

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 14th April, 2015

The House met at 2.30 p.m.

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

PRAYERS

COMMUNICATION FROM THE CHAIR

MESSAGE OF CONDOLENCE ON GARISSA TERRORIST ATTACK

Hon. Deputy Speaker: Hon. Members, I have a communication. You will recall that in the morning of Thursday 2nd April, 2015, there was a terrorist attack at Garissa University College in Garissa County where at least 148 students, staff and security officers were killed and many others injured. In this regard, the Office of the Speaker has received various messages of condolences from leadership of other parliaments and Inter-Parliamentary bodies such as the African, Caribbean and Pacific Parliamentary Assembly, the Parliament of Portugal and other parliaments in the Commonwealth. They have asked me to convey their respective messages to the affected families, the House and the nation at large. In their messages of condolence, they strongly condemn the acts of terrorism and express their continued resolve to stand in solidarity with our country in overcoming this evil, protecting lives and property, and upholding human rights.

On behalf of this house and on my own behalf, I wish to sincerely thank them for their exceptional gesture of goodwill to our country during this time of grief.

I thank you.

(Applause)

Hon. Wandayi: On a point of order, hon. Deputy Speaker. I concur with you that what happened was a serious matter that touched on the sovereignty of this country. In the spirit of solidarity, would I be in order if I asked for your indulgence to allow us to take some few minutes just to commiserate with the families of the deceased before you proceed to the next Order?

Hon. Deputy Speaker: Hon. Members, without anticipating debate we are getting, in the course of today, time for us to do just that.

MESSAGE

CONCURRENCE SOUGHT ON DIVISION OF REVENUE BILL

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Hon. Members, I have a message from the Senate. Standing Order No. 41 relating to messages requires the Speaker to expeditiously report to the House any messages received from the Senate. In this regard, I wish to report that in accordance with the provisions of Article 110(4) of the Constitution, I received a message from the Senate on Tuesday, 14th April, 2015 regarding the passage of the Division of Revenue Bill, National Assembly Bill No. 11 of 2015. The message states and I quote:-

“That the Division of Revenue Bill, National Assembly Bill No. 11 of 2015 as published in the *Kenya Gazette* Supplement 28 of 18th March, 2015 and passed without amendments by the National Assembly on 25th March, 2015 was passed by the Senate on Thursday, 9th April, 2015 with amendments.”

Consequently, the Senate now seeks the concurrence of the National Assembly to the proposed amendments.

Hon. Members, pursuant to Standing Order No. 41(6), I now refer the message to the Budget and Appropriations Committee to consider the amendments. Further, aware of the strict statutory timelines with regard to passage of the Bill, I direct that the Committee tables its report by Thursday, 16th April, 2015. The Clerk of the National Assembly is further directed to timeously circulate the amendments by the Senate to all Members.

I thank you.

Yes, the Chair of Budget and Appropriations Committee.

Hon. Musyimi: I thank you, hon. Deputy Speaker, for your ruling. I would then perhaps urge you to vary the ruling of the Chair with respect to meetings on Wednesday because every time we have sought permission to meet on Wednesday, our request has been declined. For us to be able to table a report on Thursday, you may have to consider varying that position.

Thank you.

Hon. Deputy Speaker: That is a reasonable request. Remember that you are relatively a large Committee. Should you be required to assist this House to continue business, maybe you should meet in a place that is not too far from the precincts of Parliament.

I think there is a Member with a petition. Hon. Njuki, go ahead.

PETITION

ERECTION OF BUMPS/ FOOTBRIDGE AT KANGORO BUS STOP

Hon. Njuki: Thank you, hon. Deputy Speaker. Pursuant to Standing Order No. 220(b), I wish to present a public petition by the residents of Chuka/ Igambang’ombe Constituency on the erection of bumps and footbridge at Kangoro bus stop on Embu-Meru Highway.

I, the undersigned on behalf of residents of Chuka/Igambang’ombe Constituency, draw the attention of the House on the following:-

THAT, the road transportation is the most popular mode of transport in Kenya and has immensely contributed to the economic development in both rural and urban centers;

THAT, the fourth schedule of the Constitution classifies roads and the mandate of the national and county governments;

THAT, the Embu-Meru Highway is a busy highway and requires erection of bumps and footbridges especially along the Kangoro bus stop. Further that a number of accidents have occurred at the said location along the Embu/Meru highway;

THAT, Kangoro Primary School is located along the Embu-Meru Highway and many children use the road on a daily basis and that there is no other accessible and safe means that the school-going children can use to access the school.

Cognizant of the fact that a number of road accidents have occurred on the said spot, caused by speeding vehicles and reckless drivers leading to loss of lives and serious injuries, that the road in question is under the mandate of Kenya National Highways Authority(KENHA) and effort should be made to regulate the speed of motorists and contain pedestrians.

THAT, the matter in respect to this petition is not pending before a court of law.

Therefore, your humble petitioners pray that the National Assembly, through the Departmental Committee on Transport, Public works and Housing, recommends that the Ministry of Transport and Infrastructure urgently fast tracks the erection of speed bumps as a temporary measure to slow down traffic and mitigate further loss of lives along the said stretch of the road.

The Committee should also intervene to ensure that Petitioners' plight is addressed by ensuring that there is money in the Budget for construction of a foot bridge at Kangoro Bus Stop to ease access to the institution and address the danger that this predicament poses to the lives of Kenya's road users in the area.

And your petitioners we will ever pray.

This petition is to the Departmental Committee on Transport, Public works and Housing. I beg to lay it on the Table of the House.

Thank you, hon. Deputy Speaker.

(Hon. Njuki laid the documents on the Table)

Hon. Deputy Speaker: Hon. Njuki, it stands committed to the Departmental Committee on Transport, Public works and Housing
Next Order!

PAPERS LAID

Hon. Katoo: Thank you, hon. Deputy Speaker. I beg to lay the following Papers on the Table of the House, today, Tuesday, 14th April, 2015:-

The Public Finance Management Roads Annuity Funds Regulations, 2015 and an explanatory memorandum therein.

The Report of the Auditor-General on the Financial Statements of the Presidency Vote 101 for the year ended 30th June, 2014 and the certificate of the Auditor-General therein.

The Report of the Auditor-General on the Financial Statements of Chemelil Sugar Company for the year ended 30th June, 2014 and the certificate of the Auditor-General therein.

The Report of the Auditor-General on the Financial Statements of the Industrial and Commercial Development Cooperation for the year ended 30th June, 2014 and the certificate of the Auditor-General therein.

The Annual Report and---

(Loud consultations)

Hon. Deputy Speaker: Order, hon. Members! The consultations are too loud.

Hon. Katoo: Thank you, hon. Deputy Speaker. I will continue.

The Annual Report and Financial Statements of the Commission on Revenue Allocation for the year ended 30th June, 2014 and the certificate of the Auditor-General therein.

The Annual Report and Financial Statements of the Geothermal Development Company for the year ended 30th June, 2014 and the certificate of the Auditor-General therein.

The Insurance Regulatory Authority annual insurance industry Report for the year 2013.

Hon. Deputy Speaker: Hon. Members, I would like to recognise the following two groups of persons: one, church members from the Presbyterian Church of East Africa (PCEA) Rubate Parish, Chuka/ Igambang'ombe Constituency seated in the Speaker's Gallery, and pupils from Kahuhu Road Academy, Dagoretti South Constituency, seated in the Public Gallery. You are welcome to the National Assembly.

(Applause)

Next Order!

NOTICE OF MOTION FOR ADJOURNMENT UNDER S.O. 33(1)

GARISSA UNIVERSITY COLLEGE TERRORIST ATTACK

Hon. Kang'ata: Thank you, hon. Deputy Speaker.

Hon. Deputy Speaker, pursuant to Standing Order 33(1), I hereby seek leave to move adjournment of this House for the purpose of discussing the Garissa University College attack as it is a grave security matter of urgent national concern.

I ask hon. Members to support me by rising up.

(Several hon. Members stood up in their places)

Hon. Members: Now! Now!

Hon. Deputy Speaker: Order, hon. Members! This is a matter of national importance. We just have one business and you will begin the debate on this matter at 5.00p.m.

Hon. Members: No!

Hon. Deputy Speaker: Hon. Members, we are done with that.
Next Order.

COMMUNICATION FROM THE CHAIR

DEFERRAL OF THE PUBLIC PROCUREMENT AND ASSET DISPOSAL BILL, 2014

Hon. Deputy Speaker: Hon. Members, before we move to Order No. 8, I have a Communication to make.

Hon. Members, Standing Order No.131 provides that where more than ten amendments have been proposed to a Bill, which require harmonisation, the Speaker may direct that any Member proposing an amendment to the Bill appears before the relevant Departmental Committee dealing with the subject matter of the Bill to present his or her proposed amendments to the Committee to enable harmonisation of such amendments.

I have received a request from the Chairperson of the Departmental Committee on Finance, Planning and Trade that we defer the business appearing as Order No.8, which is the Committee of the whole House on the Public Procurement and Asset Disposal Bill, 2014. A total of 12 Members have proposed amendments, many of which require harmonisation. Further, more Members were submitting their amendments up to today.

Pursuant to Standing Order No. 131, and from the experience of the just concluded Public Audit Bill, 2014, which had numerous unharmonised amendments, we need to accord the relevant Committee the opportunity to harmonise the various proposed amendments.

Hon. Members, therefore the business appearing as Order No.8 is hereby deferred to Tuesday, 21st April, 2015 to enable the Committee to undertake the exercise. The Committee is required to submit its amendments by Friday, 17th April, 2015 by 9.00 a.m. Hon. Members are hereby requested to submit their proposed amendments to the Committee by the end of tomorrow, Wednesday, 15th April, 2015 through the Office of the Clerk and present themselves before the Committee at the time and place to be communicated by the Committee.

wish to remind members that even as they propose their amendments they should bear in mind the provisions of Article 114 on amendments that have financial implications. Further, the Public Procurement and Asset Disposal Bill, 2014 is one of the constitutional Bills with a timeline of 27th May, 2015. Further, the Bill will also need to be forwarded to the Senate and, therefore, time is of essence. We will therefore proceed with the business appearing as Order No. 9 on adoption of the Second Report of the Powers and Privileges Committee.

Thank you, hon. Members.

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

Hon. Deputy Speaker: What is your point of order, hon. (Eng.) Gumbo? Can you give him the microphone?

Hon. (Eng.) Gumbo: Hon. Deputy Speaker, I thank you for that clarification. I am one of the Members who have proposed amendments to that Bill. My only point is that I had done a letter to you requesting to be away tomorrow to attend the burial of one of the Garissa victims. I can only request the Committee, through you, that if I am to appear before them, then it has to be after tomorrow.

Hon. Deputy Speaker: I think the Committee has taken note of that. Should they meet tomorrow and they are able to prosecute your amendment, could you give that responsibility to another Member? It will make it easier; as you have seen time is of the essence.

Hon. (Eng.) Gumbo: I agree, hon. Deputy Speaker. I will talk to the Chair of the Committee. I have discussed with my good friend, hon. Humphrey Njuguna and hon. Ogari since most of our amendments are similar. I will discuss with the Committee, so that if they will sit tomorrow, I will delegate. My letter to you had indicated that if the Bill came to the Committee Stage tomorrow, the two hon. Members would prosecute my amendments on my behalf.

Hon. Deputy Speaker: I think that is something you can arrange.

MOTION

ADOPTION OF SECOND REPORT OF THE COMMITTEE ON POWERS AND PRIVILEGES

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

THAT, this House adopts the Second Report and Recommendations of the Committee of Privileges on alleged Breach of Privilege and/or Code of Conduct by the membership of the Public Accounts Committee (PAC), laid on the Table of the House on Tuesday, March 31, 2015.

I will be very brief because Members have had this Report for quite some time now. I am sure they have gone through it.

Before, I even move to the gist of the Report, there are a few issues which I want to clarify for Members to be up to speed with the thoughts of the Committee. First, there has been an allegation that the Committee on Powers and Privilege was a court. We were not a court of any kind. At one point, we were even accused of being a Kangaroo Court. We said that we were not a sheep or chicken court. We were just a Committee that was given mandate by this House to look into issues of privilege, particularly the abuse of privilege by PAC.

Secondly, there was an issue that PAC Members were on trial. Having settled the first issue that the Committee was not a court, I would like to say that no Member of that Committee was on trial at all. We were investigating issues that were given to us upon the Communication by the Speaker on 5th March, 2015.

Thirdly, we were investigating matters of corruption. We do not dispute that. Unfortunately, that was not our primary target; that was peripheral. The issues that we

were investigating were issues of breach of the code of conduct and privilege. That was the mandate that we were given.

Lastly, there was a fourth issue that we needed to clarify, that five Members were blacklisted by the Committee. That is also far from the truth. We looked into issues that came up on the abuse of privilege. For those Members that we found culpable, we punished the particular act of breach of privilege. On 4th March, 2015, an issue was raised by the Leader of the Majority Party in Parliament. On 5th March, 2015, the Speaker, in guiding the House directed, among other things, that the Committee on Powers and Privileges inquire into matters of alleged breach of privilege and/or abuse of code of conduct by the membership of PAC. He also further directed the Committee that the standard of proof required to substantiate any claims ought to be very high. It was very understanding that, that was to be the case because this was going to be the very first time that this august House was going to be inquiring into issues against the membership of the same House. Therefore, it was akin to the “trial” by peers. This was not a trial. I was then appointed by the Speaker to chair this Committee on his behalf. We held 18 rigorous meetings. The promise we made to ourselves was that at the very least, the worst we could do to ourselves was to conduct a fair hearing. That is what we did, hon. Deputy Speaker.

The Speaker, on the same day, also gave us an option to co-opt three other Members who have served for, at least, two terms in Parliament. We co-opted three eminent persons of this House. The first one was hon. Elmi, Member for Tarbaj; the second one was hon. Lekuton, Member for Laisamis, and the third one was the hon. Member for Bura, hon. Ali Wario.

We balanced. We realised that, that Committee had six Members from the Jubilee side and four Members from the Coalition for Reforms and Democracy (CORD) side. That is what informed us to appoint two Members from the CORD side and only one Member from the Jubilee side.

We express our gratitude to the House for having given and entrusted us with that particular mandate, which was very onerous. We also thank the Clerk’s Office for giving us support. We wrote the Report in detail. If the Members have seen the document, they will agree it is a big document. We put in all the details that were required. We recorded on HANSARD. We also placed the minutes of all the Committee meetings in this Report. We put in any paper that we were given. We even invited the public to participate. Unfortunately, there was only one Member of the public who agreed to participate in this task but we did not admit his contribution because we considered whatever he raised peripheral and irrelevant, as far as what we were inquiring into was concerned.

Hon. Deputy Speaker, this Committee on Powers and Privilege is very small. It has 10 ordinary Members and three co-opted Members. Before I go to any other issue, I want to show the House how we got the evidence. We undertook to ask the Members of the PAC to appear before us, and several of them did so. We had a total of 17 Members of PAC and one former Member of the PAC appearing before us. We had the Leader of the Majority Party, the Leader of the Minority Party and the Deputy Leader of the Minority Party appearing before us too. By the way, it should come to the House’s knowledge that this issue was raised by the Leader of the Majority Party. It was seconded by the Deputy Leader of the Minority Party. We had several issues that we were to look

into, but most important was whether there was breach of privilege and/or code of conduct by the membership of the PAC. We found that there was breach of the same. However, not all Members were involved. We indicated the ones who were involved in no uncertain terms. We indicated the punishments that were to be meted out against the five of them.

Secondly, we looked into what sanctions would apply for that particular breach of privilege. Somewhere in the Report, I will indicate what we, as the membership, thought we should engage as a sanction against the breach of privilege.

Along the line came an audio recording tabled by hon. Ababu Namwamba. It was our duty to consider whether to admit it or throw it away. As we deliberated, we were guided by the Evidence Act and we discussed it at length. Eventually, as I will be showing the House, we decided that it was not going to be admissible on the basis that there were a lot of contradictions. In terms of evidence, much as it was going to be of some value, we did not consider it as having been done in a manner that was professional to allow the Committee to take it as part of evidence.

I will briefly tell this House what the Members of the Public Accounts Committee told us. When the Chairman of the Committee came before us, what he said is at Page 44 of our Report. I will quote just a small section and Members are free to read the rest. He said that the Powers and Privileges Committee should not pass group judgment on the PAC Members. Each individual should bear their own responsibilities. The PAC has some of the finest Members in the National Assembly and it would be a terrible injustice for them to suffer on behalf of others. On that, we agreed with him. Therefore, we did not mete out sanctions against everybody. We only did it against those we thought had abused privilege.

I am saying all this because it is supposed to be clear to the membership of the House that we reported exactly what we derived from the membership of the PAC, and what we found out as we did our investigations. When the Vice-Chairperson of the PAC, Hon. Cecily Mbarire, came to the Committee, what she said is at Page 46 of the Report. In her opinion, the PAC has lost the moral authority to adequately play its watchdog role due to the nature of allegations made against its membership. That is in Paragraph 96. On the other side, she said that the allegations that the Chairman ran the PAC like a private property had merit.

Let us go to the next Member; hon. Anyanga. He appeared before the Powers and Privileges Committee twice. The Chairman had opportunity to appear before the Powers and Privileges Committee thrice. It is important for everybody to understand that we were doing this Report on the basis of what came before us. At Page 51, Paragraph 114, hon. Anyanga said that in his opinion, the PAC, as presently constituted, cannot work together following the claims of bribery and bad blood between its Members.

