ni wachache na hawakupata nafasi. Hapo hakuna tetezi.

Tetezi letu liko wapi? Liko kwa mchakato wa vipi tutagawanya nafasi hizi kwa Wakenya kwa njia halali. Kwa nini nasema hivyo? Katika Ripoti hii, upande wa CORD, Wakenya 41 wameomba nafasi waweze kupewa fursa wawakilishe Kenya katika Bunge la Afrika Mashariki.

Ukiniruhusu nitasoma barua ya pili. Barua hii imeandikwa na Seth Ouma Omolo kwa Kimombo. Ningependa kusoma barua hii kwa ruhusa yako. Inasema hivi:

"I, hereby, seek that the Wiper Democratic Party submits at least two names to Parliament for election as is the spirit of Rule 6(1) on the number of nominees of each party, otherwise, subjecting the voters, Hon. Members of Parliament, to an election---

**The Temporary Deputy Speaker** (Hon. Omulele): Hon. Wario, I have a problem with what you are reading.

**Hon. Wario:** I am only reading a small part of it, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Omulele): No, Mr. Wario. There is no way the House can authenticate the letter you have in your hands.

**Hon. Wario:** It is part of the Report. It is the second attachment of that Report.

**The Temporary Deputy Speaker** (Hon. Omulele): If it is in the Report, then it is quite in order.

**Hon. Wario:** It is in the Report, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Omulele): If it is part of the Report, then proceed. You are very well within your rights.

**Hon. Wario:** I will read: "I, hereby, seek that the Wiper Democratic Party submits at least two names to Parliament for elections as is the spirit of Rule 6(1) on the number of nominees of each party, otherwise, subjecting the voters, Hon. Members of Parliament, to an election where the candidate is one will defeat the very essence of an election."

Wamezoea kudhulumu Wakenya. Wakenya 41 walipoomba nafasi, unawanyamazisha kwa nguvu. Hii ni kwa sababu wengine wao, miongoni mwao, kuna mtoto wa mwaniaji mwenza wa NASA na kwa hivyo, hutoangalia haki ya Wakenya. Ndiposa tukasema, siku ile tulipochagua Jaji Mkuu, tulipeana majina matatu kwa Rais. Kwa nini wakati tulichagua Jaji Mkuu tulipeana majina matatu lakini tunapochagua Wabunge wanaowakilisha Kenya katika Bunge la Afrika Mashariki, NASA inaleta jina moja? Hii ni dhuluma. Kama Kamati, tumesema hatutaunga mkono dhuluma hiyo.

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

**The Temporary Deputy Speaker** (Hon. Omulele): Hon. Wario, there is a point of order from the Member for Kitui Central.

**Hon. Mulu:** Hon. Temporary Deputy Speaker, is the Member in order to mislead this House that this House was presented with three names for the Chief Justice when we are all very aware that we only got one name which we approved and the President assented to that approval?

**The Temporary Deputy Speaker** (Hon. Omulele): Let us have Hon. Wario.

**Hon. Wario:** Mheshimiwa Naibu Spika wa Muda, naomba kuondoa hoja hiyo lakini kwa wanaoshika ofisi za kikatiba, Bunge huwa linapitisha majina matatu na Rais anachagua jina moja miongoni mwa hayo matatu.

**The Temporary Deputy Speaker** (Hon. Omulele): Hon. Wario, have you said that you have withdrawn the statement that three names for the position of Chief Justice were presented to this House?

**Hon. Wario:** Ndio, Mhe. Naibu Spika wa Muda.

**The Temporary Deputy Speaker** (Hon. Omulele): Sawa sawa. Endelea.

**Hon. Wario:** Mhe. Naibu Spika wa Muda, nimesema tatizo sio idadi. Tatizo ni mchakato. Kwa mchakato, Wakenya 41 walipoomba nafasi, utawanyamazisha vipi na kuleta majina manne? Wakati muungano wa vyama vya Jubilee umepewa nafasi tano, kwa kila nafasi umeleta nafasi tatu ili Bunge lifanye uchaguzi. Ukileta majina manne, hiyo ni uteuzi ama uchaguzi? Na ukizoea kudhulumu Wakenya, usilazimishe Bunge likuunge mkono katika dhuluma zako.

Wengine wanasema tunatumia nambari kudhulumu upande wa CORD. Kama tungedhulumu upande wa CORD, hatungepeana muda zaidi. Ukiangalia pendekezo la tano, limepeana nafasi kwa CORD kuleta majina masaba zaidi. Kama ni *tyranny of numbers* vile wanavyosema, kweli tungewapatia nafasi waleta majina zaidi? Tusingefanya hivyo. Kamati yetu

imefanya haki. Kamati imeambia CORD kwa sababu imeleta majina matano, leteni majina mengine masaba wawe 12. Utakapoleta majina hayo katika Bunge, Bunge litaweza kuchagua majina kadhaa. Usitupee majina ya watoto ambao baba yao ni mwaniaji mwenza. Wako Wakenya wengine ambao wana haki. Waleta hapa tuwachague. Sisi hatuko hapa kufanya uteuzi. Tuko hapa kufanya uchaguzi.

*(Loud consultations)*

**The Temporary Deputy Speaker** (Hon. Omulele): Hon. Members, Hon. Wario will be heard in silence. He deserves this opportunity to say what he wishes to say.

**Hon. Wario:** Asante Mhe. Naibu Spika wa Muda. Bunge ni Bunge. Wale Wabunge wanaenda Afrika Mashariki kuwakilisha Wakenya, hawaendi huko kama CORD ama Jubilee. Wakati unaweka mikakati ya kudhulumu watu wako ndio waandike barua kwa chama wakisema chama kinawadhulumu, sisi kama Kamati hatutaunga mkono dhuluma ya vyama. Hili ni Bunge na Bunge haliko hapa kufanya uteuzi. Ukisoma kanuni ya Afrika Mashariki, utaona inasema Bunge ifanye uchaguzi na isifanye uteuzi.

Kwa hayo machache, ninaunga mkono Ripoti ambayo iko mbele yetu. Asante.

*(Hon. Wario laughed)*

**The Temporary Deputy Speaker** (Hon. Omulele): I do not know what is exciting Hon. Wario. It must be his contribution but it is quite in order. We shall have Hon. Nyikal.

**Hon. (Dr.) Nyikal:** Hon. Temporary Deputy Speaker, I rise under Standing Order No.96 to move that debate on this Motion be adjourned and postponed.

If you notice, this is an extremely important Motion and there is need for further discussion by the party. What is really happening is that on---

*(The Temporary Deputy Speaker  
(Hon. Omulele) consulted the Clerk-at-the-Table)*

**The Temporary Deputy Speaker** (Hon. Omulele): Hon. Nyikal, I was consulting with the Clerk-at-the-Table. We are having difficulties because we need concession from the other side. So, I plead that before you make the application you desire to, let the Clerk-at-the Table endeavour to get a representative of the right side so that they can have a say on it.

