

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 2nd May, 2013

The House met at 2.30 p.m.

[Hon. Speaker in the Chair]

PRAYERS

PETITION

REMOVAL FROM OFFICE OF MEMBERS OF SRC

Hon. Linturi: Hon. Speaker, Sir, I, Mithika Linturi, Member of Parliament for Igembe South and a citizen of the Republic of Kenya from Meru County do hereby petition for the removal of Sarah Jepkemboi Chumo Serem as the Chairperson of the Salaries and Remuneration Commission (SRC) and the removal of Daniel Ogutu, Sellestine Kiuluku, Serah Kinyua, Retired Brig. Samuel Ndururi, Isaiah Kubai, Jacqueline Mugo, Ann Elizabeth Owuor, Peter Oloo Aringo, Jason Namasake, Joseph Kinyua, Titus Ndambuki and Wanjuki Muchemi as members of the SRC on the following grounds:

1. serious violation of the Constitution;
2. serious violation of the law;
3. gross misconduct in the performance of their functions; and
4. serious incompetence in the performance of their duties.

Hon. Speaker, Sir, if you allow me I would like to take a minute or two to tell this House, and the country, that presenting of this particular petition is based on the fact that the Members of this Parliament have a duty and are obliged by virtue of Article 3 of the Constitution to protect, uphold and defend the Constitution of Kenya by virtue of not only being Members of Parliament, but also being citizens of Kenya.

In this petition, I have prepared a charge sheet of 18 counts on how the Salaries and Remuneration Commissioners have violated the Constitution. There is a further charge sheet of 12 counts on how the Serem-led Commission has violated other laws of this country. I know time is not on my side and bearing in mind what the Standing Orders provide for, I will be in a position to prove these charges when the relevant Committee that is supposed to look at this matter is constituted by this House.

I now pray this particular House that, based on the charges prepared against this Commission, to find that there is need to have the whole Commission removed from office and, probably, have a fresh team appointed that will be able to understand the law and the Constitution and perform its duties based on the foundations of law.

I want to invite my good friend, hon. Jakoyo Midiwo, to second this petition. I do lay the petition on the Table.

Hon. Speaker: Hon. Linturi, I have no authority to pick anybody. Hon. Midiwo may not get to the microphone as I can see. Maybe he wanted to---

(Laughter)

I think it is important, looking at the provisions of Standing Order No.226, and from the foot thumping that I can hear--- It is an indication that, perhaps, there may be need to allow a few comments, observations or clarifications. I will, however, limit that to a maximum of 30 minutes. Hon. Midiwo had caught my eye even though he had been pointed out by hon. Linturi. I will, therefore, give him the first shot.

Hon. Linturi, you may table your petition.

(Hon. Linturi laid the Petition on the Table)

Hon. Midiwo: Thank you, hon. Speaker, Sir. This is a serious matter. It needs to be put to rest. Hon. Speaker, Sir, 90 per cent of the people, or more here are new Members of Parliament. Because of the actions of the Serem Commission, in the eyes of Kenyans these people are already thieves. It is important to note that only about a month ago we swore an oath to uphold the Constitution of this country. Yesterday, as Labour Day celebrations were going on I was driving into the gymnasium of Continental House and somebody by the name Mwangi, who had just attempted to disrupt the celebrations, was being pushed into the cells there. I just stopped to ask. I wanted to know why the media was barricading the police station. I was so abused by somebody from the streets.

This person looked like somebody who should not even be walking up to a Member of Parliament. He called me a thief. I was not of the view that the Serem team should go home. However, I am more convinced that given the agony being caused to Members of Parliament, we must not defend them. This is because they will be done with Members of Parliament and then they will go to the rest of the workers of this country. This is a rogue Commission.

Hon. Speaker, if you multiply 222 Members by Kshs851,000, and divide the result by 349 Members you will get Kshs541,400; even my seven-year old daughter can do that. It does not require somebody to earn Kshs1,000,000.

Hon. Speaker, she is purporting to tell you, as a Member of Parliament, that you cannot be bought for a car, yet she goes around in GK vehicles. She does nothing. This is superfluous. I want the committee that is going to look at this Petition to do something that the Parliamentary Service Commission has not brought to the attention of Kenyans.

In the Finance Act, 2012, Section 59 (d) (2) requires that the Commission brings anything they do here for approval. She never did that! She is a rogue! What must happen is that this Parliament must take its rightful position in defending the Constitution. You must defend the Constitution because none of these people has asked for a salary different from what hon. Members have earned for the last ten years.

(Applause)

Nobody amongst these people has asked for anything different and we say thank you to Francis Atwoli for being a defender of a worker. We need to sort out this matter. The Salaries and Remuneration Commission can purport to negate our contributory pension. It is like she is trying to kill us! She cannot make law. The Constitution says: "Nobody has the authority to make legislation other than Parliament!"

(Applause)

She is not a Parliamentarian and, if she wants, let her come here and make laws. Otherwise, let her follow the law.

I support, hon. Speaker.

Hon. Speaker: Hon. Duale, the floor is yours.

Hon. A.B. Duale: Hon. Speaker, Sir, I support this Petition. I want from the outset to say to the nation that hon. Linturi is both within the Constitution and the Standing Orders. The Standing Orders provide that a Member of this House can bring either public or a private petition.

Two, what hon. Linturi is doing can be done to any other Commission. So, we have no ulterior motive against the SRC. Anybody or a commission that breaks the fundamental principles of the Constitution--- It is the business of this House to uphold the Constitution and correct wrongs.

Article 127 of the Constitution that establishes the Parliamentary Service Commission (PSC), Subsection (6) gives power to the PSC to, among many other things, set, guide, give and decide on the welfare of Members of Parliament.

Hon. Speaker, PSC is going, through its Vice-Chair, to table its Estimates as an independent institution. I am going to table the Estimates, on behalf of the Judiciary, because they are not here. I am also going to table the Estimates of the Executive. That shows the independence of this institution.

Hon. Speaker, Sir, a Commission which is a creation of this House cannot purport--- I want Sarah Serem to listen to me and the country. We are not after our salaries. Hon. Linturi is raising a fundamental breach of the Constitution. I am sure the media will listen to me, and we are ready to go for a talk show and tell them how the SRC violated the separation of powers between Parliament, the Executive and the Judiciary.

Hon. Speaker, Sarah Serem has not touched the salary of the Judiciary, another independent institution. When she was asked, she said that she was undertaking consultation with them. We are asking ourselves: Why did she not undertake consultation with Parliament? We have a Speaker who is the Chair of PSC. This country and the citizenry must come see the reality. On 4th March, 2013, Kenyans went to the polls and elected the 349 men and women into this House. If they are thieves, it is the Kenyan people who are thieves!

(Applause)

If they are greedy, it is the Kenyan voters who are greedy! That is because these Members of Parliament--- The culture of bashing the top leadership of this country should stop.

On 4th March, in over 34,000 polling stations and in every constituency, people were given the chance to elect men and women of integrity. From the 20,000 candidates, they chose 349 who are in this House. If an election is called today, they will elect the same Members of Parliament.

Hon. Speaker, Sir, I want to give guidance. Parliament must create a public relations department that will give the nation the true picture of what hon. Members do and what they deserve to earn.

Hon. Linturi is not fighting for our rights. We are telling Sarah Serem that she has not done a job evaluation. She only did a simple calculation as hon. Midiwo has put it, and that can be done by anybody. So, we expect the same process that our dear sister, Lady Justice Baraza, went through. We expect anybody to go through that and we expect the Committee to give a fair hearing to Sarah Serem and her team; let it give a fair hearing to any other stakeholder, bring a report, and, if in its own wisdom this House feels that Sarah Serem Commission has violated the Constitution, the President will have no choice but to form a tribunal and, just like anybody else, she will have to step aside.

(Applause)

We expect the media tonight not to say that the petition is out of place. The petition is a private one, and it is within the law. It is within the parliamentary Standing Orders.

Hon. Speaker, Sir, I want to tell this House that the earlier we form the relevant committees of this House, the better, so that this petition of hon. Linturi is placed before one of the Committees of this House.

Thank you, hon. speaker.

Hon. Speaker: It is now the chance for hon. Keynan. We have 15 more minutes.

Hon. Keynan: Thank you hon. Speaker, Sir. I want to take this opportunity, first of all, to thank hon. Mithika Linturi. There was a tendency by hon. Members of the past Parliament to collectively allow themselves to be lynched while remaining silent. The role of any Member of Parliament, in any civilized democracy, is to legislate, represent, oversee and engage in other roles of a Member of Parliament, like parliamentary diplomacy and others as enshrined in the constitutions of the particular countries.

Hon. Speaker, Sir, my argument on this particular issue is not about the salaries, but about the constitutionality of that particular gazette notice. These great men and women who have been elected by the people of Kenya, just as hon. A.B. Duale has said, are not here by accident. It is by choice. Democracy is very expensive. Any individual who is reluctant to embrace the principles of democracy does not believe in the rule of law or the Constitution.

In the Kenyan context, one of the reasons why the Kenyan people vigorously fought for the enactment of the new Constitution was to entrench the rights of every individual regardless of their status, religion or race. Hon. Members of Parliament, in addition to being the national leaders of Kenya, have individual and collective rights, and these must be defended by this House.

Hon. Speaker, Sir, Article 94 of the Constitution clearly spells out the role of a legislator, and this is not something that is going to be subordinate to anything else.

In the next few minutes, just as hon. Duale has said, I will be tabling, on behalf of the Parliamentary Service Commission (PSC), the Estimates of one of the three arms of Government. If this is through, then all Sarah Serems and other groups will be treated as being part of the Executive Budget making groups. The Constitution clearly recognises the Executive, the Legislature and the Judiciary. This independence is one of the things that the freedom fighters fought for. The freedom fighters seriously fought for the separation of these three institutional roles.

Hon. Speaker, Sir, for those who have done law - I am not one of them, but, at least I am trying to do something, so that I am updated - but one of the sources of law - I appreciate that you are one of the renowned lawyers - is the Constitution. A second one, is an Act of Parliament. Three, is delegated legislation. Where on earth, even in rogue democracies, does an entity use delegated legislation to repeal the provisions of an Act of Parliament? If that is the case, what is the role of this institution called Parliament? I want the hon. Members to jog their minds. When the last Parliament adjourned *sine die* on 14th January this year, one of the things that the Independent Electoral and Boundaries Commission (IEBC) did was to declare vacancies in 290 constituencies and in 47 counties; those who applied for those positions, whether they were 20,000 or 30,000--- These great men and women are the ones who succeeded through the elections. Who is this other entity criminalising the existence of these noble men and women? This is what Sarah Serem has done. The argument is not about the salaries. The argument is about the constitutionality of that purported gazette notice of 1st March, just on the eve of the elections and on 8th March.

Hon. Speaker, Sir, where on earth does an entity--- The Budget making process is not like before where Parliament was just a passenger in the Budget making process. Parliament right now is part and parcel of the Mid-Term Expenditure Review Framework. We must participate in the Budget making and how it is executed. It is as a result of the Constitution that today the Budget making process is formulated and designed by the Executive but executed by this Parliament. Which organisation has a bigger supervisory role than the institution called Parliament. They now say you must not meet more than three or four times in a week? Then what will be the role of Parliament? Parliament is about oversight as far the Constitution is concerned; an entity which is a creation of this Parliament wants also to oversee Parliament. This is illegal and this Parliament must stand firm. We should uphold the Constitution because Article 1 of the Constitution---

I want all of to appreciate what Mr. Atwoli said. Mr. Atwoli did not say you increase the salaries of Members of Parliament. He said under our law and regulations, courtesy of the new Constitution, all international agreements and conventions form part of the Constitution; therefore, what Atwoli was saying was that simply you cannot take away what an individual is entitled to when this individual is actually employed; that is sheer logic. He did not ask for an increase of the salaries of Members of Parliament.

Hon. Speaker, Sir, Article 1 of the Constitution clearly talks about sovereignty. Sovereignty is what constitutes the existence of the Republic of Kenya. Sovereignty is enshrined in Article 1 and sovereignty is represented by these great men and women.

Therefore, I want to thank hon. Linturi; I want the media to get this: It is not about the salaries; it is about the constitutionality of that document and we must uphold the rule of law and any committee that will be seized of this thing must do fairness to this institution of Parliament. It must do fairness to the Republic of Kenya and bring a report that will censure and punish those individuals who purport--- I went out and saw a cartoon with the inscription: "Send to jail all these Members of Parliament." If you are under a rule of law and a country attempts to criminalise the leadership, then will we be going? These things must come to an end; I want to tell you that whether you will be re-elected or not is not going to be dependent on how you are going to contribute to this. It will be dependent on many other variables. You stand up for the rights of Kenyans. You stand up for your rights.

Thank you so much, hon. Speaker, Sir.

(Applause)

Hon. Speaker: Very well. I think we may have to come to a closure. Hon. Angwenyi, take two minutes so that we may have one or two other hon. Members.

Hon. Angwenyi: Thank you, hon. Speaker, Sir. Mine is a warning. I am warning this august House that unless we stand up and defend this institution--- If we let this institution be destroyed then Kenya will become a banana republic. If we do not defend and protect the Constitution of Kenya, will we have done our job? The Constitution of Kenya was approved by Kenyans after it had gone through this Parliament. It can only be amended through this Parliament.

Hon. Speaker, Sir, these busy bodies who are lying idle in town--- We have never asked them how they get their funding. We have never asked them to tell Kenyans what programmes they undertake. If this House cedes its right to be independent, to represent the people of Kenya, to oversee other activities of the other arms of Government, then there will be no need to have a Parliament in this country. That Serem Commission is incompetent to the extreme. They are trying to undo what was done by eminent Kenyans. Who in that commission is of the calibre of retired Chief Justice Cockar? Who in that commission is of the caliber of the retired politician, Munyua Waiyaki? Who in that commission is of the calibre of the late Dennis Akumu, the Pan Africanist? Who in that commission is of the calibre of justice Akiwumi? I thought we drew from the report of those eminent Kenyans. In fact, the Act setting up these salaries commission states in Section 12 that they shall take into consideration any reports done by other commissions. It is written that "they shall" and not that "they may". They have not done that. They are contradicting the law left, right and centre; for that purpose they should be removed, so that we can have competent people who can do evaluation of our work and that of other agencies of Government and set salaries; we accept that.

Hon. Speaker: Yes, hon. Nyasuna.

Homa Bay County Women Representative (Hon. (Ms) Nyasuna): Thank you, hon. Speaker, Sir. I rise to support hon. Mithika Linturi's petition. Kenyans overwhelmingly voted for the new Constitution with the knowledge of the fact that we were going to have a more enlarged Parliament and even the devolution structures that

we have today. We are here today, and a commission wants to punish the Members of this House for being a large House; this is completely unacceptable.

Hon. Speaker, Sir, this is the beginning of a very dangerous trend. It is the beginning of a trend of reduction of salaries; I am speaking to all our brothers and sisters out there, including the media. Even as they criminalise this House, they must know that this is the beginning of a very dangerous trend. Tomorrow they will leave their offices, and when they come back in the morning they will be told that yesterday they were earning Kshs55,000 and today they are going to earn Kshs20,000. There will be nowhere you will take such a person because even MPs salaries were reduced. We must watch out for this trend; we, as the people who are entrusted with the protection of the Constitution, we will not keep quiet as this trend takes root in this country.