When hon. Ibrahim Abass came before the Committee, what he said is at Page 53. Among other things, he said that in his opinion, the problems in the PAC revolved around hon. Ababu Namwamba, who had sucked in other Members of the Committee and the House into his own problems. That tells us the difficulty that is within this particular Committee. When hon. Bett came before us, and I am also quoting him at Page 56, he said in brief that the leadership of the PAC should be disbanded.

We also had other Members. When Hon. Kareke Mbiuki appeared before the Committee, he even went ahead of everybody else and gave us a written report. What he had to say is at Page 60 for the Members to refer to. He said that the PAC needed to be reconstituted as he had lost confidence in its leadership and the current Membership has a highly dented image as a result of allegations.

Hon. John Sakwa Bunyasi, who is seated next to me, appeared before the Committee, he said that political parties should be requested to nominate Members to the PAC and the PIC who can stand the integrity test due to the kind of pressures that the two Committees face. One Member who came before us and was very brief in his statements was hon. Kyengo Maweu of Kang'undo Constituency. He said that PAC was salvageable, but only as long as the Chairperson and the Vice-Chairperson exited. He was as brief as that. He also said that the only Members who may be discharged from the PAC for it to be salvaged were those Members who had been making allegations against each other.

When the Member for Kipkelion East Constituency, Hon. Rop, appeared before the Committee, he said that following the allegations, it was impossible for the Members of the PAC to continue working together, or even trust each other. However, he said that disbanding the Committee will be an indictment against all Members as being corrupt. He said that most Members of the PAC did not have trust in its leadership. That is at Page 64.

When Hon. Alice Chae appeared before the Committee, my neighbour to the left, she said that---

Hon. Members: On the right!

Hon. Cheboi: That is right. I have a problem. It has been long since I was in the National Youth Service (NYS).

Hon. Chae said that the House should consider having the leadership of committees such as the PAC coming from one parliamentary party. As she left the Powers and Privileges Committee, she said that Members who had made unsubstantiated claims against each other should be discharged from the PAC.

As I read the remaining appearances, I want to note that this has never happened in the Parliaments that I have known. When hon. Kaparo was the Speaker, he had trouble with Members making allegations against outsiders who could not come here to protect themselves. It is a new problem that Members can throw allegations against each other without substantiation. That is a very new one. It has never happened before. I was not in the Tenth Parliament, but I used to watch its proceedings. In the Tenth Parliament, there was the benefit of public television viewing. I never heard of allegations by Members against each other. It is new here.

When hon. Mwadime came before the Powers and Privileges Committee, he said that it would be difficult for the Members of the PAC to work together again after the accusations. Now we are at almost the 10th Member who appeared before us.

When hon. Joseph Manje, who, unfortunately for most of the time when allegations and counter allegations were being made was unwell, and I am sure Members remember that he even had to be taken to India for further treatment, came before the Powers and Privileges Committee, this is what he had to say:

“There is need to change the Chairperson and Vice-Chairperson of the Public Accounts Committee (PAC), especially following their claims against their colleagues and the non-committal attitude of the Vice-Chairperson. Any member of PAC who made unsubstantiated claims against another member should be discharged from the PAC.”

We also had hon. Julius Melly, the Member for Tinderet, who had this to say at paragraph 177 on page 68:

“In the light of the allegations, the Committee cannot work together anymore and that the Chairperson’s leadership style has greatly contributed to the PAC falling apart.”

When the Member for Suba, hon. John Mbadi, came to the Committee, this is what he had to say: “It is not possible for the PAC to work together again as the relationship among its members has become very acrimonious. As a party leader, the Orange Democratic Movement (ODM) has nothing to do with allegations against the Chairperson of PAC.”

I was not interested in reading that bit on party issues, I was just interested in the bit where he said that the PAC cannot work together because its members have become very acrimonious.

Hon. Manson Nyamweya also came before the Committee and this is what he had to say:

“It is only prudent for the PAC to be dissolved and reconstituted leaving out the leadership, those who had failed to substantiate their claims of bribery against others and also those who had claims of bribery made against them.”

We had difficulty with that because we did not want to delve too much into corruption, but we also took what he suggested.

When the young hon. Silvanse Osele came before us, this is what he had to say:

“If the hon. Speaker received a letter from the PAC Chairperson on allegations of corruption within the Committee, that is an admission that PAC is unable to handle its affairs.”

I have gone through all these because eventually when we indicate the decisions that we took as a Committee, it will be important for the Members to know where we are coming from.

There was also the issue of the audio tape, which I have discussed very briefly. When Corporal Odako, the police officer and bodyguard to hon. Namwamba, came before the Committee, we had more than three hours with him. At the very end, and it is indicated at the last page, we considered the act of taping whoever he alleged to have taped highly unprofessional. This is because that is not part of what he is supposed to do as a security guard of a Member of Parliament.

We also thought there were quite a lot of contradictions in his statement. For example, he said that hon. Ababu Namwamba and the rest of the members whom he taped were sitting 15 metres from where he was standing. He indicated that they were in a certain hut at Hotel Fairview. The members who were there, and many of the members of the Committee were at Fairview Hotel, could not at all agree that it was 15 metres between the entry to Hotel Fairview and the huts inside. In the estimation of members, it was probably more than 100 metres.

He also said that hon. Namwamba left the meeting with the former Prime Minister and took a minute to where he was. However, that was not captured at all in the tape. Not

even the footsteps or the pause were captured. The audio stopped at a particular point. So, the members found it very difficult to believe Corporal Odako. Since we were not investigating hon. Odako at all, we only made a recommendation. We recommended and put it somewhere that we found his manner of working very unprofessional. We stopped at that point. We decided that we were not going to take the audio tape as substantiating any claim. By the way, what Corporal Odako told us was that he gave the phone to hon. Namwamba close to his car, as he was leaving. When we heard evidence from hon. Namwamba, he told us he was given the phone while already seated at the table with the former Prime Minister and he was told that: "You might need your phone."

The difficulty we had as a Committee was that if that was done, and he was saying he was the one who started off and stopped the taping process, we would have expected to have heard where he says: "You may need your phone." That was not there. So, as a Committee we felt that there was a possibility that even if it is true that this audio was taken, it had been edited. As far as we are concerned as a Committee, any tape that had been edited was not going to be of value to everybody else except the person who was taping.

I will go very briefly to the recommendations that we made because I do not want to take a lot of time. I really want to thank the Committee for having done the 18 meetings. If you look at the Report, we have got comparative literature from other jurisdictions. We did not have any that has been done in this Parliament. So, we had to Google and search for other areas where they have had issues like this. We found out that New Zealand and Canada had something close to this. I must thank everybody in that Committee, including the Clerks and the Clerk's Office, because we were able to do it without even having to travel to those destinations.

When we decided that there were issues of privilege that had been abused, as a Committee we first sat and said we did not want to punish the individual members. We first of all wanted to look at the sanctions that we were going to prescribe, so that when we agree on what you did, eventually we punish you on the basis of the sanctions that we had agreed upon as a Committee. This was to ensure that we did not punish individuals but the abuse of privilege. We said whoever discussed committee proceedings in the media, would do what the House demands, namely offer an apology at the Bar. This is a very new thing. The Bar is where the Member for--- I am not seeing him today here. I do not want to make an allegation, because I would be doing wrong. It is next to where the Mace is. That is where the Bar is.

Hon. Deputy Speaker: Hon. Cheboi, are you sure that is the Bar? I believe the Bar is at the back, right where we bow.

Hon. Cheboi: I was trying to compare the distance between the Bar and here. That is what I was saying. They will be at the Bar looking directly at the Mace.

(Laughter)

Any repeat offender would be suspended for between one and three days plus a demand for an apology at the Bar for failure to make substantiation within the required period, under the Standing Order.

You make an allegation and you are unable to substantiate it--- At one point as a Committee we did not want anybody to make an allegation that he or she is not going to have capacity to substantiate. This is because the making of it in the first place defames and shames this House. This is what we said: There will be a reprimand at the Bar by the Speaker and an offer of apology to the House. Any repeat offender will be suspended for between four and seven days. A combination of both for failure to make substantiation within the period required under the Standing Orders. On discussing the Committee proceedings in the media, other than the two other sanctions that we meted out against them, there will be a demand for an apology and a reprimand at the Bar in addition to the other punishments. If a Member refuses to apologise under paragraphs 1 and 3 he or she will be suspended for three days. After we did that, we went out looking for any Member who might have abused privilege.

Let me first read the resolutions of the Committee and then come back and give the specific reasons why we meted out specific sanctions against particular Members of Parliament.

First, we recommended that there be a reprimand for failure to make substantiation within the required period as indicated by the Standing Orders. The House, therefore, resolves to demand an apology at the Bar from the following Members who have made claims resulting in improper motives against other colleagues in the meeting of the Public Accounts Committee (PAC) of 26th February 2015, and failed to substantiate their allegations within the period required under Standing Order No. 91: These were hon. Ababu Namwamba, hon. Ahmed Abbas, hon. James Bett and hon. Omondi Anyanga.

Secondly, on the issue of discussing the Committee proceedings in the media, we indicated that the House resolves to demand an apology at the Bar from the hon. Ababu Namwamba, hon. Omondi Anyanga and hon. Samwel Arama for their contemptuous conduct of discussing in the media matters related to the inquiry into the claim of breach of privilege and/or code of conduct of the Members of Parliament (MPs) by the Powers and Privileges Committee even after the Speaker had cautioned the House against doing so on 11th March 2015. The House resolves that Members who fail to submit to any of the resolutions of the House in paragraphs 316 to 318 be suspended from the House for a period of four days, including the day of suspension.

The third resolution that we are seeking from this House is on the Public Accounts Committee (PAC). We said: "The House resolves to rescind the resolution of 16th May 2013." That is the one that created particular committees and of 8th October 2013 on the appointment of Members to PAC and required Committee on Selection to nominate within seven days for consideration by the House another list of membership to PAC. We gave a way that the Committee on Selection should consider as they select new members.

First, the members of the Powers and Privileges Committee which I chaired, including the three co-opted members, that is the 13 members who served on the Committee during the inquiry into the claim of breach of privilege by the membership of PAC will not be eligible for appointment to PAC so as not to benefit from their recommendation to dissolve the PAC.

(Applause)

I must explain that. Members of the Powers and Privileges Committee are not going to be beneficiaries of any reconstitution of the PAC. This was new because I remember when hon. Marende was seated on the Chair which you are sitting on today, and there was a problem about titles of leadership of the House; the Solomonian wisdom that came from him was that of declaring himself the leader of the House business. We argued against that and I almost declared myself the incoming chair of the PAC.

(Laughter)

However, I thought there is a probability that Members will not be happy with it. So, we decided that the entire 13 Members will not benefit.

There has been a misconception that we blacklisted Members; we did not. I want Members to listen to the period within which they are not going to be allowed to be members of that particular Committee. This is what we said on page 116: “The following members of the PAC made allegations against each other and failed to substantiate within the period required under Standing Order No.91: Hon. Ababu Namwamba, hon. Ahmed Abbas, hon. James Bett, hon. Omondi Anyanga and hon. Cecily Mbarire.” I will later on indicate what specifics they made in terms of allegations and did not substantiate. We said: “Therefore, this House resolves that the application of paragraph 321 applies only during the period of the current Third Session and without prejudice to the appointment of the named Members to other committees.” So, they are going to be eligible. That includes the members of the Powers and Privileges Committee who never mentioned each other, but they were only going to be excluded during the current Third Session, and they can be appointed to other committees.

On the preservation of the ongoing work, there was a major concern to Members who appeared before our Committee that there is a possibility that if there was a problem with the issue of constituting this particular Committee afresh, we might lose out in the preservation of the ongoing work. I must say that we proceeded in very good faith. The PAC did a very commendable job. That is without question. They managed to update the reports up to the year 2012/2013. However, the issue that we are punishing is allegations against one another because that created contempt of this House.

In the interest of preserving the ongoing work, we requested that the House orders that the Committee on Selection nominates at least six members of the previous membership of PAC, three from the Minority and three from the Majority coalitions. Papers, including the draft reports, minutes, HANSARD records and briefs belonging to the previous PAC should be safeguarded for handing over to the reconstituted Committee, which must be reconstituted within the next seven days, if the House so resolves.

Hon. Deputy Speaker, on the issue of the secretariat, because the engine of every Committee is in the secretariat, we have a resolution to be placed before this House for adoption – that the Clerk of the National Assembly ensures that the secretariat of the PAC is headed by an officer not below the rank of Principal Clerk Assistant. We considered the fact that this is one of the most important Committees of this House. The

rest of the Committees are equally important but the PAC is the face of this House. We need a senior clerk to be attached to the Committee.

We did not inquire into the issue of corruption because we did not have the capacity to do so. We were also aware that there are other institutions mandated by the Constitution to follow up on issues that touch on investigations. That is why we had to request the House that since the Committee on Powers and Privileges did not inquire into matters outside breach of privilege and code of conduct applicable to Members of Parliament, the House resolves to refer the claims of bribery against the membership of the PAC relating to its examination of confidential expenditure incurred by the Office of the President during the 2012/2013 Financial Year to the Investigative state agencies for investigations.

Hon. Deputy Speaker, another resolution we are making is that this House does adopt the amendment of Cap. 6, Laws of Kenya. We urge that the House urgently commences the process of amending the National Assembly Powers and Privileges Act, Cap. 6, Laws of Kenya, to:-

- (i) expand the role of the Powers and Privileges Committee to include continuous examination of standards and ethics, including examination of claims of financial nature by Members of Parliament within and outside the precincts of Parliament relating to them;
- (ii) establish an office of Administrator of Parliamentary Standards, the occupier of which should be appointed for a fixed term with the approval of the Houses of Parliament to advise the Houses and their respective Committees on Powers and Privileges on matters of breach of privilege, code of conduct of Members of Parliament and cases of breach of standards, ethics and financial impropriety;
- (iii) require Members of Parliament to register their financial interest with the Administrator of Parliamentary Standards, who shall be the custodian of the Register of Standards of Members of Parliament.

Hon. Deputy Speaker, we also recommend that the Standing Orders be amended. We are requesting the House to resolve that the Procedure and House Rules Committee immediately commences the process of considering amendments to the Standing Orders with a view to submitting a report to the House within 14 days to ensure that the PAC is among the Sessional Committees, and providing an expanded scope of application of Standing Order Nos.91 and 107 to provide for additional punitive measures for failure by a Member to substantiate any allegations made against other Members of this House. There were allegations of corruption, which we did not inquire into but we want to expressly recommend that should any agency outside this House try to corrupt any parliamentary committee, it should be made expensive. One will have to corrupt the Committee that is present, the one that will be there the following year and the next one as well. Sessional Committees have been with this House for a long time.

Hon. Deputy Speaker, those are the resolutions that we request this House to adopt. However, I want to briefly explain how we sanctioned the membership of this Committee.

Hon. Ababu Namwamba alleged that hon. Arama, hon. Abass, hon. Anyanga and hon. James Bett solicited and accepted shares of a bribe of Kshs1.5 million from Mr. Mutea Iringo at Silver Springs Hotel to influence the PAC as it prepared its Report on the accounts of the Office of the President for the 2012/2013 Financial Year – an allegation we found not to have been sufficiently substantiated. He also said that hon. Kareke Mbiuki and hon. Cecily Mbarire accepted a bribe of Kshs1.5 million to influence the PAC as it prepared its Report on the accounts of the Office of the President for the same financial year, and that hon. Anyanga attempted to procure improper favours from a subject of inquiry in Hyderabad, India.

On this matter, I must come out clear on behalf of the Committee. When the membership of the PAC that went to India appeared before us, at one point we were informed that the first person to indicate that he was not interested in the favours that were being extended to the PAC by the company they had gone to investigate in India was hon. Anyanga himself. That was said by---

(Applause)

I do not need any applause for now because the matter is very serious. I must commend the Committee Members, including hon. Anyanga, for rejecting favours from that company on that particular occasion. The Committee, led by the Chairman, refused to accept favours. They ended up paying their hotel bills using hon. Bunyasi's credit card. The only issue that could not escape our thought was that, when they arrived in India, the vehicles that were used to ferry the Committee Members from the airport to their hotel belonged to that particular company, but it was indicated in certain terms that the Members of the Committee were unaware of that fact, and we believed them.

Hon. Deputy Speaker, hon. Ahmed Abass alleged that hon. Namwamba accepted a bribe of Kshs5 million from the Office of the President to influence the PAC Report on that Ministry's accounts for the 2012/2013 Financial Year. When we asked him for substantiation, he could not provide any. He eventually withdrew the allegation. Even though he had withdrawn the allegation, we thought it to be a breach of privilege since he had already made the allegation.

Hon. James Bett alleged that hon. Ababu Namwamba leaked a Judicial Service Commission (JSC) Draft Report of the PAC to *The Star* Newspaper. When we asked for substantiation, he could not provide any. Therefore, we had to take some action against him.

Hon. Omondi Anyanga alleged that hon. Ababu Namwamba promised to reinstate hon. Arama to the PAC to spearhead his defence in a no-confidence vote against him, by alleging misdeeds against fellow Members. The allegation was also not substantiated and, therefore, we found him culpable.