In that event, I ask you to step down so that I have contributions from Hon. Mule. You will make your application when the right side is here.

**Hon. Mule:** Thank you, Hon. Temporary Deputy Speaker for giving me the chance to make my contribution on this Report. I want to be clear at the outset that I oppose this Report before this House for several reasons.

One main reason for opposing this Report is that the Committee did not read the entire ruling of the East Africa Court of Justice. As a House, we need to uphold the rule of law. If we continue debating this Report and the recommendations which have been given by the Committee, we are doing an exercise in futility. Sometimes it baffles me when a Committee just sits down and makes recommendations which are completely unlawful and yet we are a lawful House.

Rule 6(1) had already been dealt with by the Court. When this Committee sat, they based their argument on Rule 6(1). I hear Members making insinuations on the character of the membership we are sending to the East African Legislative Assembly (EALA). We are sending qualified and credible Kenyans to EALA. I have just heard Hon. Wario talk about a son of a running mate of a coalition called “the National Super Alliance (NASA)”. I want to ask a very simple question. Is that Deputy Principal in that coalition a Kenyan? Is he not a Kenyan? He is a Kenyan. The answer is “Yes”. Is the son of that principal a qualified and schooled Kenyan? Yes, Kenneth Musyoka is qualified and he is a Kenyan. Why are we bringing issues? This is unless Members in this House do not have children. Beware that one day you will not be in this House and you will need your children to be in this House. It pains me. I pay school fees for my son and if to be in this House makes my son not to be eligible for any duty in this country, I think, I am in the wrong House.

We want to be very clear that there is tomorrow and there is need to determine what decision we take in this House. You find a whole leader of a political party in this country trying to nullify nomination of a youth and yet that party claims to advance issues of the youth. The Wiper Democratic Movement Party adores the youths of this country. That is why we gave the name of one Kenneth Musyoka to go to EALA to represent the students you see seated in the Speaker’s Gallery.

The second thing I want to---

**The Temporary Deputy Speaker** (Hon. Omulele): Hon. Mule, I must guide you. We are not discussing specific nominees. We are basically just discussing the Report of the Committee.

**Hon. Mule:** Hon. Temporary Deputy Speaker, I stand guided, but I had to make it clear because the Members insinuated that---

I want to make it very clear that the same Rule 6(1) being talked about in this House is very clear. It does not have the minimum number. Unless we amend that Rule, or deal with the law, we must work with the names which have been given to this House by the political parties which are clearly eligible to provide the nominees to this House. If the Jubilee side wants to bring all Kenyans to this House, they can bring the 43 Members to this House and we will vote for the best. If CORD has done due diligence of the Members we want to bring to this House, I cannot understand the problem Jubilee has in trying to impose Members whom we need to bring to this House. It is very unfair. It is also very clear that people have ill motives on the candidates we are bringing to this House.

Look at Recommendation No.7. It states: “The Speaker of both Houses make a determination to extend the timelines.” We do not have time to extend any more. We do not have enough time even to deal with our own issues.

This afternoon, this House moved a Motion that we will not sit on Tuesday so that we go and deal with the issues of Independent Electoral and Boundaries Commission (IEBC). As a nation, we need to be very clear that we are bound by the timelines which have been given by EALA. We must come out very clear and see how best to handle our situation.

It is unbelievable what is on Recommendation No.6. It says: “In conclusion, the presiding officers to forward a list of further nominees.” The Rule is very clear. You nominate between one and whatever number. The Rule also goes ahead and gives the opportunity for the political parties to give numbers. It has been said clearly, and I want to repeat it in this House that we are not bound to give specific numbers as a party as has been suggested by the Committee under Recommendation No.3.

As a party, we have sat down and vetted our Members. We have given it our best. We will stick to the names that we have given out. Those names must be brought forth in this House when the right time comes. If Members will not like those names, we will throw them away. We will vote either “Yes” or “No”, but to be told to go back to what we have already finalised, as a party and as a coalition, is extremely unfair.

My humble request is that we either amend this Report or we oppose it. I know my brother, the Chairman of ODM, is eager to speak. I want to end by saying that we are opposing this Report with its recommendation. We will move amendments to make sure that the Report reflects the will and the constitutional requirements of EALA as far as nomination of Members is concerned. We either abide by Rule 6(1) or seek to amend it. May God bless this House.

**The Temporary Deputy Speaker** (Hon. Omulele): Very well. I see interest from Hon. Ronald Tonui.

**Hon. Tonui:** Thank you, Hon. Temporary Deputy Speaker for this opportunity to make my contribution on this Motion. I support it. I want to commend the Committee for the work it has done in vetting these nominees. The Committee went through all the rules as is required to ensure that everything is captured.

*(Hon. A.B. Duale consulted loudly)*

You can guide Duale. I believe he thinks he is in his own arena taking care of camels in North Eastern.

**The Temporary Deputy Speaker** (Hon. Omulele): The Leader of the Majority Party, Hon. Tonui cannot hear himself.

**Hon. Tonui:** Hon. Temporary Deputy Speaker, I was commending the Committee for the good work it has done. The Committee went through the documents provided by various nominees and vetted them thoroughly. It referred them to the IEBC and the respective political parties just to ensure that they met all the requirements. I am also happy that the Committee considered Article 50 of the Treaty, especially with regard to the requirement that different political shades of opinion need to be taken care of. It did some good calculations. I believe it had some good mathematicians because it gave Jubilee Coalition five slots and CORD four slots. It was unfortunate that the independent candidates could only get zero slots. However, that is what they are entitled to. I believe that was very fair.

I am also happy to see that the issues of gender are well addressed looking at the list of nominees. What I am not very sure about is the issue of special interests. Are the youth well represented according to this list? Are the people with disability well represented? I have not seen a name of a person with disability on the list. I am not sure about that.

I am happy that, at least, from Bomet County we have one youth by the name Stacy Chepkemoi. I believe that is one person we need to push through because she has been aggressive in ensuring that the rights of the youth are well taken care of. She was elected the Youth President in Bomet county. She was unfortunate to lose in the just concluded Jubilee nominations where she was running for the senatorial seat.

I am also disappointed a bit with CORD. It gave us a list of exactly four names thus giving us no room to elect and practice our democratic right which we are entitled to. Of course, CORD is taking advantage of the provisions in the Treaty.

**The Temporary Deputy Speaker** (Hon. Omulele): Hon. Tonui. Just hold on a minute. I can see intervention from Hon. Nyikal who had proposed to make an application. Just hold your horses Hon. Tonui. You will have your time reserved. Let us hear what is burning Hon. Nyikal.