Hon. Speaker, Sir, somebody once said: "When they came for the Jews I kept quiet because I was not a Jew ; when they came for the Gentiles, I kept quiet because I was not a Gentile and when they came for me there was nobody to speak for me because everybody had been taken." We will not keep quiet as this trend takes root.

Hon. Speaker, Sir, what I will say finally on this subject is that we have been told of a soaring wage bill in this country; it is soaring, indeed, but no single institution can be humiliated and blamed for a soaring wage bill. That is a violation of human rights. This must be approached holistically, so that we see how best to deal with this issue. For one single institution of this nation to be crucified for this is utterly unfair.

I support, support and support, hon. Speaker, Sir.

(Hon. Members stood up in their places)

Hon. Speaker: No more! Remember the Standing Orders say that observations, clarifications and comments should not take more than 30 minutes. I think we have heard enough and the rest will be prosecuted in the relevant departmental committee to which this petition now stands committed.

Next Order!

PAPERS LAID

The following Papers were laid on the Table:-

Estimates of Recurrent and Development Expenditure of the Parliamentary Service Commission for the year ending 30th June, 2014 and projections for 2014, 2015 and 2016.

Hon. Speaker, Sir, this is a clear demonstration of the inherent and constitutional independence of Parliament. That is why we are presenting our budget alongside the one for the Executive.

Thank you, hon. Speaker, Sir.

(By hon. Keynan)

Estimates of the Recurrent and Development Expenditure of the National Government for the year ending 30th June, 2014.

The Judiciary Proposed Budget Estimates for the period 2013/2014.

(By hon. A.B. Duale)

Hon. Linturi: On a point of order, hon. Speaker, Sir. I remember that on Tuesday we had a long discussion in the House Business Committee on a matter to do with the composition of committees of this Parliament.

With the tabling of the Budget Estimates for this House, the National Government and the other independent arms of the Government, I have not heard anything or any Paper being laid before this House by the Chief Whips of the two different sides of the coalition with regard to the committees of this House. Committees of this House perform an integral component on how this Parliament is supposed to work. The more we stay, the more we delay this country. The more we stay, the more we also delay the Budget process. In the next six or ten days, we should be through with this exercise. I seek your guidance on this matter because it appears as if our Whips are ineffective, or if not, the Leader of the Minority Party and the Leader of the Majority Parliament are. We want to know this because we must move the country forward.

Hon. Angwenyi: Thank you, hon. Speaker, Sir. Just to support what the hon. Member has said, we might be travelling in the direction that we have been blamed for; that we are not hard-working and that we are not adhering to our programmes. The Committee on Delegated Legislation should be formed today because it is part of that item that is bringing us problems.

Today, I travelled from Bomet to Nairobi by other means because my petrol got exhausted in Bomet. So, I would like to have that Committee established today so that tomorrow I can be paid and go home to meet some of my people. The Whips should explain to us why they have not tabled the list for the committees of this House so that we can begin our business.

Hon. Wamunyinyi: Thank you, hon. Speaker, Sir. I recall that in our last session of the House Business Committee, we were engaged in lengthy discussions as mentioned by my colleague, hon. Linturi. We agreed that the list of the committee members would be presented to the House today. From the Order Paper and from the way the House Business is moving, it appears as if the Leader of the Majority Party does not seem to put the committees before the House. Could we, therefore, seek an explanation as to what has taken place?

Hon. Speaker: Well, I recognize hon. Gideon Mungaro and then the Majority Party Whip.

Hon. Mungaro: Hon. Speaker, Sir, it is true that we met on Tuesday and we were supposed to finalise the list of the committees. However, we further consulted as a coalition and we have not agreed yet, especially on the composition of the Public Investments Committee and the Public Accounts Committee. That is between us and the other part of Jubilee. We should be able to table all the names of the committee members once we are through with that.

Hon. Linturi: On a point of Order, hon. Speaker, Sir. What has messed this country is the character of insincerity amongst ourselves and the failure to admit that we are not in control of ourselves. I remember when we were in the meeting, the Leader of

the Majority Party ceded on a number of issues which were raised before the House. A question was asked and my friend, hon. Mungaro, said that from where we had moved to, we were okay. I think that is good ground. I almost asked whether they could confirm to the committee whether they were the people in charge or they just want us to leave this Chamber, go and consult and come Monday at 12.30 p.m. as it happened, they will not have a list. These people should tell us that they are not in charge and there is no leadership so that we can move as a country. If they are consulting or they are being controlled remotely from outside--- Again, we will not allow Parliament to be led by remote control.

(Applause)

Hon. Katoo: Thank you, hon. Speaker, Sir. It is good that this matter has found its way to the Floor of this House. It is also good that you indulged me a few minutes to explain to the Members and the country what is happening because this is a matter of national importance. The Budget Estimates have just been laid on the Table and they are supposed to be referred immediately to the Budget Committee because we are running short of time. That will enable the Budget Committee to start going out there and collect public views for purposes of public participation in budget-making.

First of all, the House Business Committee, which you chaired on Tuesday this week, directed that by 12.30 p.m. today we present the names of all the committee members to the Clerk of the National Assembly. On my part, as the Majority Party Whip, I have met that deadline. I can confirm that the names of those committee members are with the Clerk of the National Assembly. That is from this side.

(Applause)

I equally expected that the names would be on the Order Paper this afternoon. However, it is good that the House has been informed of what is happening now. It is only the Public Investments Committee and the Public Accounts Committee--- My colleagues on the other side said that they want to take the chairmanship of those committees in order to play the oversight role.

Previously, those committees have been chaired by the Opposition. It is good that everybody gets to know that the Opposition chaired those committees not as a favour, but it was in accordance with the Standing Orders of that time. During the Eighth Parliament, the Standing Orders, which now stand repealed, stated very clearly that the Opposition was to chair the Public Investments Committee (PIC) and the Public Accounts Committee (PAC) and that the Government was to have a majority of not more than two. That is why the Opposition chaired the committees. During the Ninth and the Tenth Parliament, the Standing Orders, which are now also repealed, stated that the Opposition was to chair the PIC and the PAC and the Government would have a majority of one and that happened.

The Standing Orders of the Eleventh Parliament, and this is a House of rules, were changed. On the composition of the PIC and PAC, the current Standing Orders state that the membership is drawn from the parties' strength and the membership of those

committees will elect their chairs. It is not as explicit as it used to be. But being a Jubilee Coalition, which is transparent and we have nothing to hide, we went out of our way and agreed that CORD should chair both committees, even if the Standing Orders do not say so. Secondly, after we agreed on that, they came back the following day and said: “Now that you have given us the chair, can you use the same spirit to give us the majority in the two Committees?” It is good that I explain very well that the membership of those two committees is 27. Based on party strength, Jubilee will take 17 and CORD will take ten.

In the House Business Committee, which my colleagues are referring to, we were in a way too generous as Jubilee and out of 17 in each committee we donated three more to them making a composition of 14 members from Jubilee and 13 from CORD, as well as the chair of the committee. We reached a consensus in the House Business Committee on the names and we brought them to the House today. This morning, they were saying: “We will only bring the names to the House if CORD gets 14 and Jubilee 13”. That is the position we are in.

Hon. Nyenze: Hon. Speaker, Sir, we met as the House Business Committee. As the Members who have spoken before me have said, we had long deliberations, but I want to put the record straight. Those two committees, namely, the PIC and the PAC, are oversight committees. The Government cannot oversee itself and for the Opposition to be effective, they have to have the majority in those two committees. We made it very clear. First, it was the Budget Committee, the PIC and the PAC. But after we consulted the Speaker, in his wisdom, he told us: “For the Budget Committee, let us give it to Jubilee”, because it is their budget; it is the Government of the day. So, we conceded. We gave ground. Then we said that it is good for the Opposition to play the role of oversight. You cannot give us the chairmanship of those two with a minority. You will be a lame duck there. Some Members could see light in that, but there are those Members who took hard positions and it was very difficult. Then we agreed to break and consult as parties. Our position has not changed and it will not change. It will remain the same and it is not our fault.

Hon. A.B. Duale: Thank you, hon. Speaker, Sir.

Hon. Speaker: Just a moment, hon. Duale! Members, I keep reminding you that when you see the Leader of Majority Party, the Leader of Minority Party, the Majority Whip, the Minority Whip and their deputies, be informed that there is some order, so that those of you who are out there ranking as Members, you will get your time, but allow the leadership to be recognized.

Hon. A.B. Duale: Hon. Speaker, Sir, I want to first confirm that we will reach an amicable solution as leaders of both coalitions. It is our business to offer leadership and we will offer leadership and solutions as fast as possible in consultation with the Speaker, so that the business of the House and the committees which are the nerve centre of the House will continue to function.

However, I also want to point out that this is a House that has rules. What is happening in the PIC and PAC between the two coalitions, in my opinion, is just a gentleman’s agreement. It was on good will and it is not based on these Standing Orders. Those of us who were in the last Parliament, including the Deputy Leader of the Minority Party, must accept it. Hon. Katoo has said it very well that in the Eighth Parliament, the chair was from the Opposition and the majority of two was the Government. In the Ninth

Parliament, the chair was from the Opposition and the Government had one. In the Tenth Parliament, where we had the most extraordinary coalitions; bedfellows, the ODM had the majority. Hon. Khalwale who was in the PNU was the Chair. So, if it is about traditions and practices, even the raw copies of the Standing Orders of the Eighth and Ninth Parliaments and the revised Standing Orders of the Tenth Parliament were presented to the House Business Committee.

Hon. Speaker, Sir, you chaired the House Business Committee. This is the top committee of this House that sets the agenda of the House. The leadership of both coalitions was there and we sat for three hours. We have agreed in principle and we have minutes to that effect. It is on this Floor that honesty, good leadership and integrity is presented. We left at 10.00 o'clock and you were chairing the meeting. The 29 members of the House Business Committee agreed and the list was to be tabled today. I want to confirm that the Jubilee Coalition has submitted names and we have a document that has been received by the Clerk. We are not part of the shenanigans that are going on.

I want to read Standing Order Nos.205 and 206 and I want the House and the nation to hear. Standing Order No.205(5) says that:-

“(5) The Public Accounts Committee shall elect a chairperson and vice-chairperson from amongst its members”.

It is not saying that it should be given to the Opposition. It is the same for the PIC. The same Standing Orders, and that is why I said that this is a House of rules, says that membership to committees in this House will be based on either party or coalition strength. If there are 18 Members in a departmental committee from the Jubilee Coalition and 11 from CORD, we apply mathematics based on the Standing Orders. It is the choice of the Kenyan people to elect more members of Parliament from the Jubilee Coalition.

Hon. Speaker, Sir, the people of this country went to vote on 4th March, 2013 and they said that they were going to give Jubilee Coalition the majority and the CORD team the minority. It is the people of Kenya who decided that you must play the oversight role. As Government we want you, humbly, to play your role. Present your names so that you check the Government of Uhuru Kenyatta, the President.

(Applause)

Hon. Midiwo: Hon. Speaker, Sir, this is a good debate because we are going to have to chart a new beginning as a country. Let me tell you why the drafters of these Standing Orders did not include that express provision which has existed for the last 15 years. This is the reason: The issue of separation of powers that my friend, hon. Linturi, referred to. This Parliament should have taken its rightful place to play the oversight role on the Executive. What is developing in the last three weeks that we have been sitting here is that the Jubilee side has brought this thing of Opposition. If you listened carefully to the Leader of the Majority Party, he has even said it here on HANSARD, “My Government”. So, the Executive is sitting in Parliament. Now that we are the Opposition, we must cross-check what the Government does. I detest the insinuation by the Majority Whip that they are doing us favour; they are not doing us a favour. For all I know, they could take their members and the chairmanship. Why would a Government which has

been given overwhelming mandate by the people of Kenya not want to be held accountable?

Hon. Speaker, Sir, it is suspect! Do you want to loot? What do you want to do with the mandate that is given to you by Kenyans that you do not want the people of Kenya through their representatives to---

Hon. Shill: On a point of order, hon. Speaker, Sir. Is it in order for hon. Jakoyo Midiwo to try to ignore the rules of the House and try to tell us what he thinks from his head about other things? Is he in order?

Hon. Speaker: Let us do this: I want to encourage this debate, but let us also be guided by the Standing Orders and the Constitution.

Hon. Midiwo: Hon. Speaker, Sir, the Constitution, from back to back does not intend or insinuate that there shall be an Opposition party within this Parliament. That insinuation has gone on for three weeks and nobody---

Hon. Speaker: Hon. Midiwo, let us not get carried away by mistakes people are making. Article 108 of the Constitution is clear on what there is in the House. There will be majority and minority. The others just ignore them as things which exist in people's minds out of hangovers of the past.

Hon. Midiwo: Well said, hon. Speaker, Sir. I know I respect your brains. Hangovers of the past, it is! However, let me hurry up and conclude.

Hon. Speaker, Sir, we sat in the House Business Committee for over three hours. We came close to agreeing. Let me say that there was no agreement. We said that we will consult because we run our coalition through consultation. We reached a scenario where our counterparts said that they will give us 13 slots and they take 14 slots. Why do you still want majority? There is no point of giving us the chairman while the Standing Orders say that reports of committees shall be approved by majority of members of the committee. If you deny us majority from the outset, our chairman shall never be able to generate a report.

Hon. A.B. Duale: On a point of order, hon. Speaker, Sir. I do not want my good friend, hon. Jakoyo, to mislead the House. I am sure there are Members of the Tenth Parliament who were Members of the Public Accounts Committee (PAC) and the Public Investments Committee. The PAC is a unique committee of this House. In the Standing Orders, the minority is allowed to table its own report where they dissent. Hon. Midiwo is misleading the House. If the majority disagrees, one Member can file a dissent report.

Hon. Speaker, Sir, this is a House of rules, precedents and practices. On this side, we have to put on the Table the procedures. The Procedure and House Rules Committee has been formed and given that you chair the committee, you could amend the Standing Orders.

Hon. Linturi: On a point of information, hon. Speaker, Sir. I want to make it clear to this House that I was the Chairman of the Public Investments Committee in the last Parliament. Whenever we were making any report, it was a report of the Public Investments Committee. We were not a committee of either CORD or ODM. In most cases, you will find that Members of Parliament can form opinion based on facts presented before them during the taking of evidence. Party lines do not play any role during the taking of evidence and during the compilation of the report.

Hon. Midiwo, please, do not mislead this House.

Hon. Midiwo: Hon. Speaker, Sir, I think we need to reason with one another. We want to plead with you; do not think we hate being in the Opposition. In fact, we love it. This is the mandate we have been given by Kenyans.

(Applause)

But let me tell you, we will not give you room to misbehave. The only way not to give you room is for us to have the necessary tools. This means that we must follow the law.

(Loud consultations)

Hon. Speaker, Sir, are we in a market or in the National Assembly of Kenya?