Hon. Cecily Mbarire indicated that the Chair of that particular Committee met with an author of a particular magazine in a hotel in town. She eventually withdrew the allegation but we thought that hon. Members should not be making allegations against each other even if such allegations are withdrawn eventually. That is why we thought that these particular Members should be sanctioned. That is exactly what we did.

Hon. Deputy Speaker, in concluding my submission, I want to say that it was difficult for us, as a Committee, because we were dealing with our own colleagues. For a long time, we could not even have tea with our colleagues because we thought it would be thought that we were being influenced. What we have done is to bring our Report to the House. It is now up to the Members of this House to make a decision. That is the last thing that I want to say.

The other day, I attended a conference on global law and a certain individual said something on the rule of law. We were celebrating the *Magna Carta* which is the source of some of our laws in Kenya. This is what he said:-

“You have a choice to either erect a fence at the top of the cliff or make another choice of keeping an ambulance at the bottom of it.”

As membership of this House, we must forget friendship for the time being in order to reclaim our position as the august House, so that in future we must make it extremely expensive to make allegations against colleagues which we cannot substantiate, even if it is for a minute. That is what informed the decisions by the Committee. As I wind up, I would ask my good friend, whom we used to call *Njuri Ncheke* in our Committee because of the fact that he was co-opted---

I ask the Member for Laisamis to second me.

Hon. Lekuton: Thank you, hon. Deputy Speaker. My speech will be less than a minute because the hon. Member has done a good job.

I beg to second this Motion as a co-opted Member of the Powers and Privileges Committee. The Chairman has comprehensively articulated the matter. Therefore, I see no need to debate it.

Let it be clear that we support the recommendations wholeheartedly as a team.

(Question proposed)

Hon. (Ms.) R.N. Wanyonyi: Thank you, hon. Deputy Speaker. I was prepared to contribute to something else, but not to this particular one. Thank you.

Hon. Deputy Speaker: Hon. Members, I already have a long list of 42 hon. Members. I have already heard two Members saying that they are waiting to contribute to the one on Garissa. Can you all remove your cards first so that we know who wants to contribute to the Motion that is before us!

(Loud consultations)

Order! Order Members! I heard a point of order from hon. Cecily. Let me first take the point of order from hon. Maanzo.

Hon. Maanzo: On a point of order, hon. Deputy Speaker. I would like to rise under Standing Order No. 89, that this matter is *sub judice* because it has already been filed in court. It is a civil proceeding in judicial review, and the Committee on Powers and Privileges is one of the parties. I have documents to table in this House. This is to show you that a date has already been set for hearing of this matter, which is 16th of this month.

Hon. Deputy Speaker: Which court? We are not in a court. We are in a Chamber.

(Loud consultations)

Hon. Maanzo: I withdraw my statement that a date has already been set in court. This matter is already a proceeding in court and is already live as required under Standing Order No. 89. Therefore, I would like to table my documents.

(Hon. Maanzo laid the documents on the Table)

Hon. Deputy Speaker: I can hear one or two other Members as we study the documents you claim to be having.

Hon. (Ms.) Mbarire: On a point of order, hon. Deputy Speaker. I rise under Standing Order No. 91(1)(2). If you look at this Report, for which I really want to commend the Committee, it says under Paragraph 278 on Page 91:-

“The Committee noted that the hon. Mbarire withdrew her allegations that the Chairperson of PAC was the source of the defamatory claims published in the *Nairobi Law Monthly* of February, 2015.”

Further, it says:-

“Hon. Mbarire made the allegation during a meeting of PAC of 26th February, 2015 and later withdrew the allegations within and during the same meeting.” In fact they have even put it in bold:- “.... during the same meeting.”

Further, on Page 116, Paragraph 321(ii), it says:-

“The following Members of PAC who made allegations against others and failed to substantiate their allegations within the period required under Standing Order No. 91---”

They named all the Members, I being number five on the list. I wonder why the double standards. I withdrew the allegation I made and it is in the minutes. Why, again, am I being accused of having made an allegation that I did not substantiate? I followed Standing Order No. 91 as required by the rules of this House. I would like the Chairman to, please, explain to me why I am on this list of five Members because it does not make sense to me.

At the beginning of moving the Motion, he said that they were fair and would make sure they were fair to everybody. I do not think they were fair to me in this particular matter.

Hon. Deputy Speaker: We are still studying the documents from hon. Maanzo. While we are studying them; I have given a chance to a few Members to raise a few points of orders.

Hon. Omulele: On a point of order, hon. Deputy Speaker. I have in mind Standing Order No. 48 which is in regard to amendments to Motions. I have filed my notice of an amendment and it has been approved and I think this is the right time for me to move it.

Hon. Deputy Speaker: Before we allow you to prosecute your amendment, let me just be through with the points of order because before we go into the main debate, I will allow you to move.

Hon. Ng'ongo: On a point of order, hon. Deputy Speaker. I actually have two issues. One is with regard to what hon. Dan Maanzo has just raised. I also want to clarify that my mention to the Committee of the fact that ODM was not involved in this matter was as a result of a question from hon. Ichun'gwah. He had asked me whether politics was at play in this issue. I categorically told him that if politics was at play, then it certainly was not ODM, of which I am the Chairman. I just wanted to make that clarification.

On this issue of *sub judice*, I want to react and not get confined to the matter before us. This is a weighty matter where a Member is challenging that the matter we are just about to discuss is *sub judice*.

First, that Standing Order 89(4) places the responsibility on the Member alleging the matter is *sub judice* to provide evidence to show that the requirements of paragraphs 2 and 3 are applicable. I did not hear that from hon. Dan Maanzo; he should have given us evidence that the matter is *sub judice*.

More importantly, I remember that a matter similar to this one came before the House in the Tenth Parliament. We had a matter that was taken to court, when it was before Parliament. My fear is that if you rule that this matter cannot be debated on the basis it has been taken to court by a Kenyan or Kenyans, then this House, probably, may not transact any business. In future, people will be rushing to court to stop Parliament from discussing some matters. That will not work very well for the separation of powers between Parliament and the Judiciary. This is just the same way I would be hesitant to engage this House on a matter that is before the court. This House can continue transacting its business. In the event the court finds that a resolution of this House is unconstitutional, it will declare so.

This matter can be debated even though some Kenyans that I am aware of, and for good reasons, have gone to court to challenge some of the resolutions of the Committee. It is upon this House to decide whether we agree with the Committee or not.

Thank you.

Hon. Deputy Speaker: Hon. Dalmas Otieno, is that a point of order?

Hon. Anyango: On a point of order, hon. Deputy Speaker. On the issue of *sub judice* raised by hon. Maanzo, honestly, we cannot adopt a practice where anybody rushes to the courts knowing that the courts have unlimited jurisdiction in an effort to stop proceedings before the House.

(Applause)

In fact, if the persons who have gone to court are associated with any Member here, that Member should be pronounced equally guilty of breach of privilege as far as the Committee has recommended. Where the House has commenced a process and somebody goes to court, we should proceed and complete our proceedings. The court is still free to hear the petition. If what we have done is invalid, they will declare it void just like in any legislation that we may pass that can be declared void to a particular extent that the court will so determine at that time. We should proceed.

Hon. Deputy Speaker: Hon. John Kipyegon, we should now dispense with this matter.

Hon. Kipyegon: Hon. Deputy Speaker, I also wish to state that the question of separation of powers is very clear. The function of the courts is to interpret the law, either the Constitution or a legislation that is passed in this House. They cannot interpret it before it is concluded. The function of this House is to make laws. You cannot stop it in the process of making laws. Whoever went to court was ill advised. They should have waited until we dispense with this matter in this House, and then they go to court to seek interpretation of the particular law that we would have passed here. We should proceed.

Hon. Deputy Speaker: Hon. Waluke.

Hon. Koyi: Thank you, hon, Deputy Speaker. Standing Order No.89 precludes the House from debating any matter that is proceeding in a civil court. This Report is the subject of Case No.108 of 2015, filed in the Judicial Review Division of the High Court of Kenya; it is already scheduled for hearing. This is a House of rules and practice and we need to give a chance to the courts.

Hon. Deputy Speaker: Hon. (Eng.) Gumbo.

Hon. (Eng.) Gumbo: Thank you, hon, Deputy Speaker. Hon. Maanzo and those who are attempting to pronounce this matter *sub judice* are being economical with the truth. I have been following this matter and I am quite aware that one of the prayers the applicants made before the court was to stop debate and the court declined. How then does it then become *sub judice*? Honestly, what then becomes of the principle of separation of powers if a court lurches onto a matter which is clearly before Parliament and decides to use this principle like this? As hon. John Mbadi has just said, we will not be doing anything. Anybody can go to court. Even in relation to the Public Procurement and Asset Disposal Bill, which we are about to debate at the Committee Stage, somebody will rush to court and say that he does not agree with it. Therefore, it cannot go on. Clearly, one of the prayers was to stop debate and the court declined. So, how can it be *sub judice*?

Hon. Deputy Speaker: Hon. Members, we have ventilated on this. Hon. Millie Odhiambo, just to give the alternative voice.

Hon. (Ms.) Odhiambo-Mabona: Thank you, hon, Deputy Speaker. I am a little sad because I wanted to speak to the Report, but I know once I get a point of order I may not have the opportunity. I did not want to speak to the issue raised under the Standing Orders.

I would like us to remain firm on issues of the rule of law. One of the reasons we are here, and I was listening very carefully to the Chairman, is that the House has gone to the lowest level that we have ever been. Part of the reason that we have gone to that lowest level is because we have failed to adhere to the fidelity of the law. I say this with utmost due respect even to the Chair that sometimes we raise very weighty issues and you give us rulings on the spot. The issues that have been raised here today are very weighty. I would want to urge that even if we continue with the debate--- Could the House leadership, please, consider the issues that have been raised by Members from the both sides of the House?

This raises very pertinent issues on principles of law such as the *sub judice* rule, especially as stated in our Standing Orders. If you look at it, and I have been listening carefully to the Members, *vis-a-vis* the principle of separation of powers, on the face of it, it looks like there is a clash. It will not be very fair for us to just say that because we are

dealing with a matter, we do not want to listen to the courts when our Standing Orders say a totally different thing. The only onus that the Standing Order gives us is that you need to prove. Therefore, I want to be guided whether the Member has proved that this matter is before a court, whether it is an active matter with a date and whether the documents that have been presented before this House are authentic court documents.

This House has pronounced itself on previous rulings on similar issues. I urge the House that even as we are considering that, we should consider it *vis-à-vis* the principle of separation of powers. How do we deal with the principle of separation of powers on one hand and the issue of *sub judice* on the other hand? There are many rulings that this House has pronounced in terms of balancing the two. We do not want to excite Kenyans who want to stop the proceedings of this House when we have matters before the House. On the other hand, we also want to be true to not only the principle of separation of powers, under which we need to respect the other mandates, but also to where we check on each other's excesses. I am not very clear, but one Member said that the court pronounced itself in certain orders that targeted the House. If that be so, that is all right. I do not know whether those orders are final or whether the matter is ongoing. If the matter is ongoing, we need a serious legal decision and not a hasty one.

Thank you.

Hon. Deputy Speaker: Hon. Nyamweya, can we dispense of this? Is it a point of order?

Hon. Nyamweya: Yes, hon. Deputy Speaker.

We have emphasised on the principle of separation of powers. Before somebody went to court, this Report was already the property of the House. We had started debating it. Since the Report is already before the House for debate, deferring its debate because somebody has gone to court would be subjecting ourselves to the Judiciary. Therefore, the rule of separation of powers does not apply. If indeed it applies, since this Report was in the House, let us debate and conclude it. That is the meaning of separation of powers. I am not a lawyer but that is how I understand it.

Thank you.

Hon. Deputy Speaker: Hon. Kamau, what is your point of order?

Hon. Kamau: Hon. Deputy Speaker, let me join my colleagues. Indeed matters of *sub judice* and separation of powers must be understood fully by the House. It is actually an abuse of the court process for someone to go to court in respect of a Report that has been tabled in this House for debate.

I recollect very well that during the Tenth Parliament, there were people who used to go to court when a Report was before the House. A ruling was made that there was separation of power between the two institutions. As the Legislature, we will continue with our work. The courts can do their work later. Standing Order No. 89 is very clear; the words used are "if the matter is *sub judice* in the opinion of the Speaker".

Hon. Deputy Speaker, that is what you can base your ruling on.

Hon. (Ms.) Wahome: On a point of order, hon. Deputy Speaker. I want to ask the hon. Member who has raised this issue to make full disclosure, indicating whether the debate going on was canvassed in terms of seeking an order to stop the House from debating it, and what the ruling of the court was. I believe that the matter was taken to court under notice of urgency. Therefore, the court must have pronounced itself in respect

of the order to stop the House from debating it. We need a full disclosure from the hon. Member, in terms of whether a prayer was sought to that effect.

Hon. Deputy Speaker: Can hon. Maanzo give his response?

Hon. Maanzo: Hon. Deputy Speaker, orders were made, as it has been said by the hon. Member, but the court did not terminate the proceedings wholly. The court would have moved *suo moto* and terminated the proceedings. The court did not terminate the proceedings since it allocated 16th April 2015 as the date when all parties will be invited, including the Clerk of the National Assembly, to make presentations. At that particular moment, the court will decide whether to terminate the case or not. However, for now, the matter is live in court. It is active and ongoing.

Hon. Deputy Speaker: Order, hon. Members! These are all very valid and serious matters that need to be given serious thought. Going by precedents – that is some of the rulings we have had in the past on matters of this nature – it is obviously clear that we need to relook at the whole question of *sub judice* vis-à-vis separation of powers. Therefore, a comprehensive ruling will be given after studying all the aspects of this matter. On the current matter, the Papers that have been laid by hon. Daniel Maanzo indicate that there was an urgent application made on 2nd April 2015 to injunct the National Assembly from discussing this Report. However, from what we have, it is not clear that the orders were granted by that court. It is true that a hearing date has been set for Thursday, 16th April 2015. Therefore, I invoke the provisions of Standing Order 89 (5) to allow debate on this matter on the basis of the following two reasons:- One, that this is a matter of the House debating whether or not to impose sanctions on its Members who have breached its rules. It is therefore an internal matter. Two, I am unable to find that the continued debate on this matter would prejudice the decision of any court worth its salt. That is my ruling on this matter.

Hon. Members, shall we prosecute the amendment quickly so that we can know exactly which Report we are debating, as amended or as has been presented to us?

Hon. Cecily Mbarire was seeking a response from the Chair of the Committee. Quickly, address yourself to that aspect, hon. Chair.

Hon. Cheboi: Hon. Deputy Speaker, I was very clear that indeed hon. Cecily Mbarire made an allegation and withdrew it. That is the observation of the Committee. However, as a Committee, we are of the view that from now onwards, no allegation should at all be made by a Member against other Members without the intention of substantiating it. We said that we are not going to proceed on the premise that somebody would make an allegation and quickly withdraw it with an apology. That will have already tarnished the name of the individual Member of Parliament. We found hon. Mbarire culpable on what she did. It is true that she withdrew within the requisite time but we considered that as something we must stop. It is akin to somebody boxing you and then saying he is sorry.

Thank you, hon. Deputy Speaker.

Hon. Deputy Speaker: Hon. Members, we have two amendments. We will start with hon. Waluke's amendments.

Hon. Waluke, explain to us what you are proposing. If your amendment is carried, there will be no point of us having the amendment of hon. Omulele. If not, then we can

prosecute that of hon. Omulele. Hon. Waluke, can you prosecute your amendment to this Report and explain the import of what you are proposing?

Hon. Koyi: Thank you, hon. Deputy Speaker. Notice is given that the Member for Sirisia--- I took a wrong document.

Hon. Deputy Speaker: Hon. Waluke, you are moving your amendment. Tell us how you want the Motion to be amended. You seem to be unsure. What is happening?

Hon. Koyi: Hon. Deputy Speaker, I withdraw the amendment.

(Hon. Koyi's amendment was withdrawn)

Hon. Deputy Speaker: Hon. Omulele, can you prosecute your amendment quickly so that we can agree or disagree with you?

Hon. Omulele: Thank you, hon. Deputy Speaker for this opportunity to move a proposed amendment to the Report.

(Loud consultations)

Hon. Deputy Speaker: Order, hon. Members! We have had quite a lot of calm. Can we return there?

Hon. Omulele: My proposal is that the Motion be amended by deleting the full stop appearing immediately after the figure "2015" and inserting therein the following words: "subject to the deletion of sub-paragraph two of paragraph 321" appearing on page 116 of the Report.

In that particular paragraph of the Report, it has been proposed in the recommendations of the Powers and Privileges Committee (PPC) that some of the Public Accounts Committee Members should be barred from being considered when the Committee is reconstituted subsequent to the adoption of this Report by this House.

I stand to make this proposal based on the rule of law. We are a country that is governed by the rule of law.

Should I proceed?

Hon. Deputy Speaker: Yes, proceed.

Hon. Omulele: Thank you, hon. Deputy Speaker. We are governed by the rule of law in this country and this is a House of rules. The rules of this House are encapsulated in our Standing Orders which make very specific and particular provisions on how Members should be dealt with in the event they are found to be guilty of disrespect to the House or being disorderly in the House in one way or another on the Floor of the House or in committees. I have listened very carefully to the Report that has been presented to this House by the Chairman of Powers and Privileges Committee. I have clearly heard that he has submitted that they did not find that any of these Members were guilty of any offence other than making allegations that they apparently could not substantiate. So, the mischief that is being addressed by this Report is that Members have made allegations against other Members of this House and which Powers and Privileges Committee finds that they could not substantiate. That is the mischief.