**Hon. (Dr.) Nyikal:** Hon. Temporary Deputy Speaker, I rise under Standing Order No.96. If you noticed, the discussion that is going on is basically like a contest on what a party should do. It appears to me that there is need for more consultation on this matter. I rise under Standing Order No.96 to ask for adjournment of debate to a future date.

**The Temporary Deputy Speaker** (Hon. Omulele): The Leader of the Majority Party. This is for you.

**Hon. A.B. Duale:** Hon. Temporary Deputy Speaker, I happen to be the leader on this side. I have no problem with the adjournment of debate under Standing Order No.96. As I listened to this debate, I also noted another complex matter in the Report; there are 15 independent candidates and they have all been given provisional nomination certifications by the two presiding officers.

When the Committee was doing its Report, it ought to have recommended that the Committee further nullifies the provisional nomination certificates. So, as we sit here, there are 15 Kenyans who this Report is denying an opportunity and yet they have some legal document in the name of a provisional nomination certificate issued by the two presiding officers. That brings me to the issue that we need to re-look in this Bill.

The contest here is between the parties; those who want to build political dynasties and those of us who want to bring sons and daughters of peasants to this House. That should be very clear. Those of us who went to school barefoot and ended up in this House shall defend that. There are those who want to perpetuate their positions. I will discuss that when the full debate on this issue starts. I stand for the peasants and the poor Kenyans who do not have an opportunity. They must be given a chance by political parties so that they too represent Kenya.

I will say the same thing were Hon. Kenyatta to bring his son here. I will say the same thing if William Ruto or Moses Wetang'ula or even Mwadeghu brought their sons here. If *Mheshimiwa* Mwadeghu becomes a Governor and when he retires he proposes that his son becomes the running mate of the next Governor that would not be a tidy thing to do. It is not in any way a decent thing to do. Life is about tidiness.

With the permission of Hon. Nyikal, I support that we do further consultations and also clean-up the list of names. I want to go on HANSARD for saying what I have said. If the Member for Homa Bay Town--- There is a man who wrestled the Member one day, but he beat him in the party nominations. Congratulations. That man wrestled you to the ground but you beat him badly in the nominations. He should not joke with you. So, I want to go on record as saying that this is an election where the 349 Members are the voters, the two Chambers of Parliament are the polling stations and the two Clerks are the presiding officers. So, if you are not a voter, you cannot influence and you cannot wrestle people here. I support, and we must be given our democratic right to elect the children of Kenya who come from very poor backgrounds so that they get an opportunity to sit in the EALA. We should not extend dynasties.

I thank the Chairman of ODM. He convinced Hon. Oburu Odinga to back down. The Wiper Democratic Movement (WDM) leadership must do the same. I thank ODM. You know I have been in ODM. It has very intelligent people. The moment I held a press conference on a Sunday, on Monday Hon. Oburu said: "I have thrown in the towel." Do not drag Kennedy Musyoka into the mud. He is a nice and refined lawyer. He can serve in any other capacity. This seat belongs to the peasants, the likes of Hon. Mbadi and Hon. Gumbo, who was rigged. Hon.

Gumbo is a son of a peasant. He is popular on the ground. We stopped that culture. Hon. Beth Mugo and Hon. Oburu will go. The Oburus will leave because this is a new chapter.

Hon. Temporary Deputy Speaker, I second.

**The Temporary Deputy Speaker** (Hon. Omulele): Hon. Members, according to our Standing Orders, this is basically a Motion for Adjournment and the moment he finishes seconding, that is it. I am convinced that the reasons that have been presented are sufficient for us to adjourn debate on this particular Motion. I, therefore, direct that the Motion is taken off for now until the two sides agree on what to do. When we resume debate on this Motion, Hon. Tonui will have his reminder time of five minutes to finalise his contributions. I, therefore, direct that we move to the next Order.

*(Motion deferred)*

## BILL

### *Second Reading*

#### THE CONSTITUTION OF KENYA (AMENDMENT) (NO.6) BILL

**Hon. A.B. Duale:** Hon. Temporary Deputy Speaker, I want to seek your indulgence because this is a very important Bill. It is a Bill on the gender principle

*(Hon. Ng'ongo interjected)*

Hon. Temporary Deputy Speaker, if the Chair of ODM does not want this Bill---

Hon. Temporary Deputy Speaker, this is a very important Bill. I really indulge you that this Bill is put in the Order Paper another day as the first item when the House is full and everybody is ready. We cannot discuss it when it is already 5.30 p.m. I really urge you because it is an important Bill. My sisters are not here but a number of Members of Parliament are not here. So, I seek your direction that we defer this Bill until may be on Thursday, next week and put it as the first item.

*(Hon. Ng'ongo raised his hand)*

Hon. Mbadi, this is not a classroom. You are raising your hand because of the nomination. I am sorry. You know you got so confused in the nomination. This man called "Caroli Omondi", who is my very good friend should know that you are very popular. The likes of Duale, Hon. Kaluma and Hon. Mbadi are popular candidates.

Hon. Temporary Deputy Speaker, I really urge you to defer this Bill. There are people who are very popular by nature. I am one of them. Others are Hon. Mbadi and Hon. Kaluma. Hon. T. J. had to chase a lady because he was not popular.

**Hon. Ng'ongo:** On a point of order, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Omulele): What is out of order, Hon. Mbadi?

**Hon. Ng'ongo:** Hon. Temporary Deputy Speaker, whereas I want to agree with my great friend, Hon. Duale, on the Constitution of Kenya (Amendment) Bill, I think we need to be candid and honest to the people of Kenya, especially the women of this country.

In this Parliament, it is going to be impractical to pass this Bill. It is not going to be possible. When we had an opportunity to do it, we failed. I think this is one Bill that we should not crowd our programme with. We should wait for the 12<sup>th</sup> Parliament.

**The Temporary Deputy Speaker** (Hon. Omulele): Hon. Mbadi, are you in any way presuming that the House cannot debate this? You know our rules.

**Hon. Ng'ongo:** But Hon. Temporary Deputy Speaker you can see Hon. Duale is playing politics with this Bill. I am sure when Hon. Duale moved this Bill he did not believe in it. That is why he did not whip properly for the Bill to be passed in this House. He is bringing it when he knows it is impractical to pass it with two-thirds majority. I plead with my friend that this politics---

**The Temporary Deputy Speaker** (Hon. Omulele): Hon. Mbadi, you will not anticipate debate and you will not cast aspersions on the character of members without a substantive Motion.

We all sat here yesterday when the Speaker made his directions that this particular Order was to be handled today. He spoke to the fair gender that we should all congregate here. However, looking at things as they are today, I agree with the Leader of the Majority Party on this that this is such an important matter in our Republic today, in our political life today and even in the life of Parliament today. It is a matter that must be given sufficient attention. Therefore, I agree and direct that this Order be taken out of the list today and be set down at such a time and position in the Order Paper so that it will achieve that sufficient attention that it deserves. I, therefore, direct that it is removed out of the Order Paper for today.