Hon. Speaker: Hon. Members, you must conduct yourselves with decorum. It does not show very well when everybody claims to be standing on points of order when they just want to advance some argument. Give hon. Midiwo his time. Let him make his point. I will give you your chance. As you notice, I want us to really exhaust this so that when we make the next move, we know where it is we are headed.

Hon. Midiwo: Hon. Speaker, Sir, I, therefore, want to plead with you and correct my friend, hon. Duale that you can issue a minority report in any committee. The issue here is: Why would the Government not want to be held accountable? If you are ready, be magnanimous. In fact, now that the Leader of the Majority Party says that he is ready, maybe, the leadership could retreat for two minutes and bring the names here so that we play our role. We owe it to Kenyans. However, now that there is this problem, Standing Order No.1 says that in all cases where matters are not expressly provided for by these Standing Orders or by other orders of the House---

Hon. Cheptumo: On a point of order, hon. Speaker, Sir. Hon. Midiwo is a senior Member of this House. For him to invoke the Standing Order he has mentioned now, he is misleading the House. There is nowhere that what is before the House is not provided for. What is before the House is expressly provided for in the Standing Orders of the House. Is he in order to give the assumption that this is not provided for in the Standing Orders? We should use the time of this House usefully. I would like you to rule on that issue.

Hon. Midiwo: Hon. Cheptumo never even left the Senate. The point I was trying to plead with you to guide us through is Standing Order No.1 (2) which says--- Because what he is saying is not provided for. He says: "I am senior". He is equally senior. He has been around. But if he reads the Standing Orders which this one took over from, that clause is still there. The one he is trying to refer to. Except, it further says that these two committees shall be chaired by the Opposition. There is no Opposition. But now that we are keeping these Committees--- This is fundamental to the implementation of the Constitution. I want to plead with you to use – if you have to pronounce yourself to this – Standing Order No.1 (2). It refers to the traditions and customs. Now that we have kept for self-preservation and for whatever other reasons, PAC and PIC in our Standing Orders as part of our committees, I want to plead with you that we must go the way the traditions and rules call for. You cannot escape from that. It is expressly provided for.

I thank you.

Hon. Speaker: Please! Please! Do not claim to be standing on a point of order. If you just want to contribute, I will allow you time to contribute. Do not imagine that you can cheat this Chair! The hon. Mohamed.

Hon. (Eng.) Mahamud: Hon. Speaker, Sir, I think we are wasting the good time of this House. The debate we are bringing here now is what we debated last Tuesday in the House Business Committee (HBC). Our colleagues from the CORD Coalition agreed to number 14 and 13. They agreed and it was minuted. They never told us that they were going to consult.

Hon. Speaker, Sir, this is a House of rules. We should be going by what is in the Standing Orders. These are the rules. What hon. Midiwo is asking you is to rule on something which is already provided for and go against the Standing Orders. I think we are wasting the time of this House. Our colleagues must go by the rules of the House; which is the Standing Orders and stop wasting our time.

An hon. Member: On a point of information, hon. Speaker, Sir.

Hon. Speaker: Sorry, again. This is the problem of--- I think we will do another induction course. We do not just rise to claim to inform. Inform who?

An hon. Member: Hon. Speaker, Sir, there is---

Hon. Speaker: The Member has already sat down. So, there is nobody to inform.

Hon. Kajwang: Hon. Speaker, Sir, he is very ignorant about how we should do business here. I have the Floor, hon. Speaker, Sir.

Hon. Speaker: Resume your seat. Hon. Kajwang.

Hon. Kajwang: Hon. Speaker, Sir, I want to thank you for giving us an opportunity to debate this issue exhaustively. Many of my colleagues who are senior have spoken. Allow us also juniors to speak on this subject. If there is any important subject, this is the most important subject so far as we are concerned in this House. I have listened to Members who have said that we are wasting time, or this is an issue which they have discussed elsewhere and that we should move on. If there is anything that has brought me to this House as a Member of minority, this is the most important issue. That is because we come here as a vanguard or a watchman of the people. If, on the first day, I lose my opportunity to be the vanguard of the people, then I have no role to sit on this side of the Speaker.

Hon. Speaker, Sir, we have discussed issues of rules, traditions and practices. But this House proceeds, first and foremost, on the Constitution. The Constitution says: "This Constitution is the supreme law of the Republic and binds all persons and all State organs at both levels of Government." In Subsection 4 it says: "Any law, including customary law, that is inconsistent with this Constitution, is void to the extent of the its inconsistency and any act or omission in contravention of this Constitution is invalid. So, even though I appreciate that we have rules of this House; even though I appreciate that there are statutes and traditions, I start from the constitutional principles that this House must follow. The national values that hon. Speaker is so aware because you were in the Committee at Bomas that drafted the national values--- One of them is good governance, integrity, transparency and accountability. Accountability cannot be accountability – and colleagues would want to be--- Okay. Accountability cannot be accountability if the minority is unable to give oversight role to the Government. Even if the Standing Orders say something to the contrary; even if the Standing Orders say that we will not have the

chairman--- In fact, I would rather forego the chairman but get the majority of that Committee that is able to play the oversight role over the Government.

(Several hon. Members interjected)

Hon. Speaker, Sir, protect me from hon. Members. I am just about to finish.

Hon. A. B. Duale: On a point of order, hon. Speaker, Sir. It is fundamental. Yes, the newcomers can speak. But they cannot mis-inform and violate the same Constitution. This debate is all about the Standing Orders. That is why last week, and the nation was here, we formed the Procedure and House Rules Committee. Any Member who sees that these Standing Orders violate the Constitution; that the Standing Orders are not in tandem with the HBC, there are procedures and processes to be followed. I think Standing Order No.62 says that. You can write to the Chair of the Procedure and House Rules Committee. With the 50 Members, a report would be brought to the House. The House will debate it and, certainly, it will be amended. My good friend, hon. Kajwang, you have read the substance and the framework of the Constitution. They will not tell us anything. If you want to amend these Standing Orders, you can do so.

Thank you, hon. Speaker, Sir.

Hon. Midiwo: On a point of order, hon. Speaker, Sir. This book is part of the Constitution. This document is not supreme to the Constitution. It is very important that we are cognizant of the fact that laymen and women who are not here are watching. So, this House cannot be mis-informed. That is the fact. If it is inconsistent, the Constitution rules! That is very, very important to us as we sit here Members. Please, you owe it to Kenyans.

Hon. Angwenyi: Hon. Speaker, Sir, let me read the Constitution for them!

Hon. Speaker: Order! Just a minute, hon. Members, I have deliberately allowed as many of you as possible to contribute. I want you to contribute to the point of order raised by hon. Mithika Linturi as to the fact that we do not have names of Members to into committees, both departmental and select. Even as we debate that, let me just tell you in advance. You also look at Standing Order No.233. Remember that on Tuesday, in this very House, we were laying the Division of Revenue Bill which stood committed to the relevant departmental committee and the House has only ten days to debate and discuss that Bill; after which it shall stand committed to the Senate. So, even as we grandstand on these things, we must also bear in mind that we have responsibility to offer leadership in the country in this matter.

So, it is not enough that we want to say the way this is going to be oversight or it is not going to be what! So, please, even as we debate this, you have just tabled Estimates here. Contrary to what the Majority Whip said, those Estimates will not be referred to the Budget and Appropriations Committee. They will be referred to the relevant departmental committees, who will have 21 days, beginning today, to scrutinize them in accordance with their mandates. So, even as we discuss this, remember there is that other function that you as Members of Parliament sitting in committees are expected to do within the rules. With regard to the point of order raised by hon. Linturi, please let us stick to it. I appreciate what is in the Constitution and the Standing Orders but let us make our contributions without emotions. We shall be able to look for the best way to enable the

House to make progress. Please, even as you speak, try to suggest solutions. Hon. T.J. Kajwang.

Hon. Kajwang: Hon. Speaker, Sir, as I wind up, I just want to call up on you on this very issue; being one that touches on fundamental precepts of the Constitution, I beseech you to retire and make a considered decision on this that makes this an opportunity as Members sitting on this side of the Speaker to know exactly how we are supposed to play our roles to oversight the Government and also to give the majority the correct expectation on how they are supposed to support that Government that they seek to be supporting.

Hon. Speaker, Sir, in terms of practical solutions, allow the Whips and the Leaders – the four of them to caucus on this even this very hour so that they can come back and be able to get back to us with a consensus because I think the consensus lies with whether the Government of the day is able to be oversighted by the Opposition.

Hon. Speaker: Just a minute hon. T.J. Kajwang. I thought hon. Midiwo had said that there is no Government here. It is a majority and minority. You should leave this hangover.

Hon. Kajwang: Hon. Speaker, Sir, I stand to be corrected. I think I am also drunk with the same hangover.

Hon. Speaker: Hon. Chepkonga.

Hon. Chepkonga: Thank you, hon. Speaker, Sir. It is unfortunate that some of us are just hearing some things as rumours. That is because we were not part and parcel of that committee. We wish that the report, in whatever format, would be presented to this House so that we can discuss this matter in a more informed way.

Hon. Speaker, Sir, however, that notwithstanding, we have gathered a little bit of information to make us contribute although in a small way. A lot of discussions have revolved around suggestions that need to be made to amend the Standing Orders. The Constitution - as my learned friend, hon. T. J. Kajwang, has clearly stated - but unfortunately he never quoted the relevant provision of the Constitution - Article 3(1) of the Constitution states very clearly that: "Every person has an obligation to respect, uphold and defend this Constitution."

Hon. Speaker, Sir, Article 124(1) of the Constitution states very clearly that: "Each House of Parliament may establish committees, and shall make Standing Orders for the orderly conduct of its proceedings, including the proceedings of its committees." This august House has made rules pursuant to Article 124(1) of this Constitution. There are very many good suggestions that are being made here but they are not in the Standing Orders. It is incumbent upon whoever seeks to put his view that he thinks is ideal in accordance with their own coalition to bring it to this House in accordance with Standing Order No.262.

Hon. Speaker, Sir, I plead through you to rule that most of these suggestions that are being made are errant, of no purpose, frivolous, arbitrary and some would be classified as impunity against the law.

Hon. Kaluma: On a point of order, Hon. Speaker, Sir. There is no suggestion by any hon. Member so far as the Standing Orders have to be amended. I sympathise with all my colleagues from the legal profession who have spoken. I know most of them are

honourable Members who have never been to court for over ten years. The problem we have in the House is that---

Hon. Speaker: Are you on a point of order or you want to contribute to the debate?

Hon. Kaluma: I am on a point of order, hon. Speaker, Sir.

Hon. Speaker: What is out of order? I know you have been in court most recently but what is out of order now?

Hon. Kaluma: Hon. Speaker, Sir, he is curtailing my finishing where I wanted to--- The hon. Member is misleading the House that there is only one rule of interpreting a legal instrument like this. You know we have 13 of them. We are going by the literal rule which the Standing Order provide, but what we are asking from this side is: What is the intention of the law in saying that the role of oversight in those committees should be (Inaudible)

Hon. Speaker: Sit down now! You will be given an opportunity to prosecute that. Proceed, hon. Chepkonga.

Hon. Chepkonga: Thank you, hon. Speaker, Sir, for saving me from my learned junior colleague. As a matter of practical way of moving forward, the Jubilee Coalition has provided its list. We do not know what he is holding. We have not seen any policemen who are protecting the list from being delivered to us here for purposes of approval. There is no Standing Order here that states that if there any particular persons who are contained in a list that does not contain some other particular persons, it should not be brought to this House. In fact, hon. Midiwo who claims to be a long standing Member of this House has clearly admitted and consented that there is no Opposition or Government. We are all Members of Parliament of the National Assembly. Whoever finds his name in the PSC is able to detect anyone who has misused Government funds. If I am put there, I will be the first one to ensure that, that person is put in jail although I may not be the judge. But I will ensure that they appear before the judge.

Thank you, hon. Speaker.

(Several hon. Members stood up in their places)

Hon. Speaker: It is good to balance so that we can hear both sides. That is the tradition also. From time to time, we may bend it. The hon. Member, hon. Kaluma, who claims to be frequent in court.

(Laughter)

Hon. Kaluma: Hon. Speaker, Sir, I am grateful for the honour. In court, we had a phrase of a very great judge who said that: "If old lawyers had the benefit of experience, the new ones have the benefit of late learning." As I speak now, let me confirm that hon. Chepkonga has been my client for the past five years. He does not know how to do these things.

(Laughter)

Hon. Chepkonga: Hon. Speaker, Sir, it is unfortunate that my learned colleague makes attempts of claims that he has represented me when he knows I am an able lawyer. I would not give instructions to him. I have never instructed him in the first instance but he claims that I have instructed him by proxy. But I have not.

Hon. Speaker: Hon. Kaluma, we do not want to get into that. Just prosecute the point you are making.

Hon. Kaluma: Hon. Speaker, Sir, for confidentiality in law, I will not disclose it. The problem we have in the House in terms of dealing with PIC and PAC is how we consider the roles of those two committees and for us on the side of minority, for all intents and purposes, we will be dealing with the major oversight of what was equivalent of the Opposition. We believe that when we are interpreting any statutory instrument, and this is not the only one, I mentioned that by benefit of late learning, there are up to 13 rules of interpreting every legal instrument you find. The Standing Order says this and so it goes that way. There is a rule of interpretation of legal instrument called “the mischief rule”. In the context of that mischief rule, I wanted to inform the House that we need to question what the intention of any good governance system was in always insisting these two oversight Committees ought to be on the side that should be the equivalent of the Opposition. I am saying that there is reason as to why we should not only chair on the side of Minority, but we should also have the majority.

In fact, from my point and understanding the intention I will prefer a situation where the Majority side even chairs these Committees. We have all these Committees and they can chair them if their greed will be sustained that way. However, there are Committees which by tint of their functions ought to be led in majority by the Minority. I was thinking and suggesting that we go *ejusdem generis* if not by mischief rule in interpreting this provision.

(Applause)

Hon. Cheboi: Thank you, hon. Speaker, Sir. I am grateful for this opportunity but my learned junior, hon. Kaluma, should know that in court, we do not practice Standing Orders but we practice the law. But most importantly, what I want to be very clear is that there is a Minority and there is a Majority by law. So, the Leader of the Majority Party cannot negotiate the majority into minority. It is not possible. I am saying this because all of us, as hon. Members of Parliament, play an oversight role. That is very important. So, the gentlemen and ladies from the Minority should not purport to have it as a preserve for their side.

Hon. Speaker, Sir, I understand that hon. Jakoyo Midiwo was in the Ninth Parliament and there was the Opposition and the Government at that time. I was a Member of the Opposition with you, hon. Speaker, Sir. In the Tenth Parliament, there was only one Opposition Member while the rest were coalition partners. In the Eleventh Parliament, there is only the Majority and the Minority. What we are supposed to do, and what you should rule is that for these Committee that are being formed today, if the Leader of the Majority Party will negotiate to give out the Chairmanship, it can be proper, but not negotiating Majority out of itself.

Let me give a solution to the last bit. We do not have Committees before us today. What we should do is very simple. We have already had other Committees brought before the House not in “lump sum”. We have had the Committee of Selection and Committee on Appointments. If the problem is with the Public Investments Committee and the Public Accounts Committee they can be left for the time being as these people canvass one way or the other. Let us have the rest of the Committees which we have already agreed on. Nobody is telling us that we have a problem with the Budget Committee. Nobody is also telling that we have a problem with that Committee which is supposed to deal with what hon. Linturi has brought before the House today. Why can we not bring those Committees because there are some matters seized of them at this particular point in time? We can wait for the rest of the Committees a little longer; probably another day or two.