I stand here to say that this is a House of debate. This is a House of the people of Kenya. This House must always consider all matters that will be raised by Members

whether those matters will be substantiated or not. If we sit here today and resolve that you will be punished so harshly if you bring any allegation or say anything in this House that you cannot substantiate--- I am not saying that people should not be punished but I am looking at the gravity of the proposed punishment that will be meted out to these Members.

Hon. Deputy Speaker: There is a point of order by hon. Ichung'wah. Just allow him to raise his point of order. What is your point of order, hon. Ichung'wah?

Hon. Ichung'wah: Thank you, hon. Deputy Speaker. I want to rise on a point of order because hon. Omulele in his amendment is seeking to, in a way, mislead the House. This is because if you read through the hon. Speaker's Communication when this matter was being given to Powers and Privileges Committee, you will see that the Committee was to inquire as to whether any of the members of Public Accounts Committee had breached the House's powers and privileges. What hon. Omulele is telling the House now is that none of the Members who have been named in that Report and barred from sitting in a reconstituted Public Accounts Committee was found culpable in any way. I want to say that as a member of the Powers and Privileges Committee, indeed, it was not looking at the issues of allegations and counter-allegations on bribery but as to whether any of the members of Public Accounts Committee had breached the powers and privileges of the House. It is in the finding of Powers and Privileges Committee that, indeed, Members who have been named had breached privilege.

It is, therefore, out of order for hon. Omulele to be telling the House and the country that none of the Members named and who the Powers and Privileges Committee seeks to bar were not found culpable of anything. They were found culpable of having breached their powers and privileges as Members of this House. I want to beg that you find hon. Omulele completely out of order for misleading the House.

Hon. Deputy Speaker: Okay.

(Loud consultations)

Hon. Members, you will have your chance to throw or retain the Report in the normal procedure that we use. Allow him to prosecute it first.

Hon. Omulele: Thank you, hon. Deputy Speaker. I think I heard the Chairman of the Powers and Privileges Committee, in his submission on the Floor of this House saying that they were inquiring into whether these Members had breached the provisions of the Privileges Act. Actually, they did not find that they had done so other than to say that they made allegations against each other which they could not substantiate. That is what this recommendation is about. The Chairman of the Powers and Privileges Committee is here in the House and he should respond to that.

Hon. Deputy Speaker: Remember you are moving an amendment.

(Loud consultations)

Who is seconding you?

Hon. Omulele: Hon. Deputy Speaker, I beg to be heard.

Hon. Deputy Speaker: Order, hon. Members! Just tell us who is seconding your amendment then we can continue.

Hon. Omulele: Thank you, hon. Deputy Speaker. I thought it is in order for us to look at this and in respect of the future of this House, where we are going to. This is because we are setting precedents in this House. If I stand here today and say that my brother, hon. Ichung'wah is a thief and I cannot substantiate, God forbid, you will not bar me from this House forever.

Hon. Deputy Speaker: Yes we shall.

(Laughter)

Hon. Omulele: You will bar me within a reasonable time.

Hon. Deputy Speaker: You know very well that you will be required to substantiate and apologise.

Hon. Omulele: Hon. Deputy Speaker, if I was unable to do so, then you will invoke the provisions of our Standing Orders under Standing Order Nos. 106 and 107 and you will bar me from this House for probably one or two sittings. You will not bar me from the privileges and rights of the people of Luanda to come to this House. You will only bar me for one or two sittings according to the Standing Orders. That is what I am saying. We must have fidelity to our Standing Orders and the laws of this country. Our laws that govern this House today are these Standing Orders. We must reject any recommendation that is outside these Standing Orders. We must come to---

Hon. Deputy Speaker: Who is seconding your amendment because your time is up?

Hon. Omulele: Hon. Deputy Speaker, I beg my sister hon. Cecily Mbarire to second.

Hon. Deputy Speaker: Yes. Can we give a chance to hon. Cecily?

(Laughter)

Hon. (Ms.) Mbarire: Hon. Deputy Speaker---

Hon. Deputy Speaker: Order!

Hon. (Ms.) Mbarire: Having seen the way my case has been treated, it was treated unfairly. I want to repeat to the Powers and Privileges Committee that they have treated me very unfairly and that they have used double standards to judge me. I think I will not second this Motion. Just do what you want to do.

Hon. Deputy Speaker: So?

Hon. Members: And the amendment?

Hon. (Ms.) Mbarire: I will not second the amendment on that basis.

Hon. Deputy Speaker: Order, hon. Omulele! According to Standing Order No. 57, if we cannot have a seconder for your Motion, it will be dropped.

Hon. Omulele: I will ask my brother, hon. Waluke to second.

Hon. Deputy Speaker: Hon. Waluke?

(Laughter)

Hon. Koyi: I second.

*(Question, that the words to be added
be added, proposed)*

*(Question, that the words to be added
be added, put and negatived)*

(Debate on original Motion resumed)

Hon. Deputy Speaker: We then revert to the Report as was presented to us by the Chairman of the Committee. We will start with hon. Rachel Shebesh.

Hon. (Ms.) Shebesh: Thank you, hon. Deputy Speaker. I want to speak briefly on the Report given to us by the Committee on Powers and Privileges. I want to start by saying that I support the work of the Committee and, therefore, I support the Committee's Report.

I have believed in this House that when work is done by a Committee, we should always as much as possible listen to the Committee because they are the ones who have gone through the whole process of investigating, researching, *et cetera* and so I support it.

However, what I want to speak about is how low we have sunk. It is about time we realised that what is happening to the Public Accounts Committee (PAC) can happen to any other Committee in this House. We are probably sitting back and saying "Oh, it is not me who is being talked about in the newspapers; it is not me who is being taken to the Ethics and Anti-Corruption Commission (EACC)." From the way I have seen things being conducted, at any time that could be the case for any Member who is sitting in any Committee of the House.

This House is held in high regard. It is up to us to decide whether we want to continue being held in high regard or we are happy to be viewed as mediocre. Why do I say that? If you have a Committee that is handling serious issues like the PAC was doing; very serious issues, probably the most important Committee of this House, and then they start accusing each other of being corrupt, I do not even know what we were investigating because they themselves are the ones who called each other corrupt. When hon. Cheboi says the Committee was not able to establish whether or not there was corruption, they have in effect given that particular work to the relevant organ of this State, which is the EACC. For us to start having Members appearing before the EACC, it is a shame for this House. It is a disgrace. If that does not touch everybody, then it will be a matter of time before we start seeing the whole House appearing before the EACC.

I am speaking this way because as I said, it is not us today but it could be us tomorrow. It is nothing to gloat about, nothing to be happy about but it is important for us to know that we are held in high esteem. We are elected. I am here elected by the people of Nairobi. I got over 600,000 votes. Those are not votes you take lightly. Those are not things you take lightly when you are sitting in Committees. We are supposed to

investigate things clearly for the public; for the good of this country. Why would we want, at a point when we are definitely people who are well blessed by God, take small handouts?

Hon. Deputy Speaker: Order, hon. Shebesh! Now you are treading on the same grounds of allegations that cannot be substantiated. Just stick to facts on the Report.

Hon. (Ms.) Shebesh: Hon. Deputy Speaker, I want to apologise and withdraw, if that is the feeling of the House. What I am asking is: What is the perception out there? The perception of the country is that we cannot be trusted anymore with the oversight authority that we have been granted in this House. All of us who had gone for elections and have been elected have been given that kind of honour by the people who elected us. That is why I am saying that perception needs to change. It can only change if we re-examine ourselves, we sit back and ask ourselves a few basic questions. As basic as: do I want to do the work that I was brought in this House to do?

I support the Report of the Committee but I am saddened that we would have to disband a Committee of the House. If that is the feeling of the Committee and that is the only way we can bring back dignity to this House, then let it be.

I thank you.

Hon. J.K. Bett: Thank you, hon. Deputy Speaker. I want to take this opportunity to thank you for giving me this opportunity. While I appreciate what the Powers and Privileges Committee has done, I want to take exception with the way they did their Report because if you look at page 55, just as hon. Cecily Mbarire has said, you will realise that as a Member of the PAC, I had made allegations regarding leakage of the Judiciary Report to the *StarNewspaper*. You will see that on the same day, I was able to withdraw because I could not substantiate. Standing Order No.91 which guides proceedings of both Committees and this House requires that a Member shall be responsible for the accuracy of the information and if not, he should withdraw within the specified time. If you move to paragraph 321(2), you will find that they have listed us there without being guided by law because this House is guided by the Standing Orders and the Constitution.

I would like to say that this august House is more or less like a church. In a church, you must be very objective and very clear on what you are saying. I can see a change of goal posts. Somebody cannot say that we are doing this to set precedent so that somebody cannot make any allegations in the future. If this Parliament is like a church, then the Chairman of---

An hon. Member: More like a church.

Hon. J.K. Bett: It is more like a church. If somebody like the Chairman cannot go by the Standing Orders and introduces some political dimension--- I had an opportunity to talk to him outside this House and he said that he wants this PAC to be an example. You cannot use a Committee as an example to punish others. I take this with a lot of exception. He goes ahead and tells me that he does not belong to the URP. He says that he belongs to KANU.

Hon. Deputy Speaker: Order, hon. Bett! You are taking us back again to things which cannot determine whether or not that conversation took place or not.

Hon. J.K. Bett: I stand to apologise hon. Deputy Speaker.

Hon. Deputy Speaker: Please withdraw conversations which we cannot verify and just stick to your contribution to this.

Hon. J.K Bett: I stand to apologise. We need---

Hon. Cheboi: On a point of order.

Hon. Deputy Speaker: Hon. Chair of the Committee.

Hon. Cheboi: Hon. Deputy Speaker, I take great exception. I know hon. Bett might be bitter with the Committee work. It is not me who did this work but for him to make an allegation and to say untruth is to say that we need to pass this thing as early as yesterday because he does not seem to have learnt from the mistake which he did here. I have never discussed anything with hon. Bett much as he is my friend. I can never use anything that I am given as an example to others. The only thing is: We were given work and we have done it. Hon. Bett must withdraw. For him to say that I am not a Member of the URP or any other party is wrong. I was not inquiring into URP, ODM, CORD, Jubilee or any other party. I was a chair of a committee just like hon. Deputy Speaker. Nobody should allege that as you sit there, you represent a particular party. This is outrageous. Infact, I have never known in my entire life that a reasonable person can make a false accusation without blinking an eye. I was looking at his eye and he could not even blink. That is a shame. It is a total shame. It is cheap.

(Laughter)

Hon. Deputy Speaker: Order, hon. Bett! Please withdraw that statement and apologise. Do not take us back there. Remember this whole saga, this whole Report is about allegations being made that are not substantiated.

Hon. J.K Bett: I want to thank you very much. When I stand, I stand because we talked with him. I withdraw but I know he said that.

Hon. Deputy Speaker: Apologise.

Hon. J.K Bett: I apologise. I am saying that going forward---

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

Hon. Deputy Speaker: What is your point of order, hon. (Ms.) Mbarire?

Hon. (Ms.) Mabirire: Hon. Deputy Speaker, whatever we do in this House must make sense. You have just insisted that hon. Bett must withdraw and apologise and he has done so. What is the purpose of doing so, if I withdrew, apologized but you are still putting me on the list? What is the whole purpose of withdrawing and apologising? No one commanded me like you have done to hon. Bett that I should withdraw. I did it voluntarily because upon hon. Namwamba making his submission on what he knew on the issue I raised in the Committee, I was convinced that he had said the truth and for that reason, I withdrew and apologised. What is the purpose of telling hon. Members to withdraw and apologise and you still drag their names in the wrong list? Please tell me if this is a House of fairness.

Hon. Deputy Speaker: Hon. (Ms.) Mbarire, your point has been made. Hon. Members, allow hon. Bett to finish. We only have 30 minutes left and remember we agreed that we are going to start our comments and condolence at 5.00 p.m.

Hon. J.K. Bett: Hon. Deputy Speaker, I said at the introductory part that I concur with the Report of the Committee but I referred hon. Members to Page 55 and with your

permission I can read. It says: “There was a leakage of the Judiciary Report exclusively in *The Star* Newspaper” I withdrew on the same date. If the Chairman of the Powers and Privileges Committee was to apply the rule of law and the Standing Orders, the fact that I withdrew within the time frame, my name should not be appearing on paragraph 320. I take this with great exception that somebody can say he wants to punish people to set an example. Unless it has another political dimension, I will not take this the way it is.

Thank you, hon. Deputy Speaker.

Hon. Opiyo: On a point of order, hon. Deputy Speaker.

Hon. Deputy Speaker: Hon. Jared, what is your point of order? Let it be a point of order.

Hon. Opiyo: On a point of order, hon. Deputy Speaker. Going with the discussions here, since we are debating a list that contains names of Members, will it be right to continue discussing this list while they are present? This is because they are very agitated and take this discussion personally.

Hon. Kamau: On a point of order, hon. Deputy Speaker.

Hon. Deputy Speaker: Order, Hon. Members! Hon. Jamleck, what is your point of order?

Hon. Kamau: On a point of order, hon. Deputy Speaker. I rise under Standing Order No.97 on limitation of debate. Without anticipating the next Motion and given the fact that we only have 30 minutes left before 5.00 p.m. I ask if it is in order for us to limit debate to not more than five minutes instead of 10 minutes.

Hon. Oyoo: On a point of order, hon. Deputy Speaker.

Hon. Deputy Speaker: What is your point of order, hon. Oyoo.

Hon. Oyoo: On a point of order, hon. Deputy Speaker. I am a Member of this Committee and to the best of my reflection, hon. Bett never apologised and we can get a Member from PAC who can corroborate that I am right.

Hon. Deputy Speaker: Hon. Oyoo, that is information.

Hon. Ng’ongo: On a point of order, hon. Deputy Speaker.

Hon. Deputy Speaker: What is your point of order, hon. Ng’ongo? Is it a point of information or a point of order?

Hon. Ng’ongo: On a point of order, hon. Deputy Speaker. The Standing Orders require us to be truthful. I sit in the Public Accounts Committee and when hon. Bett made this serious allegation, I personally challenged him and another Member who also made an allegation to substantiate under Standing Order No.91. Hon. Bett promised to substantiate and he even promised that he would bring the journalist who told him that the information came from the Chair of the Committee but he failed to do so. He failed within the Standing Orders to substantiate and he should not come to the House and start misleading the House and the country. He is the originator of all these problems.

(Laughter)

He is the originator because he is the one who started all these allegations against the Chair of the PAC together with another Member whom I am not going to mention and now we are where we are. He wants to look good that he withdrew. He did not withdraw.

He stood by his word. He did not substantiate and therefore the Report of the Powers and Privileges Committee on him is correct.

Hon. Deputy Speaker: Hon. Members, we want to put a Question on hon. Kamau's proposal that we reduce the debates to five minutes per Member which will only be about three to four Members.

I know there was a ruling regarding when you can change the time and that we cannot do it midway when Members have already started debate. But using my position as the Speaker, I feel that a few more Members can speak on the matter and I have chosen to use Standing Order No.1. I will therefore put the Question.

(Question, that debating time be reduced to five minutes, put and agreed to)

Hon. Deputy Speaker: Five minutes it shall be.

Hon. Onyango: On a point of information, hon. Deputy Speaker.

Hon. Deputy Speaker: Hon. Osele, are you on a point of order or you are contributing?

Hon. Onyango: I want to inform.

Hon. Deputy Speaker: Who are you informing? Just debate if you have a point to make.

Hon. Onyango: Thank you, hon. Deputy Speaker. I saw a Member of Parliament sitting in this House under threat because we are on live coverage. My party Chair, hon. Mbadi, alleged that hon. Bett made allegations that he never withdrew. I want to confirm that I sit in PAC and hon. Bett withdrew next day when hon. Mbadi did not attend the meeting.

Hon. Deputy Speaker: Are we now going to be treated to what happened and what did not happen in the PAC? Can we have other Members who are not Members of the PAC?

Hon. Deputy Speaker: Hon. ole Sakuda!

Hon. ole Sakuda: Thank you, hon. Deputy Speaker. I think it is very wrong to have Members of the same Committee trying to bring their wars to the Floor of this House. Can we please proceed? Call the Mover, *tumalize hii kitu twende!* Do not allow this. Let us proceed.

Hon. Deputy Speaker: Hon. ole Sakuda, remember if you start with one language, you continue with the same to the end of your submission.

Hon. ole Sakuda: Okay, hon. Deputy Speaker. Allow us to proceed and finish this business rather than giving the Committee Members time to fight on the Floor. They are bringing the wars they were supposed to fight out there to this House and thus wasting our time.

Hon. Deputy Speaker: Who is not a Member of that Committee? Hon. Members, the problem I am experiencing is that Members have put their cards on this list and they have already indicated that they want to contribute on the Garissa issue. I have a lot of difficulty making the decision on who wants to contribute on this one and who does not want their card removed because they want to contribute in the next debate.

Hon. Wamalwa!