*(Bill deferred)*

Next Order!

## MOTIONS

### ADOPTION OF REPORT OF PAC ON THE SPECIAL AUDIT OF NYS ACCOUNTS

*(Hon. (Eng.) Gumbo on 17.5.2017)*

*(Resumption of Debate interrupted on 17.5.2017 – Afternoon Sitting)*

**The Temporary Deputy Speaker** (Hon. Omulele): Hon. David Gikaria was on his feet when we adjourned yesterday. He has a balance of nine minutes. He does not desire to be present. I will, therefore, move on to the next interested member. Do I see interest from Hon. Makali Mulu?

**Hon. Mulu:** Thank you, Hon. Temporary Deputy Speaker. I want to make my contribution to this important Motion.

**The Temporary Deputy Speaker** (Hon. Omulele): Hon. Makali, just before you get to dig in, I would like to alert members that is a new Motion. This is the PAC Report. I ask members to key in afresh if they want to speak to this so that we know who is interested in this Motion.

Proceed, Hon. Mulu.

**Hon. Mulu:** Thank you, Hon. Temporary Deputy Speaker. I want to start by really appreciating the work done by the PAC under the leadership of the able Hon. Gumbo. I listened when this Motion was being moved yesterday. This Report brings out issues which are of serious and of national concern. Without dwelling too much on the figures because Kenyans have already read them--- These are very high figures. Kenyans cannot imagine how this country can lose such amounts of money and still be on her feet.

I want to focus more on the bigger picture which is the issue of holding public office, being given the mandate to be an accounting officer and being a responsible officer. If you read through this Report, you will find that there is serious abuse of opportunities given to Kenyans by other Kenyans to be in charge of public offices. The matter of the NYS is of national concern. As a country we are going through very hard times in terms of youth unemployment.

Any Kenyan given the mandate to be in charge of youth affairs needs to cover that extra mile to ensure that issues of the youth are handled with care to ensure that we get our sons and daughters out of unemployment situation, which makes them despair in life. As a result of despair, they resort to drug abuse and other issues that are not good.

I have said many times and I want to repeat that this country needs to move to the next level that if you are seen or thought to have misused, misdirected or misappropriated public resources, you are barred from holding any public office for the rest of your life. That is if it is confirmed.

Time has come when this country has developed into a culture where you get to a public office, loot that office, use the loot, seek for another public office - particularly an elective office and then use all the powers and privileges you have in this House to defend that position. As a Kenyan and more so, a Kenyan who loves this country---

*(Hon. (Ms.) Kiptui spoke on phone)*

**The Temporary Deputy Speaker** (Hon. Omulele): The Member for Baringo, you know how to conduct yourself in the Chamber. Kindly let Hon. Makali make his contribution.

**Hon. Mulu:** Hon. Temporary Deputy Speaker, I will not be surprised to find that the presentation of this Report to this House might have been delayed. There could have been some people working underneath to make sure that this Report is not tabled for debate.

I want to thank the House Business Committee (HBC) for making sure that before the end of the 11<sup>th</sup> Parliament, we have a chance to discuss this Report and put it on record that this is not the way to go as Kenyans. If you look at the people who misappropriated public resources and the amounts being mentioned, you ask yourself: "As a Kenyan, why would you need that much money?" We are all sure that when you die, you only need a coffin which can cost as much as a million, that is if you are very expensive and a piece of land which measures about six by three feet.

When you die, nobody will put you in that coffin with your gold, your houses or your best car which could be a Mercedes, Prado or Range Rover. I wonder why Kenyans go to that extent of accumulating this level of wealth which at the end of the day, you will leave it here but you will have messed lives of very many young Kenyans, to an extent that God cannot bless you because of the misdeeds you have done to those Kenyans.

Hon. Temporary Deputy Speaker, the recommendations of this Report need to be taken up immediately so that they are acted upon. I wish there was a way we could give the PAC some teeth so that it can bite.

We have visited some countries where this Committee can really bite. When there is need to bite, they will bite immediately and the biting will be so severe that people will realise there is a committee.

One of my prayers to this House is that in the 12<sup>th</sup> Parliament, PAC needs to be given powers so that when things like this come to this House and such recommendations are adopted by the House--- This will ensure that Members of Parliament who are so hardworking like Hon. Gumbo do not think that what they are doing is in vain. Look at the time and the resources used to have this Report. It will be very unfortunate that at the end of the day, this Report becomes another book in the shelves of Parliament. Time has come when these Reports were taken seriously.

The other thing we are talking about is corruption. Corruption has such deep roots in this country to an extent that we put an archbishop to be in charge of the EACC. I do not know whether we will be able to make use of the prayers and the laws we have passed in this House so that we can tackle the big animal called "corruption". Were it not for corruption, we would not be talking about this.

Look at about Kshs800 million that was stolen. If we gave each youth in this country about Kshs100, 000 out of those millions to start a small kiosk or business somewhere in this country, how many youths would have benefited?

Yesterday I watched my colleague, Ken Okoth of Kibra Constituency making a contribution on this Report. I could see the pain in him when he said that the youth from Kibra were misused. They worked hard to ensure that they do not go for handouts but even after such hard work, they were not paid. To date, they have not received their earnings. I do not imagine such a group of people in Kibra praying for individuals who are mentioned in this Report to succeed in their lives. They must be cursing them. I can tell you that in the long run, if you do bad things to the disadvantaged, marginalised and disabled, you will pay for it one day. I believe that the Almighty God will make sure that these characters are punished even if they are not punished by the laws of this land.

With those few remarks, I want to support the adoption of this Report, and say that the recommendations must be implemented immediately.

**The Temporary Deputy Speaker** (Hon. Omulele): Yes, Hon. Mbadi.

**Hon. Ng'ongo:** Thank you, Hon. Temporary Speaker for giving me--- (*Technical hitch*)

**The Temporary Deputy Speaker** (Hon. Omulele): Give him the microphone.

**Hon. Ng'ongo:** I hope this one will now behave.

Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity to make my contribution to the Report of the PAC to this House. It is a special Report on the issue of NYS. I also sit in this Committee as a Member and I want to remind this House and the people of Kenya that this issue came out as a result of public outcry and concerns that were raised regarding embezzlement of funds that took place in NYS under the Ministry of Devolution.

As a Committee, we were seized of this matter. We invited witnesses. I think this is one of those investigations that have been conducted in this House where a record number of witnesses have been invited. Therefore, what we are discussing here is not new to the people of Kenya. It is basically what the people of Kenya saw the Committee discuss as we went through the interrogation.