An hon. Member: On a point of information, hon. Speaker, Sir.

An hon. Member: On a point of order, hon. Speaker, Sir.

Hon. Speaker: Who is out of order? Just relax.

An hon. Member: I was informing---

Hon. Speaker: There is nobody to inform! You cannot just inform generally.

An hon. Member: Hon. Speaker, Sir, but unfortunately, he sat down before I informed him.

Hon. Speaker: So, you are now time barred. Remember it is not one party which has a monopoly. So, we must also look at the composition of both sides. I want to give this chance to the Secretary-General - I am told - of Ford(K).

Yes, the hon. (Dr.) Eseli.

Hon. (Dr.) Simiyu: Thank you, hon. Speaker, Sir. If you recall, I sort of set off the issue of these Committees the other time we sat. I did that because I foresaw that it was going to cause a bit of friction and I hope that we would have nipped that friction before we got to it.

These two Committees have generally been causing a bit of a problem in this House from the Seventh Parliament and the other Parliaments that have been there before. There are times when the Standing Orders have clearly said that the ruling party will have the majority and it will be chaired by the Opposition and so on. So, the two Committees have, historically, been a problem in this House. So, this is not something new. I think that not being something new, it gives this House a chance to deal with the matter once and for all.

Hon. Speaker, Sir, as I support what hon. Cheboi has said that perhaps we leave out those two Committees and bring the other Committees so that we can start work, I would also like to tell the Majority party that sometimes it might appear that you are losing when you are actually gaining. This is in the sense that in this House, you have the majority. So, whatever Report those Committees will bring will be subject to the Members of this House to pass. So, it should not be of any worry to the Majority Party. As the saying goes “sometimes magnanimity is a strength and not a weakness”. I would like to plead with the Leader of the Majority Party that we have heard very good points supporting the Standing Orders as they are written, but I would like to say that, perhaps, those who wrote them were in a dilemma not knowing how they were going to handle the House once the new Constitution set in. Otherwise, if they were not in that dilemma,

probably they would have said that the party or coalition not in the Government should provide majority and chair but they did not say that. I could understand their dilemma. This is because as it has been expressed here eloquently by many Members that we have the Majority and the Minority in this House. There is no Government and there is no Opposition. We also know aesthetically that there is the Majority who also owns the Executive. So, we are all aware of these things. So, we are not saying that we should bend the law just for the sake of it. That is why I said at that time that, sometimes, when we make rules, we should think of posterity and not expediency. I think this time, this Parliament is called upon to rise above these differences and grandstanding we are seeing here, sit down and realise that, perhaps, it is in the interest of the Majority to cede that ground. So, my pleading is not based on any law or any Standing Orders. I am just pleading to the Majority side to see reason.

Thank you, hon. Speaker, Sir.

Hon. Speaker: Except, hon. (Dr.) Eseli, even though you say that the drafters of these rules might have had--- However, the rules show that they were passed by the Tenth Parliament on 9th January. To the best of my recollection, hon. (Dr.) Eseli, you were a Member.

Hon. (Ms.) Abdalla: Thank you, hon. Speaker, Sir. I want to echo what h(Dr.) Eseli has said. I agree that these Standing Orders were passed on 9th January when most Members were more interested in re-election than legislation. However, the main issue here is that people were making Standing Orders assuming that they will be sitting on the Chair that you are sitting.

(Applause)

That is the genesis of the problem with the entire Standing Orders. We did not even want to oppose those Standing Orders because those who wanted the provisions that are there were the Majority then and there was tyranny of numbers and tyranny of sitting on the Chair you are sitting right now.

So, having experienced what we went through to get to these Standing Orders, first and foremost, I want it to go on record that they were done in hiding. These Standing Orders were only brought at the late hour so that they could not be scrutinized properly. As we can see now, there are items in those Standing Orders that during the weekend meeting that the women Members went to, could clearly see the weapons that the Leaders of the Majority and Whips have on errant Members which were actually dictatorial.

I think Members of Procedure and Rules Committee should look at these Standing Orders afresh. Look at them whether you are on the Government side or on the Opposition side.

On the issue of Public Investments Committee and the Public Accounts Committee, I would like to say that there is no Opposition and there is no Government because the ruling party might have been in the Minority. What we should have in these Standing Orders, is that if the Minority or the Majority are not the ruling Executive, then the Chair should go the Opposition - to that ruling Executive. That makes sense. To tell us that we cede and you want to have a meeting to negotiate numbers is going beyond the rules. For example, what if this Opposition was made up of 30 Members of this House

and that Committee has 29 Members, how are you going to get the required numbers to fill those positions? So, do not say that now that the shoe is on your feet. When it was on the other side, you were very happy to make ambiguous and far-fetched remarks. Finally, let us not assume that all the people who we are going to be over-sighting are going to be protected by the Government of the day. Probably, it will be a person who supports your side who will be over sighted and have committed a crime and you will need to convince the majority. So, do not look at this in a piecemeal manner. There are circumstances where people need to be given their rightful share based on their presence in this House. With those remarks, we either get the list produced or we use what in parliamentary language is called steamrolling the business of this House by having the list from Jubilee presented, we approve it and we end it.

(Several Members stood up in their places)

Hon. Speaker: No, no! Members, I think this is bad manners. When a Member is still speaking, you know the rules say that the rest of you should be seated. Now I see so many of you on your feet. In keeping with traditions and practices, I had picked this side. Now, I will go to a Member of a different party of the coalition.

Hon. Mati: Thank you, hon. Speaker, Sir. I have listened keenly to the debate on Committees. I want to remind all of us that we can debate for a long time. If these four, five, six gentlemen and ladies met and disagreed and brought this matter to the House, we cannot do justice to the House by pretending that we are going to deliberate on this matter and come to any conclusion.

I request that we send these four, five, six gentlemen from the majority and the minority, back to wherever they came from and order them not to come back to this House without having constituted those Committees. We can discuss for as long as we want, but this House cannot turn itself into a Committee selection team, because that is not possible. Lastly, I want to beseech the majority. They are very magnanimous in giving in three Members of what was rightly their share to the minority team. In deliberating, a little more magnanimity will not do any harm in making sure that we have such consensus and that this House can continue. I would have a problem with any attempt to start off with all the other Committees and leave out the two very important oversight Committees. That is what Kenyans are looking at and that is what they would like to see in terms of their work.

So, let us not agree to get Committees in piecemeal. We should rather wait until these four, five, six gentlemen and ladies bring us the complete list of the Committees. If not, we should just decide that they have basically sabotaged the House because it cannot continue without the Committees. That is what we should do. Hon. Speaker you can use your fist to make sure that, that happens.

Hon. Kabando wa Kabando: Hon. Speaker, Sir, arguments presented here that are not based on the law, the Standing Orders or any other regulation will not help us. I rise to particularly state the position that the direction that we are taking by communicating a position that by virtue of one being on one side of the House, and I know this has been communicated even from the Chair, you are part of that regime. The position that we are taking to brand the majority party in the House as part of the system

is wrong. It is a deception that we are creating. We are trying to pre-empt our role in those Committees and even in other responsibilities that we are going to undertake as Members of Parliament. That because if I am from the CORD Coalition, as a Member of Parliament, I will watchdog over the Jubilee. We will be watchdog over the Executive and its agencies and by virtue of our individual responsibilities as legislators, we should not be denied that credibility. You are now raising a position that you are holier than thou that being a majority in a particular Committee, you will dominate a good position to prosecute good governance.

Those who have spoken, and I have been in this House before, I think some words are being cultivated by miasma of deceit that we are there in the Government like it happened before in the Grand Coalition Government. You have been given responsibilities, but you think other people within the same Government, with the same segment and percentage of responsibility are wrong and you are right. This will be a very bad precedence. It is important for us as Members to agree that if a certain issue is not provided for in any law; that is based on goodwill, then it is to the extent that that goodwill can be presented that, that ground can be ceded. But if it cannot happen, then, let us easily agree that the seduction that is happening has aborted, so that you allow the Leader of Minority and the Leader of Majority to proceed with their Whips and constitute the Committees, so that this House can prosecute its responsibility with diligence.

Hon. Kinoti: On a point of order, hon. Speaker, Sir. I rise under Standing Order No.172. The Member for Mukurwe-ini is saying that the Whips should move ahead and constitute the Committees whereas Standing Orders No.172 states that the Committee on Selection will among other things, nominate Members to serve in Committees save for the membership of the House Business Committee and the Committee on Appointments. I request your guidance on this because I believe that what we are discussing here is not in line with the Standing Orders. The Standing Orders state that the Selection Committee should be doing the business we are doing here.

A few weeks ago, I requested your guidance on the Selection Committee and how it will go about the business of constituting the Committees. The Standing Orders have not given direction on how the Selection Committee should do that. As hon. Midiwo has noted, if you go to Standing Order No.1(2), it states that:-

“(2) The decisions made in paragraph (1) shall be based on the Constitution of Kenya, statute law and the usages, forms, precedents, customs, procedures and traditions of the Parliament of Kenya and other jurisdictions to the extent that these are applicable to Kenya”.

Hon. Speaker, Sir, given the fact that the Selection Committee is a new Committee of this House, it does not have a formula of constituting PIC, PAC and the other Committees, in your wisdom, I request that you give guidance on how the Selection Committee should do this. Once you give that guidance, we will not have this locking of horns in this House. Standing Order No.1 gives direction that you should give guidance based on the Constitution. The National Assembly, based on the supreme law of this land, namely, the Constitution, represents the people from the constituencies and special interests.

I humbly request for your guidance on a formula that will be used. It does not matter whether the Chief Whip or the Leader of the Majority Party have represented the

Jubilee wing. You need to give guidance so that the Committee on Selection moves on based on that formula that you will stipulate according to the Constitution. The National Assembly should be the representation of the people of Kenya. Therefore, the formula should represent---

Hon. Speaker: Enough! Enough! You stood on a point of order and you used it as an excuse to make an address, perhaps, aimed at some other quarters not necessarily the House.

I am sure we have heard more than what we needed to hear. So, I will start with Article 124 which was referred to by hon. Chepkonga. That Article is the anchor of the Standing Orders. It is very important that we begin there. Forget about what Article 1 is saying about national values. Yes, those national values will be there all over. They inform everything that we do. They are just general principles. Beyond the national values, the same Constitution has gone on in Article 124 to state how the Houses will form Committees and Standing Orders.

Hon. Chepkonga referred the House to that. In fact, I am happy that he did so because I was going to refer all of us to that Standing Order.

“Each House of Parliament may establish Committees and shall make Standing Orders for the orderly conduct of its proceedings including the proceedings of its Committees. Parliament may establish joint Committees consisting of Members of both Houses and may jointly regulate the procedures of those Committees. The proceedings of either House are not invalid just because of a vacancy in the membership”.

I took the liberty to reproduce this so that even as you form those Committees, you know that even if there are vacancies, the proceedings of those Committees will not be on the mere basis that there was a vacancy. There is a presence or participation of any person not entitled to be present at/or to participate in the proceedings of the House. Of course, the other bit is about appointment and Article 125 gives the powers of both the House and the Committees to summon witnesses.

Having said that, using the authority confirmed on itself, the Tenth Parliament went and made Standing Orders for the orderly conduct of its business. Where do you find those Standing Orders? In this green book which all of us have. It is important that we begin to appreciate this. Hon. Kinoti Gatobu is finding concurrence with what was raised by hon. Jakoyo Midiwo who referred the Chair to Standing Order No.1. But I want us to take this slowly so that we must, therefore, know and put to rest what this Standing Order No.1 requires. I want to read Standing Order No. 1(1) verbatim.

“In all cases where matters are not expressly provided for by these Standing Orders or by other orders of the House, any procedural question shall be decided by the Speaker.” I repeat, “any procedural.” Therefore, Standing Order No. 1(1) relates to any procedural matters. In Standing Order No.1 (2), I want you to see how misplaced the argument is. It is stated thus: “The decisions made in paragraph one shall be based on the Constitution of Kenya.” The decision that the Speaker will make on a procedural matter which is not expressly provided for will be guided by the Constitution of Kenya, statute law and usages, forms, precedence, customs, procedures and traditions of Parliament of Kenya and other jurisdictions to the extent that those are applicable to Kenya.

So, the application of Standing Order No.1 (1) is only with regard to procedural matters that are not expressly provided for in these Standing Orders. So, please, stop

misleading yourselves and in the process trying to mislead others. The Speaker will be firm on this. It is only on procedural matters that are not expressly provided for and in that case only then the Speaker must be guided by the Constitution, the statute law, traditions and customs. It is only to that extent.

Hon. Kinoti Gatobu, claiming to stand on a point of order, and he was right to do so, made reference to Standing Order No.172. He is right. The hon. Member for Mukurweini had made reference to the fact that the Chief Whip and others will select Members. That is why I agree with hon. Gatobu. It is not the Chief Whip. Rather, it is the Committee on Selection which is provided for clearly in Standing Order No.172. Once the Committee on Selection nominates Members to sit in various Committees which are chaired by the Leader of the Majority Party comprising also the Leader of the Minority Party and others expressly provided for there, he will come and lay a paper which will be debated here for the House to approve those nominations.

Hon. Kinoti Gatobu asked how the Committee on Selection will nominate Members. The traditions and customs come in now. They will consult with the leadership of their parties or coalitions. I know that several Members have mistakenly written to me seeking to be put in Committees and I have had to return their requests telling them, "Sorry, I do not participate in that." The Speaker is not a Member of the Committee on Selection. So, please, consult the Leader of the Majority Party who is the Chairperson of that Committee on Selection. Also consult the Leader of the Minority Party. For avoidance of doubt, "there shall be a Select Committee to be designated Committee on Selection consisting the Leader of the Majority Party who shall be chairperson; the Leader of the Minority Party; and not less than 11 and not more than 19 Members who shall be nominated by Parliamentary parties and approved by the House."

The selection was done. You as a House approved them. Hon. Kinoti Gatobu, you participated in approving. So, do not ask what you are supposed to do. Go there and sit in the Committee if you are a Member. If you are not, you as an Independent, have my sympathy and all your other colleagues who are independent Members as well as Members of parties that are not recognized as parliamentary political parties. That is a party that does not have five Members here and which is not a Member of a coalition. You as an Independent, you have my protection and all your other colleagues. If the Leader of the Majority Party in conjunction with the Leader of Minority Party and others who sit in the Committee on Selection bring lists of membership into Committees that do not contain names of Members who are Independent, then the Speaker will protect you. That is because you must be in a Committee.

Hon. Members, earlier on, I had indicated that on Tuesday, the House had received the Division of the Revenue Bill. Our own Standing Order No. 233 requires that within ten days, the House - and not just the committees--- We are tussling over the committees. The House should have done away with that Bill. After ten days, the Bill should be deemed to have left the National Assembly and gone to the Senate. That is ten days from Tuesday when it was laid before the House; but, of course, calculating the days from yesterday.