Hon. Wakhungu: Thank you, hon. Deputy Speaker. It is very disappointing to see Members of a Committee showing their differences on the Floor of the House. At the outset, I support this Report. The main objective of this Committee had nothing to do with the allegation of corruption but they were to look into issues of breach of privilege. When the Mover was moving, he attempted to highlight the Members who had breached privilege. He even mentioned them. Some of the reasons he advanced were that the people who had breached privilege are the ones who have been adversely affected when it comes to the recommendation.

The PAC is a very important Committee. This is a critical Committee which is always headed by the Opposition. It oversees public expenditure and it is important that this Committee embraces teamwork, unity and must not show any level of division. When I look at the recommendations, I strongly feel the Committee should have gone ahead to dissolve the entire PAC as opposed to looking at a few cases. When you say we are looking at the issue of continuity, the technical person is the clerk and so long as the clerk is there, work can continue.

This is not an issue of political parties. This is Committee work where both sides of the House are involved. For purposes of validity and reliability, I had expected the Chairman, when he was moving, to mention something on dissent. Looking at the Report, you realize that the nominated Member of Parliament had dissented. However, when he was moving, hon. Cheboi deliberately missed out this issue. He did not mention anything about it. The nominated hon. Member did not support the Report. So, in line with precedent and the traditions of this House it would have been important for him to highlight that Members supported this, but one Member of Parliament, hon. Zuleikha did not. She might not be here, but he should have mentioned that hon. Zuleikha dissented and that there is a minority Report. I even spoke to her. She indicated to me that she actually dissented. The Chairman ought to have given the reasons for her dissent. However, he ignored that. I find that to be completely out of order. He should have mentioned something.

Hon. Deputy Speaker, on the way forward, I had an issue with gagging and including some Members in the Committee. The Report is specific. It states that at least six Members should remain for purposes of continuity. However, I would have wished that this work is left to the Committee on Selection so that it exercises some discretion and decides the Members who are supposed to be in this Committee.

I also support this Report because it is going to be a wakeup call on many honourable Members who come up with wild allegations. This House is going down because of wild allegations. We have seen it in the Departmental Committee on Agriculture, Livestock and Co-operatives and in Tokyo. Some of us had gone to Tokyo and there were wild allegations. We were then asked to report what had happened. So, it is important to insist on substantiation. If we increase the threshold then we will not be entertaining people to come here with a view of messing up people's names for the sake of it. It is good that the Report is coming up with tough recommendations. In case you have allegations against any hon. Member, you must stand up and substantiate. When you withdraw, the way hon. Cecily Mbarire had done--- I am very sorry about what happened, but the reputation of that particular Member has already gone down. So, even if you withdraw at that particular time the damage has already been done. What will

happen to the reputation of the Member you have mentioned adversely? So, I request hon. Members to look at this Report objectively. Let us debate it objectively because it is for the purposes of this House. We also recommend that the Procedure and House Rules Committee comes in and---

Hon. Deputy Speaker: Your time is up.

Hon. (Dr.) Pukose: Hon. Deputy Speaker, I stand to support this Report. I thank this Committee for the work they have done. With regard to the number of meetings they held, it is quite commendable. Whenever somebody makes an allegation against any hon. Member, it is very difficult for that person to clean his or her name. A list was submitted to Parliament about those who were involved in corruption. Down there in the community or in the constituency the persons in the list are now portrayed in very bad image. It ruins completely the career of the Members of Parliament. So, we need to set standards and raise the bar so that any individual making any allegations is made to substantiate those allegations. Everybody in this House comes from his or her constituency. Each of us is here by rights. We have all been elected. We must respect each other. We must live according to the code of conduct of this House. Any allegation without substantiation is a very serious issue. If the Committee goes down to put it on record that a Member made this allegation, even if you withdraw that allegation, it should go on record that you made and later withdrew that allegation. The record must also show that you apologised. However, we need to appreciate the fact that the harm you have caused to the other Member is great. He is a father who has children and other family members. How do they look at it? How do they come to terms with the fact that it was alleged that you received bribe with a view to changing a report? How would your children feel? How would your wife or husband feel? All of us have our own standards. When we go outside there we strive to live up to our standards depending on whichever cadres we belong to. For that reason, we must be held responsible for our actions. I support this Report by the Committee. This is a job well done.

Hon. (Eng.) Gumbo: Hon. Deputy Speaker, I also stand to support this Report. However, even as I support this Report, may I point out that these matters have been canvassed. I wish more minimal Committee Members would listen to the recommendations of this Report. The issues that have been raised particularly with regard to leaderships of Committees are very important. Sometimes, I get surprised at how people find it very difficult to understand obvious things. It should be obvious that to be a Chairman of a Committee, you first have to be a Member of Parliament. However, a lot of times it appears like the Chairmen of Committees, for some reasons, do not regard Committee Members as equal to them.

As we go about debating this Report, I want to state that the issues that have come out, particularly with regard to the image of the House, sadden me. It affects me when we try to bog down an important Report like this one into issues which are not related. We must look at this Report as an opportunity for us to re-look at the image of Parliament. Some of the issues which have come out of the matters that the Committee on Powers and Privileges was looking at are not good for the image of Parliament. In fact, there have been cases when this matter was going on that some of us were even afraid out there to describe ourselves as Members of Parliament. This is because it imposed collective guilt on all of us. We should take this Report as an opportunity for deep self-reflection as

Members of Parliament. I want to believe that these positions that we hold are, indeed, very privileged positions. It is not every Kenyan who gets an opportunity to come to this House. In fact, as an engineer, I can tell you that if you were to represent the number of Members who have passed in this House in comparison to the population of Kenya, it is an insignificant proportion. So, that is a privileged position.

There is nothing which could be as bad as Members of Parliament, being privileged as we are, not seeing anything wrong with abusing those privileges. I want my colleagues who have been mentioned adversely in the Report to use this time for self-reflection. They need to ask themselves whether this Report could have been done differently. If I am the Chairman of a Committee, can I relate with Members of my Committee in a different way? The fact that you are the Chairman of a Committee you are just nothing, but the first among equals. You have been elected. The presupposition here is that any Member of that Committee can be a Chairman of that Committee. However, when Members of a Committee start to see you in the light that you do not regard them with respect---We have heard all these things. We interact with Members of Public Accounts Committee (PAC) and, indeed, we hear complaints. Some Members of the Committee have complained that on certain days they were not treated with some respect. So, I want us to look at this as an opportunity for self-examination and re-evaluation. We need to look at how we are going to improve the image of Parliament. We need to ensure that the investment by Kenyans in terms of trusting us is reinforced instead of being negated. I support.

Hon. Deputy Speaker: These are the last ten minutes and I want to give them to the Mover unless you are magnanimous and you want to donate them. Where is hon. Andrew Mwadime? Are you donating to him a minute or two? You are a Member of the Committee?

Hon. Cheboi: Hon. Deputy Speaker, I will donate to hon. Mwadime, hon. Alice Ng'ang'a, the Member for Turkana and my good neighbour here; the four of them. I will give a minute to each one of them.

Hon. Deputy Speaker: Just one minute each. You are almost going to donate everything and you will have nothing for yourself. Who is the first one? Hon. Mwadime is already up.

Hon. Mwadime: Thank you, hon. Deputy Speaker. Mine is just a point of information and clarification to my Deputy Minority Chief Whip. It is about continuity. Continuity is not just a matter of the secretariat. You have heard from the Report that this Committee, despite the allegations, did some good work. These Members had to start their own style, without which they could not move as fast as they did. Therefore, continuity is a must.

Hon. Deputy Speaker: Who was the second one? Is it hon. Alice Ng'ang'a? Alice, we do not seem to see your card.

Hon. (Ms.) A. W. Ng'ang'a: Thank you, hon. Deputy Speaker. I support the Report.

It is high time we had faith in ourselves. If we do not have faith in ourselves, then who will have faith in us, as Members of Parliament? If a Committee was formed to investigate this matter, we should give it a chance to express whatever it found because it did due diligence. The matter may be hurting to some of us, but, at least, we gave them

that opportunity to do look into the issue. As a House, we should respect them and the work that they did. However, if we will be saying that this report is good because it does not affect you, then we do not have faith in ourselves. We should start having faith in ourselves and whatever we discuss here, good or bad, it should be good enough.

Hon. Bunyasi: Thank you, hon. Deputy Speaker for allowing me to use the minute that was granted to me. This was a very critical Committee. They had a series of sessions. I want to put it on record that we are missing a great opportunity. The lessons that will be learned from the findings of this Committee must be applied in generality, in a way that tries to fix the problem in the entire Parliament. The Member for Rarieda has said, in a sense by implication that this should be dealt with. He is worried that as a Member of Parliament, going out there, it is not every Member who is guilty. Indeed, even within the PAC, the guilty know themselves. You cannot pass a common or general guilt across everybody. I take great exception to that.

Secondly, it means that we still have not tackled the problem of how we are going to deal with this issue particularly beginning with people who do not respect Standing Order No.91. That is the gatekeeper to privilege in this House. You should not say what you cannot substantiate. You should not speak out something that cannot be substantiated. We have lost an opportunity to fix the big problem; the elephant in the House, that is still outstanding.

In finalising, I hope the Chair can refer to specific provisions in the Standing Orders or the law. He is a lawyer.

Hon. Deputy Speaker: You are soon running out of minutes yourself, hon. Chair of the Committee. You have donated everything.

Hon. Cheboi: I will donate one minute to hon. Joyce.

Hon. Deputy Speaker: All right. Hon. Joyce Emanikor is already up.

Hon. (Ms.) Emanikor: Thank you, hon. Deputy Speaker. Being a Member of the Powers and Privileges Committee, my support is fully registered. I support what hon. Wamalwa said that this is for the good of this House.

There are many lessons that we need to draw from this Report in terms of mutual respect, confidentiality and equity among Members. We cannot just wish away the breach of privilege that we were investigating as mischief because a Member said that this is trivial. We should think of the damage caused to the Members against whom the allegations were leveled. We should also think of the image of this House and how it was destroyed through the media. We propose to dissolve the PAC and the discretion of selecting six Members is left to the Committee on Selection. From the horse's mouth, they said that they have lost confidence, trust and it was impossible for them to work together. They said that there was need to change leadership. From their own mouths, the acrimony is not bearable anymore. The decisions that we made are best besides our investigations on what the Members said.

Hon. Deputy Speaker: Is that hon. Anyanga? No, he does not have any more minutes to give to anybody.

Hon. P. E. O. Anyanga: No, hon. Deputy Speaker, the Floor is mine, please. Thank you for allowing me to contribute on this important document. I fully support this particular Report being a Member of the PAC. I also want to register that I am one of the senior-most Members of that Committee having served in the last Parliament in the same

Committee. This Committee should be dissolved like yesterday. We cannot be in a Committee where we practise witch-hunt, rumours and do everything that can malign people's names. If you connect me to corruption, I can even hang myself because that is not me.

(Laughter)

However, let me take you back. Let this Committee be disbanded like yesterday.

Hon. Deputy Speaker: Please, hon. Cheboi, we are not addressing the issue of hon. Anyanga hanging himself. Let us leave it.

Hon. Cheboi: Thank you, hon. Deputy Speaker. I want to thank the Members. Nobody should look at me directly in the eye and think that it is a decision I made on my own. We made it as a Committee.

Lastly, hon. Wamalwa raised something very important, which might have escaped my mind. Hon. Zuleikha registered dissent on just one particular issue. She did not want the Committee to be dissolved. That was the only thing. Otherwise, all the 13 Members of the Powers and Privileges Committee signed the Report including hon. Zuleikha. I thank everybody. I hope this becomes a turning point, so that we can have more self-respect with one another and earn respect for the House as well.

I beg to move.

(Question put and agreed to)

MOTION FOR ADJOURNMENT UNDER S.O. 33(1)

GARISSA UNIVERSITY COLLEGE TERRORIST ATTACK

Hon. Deputy Speaker: The next Order is the Motion for Adjournment. Hon. Kang'ata, proceed.

Hon. Kang'ata: Thank you, hon. Deputy Speaker. I rise to move this Motion for Adjournment. In the first instance, I wish to pass condolences to the families who lost their loved ones, the students and police officers. In particular, I also take this opportunity to pass my condolences to the people of Kiharu Constituency. We lost five students. We also have one police officer at Nairobi West Hospital. I pass my condolences to the general Kenyan nation as well.

This is the largest attack in terms of casualties and injuries after the 1998 bombing here in Nairobi. Therefore, it calls for us to discuss this issue in a more cogent manner. I wish to give my proposals on how we can stem these attacks. My first proposal is about the Recce Squad. It is in public domain that the people who salvaged this situation were the Recce Squad. In that regard, I would propose that as a House we increase the number of the Recce Squad members in this country. I belong to the school of thought that believes that having about 15, 20 or 30 members of that elite squad cannot make sense. Assuming the attack is multi-locational, maybe it is in Garissa and Mombasa

simultaneously, that number cannot be effective. Therefore, I would propose we increase the number of members of the Recce Squad.

I would also propose that as a House we honour ---

Hon. Deputy Speaker: Hon. Kang'ata, it seems that microphone is not very clear. Can you come to one of the microphones here? It is clearer.

Hon. Kang'ata: Thank you. I would also propose that to stem those attacks this House considers coming up with a special package for these heroic people who went to save and salvage that situation in Garissa. I have also agonised over how we can help the students. One thing I noted is that almost 90 per cent of the students who were affected tended to come from very poor families. That tells you a very major issue. One, that those people who tend to go to Government-sponsored programmes come from poor families. They are only able to reach those stages on the basis of their academic credentials. It is time as a Government we put more effort towards supporting students who are doing regular programmes. For this particular instance, we may consider coming up with a small token for the students and police officers who were affected. I would also propose that we transfer those students to good institutions so that they do not go back to that institution.

I think it is also time for us to consider arming private guards. We can come up with proposals to ensure arming private guards is not abused. How? For instance, we can say you have to be trained in Kiganjo, you have to be experienced and you may have to get better pay. We may set up a scale. Why do I say so? Presently, there are so many private citizens having guns licenced by the Government. However, that is a gun to protect one life. I do not see anything wrong if we were to give a gun to a guard who is going to use it to protect more people. Presently when you go to various private or public establishments, you find an *askari* with a *rungu*. In case of an attack, that *askari* cannot do anything. We can arm these people and then come up with a system to ensure that those guns are not used for other things.

I also feel this is the time to tell our army to be accountable. From my own observation, I think the army did not do a good job this time. Why do I say so? Garissa University College is about 200 metres from the army barracks. It is said they reacted and started to engage those people from six o'clock. After so many hours, it is only the police officers from the Recce Squad who came and conquered these people. Personally, I felt embarrassed with our army. As a National Assembly, we probably need to hold them to account for some of the things that happened there.

I also propose that we come up with a commission of inquiry. We have had several attacks. We have previously had attacks in Garissa, Wajir, Mpeketoni and Westgate. We need a specialised commission comprised of top security experts and even political scientists. I draw the attention of Members of Parliament to a book that is written by a person called Samuel Huntington. It is called *The Clash of Civilisations and the Remaking of the World Order*. He is arguing that we may reach a stage where there will be major fights between civilisations. In Kenya we may have immersed ourselves into a battle that is so big and complex that it should have been left to people of a more sophisticated state as opposed to ours which is a growing State. We are yet to perfect our State apparatus. If you were to agree with the thesis of Samuel Huntington, maybe that is

an issue that the commission of inquiry would dig deeper to see whether or not it makes sense for us to be in Somalia.

I also belong to the school of thought that believes we need to give the police better logistics machinery. It does not make sense for us to have a situation where a police helicopter cannot be stationed in Mandera. I do not see why. I do not see why we do not have a police helicopter in each and every county. If I was to be asked, each and every county must have a police helicopter and more sophisticated weaponry. Why? That will ensure that in the event of an attack there will be rapid reaction. For example, in this instance it is said the police came all the way from Nairobi with a helicopter. They flew past 1p.m. To me that shows we have not given lots of money to our police.

We had the Budget Policy Statement (BPS) the other day. One item that I noted was that we have allocated almost Kshs90 billion to our army. The itemisation of that allocation is towards payment of salaries. It is about recurrent expenditure. Capital expenditure was nil. I then asked myself: When you give Kshs90 billion to the army and the results you get are continuous attacks to Kenya, what is wrong? I would propose that some of that money be given to the police so that we ensure they have better equipment. Alternatively, we may have to do what Ethiopia and Uganda have done. We give the army some civilian duties that may include a duty to counter the *Al Shabaab*. The *Al Shabaab* is not an internal threat *per se*. It is an external threat from Somalia. If that is the case, it therefore falls under the work of the army. Therefore, it is my view some of that money should be expended towards homeland security. It would also make more sense for us to recast various legal provisions and policy issues to ensure that the army can perform some of the duties in regard to protecting Kenyans locally.

I have also noted the issue of security adequacy in some of our public institutions. We have read in the newspapers that there are people who have been plotting against us here in Parliament. I am not a security expert, but if that was to be the case, one would wonder as to whether the security within Parliament is adequate. There are several other institutions which are facing that imminent danger from various persons.

If that was to be the case I would propose that we have more security. We flood this country with security officers. In such kind of an instance we may deter people with such bad minds. It does not make sense for Kenya to always be attacked when Ethiopia has never been attacked and Uganda had only one attack. I therefore call upon my friend, hon. Keter to second. If he is not in, I call upon hon. Jamleck Kamau to second.

(Loud consultations)

Hon. Deputy Speaker: Order, hon. Members.