I have a few comments to make. One, there has been this talk about us, as a Committee, delaying with this Report. It should be understood that this was not an ordinary investigation. This is an investigation that had been conducted previously by even State agencies like the CID

and the EACC. Some of the matters were already in court. A Committee of Parliament had to go an extra mile to dig deep and unearth some of the people who had not been found culpable. So, we had to do extra work as a Committee and we needed more time. We interviewed witnesses. Even some bank staff appeared before us.

Above all, this Report was presented to this House way before the so-called party primaries. I have heard some people who have no information commenting that probably we have brought this Report just after some of the individuals mentioned adversely in this Report have gone through what they call a nomination process, and they have been voted to run as candidates in certain counties. Far from it. The truth is that we finished our Report before we knew who would be candidate for which party. What happened is that this Report was brought to this House but the debate was prioritised for yesterday. It had nothing to do with the Committee but it had a lot to do with the HBC and how it prioritises its activities.

If there is any shameful theft - theft that this country should really be ashamed of that it could take place in this century in this country - it is the one of the NYS. There was no attempt at all to hide this theft. This is a group of individuals who acted out of impunity. They sat somewhere and organised themselves. In fact, this was a group of gangs who were placed in very important positions of leadership in this country. It is unfortunate that we had this category of people. If you hear confessions from some witnesses on how meetings were held--- I have never heard of any institution in this country where a meeting is called and you are told: "There is an LPO here. Take it, go and see what to do with it."

The bottom line is the lady called "Kabura" who was purportedly supplying NYS with some items. She was being called mostly on Sundays and told: "This week, we have an order for Kshs200 million and this is the LPO or LSO." The lady had no clue. She was being told that that was the order, she waits for two or three days and money will go to her account so that she could supply what she wanted. You saw that lady confess that she was going to the bank and carrying money in bags.

At one point, we realised that the money she claimed to have carried herself from the bank in sacks amounted to the weight of 100 litres. Imagine 100 litres of water is equivalent to five jericans containing 20 litres each. I wonder who in this world can carry money equivalent to the weight of five jericans containing 20 litres of water each from a bank. Obviously, this money never left the bank. The money was being divided right inside the bank. I have brought this just to demonstrate to this country the kind of evidence that was placed before us.

This lady called "Anne Waiguru" who has been glorified a lot, to me, and I want to be very forthright and very categorical, was the architect of this theft. This is the lady who we had various witnesses mentioning that she is the one who even initiated and engineered the registration of companies for one Josephine Kabura. If you look at that lady, I know looks can be deceptive, but honestly you do not expect her to craft the theft of that magnitude. This lady could register companies. I want to give you examples.

A company was being registered today and the following day it has an LSO. The company opened an account with a bank it had never had an account with and two days later money - Kshs50 million or Kshs100 million - goes into that account and the following day the entire amount is withdrawn from that account in cash. And this money is carried in sacks! It is clear there was somebody high up who was very influential who helped that lady to open those accounts. If you ask her she will tell you: "It was Anne Waiguru who even suggested the names of the companies that I was supposed to use."

When Anne Waiguru appeared before us, she tried to exonerate herself and say nice things. She even said that she was not the one in charge of finances and she was not the Accounting Officer, and yet the Presidential Memo had clearly given more powers to the CSs. The CSs we have today have powers in terms of financial management, procurement and human resource management unlike the Cabinet Ministers in the last regime. Actually, they have authority like those of accounting officers.

Everyone said how powerful this lady was. By the way, this is not something that we needed to listen from witnesses to know. Kenyans know how powerful one Anne Waiguru was in this country before she unceremoniously left the office after this theft. This lady misled the Committee into believing that she was innocent. She struggled very much to exonerate one Harakhe who was her partner in crime - the person with whom they worked day and night, together with Mangiti and the rest, to organise themselves into this kind of cartel. This lady wants to exonerate Harakhe by saying: "Harakhe was not responsible. During times of Harakhe, things were working smoothly." That was the case and yet we confronted her with evidence that many of those transactions took place when Harakhe had the authority to incur expenditure. This was a well-orchestrated theft.

Because we cannot debate the entire text of this report now, I want to say that our recommendation that this lady should not hold public office has nothing to do with any vendetta. As a matter of fact, a person like Kipchumba Murkomen, who after being caught, wants to point at others as---

Hon. Temporary Deputy Speaker, could you add me two minutes? This Murkomen after being caught as having benefitted from the money from NYS want to point fingers that there are also people in the Committee who are compromised. Tell us those who are compromised. That does not exonerate him.

I watched Anne Waiguru talk yesterday about our Report. She says it does not matter and there is nothing new. I think this country must give our Parliament and committees---

**The Temporary Deputy Speaker** (Hon. Omulele): Hon. Mbadi, I will add you some three minutes so that you can finish your submissions.

**Hon. Ng'ongo:** Thank you, Hon. Temporary Deputy Speaker for that generosity. If you go to Uganda, you will find that PAC even has police officers sitting right there. This lady should be arrested. In fact, I wonder. I think sometimes we are not serious in this country. That lady speaks with such arrogance because she believes she is above everyone else. Nothing happened to her after presiding over theft at the NYS. She also says she left office on her own; no one pushed her out. Right now, she will preside over billions of shillings in Kirinyaga if she manages to win against the iron lady, Martha Karua.

The road we are talking about in Kibera was only 3.5 kilometres but they spent Kshs795 million on materials alone. The cost of labour was not included. It means they were spending, on average, over Kshs200 million per kilometre. Where on earth do you spend close to Kshs250 million per kilometre? In this country, we know that the highest amount you can spend on a kilometre of road is about Kshs60 million. Hon. Gumbo is an engineer. He can correct me if I am wrong. It cannot go beyond that. For how long will Kenyans pay taxes for only a few individuals to benefit from it? We must carry out a lifestyle audit on this lady.

This lifestyle audit that we have been talking about should be for anybody seeking to occupy public office, including Hon. Mbadi. We need to go through lifestyle audit publicly. The outcome of the audit should be made public. If you are seeking to occupy public office, you

should be able to be held accountable publicly. There is nothing like filling some forms and depositing them at the Office of the Speaker or the EACC.

Let Kenyans, including the people of Saika Village in Suba Constituency say “This is what Hon. Mbadi owns.” If during the declaration I leave out something, including cattle and the people of Saika Village know, they will tell the country that their Member of Parliament is not being honest. A life style audit needs to be conducted on Anne Waiguru. Further investigation should be carried out on this matter, and people should be arrested. If somebody like Anne Waiguru is going to hold public office, then we are not serious as a country.

With those remarks, I support.

**The Temporary Deputy Speaker** (Hon. Omulele): I see no further interest in this Motion. Therefore, I call upon Hon. (Eng.) Gumbo to reply.

**Hon. (Eng.) Gumbo:** Thank you, Hon. Temporary Deputy Speaker. I would like to thank you for giving me the opportunity to reply. I also thank the Almighty God for granting me the opportunity to work on this Report.