The Budget Estimates that have been tabled here, as I had said earlier on, stands committed to the appropriate departmental committees, which have 21 days, again. So, hon. Members, we are debating this Motion about who is going to belong to where and

why is this not happening? I will not get involved in that debate myself. I want to make this ruling and direct that: Knowing that we are in the middle of the budget-making process - it is more or less in the middle - it is absolutely important that the peoples' representatives, hon. Members of the National Assembly participate in their role of going through the document that has been tabled - the budget estimates - and provide reports as appropriate.

Therefore, in order to save time, I direct that the Leader of Majority Party, seated together with the Leader of Minority Party, do table before the House, on Tuesday 7th May, 2013, a list of Members into all departmental committees and other select committees.

(Applause)

How you will arrive at that, I will leave it to your own mechanisms, body chemistries - this is because I am not part of it - but it is important that the House debates the names of hon. Members here on Tuesday as part of the business. That is because we cannot afford waiting any longer. We will be letting the Kenyans down! We need those committees working like yesterday. It is so ordered. Thank you.

Thank you.

Hon. Ng'ongo: On a point of order, hon. Speaker. I am rising on a point of order on a different matter, but slightly related.

Hon. Speaker, I would urge that, based on Standing Order 264, that you find the Standing Orders that we have been referring to as illegal and, therefore, we return to the old Standing Orders. If you read Standing Order 264, it states:-

"At least once in every term of Parliament, not later than six months to the end of the term, the Procedure and House Rules Committee shall review the Standing Orders and make a report to the House recommending the Standing Orders, if any, to be amended."

Hon. Speaker, Sir, these Standing Orders were adopted on 9th January, 2013. This did not meet the six months requirement before the end of the term of Parliament.

Hon. Speaker, we are all aware that the 10th Parliament---

Hon. Speaker: Hon. Ng'ongo, let me cut you short. Hon. Ng'ongo, you are holding the Standing Orders adopted by this House on 9th of January, 2013. Therefore, your reference to Standing Order 264 would be, if you are applying them to this Parliament now. You should be referring me to the Standing Orders which were repealed. That is because they cannot apply to these.

Hon. Ng'ongo: Hon. Speaker, actually this was uplifted from the old Standing Orders. If given time, I would--- This is a very serious matter! The 10th Parliament violated the law and we need to put a stop to this. Actually, no wonder they were brought when many of us were already preparing to go for the campaigns. So, these standing Orders, even though we have used them, are illegal and they should be declared as such. We revert back to the old Standing Orders. It is very clear. This particular provision was uplifted from the old Standing Orders. It is supposed to be six months before the term of Parliament comes to an end.

Hon. Speaker, the 10th Parliament, of which I was a Member, decided to mischievously bring Standing Orders and adopt them contrary to the law and we have been referring to an illegal document in this House.

Hon. Speaker: Hon. Ng'ongo, I think you have been one of the greatest proponents of these Standing Orders, the contents of it, at least, and substance. Therefore, you are telling the House that, actually, you have been making illegal references. I will look with disfavour your---

Hon. Member: Which Standing Order is that?

Hon. Speaker: Hon. Ng'ongo is referring to Standing Order 264 - Periodic Review of Standing Orders. It states as follows:-

“At least once in every term of Parliament, not later than six months to the end of the term, the Procedure and House Rules Committee shall review the Standing Orders and make a report to the House recommending the Standing Orders, if any, to be amended.”

Hon. Ng'ongo, with regard to these Standing Orders - if six months to the end of the term of this Parliament I do not bring any proposals for amendments then, of course you carry on with these ones. But remember, in these same Standing Orders, what does the last one, Standing Order 267 say?

“The Standing Orders adopted by the National Assembly on Tenth December, 2008, during the Second Session of Parliament, are hereby revoked.”

So, we are now bound by these Standing Orders. If six months to the end of this term we do not bring---

Hon. Member: They were revoked!

Hon. Speaker: Yes. In fact, they were revoked. Those ones were revoked and we are now operating on these ones. In fact, you were sworn-in on the procedure adopted on these Standing Orders. So, they were revoked by you hon. Ng'ongo and others; by my good friend the hon. Jakoyo Midiwo, the hon. Duale and others. The hon. Dalmas Otieno was also there. So, there are so many of you who could be guilt on this.

I think, in the interest of making progress, let us not go that route. I rule that this reference to Standing Order 264 is really with regard to review of these Standing Orders, not the past ones. Thank you. Next Order!

NOTICES OF MOTIONS

MEASURES TO SAVE ELEPHANTS FROM POACHERS

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

THAT, aware that over 600 pieces of ivory worth Kshs100 million were intercepted at the Port of Mombasa in March 2013 headed for Indonesia; concerned that 1,000 elephants have died in a span of three years; further aware that the Government declared poaching in the country as a national disaster; noting that a pound of ivory can now fetch more than US\$1,000 in Beijing and, as a result, tens of thousands of elephants are slaughtered across Africa; also aware that the Far East is a market hub for that poached ivory, China in particular; further concerned that 211

elephants were poached in 2011, with 384 elephants poached in 2012 and another 74 elephants lost since the beginning of the year, 2013; deeply concerned with the negative impact this will have on the tourism industry in particular and the economy in the long run; this House urges the Government to tighten the measures in place for curbing poaching by increasing the number of game rangers deployed at the game parks and by coming up with more punitive measures to deter poaching.

Thank you, hon. Speaker.

Hon. Speaker: Hon. John Waluke, next time, you better look at the Order Paper. Do not allow the hon. Member whose Motion appears after yours to rise before you.

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

THAT, aware that over 90 per cent of the raw materials for the agro-based parastatals such as Nyayo Tea Zones, sugar factories and cotton factories come from rural farmers residing in the counties; noting that the farmers produce all the in-puts, but do not receive any benefits from their activities; deeply concerned that the county governments are likely to face enormous financial challenges due to the limited sources of revenue; this House urges the Government to write off all liabilities of those parastatals and hand over the management of the same to the county governments to form part of income-generating activities for the respective county governments.

Hon. Speaker: Very well. Next Motion by Mustafa Idd.

FREE NURSING UNITS FOR AGED IN HOSPITALS

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

THAT, aware that according to the statistics relayed by the National Council for Population and Development (NCPD) in Policy Brief No.25 of June 2012, Kenya's population and that of all other sub-Saharan African countries is rapidly aging and the population of persons aged 60 years and above has increased steadily from 1 million in 1989 to 1.9 million by 2009 and is projected to reach about 3 million people by the year 2030; concerned that there is an increase in the number of neglected and/or abandoned elderly members of the society as a result of financial inability of their immediate kin, or lack of capacity to handle the health conditions of such senior citizens; noting that despite the legislation enacted to cater for the elderly, little further comprehensive action to enhance their well-being and specifically the health of older Kenyans has ensued, this House urges the Government to establish a free nursing unit for the aged in every hospital in all the counties.

Thank you, Hon. Speaker, Sir.

Hon. Speaker: Very well. Next Order!

STATEMENT

BUSINESS FOR WEEK COMMENCING FROM 7TH TO 9TH MAY, 2013

Hon. A.B. Duale: Hon. Speaker, Sir, pursuant to Standing Order No.44(1), on behalf of the House Business Committee (HBC), I rise to give the following Statement regarding the business to appear before the House next week.

The HBC has scheduled for debate the Motion by hon. Abdulaziz Farah, Member of Parliament for Mandera East, urging the Government to urgently establish a Livestock Insurance Fund to cushion livestock farmers in all ASAL areas against loss occasioned by drought. Also to be considered for debate includes Motions by:-

(a) The Member of Parliament for Kirinyaga Central, hon. Joseph Gitari, urging the Government to consider upgrading, at least, one hospital in every county and supply equipment to handle both chemotherapy and dialysis treatment procedures for cancer patients.

(b) The Member of Parliament for Kilifi South, hon. Mustafa Idd, urging the Government to establish free nursing units for the aged in every hospital in all counties in Kenya.

(c) The Member of Parliament for Sirisia, the hon. John Waluke, urging for handover of agro-based parastatals to respective counties in the Republic of Kenya.

(d) The Member of Parliament for North Horr, Hon. Francis Chachu Ganya, urging for the tightening of measures on ammunitions so as to curb poaching in the country.

Hon. Speaker, Sir, the Motions that I have just read have been balloted for by the HBC and notices of the same are expected to be moved in the course of today's sitting.

Hon. Speaker, Sir, on Bills, the Division of Revenue Bill, 2013 was read the First Time on Tuesday and is awaiting deliberations upon the formation of the Budget and Appropriations Committee.

Hon. Speaker, Sir, finally, the HBC will meet on Tuesday 7th May 2013 at the rise of the House to consider business for the rest of the week. I now wish to lay the Statement on the Table of the House.

Thank you.

(Hon. A.B. Duale laid the Statment on the Table)

Hon. Speaker: Very well. Hon. Members, I need to draw your attention to the fact that on Tuesday, I gave permission to hon. Wafula Wamunyinyi to move a Motion for Adjournment of the House on a matter of national importance. Perhaps, it was not his fault that, that matter was not prosecuted. I think I would want to say that we give him a chance to give notice again and see whether he still has the requisite support.

Hon. Wamunyinyi.

NOTICE OF MOTION FOR ADJOURNMENT UNDER S.O. 33

INSECURITY IN BUNGOMA COUNTY

Hon. Wamunyinyi: Thank you, hon. Speaker, Sir. In fact, it is now getting more serious with what happened yesterday and the day before. The attacks are spreading to other parts of the country like Busia. I am sure they will spread to Nyanza and other parts of Kenya. There is still need to discuss insecurity as a matter of national importance, and I want to appeal that you do allocate the time.

(Several hon. Members stood up in their places)

Hon. Speaker: Do you still have the requisite support? I see 20 hon. Members. Now, I can see you have the requisite support. Hon. Members, then the House will debate this issue today starting at 5.30 p.m.

Hon. Wamunyinyi: Thank you, hon. Speaker, Sir.

Hon. Speaker: Next Order.

MOTION

REDUCTION OF NHIF PENALTY CHARGES TO DEFAULTERS

THAT, aware that the National Hospital Insurance Fund (NHIF) defaulters continue to be surcharged a penalty of 500 per cent of the outstanding amount; further aware that the penalty is barely affordable to majority of Kenyans, this House urges the Government to consider reducing the NHIF penalty surcharge to defaulters from the current 500 per cent to 25 per cent.

(Hon. Gitari on 25.4.2013)

(Resumption of Debate interrupted on 30.4.2013)

Hon. Speaker: Who was on the Floor? Ms. Nyasuna, I am told you have eight more minutes.

Hon. (Ms). Nyasuna: Hon. Speaker, Sir, I had completed my submission on the Motion.

Hon. Speaker: All right. Then any other hon. Member may contribute. Yes, Hon. Nyikal.

Hon. (Prof.) Nyikal: Thank you, hon. Speaker, Sir, for giving me time to contribute on this Motion. I wish to state that actually, what this Motion entails is actually a technical matter. Whereas I think most of us have a lot of sympathy for people who may not afford healthcare, the request that we have a reduction of a penalty or the surcharge is really not to punish the people who have failed to pay. Basically, this is based on the very principle of medical insurance, or any other insurance where you insure a large number of people and only a few of them will be sick. You will have enough funds to treat those who get sick. If you get into a situation where all the people you enroll in insurance get sick, that insurance will fail; it will not work. I happen to know that the penalty is basically to stop members from defaulting. If you allow members to

default, what really happens is that they do not do anything until they are sick. Then they will pay and expect that the whole bill will be paid. The bill is usually many times larger than the premium and if a large number of people do that, the insurance will fail.

Hon. Speaker, Sir, I know there was an experience in 2002 when, at that time, individual contributors were not allowed in the National Hospital Insurance Fund (NHIF). When they were allowed to join, many people made one contribution and then did not contribute further. But when they fell sick, they were forced to contribute. I think NHIF paid nearly eight times what the contributions were. So, I would appeal to hon. Members not to basically see this in terms of magnanimity; people need care and this is the very basis of insurance.

Hon. Speaker, Sir, if hon. Members default and then they pay, in technical terms, it should take some time before they partake of the services. What happens is that you will ensure that all sick people--- You will get what is called “adverse selection” and, in the long run, the insurance will fail.

I advise that we do not have a penalty at all, but you do what is always done; that if you have defaulted and then you pay, you take some time before you partake of the services. This will ensure that you do not have a situation where people do not enroll with insurance, but they enroll with those institutions when they are sick. If that is allowed, the insurance will fail in the long run. So, whereas we really must take care of our brothers who cannot afford to pay, we must find ways of supporting people so that they can get healthcare which they do not pay for at the point of delivery. I think many hon. Members have indicated here that what we need is a comprehensive medical scheme or insurance.

I, therefore, advise that this Motion should perhaps read “that we reduce or even remove” but when the members pay, there is a time taken before they use the services. Otherwise, we will only be enrolling sick members, and any insurance that does that will definitely fail.

Hon. Speaker, Sir, therefore, I wish to oppose this Motion unless it is amended in a way that will protect National Hospital Insurance Fund (NHIF) or any other insurance that is in place so that people do not just pay once, sit, wait and when they fall sick, they pay. Any insurance that does that will surely fail.

Thank you, Hon. Speaker, Sir.

Hon. Muchai: Thank you, hon. Speaker, Sir. I rise to oppose this Motion. I am grateful that my friend, Dr. Nyikal, with whom I have had the opportunity to sit on the NHIF Board, has made certain clarifications that require additions.

The Motion makes reference to defaulters. It is important that we all understand who the defaulters are under the NHIF Act. The remittances made to the Fund are derived from the earnings of employees employed by employers. The provisions of the law require that the employers, after making the deductions from the employees’ earnings, must make remittance to the Fund within a particular period. It is important to note, and this comes from my listening to contributions that were made on Tuesday to the effect that the surcharge of 500 per cent on defaulters is hurting businesses.

I would like to clarify that, that money which is remitted by the employers is not part of the business run by the employer. That money is deducted from the employees of the employer and remitted to the Fund within a required period. If an employer defaults in making the remittances, that money which does not belong to his business is

circulating within his business and, therefore, generating income in his business. That is why the surcharge or the penalty of 500 per cent is provided as a deterrent to those who would deliberately withhold money that they have already deducted their employees.

Hon. Speaker, Sir, allowing a reduction or a removal of that penalty is promoting impunity on the part of those who are required to remit those deductions. It is killing NHIF and ensuring that health services are not provided to members of NHIF. It is doing more harm than good to seek to reduce the penalty which is meant to deter the employers who have deducted the money from the earnings of the employees and have not remitted the same to the Fund. It would amount to encouraging defaulting.

[Hon. Speaker left the Chair]

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

I wish to oppose this Motion as it is destined to kill NHIF if not to make the Fund impossible to provide the services that it is intended to provide.

Hon. Temporary Deputy Speaker, Sir, I beg to oppose.