Hon. Kamau: Thank you very much, hon. Irungu Kang'ata. This is a very serious matter for the nation.

An hon. Member: It belongs to the House

Hon. Kamau: It is for the House actually. Let me start by conveying my condolences to the families of all those Kenyans who lost their loved ones in Garissa. That particular day was very serious for this nation. It is a day that we would not want to go back to in future. Everything must be done by the Government to ensure that these kinds of attacks by those terrorists do not happen again. In addition to what my good

colleague from Murang'a County, hon. Irungu Kang'ata said, the issues that are before this country at this time to do with terrorism must be fought by all Kenyans. Terrorists do not know religion, race or colour. Once they strike, they do not care who they are killing. It is so regrettable that these people are coming to kill our own children who do not even understand what is there between this country and Somalia.

I must agree that the specialized Recce Unit needs to be expanded and even offered more training. This is because that team appears to be able to take care of terrorists. Once they went there, within 45 minutes they were able to extinguish all those terrorists and all was well. I am told it is 17 minutes. When I was told that they were being paid Kshs500 as an allowance, it sank my heart. The Government must come up with proper mechanisms on how these people who are risking their lives to save our own people can be remunerated in a better way. I suggest that this House sits down through the Budget and Appropriations Committee and comes up with a budget for them so that they can be able to be paid properly.

The other issue that shocked me was that of their transportation. How it took them all those hours to get to Garissa and they were ready 30 minutes after the attack has shocked so many Kenyans. Indeed, it is important for us to have some specialized choppers for them so that once there is an attack anywhere they can respond within the shortest time possible so that they can be able to deal with the terrorists.

The Government needs to look into the issue of corruption within those working in our borders in the Department of Immigration. There will come a time when in recognition of our students, we will come up with a policy whereby all those university students who are graduating and who would be willing to join the Immigration Department will be trained and offered some courses that deal with terrorism and security. When you go to other countries, you find that immigration officials are police officers. It has come to a time when this country will also need to have that because these are people who can take care of the country properly.

On the issue of Dadaab camp, my thinking is that the camp should be closed as soon as possible. It should be closed like yesterday. The camp should be taken inside Somalia so that we can have our border taken care of properly. If this is the area where terrorists are training to kill our people, I think it is only a Government which does not understand what it is doing that would want to keep this camp there. Let the camp be taken to Somalia so that these terrorists can do their business there.

Finally, I urge the Government to ensure that hospital bills are taken care of. At the end of the day, it is not their mistake that they were attacked.

(Question proposed)

Hon. Deputy Speaker: Hon. Members, before I open the debate and condolence messages from you, I have a short Communication.

COMMUNICATION FROM THE CHAIR

IMPLEMENTATION OF RESOLUTIONS MADE BY COMMITTEE ON PRIVILEGES

Disclaimer: *The electronic version of the Official Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor.*

Hon. Deputy Speaker: Hon. Members, now that the House has adopted the Second Report on Powers and Privileges Committee on alleged breach of privilege and code of conduct by the membership of PAC and made the resolutions as recommended by the Committee including resolutions for the demand for an apology at the Bar and reprimand by the Speaker, I wish to guide the House as follows:-

First, all the resolutions of the House will take effect immediately. Two, hon. Ababu Namwamba, hon. Omondi Anyanga, hon. Ahmed Abbas and hon. James Bett, will be required to give apologies to the House at the Bar for making unsubstantiated claims before taking their seats in the House in the next sitting which should be tomorrow morning at 9.30 a.m. Three, the Speaker will also reprimand the four Members at the Bar upon tendering their respective apologies. Four, the hon. Ababu Namwamba, hon. Omondi Anyanga and hon. Arama will also be required to give apologies to the House at the Bar for discussing Committee proceedings outside the House. Five, hon. Ababu Namwamba and hon. Omondi Anyanga may choose to combine their two apologies together. Six, save for today's sitting, none of the Members who have been required to give apologies will be allowed to sit in the House or in its Committees before submitting to the two resolutions.

May I take this opportunity to advise the said Members to ensure that their respective apologies are couched in decorum and respectful manner befitting this House. In addition, hon. Ababu Namwamba will take the opportunity to explain himself as you remember a Communication from the Speaker and to also let the House understand what kind of game was going on by forwarding a letter to the Speaker's Office and then withdrawing it. The Speaker would like an explanation given to the House on the matter of the letter.

(Resumption of Debate)

Hon. Members I thank you. I have 68 requests. We want to agree; are three minutes sufficient? We are giving a condolence message.

(Question, that the debating time be reduced, put and agreed to)

Hon. Deputy Speaker: Hon. Patrick Makau is the first on my list.

Hon. King'ola: Thank you, hon. Deputy Speaker. May I join my colleagues in condoling with the families of those who lost their children in Garissa? I am pained to explain to anybody why tomorrow I will be burying two brilliant young men who lost their lives there. Only two months ago, the two young men were involved in a research I was carrying out in Mavoko to identify persons without Identification Cards (IDs) and voters' cards. The families of those young men had a lot of hope in them, that they would be future leaders and maybe Members of Parliament or engineers but they are no more. I know that we are talking about forming commissions but look at Westgate. We had a commission which never sat; it never gave us any report. Kenyans died and there is nothing coming out of that commission. We cannot sit here and form commissions that

do not give us reports. I want to tell this House that in most of the heinous acts being committed by *Al Shabaab*; we have men and women in this House who are involved.

(Hon. Deputy Speaker left the Chair)

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

Sometime last year, around November, a senior Member of this House went to Eastleigh and was recorded by the Kenyan media saying that the *Al Shabaab* should stop bombing Eastleigh and instead go and bomb Machakos. We took up the matter but nothing happened to him. We are now here talking about Garissa. From the intelligence report that we got, the young assailants were staying in a hotel associated with a high ranking Member of this House. We cannot continue sitting here, burying our heads in the sand when we know the culprits. They even address us, Kenyans, through the media, telling us that we should now agree with *Al Shabaab*. We cannot sit in this House and listen to hon. Duale. He must know that I am calling him a terrorist. He is the murderer of those Kenyans who died in Garissa. He must be held responsible. I want the President to sack this man with immediate effect. I am a victim. I have lost so many young men in Mavoko just because of a person who cannot be taken to jail. The sovereignty of this nation is getting lost. Who is above the law in this country? I want to advise the Government of Kenya to take stern measures against anybody, including leaders, involved in such activities. The *Al Shabaab* is going to finish Kenya. Unless the Government stands up, there is no way these killings will stop. Yesterday, it was Garissa; tomorrow it will be this House.

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

Hon. Members, we have three minutes.

Hon. Members: On a point of order!

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Members, you cannot raise a point of order when the hon. Member has already finished contributing.

Next on my list is the Member for Kandara, hon. Alice Wahome.

Hon. (Ms.) Wahome: Thank you very much, hon. Temporary Deputy Speaker.

I want to join my colleagues who have spoken in sending my sincere condolences to the families of the deceased, including those who are hospitalised and those who have left hospital as well. These are truly sad times for the country. I agonise and feel the pain of the parents. The victims were young brains with big hopes for themselves and their families. Those hopes were snapped in a day not by human beings but by beasts of twisted minds and thinking.

Hon. Temporary Deputy Speaker, terrorists are faceless, heartless and inhuman beings who live in our midst. They have families within us. They also enjoy our facilities and train in our country. When the central region of this country lost young men through the purge on *Mungiki*, the security apparatus was accused of being involved. The families of the *Mungiki* adherents were not consoled. Their views were not taken into account. It is time we took very firm and decisive action against criminal gangs coming up through

religion. We cannot continue to say that there is no element of radicalisation through Islamic teachings. That is something we must face. Parents, Muslim preachers and members of the communities must now come out and join Kenyans as we say enough is enough. Even if they are our children, we must say that they do not belong to a civilized community. As a country, we have seen that there is quiet acquiescence---

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Your time is up.

Hon. Members, I need to remind you that we have decided that each Member speaking shall have three minutes. The matter before us is of concern for every Member. I have 67 requests. All Members are equal in this House. Therefore, I will go as per the request list.

Next on my request is the Member for Kiminini. I know that you do not have a card.

Hon. Wakhungu: Thank you, hon. Temporary Deputy Speaker.

May I send my message of condolence to all those who lost their lives and condemn this act of terrorism?

(Loud consultations)

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Order! Order, hon. Members!

Hon. Wakhungu: Hon. Temporary Deputy Speaker, in Trans-Nzoia County, we lost nine people. My own constituency lost two people – one Mr. Oliver Maina and one Ms. Diana. It is so painful. The victims were young Kenyans who had gone to seek knowledge for a better future. Unfortunately, they went home in coffins. The victims in my constituency were from very poor backgrounds. If you got the opportunity to read today's newspaper, you must have learnt that some of them could not even get a place to be buried. The mother of Mr. Oliver Maina is a single parent who sold everything to pay school fees for her son, so that he could improve their welfare. Unfortunately, he was taken back in a coffin. It is the responsibility of the Government to provide security. What happened? The *Al Shabaab* tried to speak to the parents of their victims before killing them. They spoke to a parent of one victim and told him: "We are killing your children today. Tell the president to withdraw the military from Somalia."

It is high time we did a monitoring and evaluation report as well as a cost-benefit analysis to see whether we should continue having our military forces in Somalia or we should withdraw them. It is so painful. We cannot continue losing lives. We saw it at Westgate, Mpeketoni, Mandera and Garissa. For how long are we going to mourn? This is the time we must make a decision. It is very painful to lose our loved ones. We condemn those acts of terrorism.

For heaven's sake, could our colleagues from the North Eastern region name the financiers and sympathisers immediately? If possible, they should help the police in investigation so that we get to know the people who are killing Kenyans. It is so unfortunate and painful. This is the time we should come together as a nation. We should not politicise the matter; we should have a solution instead. I have no words. Tomorrow, it might be here in Parliament. What should we do? Where was the National Intelligence Service (NIS)? The NIS was responsible for gathering information to mitigate such risks.

Hon. Temporary Deputy Speaker, it is high time we closed the refugee camps in this country. Even if we are signatories to the 1951 Refugee Convention, we have done enough for the refugees in those camps. It is time the security of the country took precedence. This is the time we should bring to Parliament all the international treaties that this country has signed.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Chris Wamalwa, your time is up. Next time you get your card back, please, notify the Clerk.

Hon. (Ms.) Ibren: Thank you, hon. Temporary Deputy Speaker. Let me also join my colleagues in condoling families and friends of the affected ones. It is really painful for us to discuss this issue in this House. Time and again, we always discuss issues. The *Al Qaeda* leader, Dr. Ayman al Zawahiri, is an eye surgeon. The *Al Shabaab* mass murderer in the Garissa massacre, Abdirahim Abdullahi, is a lawyer. That shows us that a person of any profession can be a terrorist; it is not just the Madrassa teachers and students. *Al Shabaab* spokesman, Ali Dheere, is a Somali citizen.

One of the master minds of the Garissa massacre, Mohamed Kuno is a Kenyan. The arrested one, Rashid Mberesero is a Tanzanian. That should tell us that terrorists can be from any country and not only Somalia.

One of the founders of *Al Shabaab* is Sheikh Hassan and he is aged 75 years. There is Abdirahim Abdullahi who is 23 years old. That should tell us that a person of any age group can be a terrorist. The Ugandan LRA fugitive is a Christian while Ahmed Abdi Godane is a Muslim. One of the terrorists arrested in Kayole in 2013 with assorted weapons was a Christian. This shows us that a person of any faith can become a terrorist. What am I putting across?

(Loud consultations)

Protect me, hon. Temporary Deputy Speaker. What I am saying is that terrorism goes across religion, region, tribe, race or groups.

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

Hon. (Ms.) Ibren: I am very bitter. Allow me to finish. Kenyans share 682 kilometers of common border which---

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

Hon. (Ms.) Ibren: Ethiopia shares 1,622---

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Order, Members! Order, hon. Ibren! When the Chair is upstanding you should freeze, unless, you do not know the rules of this House! If you have any intercession, please, let me know through your intervention. Let us not shout at each other. Let us do the right thing at the right time. Let us be sensitive in what we say. I am sure we know the procedures. Do not shout. If you have an issue I will definitely pick you up.

Her time is actually up. As for hon. Gumbo, I wish I saw you on the intervention. I would have given you a chance to speak on that issue.

Hon. (Ms.) Odhiambo-Mabona: Thank you, Temporary Deputy Speaker. I want to speak very shortly to this issue. First of all, I want to send my condolences to the families that are bereaved. It is unfortunate that we have lost young promising Kenyans. This is not the first time we are dealing with the issue of terrorism. Therefore, it is

understandable to have the kind of emotions we are experiencing here. It is because people are feeling frustrated.

Sometimes the Government has knee-jerk reactions to very serious issues like this one. We passed in this House the Victim Protection Act which I sponsored. It provides for the setting up of a fund to take care of the victims like the ones we have seen. Instead, the Government is sort of giving out money like it is charity. It is not charity; it is a right under that law and we must appropriate funds as Parliament to make sure we do not operate that way.

It is unfortunate that issues of terrorism are always linked to the issue of corruption. Unless we deal decisively with the issue of corruption, we will always see these issues happening all the time. That is why I was even horrified when today we passed a Report that seemed to suggest that the Committee of Powers and Privileges does not have mandate on issues of corruption and yet it actually does. For that reason, I did not support that report even though I was not on record.

We need to take the issue of terrorism seriously. I listened to a security expert saying that even at a basic level in this Parliament most of us do not even know where that door is leading to. I think the Government is not taking these issues seriously. If as a Parliament we do not have concerns or knowledge, what about secondary schools? The other day, we lost a girl because of a stampede; there were no proper exits.

Finally, I want to tell Members that the people who are causing these, their main aim is to divide this country along religious lines. When we react the way we are reacting, we are actually falling into the trap of terrorists. I am a Christian and I maybe aggrieved, but let us remember that we should not follow the script of the terrorists. Kenya is greater. Let us not move in that direction. I will not speak populist language; I will speak a language that unites this country. Let us remember that on the whole, Christians and Muslims have lived well.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Member for Nandi Hills, hon. Alfred Keter, the Floor is yours. His card is here, but he is not in. Next is hon. Kamama.

Hon. Abongotum: Thank you, hon. Temporary Deputy Speaker. Three minutes are actually not sufficient, but I will start by passing my condolences to the bereaved families. I also want to commend Corporal Arap Sang who fought gallantly together with his colleagues to end that siege although he did not manage to survive. He died after the terrorist exploded himself.

As a country, we have not learnt a lot. The USA learnt a lot after the 9/11 Bomb Blast and came up with robust and tough decisions to deal with terror. The Garissa Massacre must teach us a lot of lessons. We must deal with terror firmly, decisively and in the shortest time possible we should be able to deploy our officers to deal with that terror. I propose that we should actually take between two to two and half hours to reach any part of this country when it is affected by terrorist attacks. The officers who were deployed could have done a better job, but they were not deployed at the appropriate time. Our security officers must up their game. The Inspector-General, his team and the Cabinet Secretary must come up with robust policies of dealing with this terror in future. I propose as follows: First, we need to close Daadab Refugee Camp as a matter of urgency. In fact, we should be relocating to Doble, or transfer this people to Djibouti or

Eritrea. They do not have to be in Kenya all the time; the 20 years they have been here is sufficient. Therefore, we want them to go to another country.

We also want to devolve the Recce team to the entire North Eastern and Mombasa because these are the hot spots. We want them devolved as a matter of urgency. We want to secure all our universities and schools. We know that some schools and universities are faced with this threat. We want to de-radicalize our youth. As we speak, even young girls who are doctors and lawyers are getting radicalized.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Chairman, thank you. Well spoken. Let me get Hon. Cecily Mbarire.

Hon. (Ms.) Mbarire: Thank you, hon. Temporary Deputy Speaker. Let me add my voice to the debate by giving my sincere condolences to all the bereaved families through the act of terrorism in Garissa. From where I stand, I am pained because in Runyenjes Constituency, we lost Caroline Karimi, a daughter of my CDF Chairman.

In terms of response to acts of terrorism, Caroline Karimi may not have died had help come early. The postmortem report showed a shot on her arm and one leg. Had help come early, she probably would be alive and kicking today. On Friday and Sunday as mourners went to that house, I witnessed a lot of anger in my constituents. I believe the same applies to other parts of this country. People are wondering why it took seven hours for the Recce Squad to get to Garissa to give help. We must ask difficult questions and we want those who are responsible to give us answers. We want answers. I hope the Departmental Committee on Administration and National Security, led by hon. Asman Kamama, will take serious note of the pain that Kenyans have and get to the bottom of this matter. It cannot end with an Adjournment Motion. It must go beyond an Adjournment Motion. They are used to us coming here, make noise and cry in an Adjournment Motion and then, when we go, another act of terrorism is perpetrated. Hon. Kamama and the Committee on Administration and National Security must take action. The Committee must do its work.

Finally, we have our very own citizens hosting terrorists in this country. There are parents who know that their children have gone to train as terrorists, but they do not speak out. Leaders are aware of who is financing terrorism, but they do not speak out. They wait until it happens and then they speak out. We need to ask questions. Hon. Members, let us not pay lip service to this issue. It is a matter of life and death. Our lives are in danger and thus, we must ask difficult questions. How come people are now willing to say who is doing what? Why was it not happening before? Why did it have to take 147 souls?