This was a very challenging Report. I want to thank all the Members of PAC, my good friend and brother in-law, Hon. John Mbadi. Members of the PAC faced threats to their lives when we were preparing this Report. For some Members, it is easy to criticise. I heard some Members criticise our Report, saying that it could have been done better. That disappoints me. Parliamentary proceedings are open to all Members of Parliament. I do not know why any Member who thinks that he had anything of value that would enrich this Report could not appear before the Committee and present that evidence.

I want to give special thanks to Dr. Eseli Simiyu, the Member for Tongaren, for seconding this Motion. First, let me apologise so that it goes on the record of the House that this Motion ought to have been seconded by the Member for Kipkelion, Hon. Jackson Rop, who is the Vice-Chair of the Committee but at the time I was moving the Motion, I did not realise that he was in the Chamber. This is because when I started moving the Motion, he was not here. Hon. Rop, wherever you are, kindly accept my sincere apologies. The people of Kipkelion, kindly accept my sincere apologies for not having given your Member of Parliament the opportunity to second the Motion on this Report.

I also want to acknowledge contributions by the following Members: Hon. Opiyo Wandayi of Ugunja Constituency; Hon. Wesly Kipkorir of Cherangany Constituency; Hon. Ferdinand Wanyonyi of Kwanza Constituency; Hon. Johana Ngeno of Emurua Dikirr Constituency; Hon. Sakwa Bunyasi of Nambale Constituency; Hon. Abdikadir of Balambala Constituency; Hon. James Nyikal of Seme Constituency; Hon. ole Kenta of Narok North Constituency; Hon. Ken Okoth of Kibra Constituency; Hon. Paul Nyongesa Otuoma of Funyula Constituency; Hon. Anthony Kimani of Laikipia East Constituency; Hon. Ayub Savula of Lugari Constituency; Hon. Harizon Kombe of Magarini Constituency; Hon. David Gikaria of Nakuru East Constituency, who incidentally did not complete his contribution; Hon. (Dr.) Makali Mulu of Kitui Central; and Hon. (Dr.) John Mbadi of Suba South.

This was an eye opener for us. What you see in the NYS scandal is contempt for authority of Government. The levels of theft and abrasions ought not to have happened in any functional Government. If you take the case of Ngong Quarry, for example, where supposedly materials for the Kibera Road are being sourced from, you will realise that the only thing that was bought was the space. The excavation of the hard-core was done by Government bulldozers and the lorries used to transport the hardcore were Government lorries. The drivers were also Government drivers. The only thing which was bought was the space, which was bought at

Kshs1,000 per square metre or something to that effect and yet the delivery notes that were presented to the Committee show that the hardcore was being sold at approximately Kshs5,000 per tonne. That level of brazenness is an outright theft.

The other issue that came out is the weak environment of regulation of banks in Kenya. I am very disappointed with the comments we received from the Nation Media Group, who once said that we were side-stepping the issues. We are not protecting anybody. What we have said in the Report is that if the banking regulations – the regulator of banks in this country is the Central Bank of Kenya (CBK)--- The accounts from which these monies were stolen are held at CBK. The Central Bank of Kenya cannot say they were merely conduits. You hold accounts in banks. It is not possible when abnormal transactions are being done in your account. That is why we have said the Proceeds of Crime and Anti-Money Laundering Act must specifically apply to CBK. It is also important for that unit in the bank, which requires declaration of abnormal accounts, to subject CBK to it.

Therefore, we are not sidestepping the issues. It may look simple. Every Kenyan has an obligation. Representatives of the Nation Media Group were present when we were conducting this investigation. If they had evidence that would link anybody to this scam, they should have tabled it. We cannot go around shadow-boxing and naming people when we do not have hard evidence.

The levels of corruption that we witnessed while carrying out this investigation were mindboggling. It will be a further indictment on our criminal justice system if the key architects of this scam are not prosecuted and punished heavily. If we are to turn a corner on the fight against corruption, the key architects of this scam, starting with the then Cabinet Secretary, Ms. Anne Waiguru and Eng. Peter Mangiti, should be held accountable. No one can say that they were just bystanders. People are given responsibilities in Government for a reason. There is error of commission and error of omission. Both have to be punished.

Corruption is a major impediment to the realisation of the Kenyan dream. I have said it here before that with collective determination of every Kenyan, irrespective of your station in life, the war against corruption can be won; but it requires collective determination from all of us. If there is anything that is frustrating, it is the double-speak and hypocrisy by leaders in this country – particularly elected leaders – when it comes to dealing with the issue of corruption.

Yesterday I heard a Member of Parliament speaking very eloquently about corruption in the NYS. He said that this Report is no more than a story book. The Member is among Members who not only actively supported but mostly benefited from one of the most corrupt governors in this country. It is like corruption at the national level is bad, and corruption at the county level is not bad. Corruption at the county level is as bad as corruption in the national Government. Corruption in the counties is denying the elderly their social protection. It is also denying orphans and widows their source of livelihood. No one can come here and speak eloquently blaming the Committee when they had a chance to appear before the Committee. Back in the counties, corrupt Governors, some of whom have more than 20 cases before the EACC are being supported to retain their seats. This is the case and yet here, some people feel they can rubbish the work of this Committee.

This double-speak and hypocrisy on the fight against corruption is the major impediment to this war. I want to echo the words of Hon. John Mbadi that some of us were blamed and it is painful. I speak in this House as, perhaps, the only Member of Parliament who still lives in the same houses he lived in 15 years ago in Rarieda and Nairobi before joining Parliament. It, therefore, pains me when someone accuses me of benefitting from corruption. I was born of very

poor parents. My father died even without a blanket to cover himself, but he was an honest man. He never stole from anybody. His son can never be a thief.

Having money is like having a cough. You cannot have money in your pocket and fail to show it. I drive one of the oldest cars around here. So, when someone comes and says there was an attempt to cover up this matter, I really wonder for whose benefit I would do that. We have recommended that Anne Waiguru and Peter Mangiti be subjected to due process. So, who are we trying to cover up for? We have recommended that due process be taken against Ben Gethi and Josephine Kabura who were nobodies but conduits in the scam; they were not the real architects. Let us not point fingers. Some of these people who accuse us--- We may have been born of poor parents but through God's help we made it in life long before we came here. We never came here to make money.

I am proud even as I leave this Parliament with God's grace because I am contesting for the Siaya gubernatorial seat that I still live in the same houses that I used to live in here in Nairobi and also in Rarieda. I have not spent a cent of public money or the NG-CDF to improve my livelihood. I am much poorer. Let us make a rule--- It is not enough to sign forms. I have said it before that I am ready to be subjected to a lifestyle audit. Anyone who wants to represent people should not think of coming here to make money. I want anyone who wants to come to this Parliament to declare their wealth publicly. That is why as I seek to be the Governor of Siaya County, and with God's grace I will be Governor of Siaya County, I have told the people of that county that every year I will be submitting myself to public scrutiny so that they ask me how much wealth I had before I started serving them and how much I have as I serve them.