Hon. (Dr.) Odinga: Thank you, hon. Temporary Deputy Speaker, Sir. I could not agree with the previous speaker more. This penalty is supposed to be a deterrent particularly to the employers. Many employers take low interest rates as a non-deterrence because if this window of defaulting is left to the employers, most of the employers would prefer not to borrow money from banks but rather use this money to trade. Because of this, the percentage of deterrence was made very high. Of course, it is too high. The 500 per cent is a bit unreasonable but to put it at 25 per cent, which is the rate at which most banks in the country lend money, will encourage people without any security. That is because when you go to the bank to borrow money, you have to provide some security. However, that is easy money which you just deduct from your employees you retain it and then use it to trade. If we reduce the 500 per cent to 25 per cent, we will encourage employers to continue retaining this money for their own business without going to the credit institutions which are legally mandated to provide credit services.

Hon. Temporary Deputy Speaker, Sir, my considered opinion on this issue is that this matter is not timely. That is because as we consider the introduction of a comprehensive insurance scheme for all Kenyans, we should not kill the existing NHIF.

Thank you, Hon. Temporary Deputy Speaker, Sir. I oppose the Motion.

Hon. Kemei : Thank you, hon. Temporary Deputy Speaker, Sir. I rise to oppose the Motion. NHIF is the only insurance Fund that is available in this country to the low income earners in our nation. If we were to slap a 500 per cent penalty, we would be discouraging those employers who have for some time been using money from the contributors to do their own business instead of forwarding the money to NHIF so that it can provide medical care to our people.

If you look at the contributions to this Fund, particularly from individual contributors, they are very few, far and wide. Most employers in this country rely on that Fund. Those who can afford rely on medical insurance schemes, which are the preserve of a few. I also wish to point out that last week we had a Motion on emergency health treatment that is supposed to be provided by hospitals without having to ask for deposits.

We supported that Motion, but we are seeing several Motions coming to the House on health insurance. My position would be that we sit down as Parliament and approve a comprehensive medical scheme that covers most of these requirements instead of going for piecemeal legislation.

I beg to oppose.

Hon. Makenga: Thank you, hon. Temporary Deputy Speaker, Sir, for giving me this opportunity. I rise to support the Motion by hon. Joseph Gitari. The NHIF defaulters continue to be surcharged a penalty of 500 per cent of the outstanding amount.

Hon. Muchai: On a point of order, hon. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Hon. Cheboi): Order! I have not given you that opportunity, but go ahead anyway.

Hon. Muchai: Hon. Temporary Deputy Speaker, Sir, the Motion is not as read by the Member. It is important, so that we do not run the risk of misleading the Members, that the Member reads the Motion in its entirety.

Hon. Makenga: Hon. Temporary Deputy Speaker, Sir, I rise to support the Motion that the NHIF defaulters should not continue to be surcharged a penalty of 500 per cent of the outstanding amount.

The Temporary Deputy Speaker (Hon. Cheboi): Members, for purposes of even other Members, you really do not need to go through the Motion again. You simply contribute. So, go ahead and contribute. That will save us a lot of time.

Hon. Makenga: Hon. Temporary Deputy Speaker, Sir, the penalty of 500 per cent is rather punitive. It is not only punitive, but also unaffordable by some employers. You may find that the employer is only supposed to pay Kshs20,000 and just by a mere default or by a delay in paying the payment in time, he is penalized five times. That works out to be Kshs100,000. So, the employer will not be able to pay the penalties because they are very punitive.

Hon. Muchai: On a point of order, hon. Temporary Deputy Speaker, Sir. Is it in order for the Member to continually inform this House that employers are required to pay to the NHIF whereas the position in the law is that it is only the employees who contribute to the Fund? The employer does not pay any money. The only responsibility that the employer has is to deduct from the earnings of the employees and remit those deductions to the Fund. The employers do not pay to the Fund. So, is it in order for the Member to mislead the House that employers pay any money to the Fund?

The Temporary Deputy Speaker (Hon. Cheboi): He will respond to that; but also for guidance, whenever your colleague is on a point of order, you sit down. Proceed.

Hon. Makenga: Hon. Temporary Deputy Speaker, Sir, I understand very well that the money is deducted from the employees and it is remitted by the employers. My point is that an employer may delay in remitting the deductions by a day and by the time he goes to pay, he is penalized for not paying on the due date. Therefore, the penalty is not only imposed on defaulting but also on the time when the remittance is made. Sometimes it may be because the date is falling on a weekend or there might be a reason, but you end up paying Kshs100,000 as a penalty because of failing to remit the money within a particular day. I feel that the 500 per cent penalty is high and should be reduced to 25 per cent, so that in case an employer or a contributor is unable to pay, then the 25 per cent is not very punitive. The 500 per cent penalty is also a window for corruption. It

may prompt the employer, or the contributor, to negotiate for a lesser penalty or a chance not to pay the 500 per cent because the figure is high. Reducing the 500 per cent will reduce the chances of corruption.

I want to support the Motion and urge the House to consider not only reducing the 500 per cent, but also to waive it altogether. This will encourage the contributors to pay in time. I beg to support.

Hon. Gichigi: Hon. Temporary Deputy Speaker, Sir, I rise to support this Motion. By experience is that the common man, who is supposed to make contributions, especially after the scheme was opened to individual members, once he defaults, instead of paying this 500 per cent, he would rather stay without insurance and let the cover lapse. Once the policy lapses, they apply afresh. That is exactly what happens. As the previous Member has stated, a good number of the officers of the Fund will negotiate with a defaulter and will attempt to backdate the date of the payment and in the process they will receive some payment.

I am not aware of any other contract that has as high a penalty rate as this one. Even if you look criminal offences, you will not get 500 per cent fines. This is exorbitant. It is not based on any reasonable hypothesis, or analysis, and it should come down to the 25 per cent that has been proposed, which is reasonable.

I support the Motion.

The Temporary Deputy Speaker (Hon. Cheboi): Before I give a chance to the next Member, for the new Members, it will be very important that you introduce yourself and you probably declare if you are making your maiden speech, so that the Chair will accordingly take care of your interest. Maiden speeches have a specific way of being handled.

Hon. Wamunyinyi: Thank you, hon. Temporary Deputy Speaker, Sir. When you talk of a defaulter, who is a defaulter in this case? my understanding, and I stand to be corrected if I am wrong, is that the defaulter in this case is mostly the employer who recovers the contribution from the employee in order to remit the same to the National Hospital Insurance Fund (NHIF). If that is the position then, the measures put in place are intended---

An hon. Member: On a point of information, Hon. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Hon. Cheboi): Information to whom, and does he require it?

Hon. Wamunyinyi: Hon. Temporary Deputy Speaker, Sir, I do not require the information.

If that is the case then there should be tough measures in place to prevent employers from staying with monies they recover from the employees. The employers should be remitting the funds so deducted on time. I am, therefore, opposed to this Motion to reduce the percentage. It is important for us to understand that members of the public---

Hon. Gichigi: On a point of order, Hon. Temporary Deputy Speaker, Sir. Is it in order for the hon. Member to mislead this House that it is only employers who remit this money to the fund whereas individual members, including very poor people, are part of

the membership of this Fund? The subsistence farmer and the *boda boda* rider actually make this contribution. Is he, therefore, in order?

(Hon. (Prof.) Nyikal crossed the Floor without bowing at the Bar)

Hon. Wamunyinyi: Hon. Temporary Deputy Speaker, Sir, it is quite clear that most of the beneficiaries of the NHIF are employed people. This has, however, extended to those who are not in employment, for example farmers and the ordinary people. I am sure that the ordinary people who choose to join NHIF make arrangements with the Fund on how to remit the money as required. Some understanding can be reached between the Fund and the members. The target here is the employer who collects money from the employee and then does not remit it. These are the people to be penalized. Some arrangement made between members of the public and the NHIF has no problem. I will give an example of an institution like Parliament. We and the staff of Parliament all pay NHIF at the end of the day and then Parliament, for some explained reason, does not remit the money to the NHIF; it is Parliament that we are telling that if it does not remit the money then there is a penalty to pay.

I oppose this Motion on that ground.

The Temporary Deputy Speaker (Hon. Cheboi): Hon. Nyikal, I noticed that you crossed the Floor. I would appreciate if you went to the Bar and bowed as is the norm. I understand you are a new Member of Parliament, but we should be able to stick to the rules. Hon. Nyikal, proceed to the Bar.

Hon. Muchai: On a point of order, Hon. Temporary Deputy Speaker, Sir. What is out of order is that the hon. Member for Kipipiri is misleading this House by suggesting that those who make contributions to the NHIF on voluntary basis are compelled by the law to make those contributions and, therefore, if they do not make those contributions they are subject to these penalties. I want to state here clearly that there are two types of contributors. We have employees, whose remittances are made by their employers and voluntary contributors, who voluntarily join the Fund; they are mainly found in the informal economy. When they do not make the remittances as they promise to do, they do not face any penalties under the Act. The hon. Member for Kipipiri is, therefore, not in order to continually mislead this House by stating that the penalty also applies to the voluntary members of the fund. It does not. This is mainly on employers.

The Temporary Deputy Speaker (Hon. Cheboi): To the best of my knowledge he has just contributed once. So, I do not think it is “continually” as you want to allege. I believe he has got your point though.

The Member for Mosop (Hon. Bitok): Hon. Temporary Deputy Speaker, Sir, I am Kirwa Stephen Bitok. I am the Member for Mosop and this is my maiden speech.

I would like to contribute to this Motion on NHIF. What is important is a national insurance that covers most of Kenyans, both employed and unemployed. With regard to the penalty, it is high and it should be reviewed downwards. We need to encourage as many employers as possible to come into this net, so that as many Kenyans as possible are enrolled in this insurance. There are individual contributors and they too need to be encouraged to contribute voluntarily. We should have ways of managing the National Hospital Insurance Fund (NHIF), so that rather than being punitive and encouraging

corruption when defaulters go “negotiating under the table”, they should be able to make the contributions at graduated scales that will help in raising money for the Fund and ensuring that its management is proper.

I beg to support this Motion. Thank you.

The Temporary Deputy Speaker (Hon. Cheboi): I am quite inclined to give chances to those Members who have not made their maiden speeches. You realize this is the fourth week and they have not spoken. So, I will be looking out for them. You do not have to put your hands up. I will be very deliberate on that. Hon. Member from Muhoroni, it is your turn.

Hon. Oyoo: Thank you very much, hon. Temporary Deputy Speaker, Sir. I am sorry it is not my maiden speech. I have spoken before. Contributing to the same Motion, I want to oppose it. I think the drafter did not mean well. In this country, we are fighting a big virus called impunity. I will be moved by the explanation given by my friend, the Member of Parliament for Kabete, who has had the benefit of representing the workers---

Hon. Gitari: On a point of order, hon. Temporary Deputy Speaker, Sir. You have heard the hon. Member from Muhoroni say that the drafter of this Motion was trying to bring impunity. Can he substantiate?

An hon. Member: That is obvious. There is no point. *Endelea.*

Hon. Oyoo: Hon. Temporary Deputy Speaker, Sir, it is in the records of this House that a Member is not expected to substantiate the obvious.

The Temporary Deputy Speaker (Hon. Cheboi): Member for Muhoroni, I think the hon. Member for Kirinyaga Central has raised an issue. We do not need to use those kind of terms. I mean, you can as well debate without having to bring in those other sideshows. proceed.

Hon. Oyoo: Thank you. I am moved by the fact that my friend had the benefit to sit on the Board of NHIF for a long time. I mean the Member of Parliament for Kabete. He has clarified that there two categories of contributors of NHIF. We have the voluntary members and employees, who have statutory deductions taken from their salaries by their “fat cat” employers. After deducting---

Hon. Gitari: On a point of order, hon. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Hon. Cheboi): Yes! What is your point of order? Really, it has to be a point of order. That is because I will not expect you to use a point of order to unnecessarily interrupt the hon. Member.

Hon. Gitari: Is the hon. Member for Muhoroni in order when he tries to insinuate in this House that there are two categories yet if I rush to my office now, you will get a bulky record of the penalties that are charged to *boda boda* people by NHIF, which is 500 per cent?

Hon. Oyoo: Thank you very much. It is on record that my good friend and colleague, the Member of Parliament for Kabete has just walked us through what the penalties are. I do not know if the Member for Kirinyaga Central has something personal against me. But I will continue---

The Temporary Deputy Speaker (Hon. Cheboi): I will not allow you to proceed in that direction. We really need to have a civil debate. He has raised a genuine point of order. I mean you need to respond and, probably, get guided if you are not familiar with the rules.

Hon. Oyoo: Okay. I will continue to say that when a penalty is levied on an employer who deducts money from their poor employees, and then they continue to keep such money instead of remitting the same--- That is tantamount to handling stolen goods. Therefore, this Motion is very good, but it should be opposed. The penalty should not just be 500 per cent. Those people should pay back the money at 500 per cent. They should also be charged with a criminal offence of handling stolen goods. That is because they deduct money from poor employees and continue to use the money to run their businesses. That is what we call impunity and, at this very moment, this country is busy fighting something called impunity. I would like to oppose this Motion and insist that the Government continues to review the law, so that punishment is not only 500 per cent--- It should be the 500 per cent and a jail term. That way, employers who are bent on making more and milking poor employees are punished. Such employees are deprived of the opportunity to get better medical facilities. Those are poor employees who really need that kind of facility. I suggest that more punitive measures be added on top of the 500 per cent penalty. That kind of impunity, if not checked---

Recently, we saw NHIF trying to use the poor employees' deductions to benefit non-existent medical providers. That is what we call total impunity and this House should take the lead and remedy that kind of bad situation; it makes poor people continue suffering. There are people who sleep and wake as instant millionaires out of poor peoples' suffering.

With those few remarks, I want to oppose the Motion, and suggest that the law should be reviewed, so that more serious punitive measures are legalised. Thank you very much.

The Temporary Deputy Speaker (Hon. Cheboi): Yes, hon. Sunjeev.

Hon. Muluvi: Thank you---

The Temporary Deputy Speaker (hon. Cheboi): Order. Proceed, hon. Sunjeev.

Hon. (Ms) Sunjeev: Thank you. I think he is confused.

Thank you very much for seeing me. I wholeheartedly oppose this Motion for the reasons that--- You see, we are missing the point, which is discipline. If somebody has to do something by a certain time, he has to do it by that time. You cannot tell me that I passed an examination, which I was supposed to sit yesterday, and I have passed it. That is because I should have failed it. So, the 500 per cent penalty might be too high. But the point is that the system must be followed. The system must be looked into, and it must be overhauled. We must find out where the problems are, and corruption is one of them. It is the root cause of many of the problems in our country. I seriously feel that what we should not be discussing is 500 per cent or 25 per cent. What we should discuss is how we should overhaul the system, so that we make it better for us.

With that, I oppose this Motion. Thank you.

The Temporary Deputy Speaker (hon. Cheboi): Hon. Members, I will give this chance to the hon. Member for Kitui East.

The Member for Kitui East (Hon. Muluvi): Thank you, hon. Temporary Deputy Speaker, Sir. My names are hon. Major Muluvi, Member of Parliament for Kitui East.

The Temporary Deputy Speaker (hon. Cheboi): I guess that this is your maiden speech?

The Member for Kitui East (Hon. Muluvi): Yes. I rise to support the Motion. At the same time, I want to make my maiden speech.