(Loud consultations)

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Thank you. Do we give her more time? I know there are other Members who feel like hon. Cecily Mbarire. Since you know what she wanted to say, let me give this opportunity to a different Member. Thank you so much. Hon. Stephen Mule, Member for Matungulu, is next on my request.

Hon. Mulu: Thank you, hon. Temporary Deputy Speaker for giving me this opportunity. I wish to pass my condolences to the families of the students who passed on in Garissa. I confirm to the nation and the House that I lost one of the most brilliant

students in Matungulu. We are burying him tomorrow. I welcome the Members to Matungulu to give him a decent send-off.

This is a hard time that as House, we do not need to adjourn at 5.00 p.m. to discuss security. If a serious Motion about this country is brought before the House, we need to adjourn everything else and deal with the issue. We have buried our heads in the sand. We need to ask the hardest questions ever.

I will begin with this. I cannot understand who gave authority to the Inspector-General of Police, the Leader of the Majority in this House and the Cabinet Secretary, Maj-Gen. Nkaissery to board a flight to Garissa having left the Recce Squad in Nairobi as our children were being killed. We must be told the truth. The second question that we need to ask as leaders is this: Who is mis-advising the President of this country? The President is the Chairman of the Security Council. I can foresee sabotage within the Government to make sure that this terror continues. The third question is: Who are these people who are ready to speak out now, and who never spoke after the Westgate, Baragoi, Lamu and Mpeketoni attacks? Why are they speaking out now? They should be interrogated like any other terrorists. They should tell us who are harbouring those terrorists. This must be brought to this House without fear or favour.

It is an embarrassment for a leader to wait for 147 students to die to tell us that he is going to tell us the sympathisers of the terrorists. You must be a terrorist yourself! I urge the Government, with immediate effect to form a commission of inquiry and call security experts to sit down to fix the security of this country. If 147 students can die at an early stage of their lives, I assure you that we are going to see more if we do not act.

Finally, the Government must stop politicising terrorist attacks. People must take responsibility. The culprits must be jailed and we know them. That way, we are sure that this country is secure. I plead with the President not to listen to people who are playing to the political gallery. He should take charge and make sure that Kenya is secure.

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

Hon. Lentoimaga: Thank you, hon. Temporary Deputy Speaker. I also want to join my colleagues in sending condolences to the families of the victims. Just like the other Members have said, we are pained. We feel very disappointed. Families are in anguish because of those killings. Even the people of Samburu are affected. It is only that they were lucky. We had four students in the campus, but they jumped over the fence. They were just lucky.

The question we should ask ourselves concerns intelligence. We are privy to information that there was enough intelligence right from December last year that there were going to be an attack at the Garissa University College and other universities. This is to an extent that one student from outside Garissa was requested by his parents to stay with some parents in Garissa. He did that and survived the attack. That intelligence should have saved the students had the County Commander or the County Security Committee heeded it.

The problem in this country is not just the Cabinet Secretary or the Inspector-General of Police. In my view, the problem is below the IG to the county security committees. They are not working. We should not wait until people are killed then we start lamenting. The county security committees should take responsibility on this issue

because they were warned. A notice was even put at the gate of the university. The university was informed that there would be an attack. If they heeded that warning by the NIS, we would have saved the students.

I want to appeal to the leaders of North Eastern that this is the right time. We cannot continue avoiding the issue of being divided. We can only tell people that this is not a religious war, but finally, you never know. This may get out of our hands. Kenyans will not continue behaving the way they are behaving now. When the terrorists were killing the students, they asked them to recite the Quran. If one could not do it properly, he or she was shot. Our colleagues should come out and assist the country to identify the people who are behind those atrocities against Kenyans.

Corruption is also part of that. When I was a District Commissioner in Garissa, there were brokers who did that work. They were paid to do that work.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Thank you. Your time is over. Hon. Members, plan for three minutes.

Next is the Member for Homa Bay, hon. Peter Kaluma. Is he not here? Hon. Members, you cannot be leaving your cards here. You are going to follow my list. I will then give the Floor to the Member for South Mugirango, hon. Manson Nyamweya.

Hon. Nyamweya: Hon. Temporary Deputy Speaker, I am very saddened. As I speak today, I have lost two students from my constituency. One person is seriously sick in hospital. This war is not ours. It is for the President. Innocent blood has been poured because the attackers are fighting the Government.

This country has a very serious problem. The first, the second, the third, the fourth up to the tenth problem is corruption. The NIS is given money. What do they do with it? There is enough money to buy choppers but where does it go? We have a challenge. As a nation, we need to be united. We should not be threatened that we are going to be divided. If we are going to be divided in order to have security, so be it. We can have two countries. Those who want to be Muslims can go away because you cannot put us together with this animosity. I come from Kisii. People are mourning and are very bitter. This country is divided now than ever before. Tribalism has increased more than at any other time.

It is better to go to Tanzania or Uganda and have peace there than to be in Nairobi. It is difficult to go to Garissa today. What are we saying? Teachers and students are not there and we say we are in one country. We are pretending. Let us face the reality. The Government should fight those people and win the war. If the Government is not ready to fight the war, then something has to be done because we are already divided by activities and action. I urge the President to compensate the victims. The soldiers want to be compensated. The innocent children who were killed were going to be breadwinners for their parents. They were going to help their communities. There is need for the Government to compensate the families of the victims of the terrorist attacks.

With those few remarks, I sincerely send my condolences to those who have been affected.

Thank you, hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Thank you. Next on the list is the Member for Nyando, hon. Frederick Outa.

Hon. Outa: Thank you, hon. Temporary Deputy Speaker. I stand here to send my condolences to the families of Kenyans who lost their lives in Garissa. My constituency lost a young promising boy at the age of 27.

(Loud consultations)

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Order, hon. Members! Hon. Mule, you have spoken. Please allow the rest to listen.

Hon. Outa, carry on.

Hon. Outa: Hon. Temporary Deputy Speaker, we lost a young promising boy at the age of 27 in that cowardly attack by *Al Shabaab*. It is high time we told the Government that they have failed in their duties to protect Kenyans and their property. We have lost lives in Kenya and the Government is slumbering day in, day out. We have realised that changing the Inspector-General of Police and other high ranking officials is not going to solve the problem. We must deal with this problem squarely and perpendicularly. The reason I am saying this is that leaders from northern Kenya, and especially hon. A.B. Duale, made some utterances after the Garissa attack; implying that he knows the sympathisers and financiers of *Al Shabaab*, and that he would name them. We will give hon. A.B. Duale not more than two weeks from now to bring the names of those persons to the House so that we know who are killing innocent Kenyans. If hon. A.B. Duale does not bring those names, he must step aside as the Leader of the Majority Party and be arrested alongside the terrorists. The war we need to fight has reached a climax and we should not bury our heads in the sand. Muslims must now stand up and be counted; they must tell us who these fellows are.

Hon. Temporary Deputy Speaker, if what I read in *The Star* is anything to go by, a helicopter which was supposed to be for security purposes carried beautiful ladies to Mombasa, making it impossible for our special security officers to get to Garissa in time. If that is true, then the Government is lost and we need to come in and help them. This is the time that we have---

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

Hon. Members, I can tell you for free that we are 61 of us waiting to speak. In this Adjournment Motion, everyone, including Jessica Mbalu, has interest.

Next is hon. Johana Kipyegon.

Hon. Kipyegon: Thank you, hon. Temporary Deputy Speaker.

I also wish to pass my condolences to the families who lost their loved ones. The most saddening part of this situation is the way those children were killed and the slow death they underwent. I had four students from my constituency in that university college, who survived by God's grace. When you hear the tales of how they survived the cruelty and the death that faced the students in Garissa, you just wonder what is happening in our country. One girl from my constituency called Cynthia had to stay in a closet for three days, drinking lotion. When you hear her story, you wonder where the Head of State was. I know that the President is the Commander-In-Chief of the Armed Forces. He can commandeer any plane in this country to do whatever he wants it to do. We were in an emergency and we are being told that there was no plane or helicopter to ferry officers from the General Service Unit's (GSU) Recce Company to Garissa to

rescue our kids while police planes were being used to ferry girlfriends of some people in this country. We are very angry. I am one of those people who are very angry. The Head of State stayed put from 6.00 am, when he received information that Garissa University College had been attacked, up to 5.00 pm; as the children were being killed. I remember that when France was under siege, the airspace of that country was closed. There was no plane flying yet it was only six people who were killed. In Kenya, you can kill 140 children and the President still does nothing. We are very angry.

The next person we are going for is the President himself. We are going for him. He better take care. He better know that this is a country where lives are more important than just talking and giving speeches. The President must take charge. He must tell us what happened with our security and why hon. Nkaissery and Mr. Boinett had to fly there with just uniform and leave behind the people who were going to rescue our children. It is only the Head of State---

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Eseli, use the Dispatch Box. Just give him the microphone. Hon. Eseli, use the Dispatch Box.

Hon. Ng'ongo: There is no point of order.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): It is next because your machines---

Hon. (Dr.) Simiyu: Thank you, hon. Temporary Deputy Speaker for giving me this chance to also condole with the families of the children that we lost in the Garissa Massacre. Bungoma County lost ten children and of those ten, five are from Tongaren Constituency. Three of them are from one ward. As we speak, in fact, I was going out of the House once in a while to monitor the on-goings of the last one, Stella, who was being buried today. She was a daughter of a single mother who sells bits and pieces on the market. This child was the first to go to a university from a poor school in that locality.

This Garissa Massacre has opened our eyes to the dichotomy that we live in in Kenya. We are two communities - the rich and the poor. The poor go to public universities and are exposed to the vagaries of terrorists. We have to ask many questions and some have been asked. Why did the rescue team arrive so late? The other question is: Is it true that in the girls' hostel at the Garissa University College they separated the girls into Muslims and Christians in different quarters? Is it true? That is a question we need an answer to. There is also something which is said that as the terror was going on, the locals in Garissa wanted to go in and rescue these children but they were barred by the army and the few people who were surrounding the campus as the massacre proceeded. Is that true? The other question we need to ask is: Is it true that the setting up of this university raised so much animosity and acrimony that the leadership of the university had to be changed and that that animosity has continued to date? The other question is: Where are those 4,000 kids that the last Government trained to go and fight along the Somalia Government? Are they the ones visiting terror on us?

Of the five students I lost in my constituency, four of them are girls. One is a boy.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Members, let us leave the Temporary Deputy Speaker to listen to all Members. I am sure most of us have lost our constituents and that is why we are speaking in one voice. This is a House of representation and as I keep on saying, we represent our constituencies and Kenya at large. Hon. Kimani Njuguna, the Member for Gatanga.

An hon. Member: On a point of order.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): There is nothing out of order. You are actually out of order, whoever is saying that.

Hon. H.K. Njuguna: Thank you, hon. Temporary Deputy Speaker. I was wondering whether I have been forgotten. Now that I have the chance, I will first of all pass my condolences to the families of the loved ones that were lost in Garissa and by extension also the security stampede at Nairobi University's Kikuyu Campus. We have had instances of insecurity and there is insecurity in the entire country. Hon. Members, one of the signs of a failing state is insecurity. Somalia is the way it is because of insecurity. The way we have been bombarded with issues of security in this country, we are raising questions whether this country is not on the verge of failure now.

(Hon. Sakaja stood up in his place)

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Sakaja you are next but if you choose to leave you can go.

(Laughter)

Order, Members! There is some---

Hon. H.K. Njuguna: The Inspector General of Police --- It is my time.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Order, hon. Member! Hon. Member, I will add your one minute.

Hon. H.K. Njuguna: Okay.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): I just want to give direction. I can get some Members who will speak. You need to listen and sit down. We cannot allow extension, I can hear some Members wanting to extend. We cannot allow because it is past time. You can get direction. It is past the time for extension. I just wanted to give direction.

Hon. Member, carry on. I will give you your extra one minute.

(Hon. H.K. Njuguna and hon. Sakaja resumed their seats)

Hon. H.K. Njuguna: Thank you, hon. Temporary Deputy Speaker. So, out of these insecurity issues particularly the one that happened in Garissa, there are questions that we are asking as leaders and as Kenyans. One is the issue of intelligence. Where was the intelligence in this country? There are signs that this security alert had been issued. On the issue of responsiveness to this insecurity, it took six to seven hours. Then there is the also issue of refugees which has come up. I think we have taken the issue of human rights a little bit too far to a point where we are compromising the security of our Kenyans. We are saying perhaps we now need to put our feet down and say that the issue of refugees is a global issue and it should be taken up globally so that Kenyans do not suffer in isolation.

Let me say this: We have had *Mungiki* in the past. We sorted out that matter of *Mungiki*. Now there are issues that we are raising about our brothers and sisters in the

North Eastern region. They must tell us exactly what is happening. They are part of us but let us call a spade a spade. They should come out clean because everything on insecurity whether it is Westgate or wherever is about Somalis. So, let them come out particularly now that their leaders are saying they are ready to name.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Give him one minute as I had promised. Just one minute. It is the discretion of the Temporary Deputy Speaker.

Hon. H.K. Njuguna: Thank you. So, what we are saying because you can see temperatures are rising in this country is that we know we are one Kenya and no Kenyan is greater than the other. So, we are telling our brothers in North Eastern to rise above board. We can no longer have this issue of insecurity. We are pointing fingers at you. If it is leaders, we know each other and we are saying like some of us who have been victims of *Mungiki* that: If we have been able to deal with *Mungiki*, we should be able to deal with *Al Shabaab* in North Eastern. They should come out clean because the issue of insecurity in this country is too much. I cannot even have a quiet evening. You are not sure of yourself. Even when you are in Mombasa, you cannot enjoy yourself. Last time when we were at Continental Hotel we were told: "Do not go there because there are too many Members of Parliament." How long are we going to suffer in this country? We are saying that Kimaiyo and ole Lenku went and the issue of insecurity abounds.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Your one minute is over. Hon. Grace Kiptui, the Member of Parliament for Baringo County. There are assumptions that you just make.

(Laughter)

Hon. (Ms.) Kiptui: Thank you, hon. Temporary Deputy Speaker. I want to say that I am a member of the Departmental Committee on Administration and National Security in Parliament. The problem of insecurity in our country is becoming enormous. As a nation, we need to debate this issue. If there is anything that is creating a headache then it is insecurity in our country especially in our county of Baringo where we are experiencing a lot of internal conflicts. While the one of *Al Shabaab* is external, this other one is internal. So, we are experiencing both internal and external insecurity problems. We need to sit down as a nation and relook at the way we need to live in peace.

We hear that the *Al Shabaab* are complaining that they are doing this to punish us for our soldiers being in Somalia. I urge our Government and even the forces that are in Somalia to either crash *Al Shabaab* as per the instructions they were given when they went there or they completely withdraw if they are not able to do it. It does not make sense that we have people in Somalia and yet the issue of insecurity on our side is becoming enormous.

Hon. Temporary Deputy Speaker, there is also a problem of the amount of money that we give the Ministry of Interior and Co-ordination of National Government; the Ministry charged with the security issues. We would want to know where this money goes. How come up to now, we are told that the police aircraft at the Air Wing are grounded yet every time we are told in this House not to touch the security budget, to let it go the way it is? We want to know whether this money actually goes to these security matters or it goes into procurement issues and some people line their pockets.

Thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Members, I have 54 requests. You do not need to spend your three minutes, you can even do two minutes. Even two minutes will be enough. Hon. Sakaja, you can have your two minutes.

Hon. Sakaja: Thank you, hon. Temporary Deputy Speaker. First, I want to pass my heartfelt condolences to the families that have lost their loved ones and to the entire country because we have really been hit hard as a country. All Members are aware that on Sunday there was a scare in Kikuyu Campus and students were jumping from the sixth floor. This has hit us to the core. There is trauma and fear across this country. For those who have visited the families in Chiromo, I was there on Saturday with a few friends and hon. M'ruaki was there as well, the first question they were asking is: where are our leaders? Those families were not even able to receive a meal. Red Cross has done good work. Dr. Mwithi from the Ministry of Health has done good work. They were saying that they have only seen the First Lady and the Cabinet Secretary (CS) for Sports, hon. Wario. At such a point, we as the National Assembly, let us try and do something for those families so that they also know that they are not alone.

If you walk through that morgue and if you saw what we saw, bodies that cannot be identified, that cannot even provide fingerprints because they are rotting or heads that have been blown up, I do not think you can take the matter of security casually. I do not think even my colleagues from Jubilee can look at this politically. We must speak the truth. We have a huge problem with security and it must be dealt with. We cannot keep saying that these things happen. We come, we adjourn Parliament, speak for 30 minutes then forget and it is business as usual. That our Security Committee will summon two people to talk to them and forget about it, is sad. When can we take real action?

We cannot just keep talking about security in this country. I know I do not have much time but I wish I could say a few things. On the first thing, I want to disagree with the proposals on the relocation of Dadaab for one reason. These knee jerk reactions will not give us a solution. You have 400,000 Somalis where you can see them and you want to send them back to Somalia where there is no government with a porous border to be received with open arms by *Al Shabaab*. Are you not giving them more troops to radicalize? We need to ask ourselves the real questions as to why we can allow people to be radicalized on our ground. And the leaders from those regions, the Somali leaders, these young people are being radicalized inside mosques. We are not saying Muslims are terrorists.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Thank you, hon. Sakaja. Very well spoken. I wish you had more time. Hon. Members two minutes each! Hon. Member for Muhoroni.