If we cannot do that, we have to know and appreciate that there is nothing like Government money. All the money belongs to the people of Kenya. If we cannot submit ourselves to public scrutiny then we are cheating ourselves. Hypocrisy and double speak will not win the war on corruption. Let us with the same determination that we fight corruption at national level, fight it at the county level. We cannot protect thieving governors. They are using money that has been stolen from poor widows in the countryside and yet we pretend here that we are crusaders against corruption. It is all a lie and if we continue that way we will be changing the forest but the monkeys will remain the same.

Hon. Temporary Deputy Speaker, I urge this House to pass this Report so that people who are responsible for this scam can be identified and punished.

Thank you.

**The Temporary Deputy Speaker** (Hon. Omulele): Very well. For obvious reasons, I will direct that we move to the Next Order.

SPECIAL REPORT ON THE DUTY FREE SHOPS CONTRACTS  
AT JOMO KENYATTA AND MOI INTERNATIONAL AIRPORTS

THAT, this House adopts the Special Report of the Public Investments Committee on Kenya Airports Authority Duty Free Shops contracts at Jomo Kenyatta and Moi International Airports: 1989 to 2015, laid on the Table of the House on Tuesday, December 01, 2015.

*(Hon. Wamunyinyi on 2.3.2017)*

*(Resumption of Debate interrupted on 2.3.2017)*

**The Temporary Deputy Speaker** (Hon. Omulele): Do I see interest from Hon. Sabina Chege

**Hon. (Ms.) S. W. Chege:** Thank you, Hon. Temporary Deputy Speaker for giving me an opportunity. From the outset, I support this Special Report by the Public Investments Committee (PIC) on the Duty Free Shops Contracts at Jomo Kenyatta and Moi International Airports. I will be very brief. We travel severally. We need to clear the cartels in our international airports so that they attain the same standards as other international airports. We also need to secure them.

Having looked at the Report, the Committee did a good job. This Report should be adopted immediately because I do not know how much time we have left. My only worry is that committees do very good reports here in Parliament but their implementation takes a lot of time. I request the Committee on Implementation to take action immediately so that these very good reports which will benefit our nation are implemented.

Thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Omulele): I see no further interest on this. My opinion is that this is a serious matter that deserves a little more consideration from Members. I wish Members would take interest and look at this Report by PIC with regards to the Kenya Airports Authority (KAA) saga which has been in the public domain for a long time. Members not being desirous to debate and scrutinise it and being bound by the Rules of this House, I direct that Hon. Keynan replies. But before he does so, I see Hon. Nyokabi, the Member for Nyeri would like to say something.

**Hon. (Ms.) Kanyua:** Thank you, Hon. Temporary Deputy Speaker for giving me an opportunity to add my voice on the adoption of this Report about the Duty Free Shops at the JKIA and Mombasa International Airport. Hon. Temporary Deputy Speaker, you have noted correctly that some of these Reports should attract a little more attention from Members than they have done today.

It is true many questions and cases have been raised and the Government has lost a lot of money from the duty free shops. I join my colleague Hon. Sabina Wanjiru in requesting that we follow other international best practices as far as these shops are concerned. Every time we pass through the airports and see the products being sold, we raise questions on whether they are promoting Kenyan products as well. Many of the products in those shops are international brands. There is need to find out how the shops are given to their owners, the contracts, leases and how they handle emergencies. There are measures to be looked into as far as duty free shops are concerned.

In my own respect and coming from Nyeri County where we have the best tea and coffee, it would help us if the duty free area where many visitors and other international guests pass by would have dedicated spaces for local products. This happens in a couple of other countries. If you go to West African countries and other African countries, you will find most of their local products being sold in their airports.

In Geneva, you will find their chocolates and watches being sold and in other countries you will find the products they manufacture being sold in the duty free shops. Kenya should follow the same. I think the whole aspect is about looking at who gets awarded to sell at the duty free shops. I hope the Report addresses all these issues and gives measures we can take which will be useful to other airports as well.

In Nyeri, we are in the process and have requested the national Government to expand Nyaribo Airstrip. We have products we think the international market would be interested in but

we have no way of selling them from Nyeri because we do not have an airstrip where large planes can land. Many of these measures might apply to the Jomo Kenyatta International Airport (JKIA) and Moi International Airport for now but I think the Report will be useful as the country develops and we look at expanding the airstrips and airports that we will have.

I support the Report.

**The Temporary Deputy Speaker** (Hon. Omulele): Let us have Hon. Gumbo. Hon. Keynan, you will be the final one. Let us have Hon. Gumbo say something.

**Hon. (Eng.) Gumbo:** Thank you, Hon. Temporary Deputy Speaker. I want to be very brief.

I want to thank Hon. Keynan. For some of us who are doing our final leg in this Parliament, one of the individuals who has made a big mark in my life as I leave Parliament and in my later life is Hon. Adan Keynan. I am not saying it because he is here but I do not think there is any Chair of a Committee that is so committed to doing their work like Hon. Keynan, who is my friend, brother and uncle. As you embark on the next journey of your life, that commitment is what this country needs.

Having said that, the airport has become a gang of cartels. This is the first major attempt to rid the airport of cartels. When you walk through any international airport, it gives you a sneak preview into that country. The JKIA has been overrun by a gang of cartels. All the brokers, conmen and drug traffickers have their stations at JKIA. If we are to be a respectable nation, we must rid the airport of these cartels. These are crooks who masquerade as business people but are nothing more than international conmen preying on unsuspecting victims.

I was reading a story the other day of conmen who sit at JKIA because they know that some tourists who come to give us money to support essential services in our country know very little about our country. They con them by giving them outrageous rates in terms of taxi fares. This is not good for our country. People have become billionaires not through honest labour, but through cheating others, conmanship and stealing from people like you and me who dedicate every day to honest labour to feed our families. We must rid JKIA of these cartels and it starts with organisation.

The JKIA has a facilities manager called “Kenya Airports Authority (KAA)”. If there are shops in that Airport, they should be managed by the facilities manager. The status of the KAA as a facilities manager has been so elevated that today, under the regulators - the Kenya Civil Aviation Authority - we have a situation where an operator is bigger than a regulator. The elevated status of KAA must be seen in the orderliness with which business is conducted not just at JKIA but in all our airports - whether international or domestic.

For those of us who have travelled, and Hon. Temporary Deputy Speaker, you have travelled to many countries of the world, you know the airport is a synopsis of the country. With no disrespect meant to our colleagues in that country, I travelled through Bangladesh International Airport. If you look at the condition of that Airport, you can clearly see what country you are walking into.