First, I want to thank the people of Kitui East for electing me as their Member of Parliament. I would also like to make a few remarks on the President's Address.

One, I want to touch on infrastructure. With regard to the Kibwezi-Kitui-Mwingi Road, the previous Governments have always promised to tarmac it and, more so, during the campaign periods.

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

The Temporary Deputy Speaker (Hon. Cheboi): Order! I will not allow your point of order. I am sure the Member on the Floor is sensing the urgency. Go ahead.

The Member for Kitui East (Hon. Muluvi): Hon. Temporary Deputy Speaker, Sir, I am saying that, that road serves the eight constituencies of Kitui County. That county is endowed with a lot of minerals. I can say here that the county has the largest deposits of coal in the region, not only in the country. It is extremely unfortunate that, that road has gone for all the years without being tarmacked.

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

The Temporary Deputy Speaker (Hon. Cheboi): Now, the hon. Member is making his maiden speech. Of course, it would be prudent that we contribute to the Motion at hand; but let us allow some little leeway to the hon. Member since it is his maiden speech.

The Member for Kitui East (Hon. Muluvi): Thank you, Hon. Temporary Deputy Speaker, Sir. I also want to make a few remarks on insecurity in the country, especially the lower part of my constituency – the locations of Malalani, Endau and Voo. In the last ten months, we have lost more than ten people in the hands of bandits. A month ago we also lost one young businessman. This is of serious concern. I will be coming up with a Motion in this House in due course over this matter.

Hon. Temporary Deputy Speaker, Sir, I also want to make a few remarks on the education sector. One, I want to make a remark regarding the laptops. This is a noble idea, but I want to say here that infrastructure needs to be addressed. Seventy per cent of the primary school teachers in the rural set-up are not computer literate. The Jubilee Government needs to come up with a crash programme to lay the infrastructure and, of course, train our primary school teachers, if this project is to take off.

Hon. Temporary Deputy Speaker, Sir, I also want to make one more point on education. In the constituency I represent, 30 per cent of the teachers are employed by the Parents Teachers Association (PTA). PTA teachers are paid less than Kshs5,000 per month. I am aware that the Teachers Service Commission (TSC) will be employing teachers. I am requesting for the benefit of all PTA employed teachers in the republic that they be given preference in the forthcoming employment by the TSC.

Hon. Temporary Deputy Speaker, Sir, with those few remarks, I beg to sit down.

The Temporary Deputy Speaker (Hon. Cheboi): Hon. Members, I want to make some observation. I understand that there will be many hon. Members who will be making their maiden speeches; by the custom of this House, they are supposed not to be interrupted, but it is also important that hon. Members are guided. There are specific kinds of comments that you would make on particular issues. What the hon. Member has just done would have been very well with the Presidential Address, but as I have said we

will give some leeway. Now, for hon. Members who will be making their maiden speeches, I would expect that we will stick to the Motion at hand; if there will be any divergence it should be minimal. We understand that there will be hon. Members who will be contributing for the very first time; I think you will all stand guided.

Thank you. Now, I will give the chance to that hon. Member. Kindly, introduce yourself.

The Member for Juja (Hon. Waititu): Thank you, hon. Temporary Deputy Speaker. My name are Waititu Francis Munyua, Member of Parliament for Juja Constituency. I would like to thank you. I have always attended this august House, but today, luckily, I have caught your eye.

Hon. Temporary Deputy Speaker, Sir, on this Motion, I have been working as a group manager of coffee farms around Juja and Thika; I know when you surcharge Kshs500 from an employee 's salary it is on the higher side as correctly stated here. I was caught up in a situation where I was running five coffee farms and the prices of coffee were very low. I failed to pay my workers. I know in agriculture you employ people but when the prices and the climate change, you end up not paying their salaries, and not even submitting returns to the National Hospital Insurance Fund (NHIF). When you go to their offices they do not want to hear your explanations, since all they want is their money paid; if you do not pay this is the situation which arises, mostly with the farmers.

Hon. Temporary Deputy Speaker, Sir, I will support this Motion and say that the officers from the NHIF go round companies inspecting various accounts and seeing what you are selling, what your input is and if you do not have money, this is what happens and it affects mostly farmers. If I go to the surcharge and what hon. Muchai has just said, it is true that when you do not pay the law catches up with you; you also have to negotiate with the workers whom you have not paid due to the fact that you also have not been paid for the coffee that you sold. I think the best way that the Government and this august House should agree on is to look at the farmers who are affected by this situation. Even this situation affects sugar-cane farmers since sometimes prices of sugar are too low and sugar factories cannot pay their farmers. These factories also have to pay the NHIF fees for their workers, but they fail and so they are also caught in this situation of being surcharged, not because they do not want to pay, but is because of the way the situation is in the sugar industry.

So, it is not through ignorance; we want to look at the farmers in the wider picture. Even in the livestock industry people are employed and if there is drought and you have 100 workers working for you, they want you to remit their NHIF dues and you have not paid their salaries that will also affect you. I think it is high time the agriculture sector was looked into, especially when the prices drop.

Hon. Temporary Deputy Speaker, Sir, I support; this being my maiden speech, I would also like to inform the House that in Jomo Kenyatta University of Agriculture and Technology (JKUAT), laptops are being assembled and within a year they will be manufacturing the same for this country. So, it is good for the hon. Members of this House to visit JKUAT and see what they are doing about laptops. Juja Constituency is run by two district commissioners. I request the Government through its able hands to ensure that Juja Constituency is run by one district commissioner so that my work is made easier.

Thank you, Hon. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Hon. Cheboi): There is only one minute and we will give it to hon. Member who will contribute for that one minute. Remember, we will be going to the Motion for Adjournment by hon. Wamunyinyi; really it is about time. We are starting at 5.30 p.m. So, I will give hon. Mwaura one minute.

Hon. Mwaura: Thank you, hon. Temporary Deputy Speaker, Sir. I rise to oppose this Motion because you cannot justify it because of the high percentage of corruption. There is no way we can guarantee that even if it is 25 per cent somebody will not still demand a bribe. We are talking about the most vulnerable members of the society requiring some healthcare facility. It would be quite wrong for this House to actually look like we are going back when we are supposed to be encouraging everybody to actually expect that they are going to be taken care of by the state when they fall sick. So, as it has been argued before, if we allow people to default then the NHIF will actually run into arrears. It will not be able to actually pay the Bills that will be presented to it.

Hon. Temporary Deputy Speaker, Sir, because you have only given me one minute, I oppose.

The Temporary Deputy Speaker (Hon. Cheboi): That means that you have concluded your remarks. So, we will start afresh in the next session. We will proceed to the Motion for Adjournment by Hon. Wamunyinyi. Members should know that they have five minutes to contribute to the Motion. However, the Mover will have ten minutes to move the Motion.

Proceed, Hon. Wamunyinyi!

MOTION FOR ADJOURNMENT

INSECURITY IN BUNGOMA COUNTY

Hon. Wamunyinyi: Thank you very much, hon. Temporary Deputy Speaker, Sir. I would like to thank the Chair for allowing me to move this Motion which is of great importance to this country. It is, of course, with sadness that I move this Motion because many people have been butchered. The attacks which have occurred in various parts of the country, from Garissa to Busia and to invasions in Mombasa are saddening. What happened yesterday in Busia and the other parts of---

The Temporary Deputy Speaker (Hon. Cheboi): Hon. Wamunyinyi, you are an old Member of this House. I really expect you to move the Motion.

Hon. Wamunyinyi: Hon. Temporary Deputy Speaker, Sir, with your permission, I beg to move the following Motion:-

THAT, pursuant to Standing Order No.33, I seek leave to move the adjournment of the House for the purpose of discussing the on-going security challenges in Bungoma County and other parts of the country.

In the last one month, unknown assailants have continuously---

The Temporary Deputy Speaker (Hon. Cheboi): Hon. Wamunyinyi, at that point, you say "this House now adjourns". That will serve the entire purpose.

Hon. Wamunyinyi: Hon. Temporary Deputy Speaker, Sir, I was coming to that. I had explained earlier on that there have been serious attacks in the last one month. It is

for that reason that I seek leave to adjourn the House. Therefore, I beg to move that the House adjourns.

I have said, of course, that it is with sadness that I move this Motion. As we speak now, Kenyans all over the country are living in fear. This is particularly so in my county, where there have been attacks against the people, and no steps have been taken by the Government to contain the situation.

A total of 13 people have been killed in Bungoma County, and over 125 people have been critically injured. The injured are admitted at various hospitals in Bungoma and the surrounding areas. Some of those killed are innocent peasant farmers and children aged between two and 10. This makes the matter serious. This is happening, yet we have a Government in place. The people of Bungoma County and the other areas where the attacks have occurred are asking: Where is the Government when all this is happening? Where is the security machinery? Where are the police? Where are the people responsible for the security of the people of Kenya? This is not a stateless country or a country without a Government.

Hon. Temporary Deputy Speaker, Sir, you read a story from Bungoma which said that some women had their hands chopped off while some children had their eyes gouged out, and many were left with deep *panga* cuts. Such attacks were only witnessed in Liberia and Sierra Leone where crimes against humanity were committed. These crimes should not be witnessed in this country.

When we had a meeting with the leaders in our county, it was established that there was no information about these attacks. Even during the operation – on Thursday last week – the attackers still moved from village to village attacking and cutting villagers without taking anything. That happened between 9.00 p.m. and 4.00 a.m. This was the case, yet, they were not intercepted by the police although communication is very easy in this era. This is because members of the public know how they can reach the police and other people. They called the District Commissioner and other officers but the attackers were not intercepted, nor were they pursued and arrested. The situation is now getting out of hand. We have been asking where the Government is.

Hon. Temporary Deputy Speaker, Sir, I also wish to seek a clarification from the Government as to whether the National Intelligence Service (NIS) has a role to play in the security of the country. Information is supposed to be gathered for purposes of early warning and prevention of crime. I believe that this is the responsibility of the NIS. I am sure hon. Members will recall that in this financial year's Budget, a whopping Kshs13.5 billion was allocated to the NIS. That organization should play its role with this kind of budget or allocation. Is that allocation commensurate to what that security organ is doing to provide information for early warning and prevention of crime, dealing with insecurity in country, ensuring that criminals are apprehended, ensuring that the Government is on top of things and ensuring that any plans for attacks anywhere in this country are prevented and/or the attackers are arrested and brought to justice? What is the NIS doing about these attacks because the motive is unknown? When we interacted with the security machinery in the county, they said that there is no information about the attacks. It is for this reason that I am asking whether we should maintain this huge budget allocation to the NIS. I think we should not. Members should look critically at the budget allocation to the NIS and possibly reduce it, so that the additional funds can go to more productive use.

Hon. Temporary Deputy Speaker, Sir, some of the reasons given by the public when we had barazas at home were that there were rogue policemen in some parts of the county who “worked” with the attackers. The Deputy District Criminal Investigations Officer, Bungoma, was named as one such officer. While I do not want to discuss this officer, I think the Government should act on officers who have overstayed in one station or region. There should be an overhaul. This should apply to the whole country and not only to Bungoma. This is important because it will ensure that the officers on the ground concentrate on their work and do not relax.

Hon. Temporary Deputy Speaker, Sir, the court ruled on the issue of the County Commissioners. The County Commissioner, Bungoma, could not even come out and tell us what he was doing there when we had a meeting. We do not understand why those Commissioners are in place. If they are part of the security machinery, then they are the insecurity in the counties. This is because it is clear that the County Commissioners do not have a role to play. They could be the problem. Maybe, they are trying to justify that they need to be around to take care of security. So, we need to look at all these issues with an open mind; the Government should come out to ensure that the people of Kenya are secure.

On police reforms, you will realise that the Inspector-General and his Deputies were appointed and their welfare has been catered for, for the next ten years. But what about the other officers in the police force, starting with the constables and other onn-commissioned officers (NCOs). I think the reforms started on a wrong footing. The reforms should have started with the bottom-up approach; that is from the constables upwards. This is because these are the foot men on the ground.

The Temporary Deputy Speaker (Hon. Cheboi): Hon. Wamunyinyi, you should summarise now.

Hon. Wamunyinyi: I am concluding, Hon. Temporary Deputy Speaker, Sir.

Those are the people on the ground and their welfare should have been number one. The Officer Commanding Police Division (OCPD) and the Officer Commanding Police Station (OCS), Bungoma, complained that they have only one vehicle. The OCPD is responsible for four districts, yet he has one vehicle. He also lacks other facilities. The police officers are the most poorly paid people. I encourage the Government to look into police reforms as a matter of urgency. This should adopt the bottom-up approach; that is, it should start with the junior officers.

Hon. Temporary Deputy Speaker, Sir, with those few remarks, I would like to request Hon. F.K. Wanyonyi to second this Motion.

Hon. F.K. Wanyonyi: Hon. Temporary Deputy Speaker, Sir, I stand to second the Motion. This is very bad. I lost my brother in the first wave of these attacks. A whole ex-principal of a school, very humble and a man that you could not even argue with was brutally murdered. I buried him a week and a half ago. Hon. Wamunyinyi is one of those who helped me to bury my brother. I speak with emotion because if this continues, we are heading for chaos.

Today I read in the newspapers that the Government has deployed a few security officers in the area, but this is reinforcement too late. People are now living in fear. This has happened in Bungoma and the other day, it was happening in Busia. Today, it has been reported to me that it has been repeated in Bungoma at the watch of the security

officers in the area. The question is: Which region or village is next? I come from Trans Nzoia and I would not be surprised that the next move may be there. Given what has happened, I am calling upon the Government to act. This is something that has to be arrested. Most of the time, the officers come to rescue these poor defenseless citizens in vehicles. You cannot drive in the night to go and rescue somebody with headlights on. The criminals will go the opposite direction. As leaders from this region, we demand that the Government deploys a helicopter, so that in case of an attack, there is quick response and the helicopter can scare away these people.

Firstly, as hon. Wamunyinyi has mentioned, many people have died and they have to be buried. We are asking the Government to take responsibility and bury our dead. Secondly, there are very many people in hospital including my sister-in-law who has been in the ICU in Eldoret and requires about Kshs400,000. We are asking the Government to take care of that. Thirdly, as demanded by hon. Wamunyinyi, we also want to have a total overhaul of the security personnel in the area. When you reshuffle and overhaul the security officers, the *wananchi* will have some confidence that something is being done. The criminals will also be scared because there will be new people in the area. Some officers have stayed there for more than ten years. What can they do? In fact, some of them drink and dine with some of these criminals. These are people from our community.

Fourthly, given the situation, there are those who are unable to look after their families. We are demanding that the Government takes over some of the hospital bills. As I have mentioned, many people are hospitalized, including my sister-in-law, Mrs. Jane Simiyu Festus who is in the ICU and we are unable to pay these bills. The Government should have protected the citizens. Therefore, I demand that the Government should assist us to pay the hospital bills. Lastly but not least, some of these people are the bread winners of their families. They have school fees to pay and other expenses. The Government should take stock of those who have been killed and those who are critically hurt and in hospital, so that it can assist our people. Above all, Bungoma has four districts which are served by one Land Rover. Can the officers be everywhere using one vehicle? They cannot. The security personnel should be provided with more logistics. This happens deep in the night. The Government should provide a helicopter to patrol the area like they did in the Tana Delta. They patrolled the area at night using helicopters. The situation is critical in western Kenya and as I have said, we do not know what will happen next.