Hon. Oyoo: Thank you very much, hon. Temporary Deputy Speaker. From the outset, I want to take this opportunity on my own behalf and on behalf of the people of Muhoroni to extend our most heartfelt sympathies and condolences to the bereaved families. It is worth knowing that any leader worth his salt, who takes the oath of office to lead a country, knows that he is going to lead the citizens and their property. We have seen very casual approach and concern on the side of the present Government such that each time we have calamities like what happened in Garissa, within a short time, we have treated---the Government behaves as if there is something very serious. Some corrective measures are going to be taken and within a very short time, it is back to old style.

What is spoiling the fabric of this country is corruption; two is corruption and three is corruption. The other one is lack of patriotism such that people come with money here, purport to be close to us and some of them buy big jobs and become very close to powers that be yet their hearts are elsewhere. They are not Kenyans at heart. They are here for purpose of making money.

They use money to buy jobs and they use those jobs to make money and in the end they do not care whether Kenyans are going to lose their lives and this is the trend. It is high time we asked the Government to tell us whether the huge amounts we are giving to our National Intelligence Service is doing the correct job. We know in the past a huge chunk was spent on surveillance, on making sure that people who are not Government friendly, had surveillance around them for 24 hours but now we do not need that. The Government---

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Your time is up! Member for Kitui East.

Hon. Muluvi: Thank you, hon. Temporary Deputy Speaker, for this opportunity. At the outset, I want to give my condolences to the people of Kenya who lost their loved ones. In particular, I want to convey my condolences to the people of Kitui East who lost two students. What is interesting at the moment is that among those students who are unaccounted for, one comes from my constituency.

At the outset, I want to say that insecurity in this country will not go away soon unless the Government addresses the problem of corruption. It is through corruption, through the mainstream Government, through the Immigration Department and through the Police that insecurity will continue to bring problems to this country. In my view, Kenya enjoys a 680 kilometres border with Somalia while Ethiopia enjoys slightly over 800 kilometres. So far, we have lost more than 300 Kenyans and it is the responsibility of the Jubilee Government to make sure that those charged with the responsibility of security in this country leave office immediately so that this country can go ahead. In the absence of that---

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Your time is up! Hon. (Ms.) Tuya, Member for Narok.

Hon. (Ms.) Tuya: Thank you, hon. Temporary Deputy Speaker. I wish to join colleagues in tendering condolences to all the families who have lost their loved ones on my own behalf, on behalf of the people of Narok County and my family.

I want to join one Member who lamented the amount of time we give to such serious matters as a House. I do not think the magnitude of the issue of Garissa should be left to less than an hour for us to deliberate on. Having said that, I have a lot to talk about our response mechanism to insecurity issues but before I talk about that and because of time, I think as a country, we need to go back to the basics of national values and principles as a people. As our children grow up they need to know how much value their country is to them as it is to each and every one of us. That is the only thing which will stop our young people who are being radicalized to turn against themselves because when they go fighting for *Al Shabaab*, they are fighting against themselves. I also want to say that---

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. (Ms.) Tuya, you spent your time well.

Cyprian Iringo, Member for Igembe Central.

Hon. Kubai Iringo: Thank you, hon. Temporary Deputy Speaker for giving me this opportunity to contribute. First and foremost, let me send my condolences to the families and friends of the young Kenyans who lost their lives in Garissa. From my constituency, Igembe Central, I lost two young girls who were buried the other day. We lost Kawira Kaunyangi and Miriam Kaberia. I pass my condolences to their families and friends. I would like to echo the sentiments of one of my colleagues who talked earlier and said that we should not just debate this matter and let it end here. Let the arms of the Government which are supposed to handle this matter move fast and react to this issue the way Members of Parliament are doing.

The response of our security forces was wanting and has been wanting all along. Usually they react after the damage has been done. For example, in the Garissa attack, we can recall that these murderous exercises started at 5 a.m. and ended at 1p.m. There is a story which was carried in the *Daily Nation* Newspaper in which it is said that a girl was calling the parents in Bungoma from 6.00 a.m. until 12.30 p.m. when she was shot dead. That entire time people were preparing to come and rescue the students.

Finally, let us not bury our heads in the sand. Let us call a spade a spade. There is a problem with our brothers and sisters of the Muslim faith. Why are we killing Christians and we are not killing Muslims? Why are the killers Muslims and it is the Christians who are dying? Can we go back on the drawing board and see where the problem is? Let us say it is not a religious war. There is a problem with the Muslim faith.

Hon. (Ms.) F. I. Ali: Thank you, hon. Deputy Speaker for allowing me to contribute. I want to send my heartfelt condolences to the families of the 147 children who died in Garissa. They are our kids. They died for no reason. They were butchered by people who do not care about the lives of human beings. I condole with the parents of those children. I also console my fellow Kenyans for this kind of brutal killing of our children. I agree terrorists have been operating in North Eastern, especially in Wajir, Mandera and Garissa. The residents there have been suffering. Kenyans have been exposed to this kind of killings. Kenyans who are living in Mandera and Wajir have suffered for too long.

The problem of *Al Shabaab* is very evident in our communities. I want to confirm that the key leaders of North Eastern, including the Leader of the Majority Party and the advisor of the President have been going round in Wajir, Mandera and Garissa. Today, they are in Mandera preaching how to end the menace of *Al Shabaab*. We are taking part in those efforts.

Hon. Lomwa: Hon. Temporary Deputy Speaker, I have waited for a long time to be given an opportunity to contribute. I want to take this opportunity to pass my condolences to all the aggrieved families that lost their loved ones in this heinous act. It is very unfortunate that we continue losing lives knowingly. There were alert messages and we have an intelligence unit that is well placed internationally. The security had prior information even before any impending attack that led to the loss of innocent lives. This calls for action. We are doing badly locally. We need to take a drastic action like what we did in passing the security laws in this House so that we are able to save lives. We need to subject our students to specialised training like the paramilitary in order to equip them

with skills which they will use to safeguard themselves and their institutions from imminent attacks; not only from *Al Shabaab*, but also from any form of aggression.

Insecurity is almost everywhere and lives have been lost in most parts of Kenya. Lives have been lost in Turkana. Even the other day, four people lost their lives. People are losing lives every day in West Pokot, Samburu and many other parts in the northern part of Kenya. There is the need to have a national obligation. This is not a tradition---

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Deputy Leader of the Majority Party, please, allow me to give an opportunity to the last speaker.

Hon. Makenga: Thank you, hon. Deputy Speaker for giving me this opportunity to join my colleagues in passing my sincere condolences to the families that lost their beloved ones in the Garissa attack. At the outset, I want to say that we have seen a lot of laxity in terms of the Government's response to such incidents. We can cite disaster preparedness in such incidents. It is high time this country comes up with structured disaster and rescue preparedness, so that we do not continue losing lives.

In my constituency, we lost about five students. That is a very big loss to us. These were students whom we were looking forward to depend on. They would have grown to take up leadership in our constituency. It is very devastating to the families of the late students because they had invested a lot of their wealth in educating them. It is very sad.

I join the rest of the Kenyans in condemning this heinous terrorist act.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Thank you, hon. Makenga. Plan for your two minutes. Hon. Washiali.

Hon. Washiali: Thank you, hon. Temporary Deputy Speaker. I join my colleagues in condoling the families that lost their loved ones. In Mumias East Constituency, we lost two students. We buried Mildred Yondo Wakholi on Saturday and we buried Evans yesterday. Like one speaker said, these students came from poor families. For example, Evan's father had just sold land and paid school fees. Before two weeks were over, the son had been killed by the *Al Shabaab*. We were given a coffin, the mortuary bill was paid and Kshs100,000. However, that is not enough. The Government must look at how it is going to compensate these families. Paying bills alone is not enough. The yesterday's burial was so emotional. One student stated that he would rather have this Parliament bombed than students being bombed.

As we condemn that, we have a responsibility. We have to look at how some universities are established. When looking at the students who go to Garissa University College, we realised that the locals do not go there. We wonder how the university was established for other people to go there when the locals do not go there.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Moses Kuria get ready at the Dispatch Box. Hon. Ababu Namwamba.

Hon. Ababu: Thank you, hon. Temporary Deputy Speaker. We need to appreciate that this country is at war. It is an unconventional war. You do not fight an unconventional war with conventional means. I want to plead with this House to take lessons from countries like the United States of America (USA), France and Spain, which have confronted a challenge such as this. As a House, the best way we can help in this matter is to arm the Commander in Chief of this Republic with the requisite tools to engage and fight this war.

When the former President of the United States, George W. Bush faced 9/11, he--

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The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Order, Member! There was a Communication from the Speaker, Hon. Ababu Namwamba. It was an oversight. I have got advice that you are not supposed to transact any business until the Communication that has been made by the Speaker lapses. Let me consult with the Clerks-at-the-Table.

(Loud consultations)

Let the Clerks consult. If it is true that you are allowed to transact business, then I will give you opportunity to speak. I will give the chance to another Member. Hon. James Nyikal.

Hon. (Prof.) Nyikal: Thank you, hon. Temporary Deputy Speaker. On my behalf and that of my people of Seme Constituency, I pass my condolences. I want to say one thing, which we have said here many times before, that we are at war. We won the war in Somalia and the war moved here in form of guerilla warfare. We are not behaving as a country at war. Where are our response forces that can reach any part of this country at any time within one hour?

The commandant does not reach the centre without the forces. We have removed three people from the forces. We have had many of these meetings. The only person left is the Commander-In-Chief himself. As a Parliament, without looking at parties, we must now face the President and say if no action is taken--- This is enough to think of asking the President whether he needs to sit and chair the National Security Council (NSC). This is what we need and not any other talk. We have had too many of these.

Thank you, hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Moses Kuria, as the Clerks consult on hon. Ababu Namwamba.

Hon. Kuria: Thank you, hon. Temporary Deputy Speaker. Let me take this opportunity to condole the families who lost people in Garissa. I lost two girls from my constituency. A year ago when I said that there are local sympathizers, financiers and collaborators of the *Al Shabaab*, I was taken to court. I spent more time in court than in this House. Now the leadership of this House, led by hon. Duale, have confirmed that there are local sympathizers, financiers and collaborators. I do not think we have a Somalia problem in this country. What we have is a Somali problem. It has manifested itself very well. It is time for leaders of the Somali community to tell us who is doing cross-border business between Garissa and Kismayu. The late Ojode told us that the head of *Al Shabaab* is in Kenya and the tail is in Somalia. We hope that when the Duale brigade comes back to this House they will be able to show us the head of *Al Shabaab*.

(Applause)

We need to secure the Government Square in this city. This Parliament, the Office of the President and the Office of the Deputy President fall within the Government Square. We are sitting on a time bomb. I would like to urge the Government to declare

the Government Square that runs from this Parliament all the way to Times Tower a restricted area so that there is no traffic allowed into this area. We need to secure all Kenyans, but more so we need to secure the seat of Government in this country.

Thank you, hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Thank you. Hon. Members, I will add some few minutes for the sake of--- It is the discretion of the Speaker. Hon. Members, I love working with documents. For the sake of the media and everything, No. 6 says “save for today’s sitting.” None of the Members is barred from contributing today. So, hon. Ababu Namwamba can continue.

Hon. Ababu: Thank you, hon. Temporary Deputy Speaker. I was throwing a challenge to this House. I want us to borrow from the US experience. Congress rallied around President Bush notwithstanding political affiliations. I want to challenge this House: Let us rally around the Commander-In-Chief. However, let me also challenge the Commander-In-Chief: Come to this House with some very bold measures which can enable us to hand you full authority to deploy the full arsenal of the Commander-In-Chief, including zone declaration of state of emergency. We can zone this country and identify places that must be placed under special attention and special action. As we do that, I hope that hon. Members of this House will not go out there, if your constituency is among the special zones, to start screaming: “My people are being finished.” This is not about your people. This is about Kenya and security.

Allow me to conclude by declaring that next Saturday I will be burying a brilliant boy in Budalang’i called Peter Magio Mulindiro who lost his life in circumstances that are so painful. Because all of us share in that pain, let us put our political differences aside. If ever there was a moment for this House to rally around a common cause, that moment is now. Let us challenge the Commander-In-Chief to come here either directly or through proxy and request for full armour of legislative authority that can enable him to deploy the full force of the Office of the Commander-In-Chief of the Defence Forces of the Republic of Kenya.

In future, a Motion such as this cannot be restricted to the kind of time we have given it. This is a Motion that we should debate continuously for three parliamentary sittings.

The Temporary Deputy Speaker (Hon.(Ms.) Mbalu): Let us have hon. Maanzo and then we have the other two.

Hon. Maanzo: Thank you for giving me this opportunity. In Makueni we lost eight youth and the whereabouts of two are not known. When I visited Chiromo Mortuary, it was a horrible sight and any leader worth his salt who went there would share with us that the grief is massive. This is a matter where serious questions have to be asked and serious answers need to be provided. It took quite a while to rescue the students and the Government has admitted it. What is being done for the future? The Likoni Ferry is a waiting disaster. The last time I was in Mombasa which is about week ago, the Likoni Ferry was totally unsecured. While we talk of it now, what is its future? Those dealing with it need to---We immediately should have bomb detectors before getting to the ferry, dog sniffers and sufficient security in the ferry. Otherwise, we are sitting on a time bomb.

The Temporary Deputy Speaker (Hon.(Ms.) Mbalu): Let us have hon. Susan Chebet and then we go to the Deputy Leader of the Majority Party.

Hon. (Ms.) Chebet: Thank you. I am very grateful for this moment. I pass my heartfelt condolences to the families that lost their children in Garissa. I lost five in Elgeyo-Marakwet County. We buried three last week and we have buried two today. It took us a long time before reaching Garissa. We should have done better. Even if we did not get the intelligence report on time, we should have responded on time to save those children. They died painful deaths because of our slow response. I want to take issue with the forces and the equipment that they use which should have given the Recce Company faster transport. There is information circulating in the media that one of the forces helicopters took a relative or girlfriend of one of the officers to Mombasa. We have witnessed politicians being flown around in helicopters instead of concentrating on the security matters of Kenya. I want the President to take charge of the position now as there is a lot of tension in Kenya. The students of Kikuyu campus---

The Temporary Deputy Speaker (Hon.(Ms.) Mbalu): Let us hon. Mbadi as I consult.

Hon. Ng'ongo: Thank you. I have two things to say. First, let us take the blame where it belongs. The responsibility of assessing the security situation, analyzing the risk and coming up with strategies is in the hands of National Security Council (NSC) which is chaired by the President. The person who has failed in this is the President of the Republic of Kenya. The response is wanting. We should not even ask Maj-Gen. Nkaissery who has become very arrogant immediately he went to the Cabinet. It is the President of the Republic of Kenya to answer. In fact we are just not civilized, but if we were in a civilized country, the President would have been forced to step aside.

Secondly, the issue of closing the Daadab Refugee Camp is not the solution. Who has conducted investigations to find out that Daadab is the cause of our problem? The President and the Deputy President should form a commission of inquiry. If they recommend that Daadab should be closed, we will have no problem but this idea of just waking up---

The Temporary Deputy Speaker (Hon.(Ms.) Mbalu): The hon. Member for Taveta, close for us.

Hon. (Ms.) Shaban: Ahsante sana Mhe. Naibu Spika wa Muda.

Mimi pia ningetaka kujiunga na wenzangu kutuma risala zangu za rambi rambi kwa wapendwa wote ambao wamepoteza watoto wao. Ni jambo la kusikitisha sana kwamba miaka 52 baada ya kupata Uhuru, watoto wetu wanauawa kama kwamba maisha hayana umuhimu. Pale tumefikia sasa, inatubidi tukae pamoja sote tukubaliane kwamba tatizo lipo, na kwamba ni lazima tatizo hili tulitatie. Wale ambao walifiliwa ni wazazi. Watoto wao walikwenda chuoni kusoma kwa shida. Kulingana na jinsi walivyopoteza watoto wao, siyo sawa sisi, kama Wakenya, kufikiria kwamba Kenya iko huru. Ni lazima matatizo yanayotukabili yatatuliwe. Rais na Amiri-Jeshi-Mkuu wa nchi hii anahitajika kuketi chini na viongozi wote kwa pamoja ili tuweze kulitatia tatizo hili.

Ni jambo la kusikitisha kwamba mashambulizi yalipoanza saa kumi na moja asubuhi, askari wanaosimamia usalama walichelewa kwenda kuwaokoa watoto chuoni kwa sababu ya mvutano uliopo Serikalini. Ni kama kwamba watu hawafahamu kazi ambayo wanatakiwa kufanya. Niliangalia orodha ya mawaziri waliokimbilia kule ilhali

hawakuweza kuwasaidia wale vijana waliokua wakiuawa. Labda, kama askari kutoka kwa kikundi cha Recce Company wangefika Garissa asubuhi, wangeweza kuokoa maisha ya watoto zaidi ya mia moja miongoni mwa wale ambao waliuawa. Lakini---

ADJOURNMENT

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Order, Deputy Leader of Majority Party! Let me appreciate the number of requests that are on the screen. This is a matter that all of us need to discuss. I am sure all Members of Parliament have sentiments to share. But we will not be able to contribute because this is a House of rules and procedures.

Hon. Members, the time being 6.42 p.m., the House stands adjourned until tomorrow, Wednesday 15th April, 2015 at 9.30 a.m.

The House rose at 6.42 pm