The JKIA must reflect the aspirations of the people of Kenya. We start by ridding it of these thieving cartels who are up to no good other than besmirching the name of our country.

I support the Motion.

**The Temporary Deputy Speaker** (Hon. Omulele): Very well. Hon. Keynan, I am very comfortable with you replying now.

**Hon. Keynan:** Hon. Temporary Deputy Speaker, let me say from the outset that at times, it is one thing for Committees to work very hard and come up with credible reports. If you look

at the date when this Report was tabled, you will find that it was on 1<sup>st</sup> December, 2015. This is a critical Report. We have touched on an issue that nobody else ever thought of going near leave alone doing a report. This is on the issue of duty free shops at Jomo Kenyatta International Airport (JKIA) and Moi International Airports (MIA) from 1989 to 2015. Nobody in the legislative history of this Parliament has ever thought of even making a report, leave alone even commenting about it. Therefore, this is a celebrated Report. If you look at its contents, you will find that it touches on every bit.

Hon. Temporary Deputy Speaker, this country has been conned on the face of it. If you look at Vision 2030, you will find that it talks about having JKIA as a gateway, travel hub and communication hub just in theory. Practically, JKIA is the epicentre of all the thieves, cartels and ringleaders. You can call them anything. Therefore, the question is: “Is it possible for our country to project itself as a premier nation and yet allow a key infrastructural facility and quasi-security entity in the name of JKIA to be managed by an entity called Kenya Airports Authority to be taken over by cartels?” This has been the trend for over 20 years.

This is why I want to thank the Members of my Committee. Despite many threats and intimidation, they decided to put their feet down and come up with one of the most authoritative reports that will not only save the taxpayers of their monies, but will also protect, promote and jealously defend the image of Kenya as a premier nation.

This country belongs to all of us. Kenya is a premier nation. If you look at the kind of things that we are struggling to jealously ape, you will find that they are things some of the countries did 30 or 40 years ago. We are talking about being one of the fastest growing economies in Eastern Africa. It is not something to be proud of. That is where we were in 1968 when we were a donor nation and assisting because countries were sending experts or students to come and learn from Kenya. They came from South Korea, Indonesia Malaysia, Thailand and Hong Kong. You can name them.

Look at the GDP of South Korea today. It is 50 times that of Kenya and yet it does not have any known natural resource. This is simply because everybody has been stealing and leaving a skeleton. That is what our children have inherited. This is why I am pained today. When you see even in this House, in particular the 11<sup>th</sup> Parliament--- The next Members of the HBC should take--- This is why today as we address amendments to our Standing Orders, all Chairs of Committees should be Members of HBC because this is a presidential system. It is Chairs through their Committees who generate business. They are not Members of the HBC where decisions are being made on when the reports are supposed to be debated. Therefore, there is a disconnect.

These are the issues that must be addressed. If this Report is adopted and properly implemented, it will change the face of JKIA, MIA and the administrative and governance structure of KAA as a critical quasi Government agency.

For years, there have been many cases. Hon. Temporary Deputy Speaker, as a lawyer, when we talk about duty free shops, I am sure there is something that comes into your mind immediately. For 30 years, there has been one civil case after the other; one criminal case after another and one liability case after the other. How come a case takes 30 years to conclude? Either something is wrong with the court, the litigants or whoever. Something must be wrong!

A case cannot take 30 years to be concluded in a court of law. Where is the fairness? These are the issues we said as a Committee that they must all be brought to an end. If there are individuals who are culpable, they must be arraigned in court.

Right now (Rtd.) Justice Mbogholi has made a judgement. There was an arbitration which was determined and KAA was asked to pay over Kshs4 billion. That has never been captured in the contingent liabilities of KAA and nobody knows why. So, it has not been paid or honoured. In the next few days, if you hear somebody has gone to get auctioneers and auction everything at JKIA, you will not be surprised. This is the state of things at JKIA and this is at KAA. Therefore, what we are asking is that if this Report is adopted and implemented both in letter and spirit, the kind of activities that have been taking place at JKIA and MIA will be history.

As I conclude, it is one thing for this House to adopt a Report and another to implement its recommendations. Where is the Committee on Implementation? One of the proposals that I will be making as the Chairman of the Public Investments Committee (PIC) is that the Committee on Implementation must be managed by the Members of the Opposition. I expected the reports to be implemented. You do not expect a committee chaired by a Member of the Government to critically look at some of these things. I know you will play a critical role, Hon. Temporary Deputy Speaker.

Chairpersons of Committees must be allowed to be Members of the House Business Committee (HBC). The Committee on Implementation must be chaired by a Member of Opposition just like PIC and PAC. The majority of Members must come from the Opposition and the leadership must also come from the Opposition so that there is proper accountability.

I know that it is because of the elections that out of over 300 Members, we have less than three in the House. In the next few weeks, you might only see the presiding chairperson or the Speaker in the House. These are the realities because everybody wants to have---Whether you lost party primaries or not should not be an issue because right now there is a provision for independent candidates. I want to wish my good brother, my able colleague, the indomitable Hon. Gumbo well. I hope he will be the first Governor to be elected as an independent candidate. I want to ask the people of Siaya not to look at the party. Please, wherever you are, vote for Hon. Gumbo and you will get quality leadership. He is an accountable, transparent, honest, committed, and dedicated Kenyan. Please, do not deny him your vote because of party affiliations. When you become the Governor, *Inshaallah*, we will be among the first people to pay you a visit. I hope the people of Siaya will elect you. The way you have done it is exceptionally well. In the last Parliament, we were lucky we were in the same Committee as Members of the Energy Committee. I chair PIC and he is also there. We have done commendable work. Therefore, when our time comes to an end, I hope somebody somewhere will appreciate what we have done over the last few years as the chairpersons of the two watchdog Committees. What we have done so far is unprecedented.

Finally, I know this is not going to be the last Report because just today, I have tabled the 21<sup>st</sup> Report. In it, there are reports of over 40 State corporations. I want to take this opportunity to reply and ask the Members to adopt this Report because it will save the taxpayers' interests, the image of this country and, by extension, allow international investors through direct investments to come and invest at the Jomo Kenyatta International Airport because Kenya is strategically located as a very important economic hub within the East African Community.

I beg to reply.

**The Temporary Deputy Speaker** (Hon. Omulele): Very well spoken. Just to add my comment to what the Chair of PIC has said, the two Chairpersons of PIC and PAC, throughout my time in this House, have been some of the most consistent and hardworking Members of the House. We wish you well in all your endeavours.

### ADJOURNMENT

**Hon. Temporary Deputy Speaker** (Hon. Omulele): Hon. Members, the Question will be put when the matter is listed next. The time being 6.30 p.m., this House stands adjourned until Wednesday, 24<sup>th</sup> May 2017 at 9.30 a.m.

The House rose at 6.30 p.m.