With those few remarks, I support the Motion.

(Question proposed)

The Temporary Deputy Speaker (Hon. Cheboi): Members have five minutes each to contribute. This is a specific Motion on insecurity.

Hon. Wetangula: Hon. Temporary Deputy Speaker, Sir, I support the Motion. One of the core functions of the Government is to provide security to its citizens. Any Government that cannot do that has no business being in power. Why are we paying the National Security Intelligence Service (NSIS) so much money, yet these organized criminal gangs are running around causing a lot of chaos to innocent people in quiet

villages like in Bungoma and elsewhere in the country? This has been going on and every time the Government has been reduced to a spectator. The security officers only turn up when the crime has already happened. As leaders, we are demanding that the Government must take security matters seriously and deploy security officers to these areas, so that they can arrest the situation before it gets out of hand.

Bungoma has been very quiet. The innocent people who are being butchered have not had any insecurity matters before. The criminals are not from this area. We do not know where they have come from, but it looks like they are organized and are moving from village to village yet the Government has no idea. The officers have no information and they are just sitting back and watching. We demand that the Government takes serious measures on security matters. It should reshuffle the officers and proceed with the reforms in the security sector, so that we can arrest the situation and do away with the rogue policemen, as hon. Wamunyinyi mentioned, who are participating in this insecurity. As I support this Motion, I demand that the Government takes responsibility and provides security surveillance in those villages and the surrounding areas that are affected.

With those remarks, I beg to support.

Hon. (Ms.) Ombaka: Thank you, hon. Temporary Deputy Speaker, Sir. I want to support this Motion because there is so much insecurity in the land. I come from not so far away from Busia, that is Siaya. That is very close and you never know because the insecurity is moving closer home. The Government needs to take over and look after those who are in hospital. What I saw last night on television was actually a patient whose hand had been cut off. The Government needs to take care of the bills. The Government should be in a position to protect its own people.

When the President was here to address us, he said that security is one of the pillars that he would be addressing. So, far, I do not see any Minister in charge of internal security. What is happening? Why the delay? Who are we going to address this issue to? I think it is high time the appointment of a Minister in charge of the internal security is done so that action is taken.

The Government also said that it would hit the ground running. I think there is laxity already. I am afraid that the longer they take, the worse the situation gets. After all, the same Government said that for every 400 people there would be one policeman. What is happening? Why are they taking long to act? I am getting worried that the country is going to be held to ransom by criminals, if we do not move very fast.

The Member for Marakwet West (Hon. Kisang): Thank you, hon. Temporary Deputy Speaker, Sir. My name is William Kisang and I am the Member for Marakwet West. I wish to support this Motion, but before that I would like to take this opportunity to thank the people of Marakwet West for giving me this opportunity to represent them in this Eleventh Parliament.

I want to support the Motion for the following reasons: In the recent past, there have been a lot of cases of insecurity in Marakwet West. More than ten people have been killed. I am just from home from attending a burial of a 28 year old man who was killed two weeks ago. He was on his *boda boda* going home. On the way, he was attacked by a gang of thugs. Unfortunately he died. We requested the local police station to enhance security. We told them to come for the burial, but it is with regret that they did not attend.

They did not even give us a reason. Up to now, the people of Lelan Ward where this thuggery has been going on are living in fear and the local police have not enhanced security patrols as we had requested earlier.

There are about four wards where people live in fear. You cannot sell your maize and sleep at home. You will have to go away for at least a week so that you are safe. These thugs plan crimes with the local youth and attack residents with guns. I appeal to the Government to take stern measures against these people.

The Government needs to enhance security in Lelan, Moiben, and Aror wards. We have addressed this issue with the local security team, but we have not yet received any response. I would wish the Government to buy extra equipment for the security personnel. The key reason they are not able to move around is lack of vehicles. Sometimes they have the vehicles, but they say that they do not have the fuel. I recall the President's Address; he said that they were going to employ more police in the near future so that we have a ratio of one policeman to 450 citizens. The Government should speed up that process so that our people live in peace.

Some of these police officers have overstayed in the stations. There are officers who have stayed in the same station for 20 years. These are the same areas where many cases of insecurity are reported. I request that those who have stayed in a station for more than five years be moved to other areas so that they may become efficient. The moment they stay longer, they get used to the place and they become friends with the thugs. They dine together and plan what to do.

There is a big problem between security personnel and the *boda boda* youth. Instead of carrying out patrols, the security personnel harass the youth. They demand money from the *boda boda* riders.

I wish to support the Motion.

The Temporary Deputy Speaker (Hon. Cheboi): Member for Bahati! Before he addresses this Motion for Adjournment, for hon. Members who will be giving their maiden speeches, the leeway is only on interruption and not the time.

Hon. Ngunjiri: Ahsante sana, mhe. Naibu Spika wa Muda kwa nafasi hii. Naunga mkono hoja hii inayohusu masuala ya usalama. Ni jambo la huzuni kuona mambo yaliyofanyika huko Bungoma. Vile vile, ni jambo la aibu kuona kwamba sisi Wakenya tunauana wenyewe. Haifai hata kidogo. Inatupasa kuangalia hili jambo kwa njia nyingi. Tusilaumiane. Sisi kama Wabunge sharti tuangalie jambo hili kwa makini.

Rais alisema kwamba atahakikisha kwamba kuna askari mmoja kwa raia 450. Nisingesema tunamlaumu Rais wetu kwa sababu kuna mpangilio wa mambo. Ukisema utaoa si kwamba utamaliza kufanya mambo yote. Huwa kuna utaratibu. Kusema kwamba askari wataajiriwa, lazima pawepo na bajeti ambayo italetwa hapa. Tunaingojea kwa hamu sana ili tupitishie jambo hilo la fedha ndiposa tutimize lengo la Rais wetu.

Hata kama tunalaumu Serikali, sisi Wabunge tunalo jukumu kubwa sana kuhusu usalama wa maeneo bunge yetu. Katika eneo langu la Bahati, pakitokea jambo sharti niwe mstari wa mbele kuita Mkuu wa Wilaya na maafisa wakuu wa usalama. Tunao huo uwezo.

An hon. Member: On a point of order, hon. Temporary Deputy Speaker, Sir. We know very well the role of a Member of Parliament in this country. The hon. Member is giving hon. Members another role this afternoon.

Hon. Ngunjiri: Mhe. Naibu Spika wa Muda, nimemsikia mwenzangu. Tumechunguza mambo mengi na tunajua. Hata mambo ya wizi wa ng'ombe yanachangiwa na watu waliomo Serikali na Bungeni. Ndiyo maana nikasema tuna jukumu sisi wenyewe. Hatuwezi kuachia suala la usalama maafisa wa usalama tu. Lazima tushirikiane sote. Kama ni Bungoma, rafiki yangu mhe. Wamunyinyi--- Nakushukuru kwa kuzua jambo hili kwa sababu linahusu kila sehemu ya nchi. Hata hivyo, Wabunge wa eneo hilo wana haki ya kuangalia hili jambo kindani. Hawa watu ni watoto wetu. Wengi wao hawajatoka nje.

Tunaelewa kwamba tulitaka kuwa na Inspector-General. Tumpatie nafasi aweze kujipanga. Vile vile, tuipatie Serikali ya Uhuru nafasi. Sisi Wabunge lazima tulaani hivi visa vya mauaji vilivyo huko Bungoma.

Mhe. Naibu Spika wa Muda, sisemi eti tujipatie kazi nyingine ya usalama, lakini tuhushishe kama Wabunge! Tuna haki ya kuangalia na kujua ni kitu gani kinasababisha makosa. Ni haki yetu kuangalia hata maji. Tunaweza kusaidia sana kwa kuchangia kutatua shida zilizoko mashinani kuhusu usalama. Kwa hivyo, ni muhimu sana kufanya hivyo kuliko kutoa lawama; kupiga domo. Tuangalie ni njia gani nzuri ya kufanya hivyo ili tuweze kusaidia Serikali.

Asante sana.

The Temporary Deputy Speaker (Hon. Cheboi): Hon. Otucho, the Floor is yours.

Hon. (Ms.) Otucho: Thank you, hon. Temporary Deputy Speaker, for giving me this opportunity to contribute. This is not my maiden speech, but I rise to support the Motion on insecurity.

Hon. Members, I would like to draw your attention to Chapter Four of the Constitution on the Bill of Rights, Articles 26(1) and 29 (c), (d).

Article 26(1) reads as follows:-

“Every person has a right to life.”

Article 29(c) reads as follows:-

“Every person has the right to freedom and security of the person, which includes the right not to be-

(c) subjected to any form of violence from either public or private sources.”

Article 29(d) reads as follows:

“subjected to torture in any manner, whether physical or psychological.”

Hon. Temporary Deputy Speaker, when Kenyans were celebrating Labour Day yesterday, the people of Teso South were mourning. Others spent the whole day in hospital taking care of the injured. In a span of less than two weeks, the people of Teso South have suffered two major attacks; the first one being at Kemodo and the other one at an area called Akobwaiti. So, it is a matter of national interest and we are concerned. We are saddened and wondering where our security forces are. From the information that I have received from the ground, those people are walking from one home to the other. So, why was there no prompt action from the police? It is high time that Mr. Kimaiyo's office did the necessary thing to protect the lives of Kenyans.

Hon. Temporary Deputy Speaker, Sir, there is need to conduct speedy investigations and apprehend the culprits because in most of the cases, nobody has been arrested. But, at least, I am happy to report that in this particular case, I have been told

that one person has already been arrested and is assisting with investigations. There is need to reinforce security in that area.

I also want to call upon the State to equip the police. If they have enough tools, patrol vehicles, sniffer dogs - our constituencies can have additional police posts - I believe then the police will be able to respond on time and save lives. In Busia County, I remember the other day they had to seek support from Kakamega to get sniffer dogs to do an effective investigation.

So, it is very sad indeed! Our people are spending sleepless nights; others are sleeping in the cold, being rained on, afraid because they never know, they may be the next victims of the attacks. I want to say that it is high time the Government took action and made sure that we have restored peace and tranquility in all the affected areas. I remember, during his Speech - I have no doubt, the Government has capacity - the President reiterated his commitment to strengthen security along our frontiers and also to ensure that the ratio of police to the citizens is going to be improved. So, we are calling upon the Government to take serious action to ensure that the people of Kenya are safe.

The Temporary Deputy Speaker (Hon. Cheboi): The lady Member of Parliament for Bungoma County. Kindly, introduce yourself.

Hon. (Ms.) R.N. Wanyonyi: Thank you, hon. Temporary Deputy Speaker. I want to rise and support the Motion as a Member of Parliament from Bungoma County. The situation in Bungoma with regard to security is worrying. By yesterday, people who were critically injured and in hospital were more than 20. As I am talking here, many people are not sleeping in their houses. Old men and women, fragile and frail as they may be, are actually sleeping out of their homes. This situation is running out of hand. It is very important that the Government looks into the situation in Bungoma.

Hon. Temporary Deputy Speaker, Sir, I want to point at one particular case which, to me, is quite worrying. The Inspector-General of Police sent a team of security officers to help in investigations of the security situation in Bungoma. But one thing came out clearly and it is worrying. When they were having a meeting today, the Governor of Bungoma County sent his deputy to go and attend the security meeting. Surprisingly, the Deputy Governor was sent away from the security meeting. What is emerging is that there are conflicts of roles. The team met with the County Commissioner and District Commissioner. It is distancing the Governor's office from security matters. What is going on as far as the roles of the Governor and the Deputy Governor are concerned with regard to security matters *vis-a-vis* the County Commissioners' role in the county? It is important that those roles are clarified so that they come out clearly in order for the Governor to take control on security matters in Bungoma County.

Hon. Temporary Deputy Speaker, Sir, I want to say this: In Bungoma County, there are issues that touch on the police officers. There is the issue of ethnic balance which, to me, is a factor. For example, in Bumula Constituency, out of the 65 Administration Police officers that operate in the constituency, 45 of them come from one ethnic group. The police officers have overstayed there. Most of them have stayed there for more than ten years. They have become locals and they are no longer officers. They go and drink with the locals. They get so drunk that when you find a drunkard person in the street, you may think it is a local person when it is actually a police officer.

Hon. Temporary Deputy Speaker, I think measures need to be taken to discipline those officers. They need to be transferred because they are not adding value to the people of Bungoma County. Instead, they are security risks themselves. We need reforms that are directly related to the needs and aspirations of the people of Bungoma County.

With those remarks, I support this Motion. Thank you.

The Temporary Deputy Speaker (Hon. Cheboi): You will understand my predicament. I think I will be looking for hon. Members from that particular region.

(Several hon. Members stood up in their places)

Order, hon. Members! Order! I have just made that decision. I will be looking to those particular areas where insecurity has been rampant in the last few days. I know this is a cross-cutting issue, but we will still have to go that direction.

Hon. Member: On a point of order, hon. Temporary Deputy Speaker, Sir. How would you know that the area has no security issue? I come from Siaya. I do not come from the western part, but I have an issue on security?

The Temporary Deputy Speaker (Hon. Cheboi): That is a decision I have made! Yes, hon. Member for Kimilili?

The Member for Kimilili (Hon. Kasuti): Thank you, hon. Temporary Deputy Speaker, for giving this opportunity. I would like to say that this is my maiden speech, but I will go straight to the Motion. Maybe, I will get another opportunity, at a later stage, to say something on other matters.

First, I would like to support the Motion. The people in Bungoma County have suffered a great deal in the past few months through the hands of criminals who come from various places, and the security agencies have not been able to apprehend any of those people who have been committing the atrocities.

Hon. Temporary Deputy Speaker, Sir, for example, in Kimilili Town sometime in September last year, people who were attending a service in a church just next to a police station at about 5 o'clock in the morning were attacked by gangsters and six of them were killed. To date, nobody has ever been arrested by the security officers, yet the incident happened just next to the police station. The question you ask yourself is: Where were the security officers when this crime was taking place, yet the people who were in the church made a lot of noise and called for the police officers to come and help them? No help was forthcoming! These officers should be transferred so that we have new officers operating in these areas when their mandate is still fresh. When they overstay their mandate they become complacent. So, it is important that the office of the Inspector-General of Police takes immediate action to ensure that police, or security officers, in various areas will not overstay their mandate, and then start being part and parcel of the atrocities committed in their areas.

As hon. Wetangula said, the core business of the Government is to provide security for its citizens and when it does not provide a service like security, then the citizens are left wondering whether they are in a banana republic or somewhere else where there is no security. I do not blame the current Government; what I am saying is that the Government should take immediate steps to arrest what is taking place in this country. It is not only in Bungoma; when you look around the entire country you will

find that these things are going on everywhere. We want these atrocities to end immediately. We are calling upon the Government to take action, so that the citizens in the country, including those in Nairobi feel safe. There are areas which the security officers know very well---

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

Hon. Anami: Thank you, hon. Temporary Deputy Speaker, Sir. My name is Silverse Lisamula Anami, Member of Parliament for Shinyalu.

The issue of insecurity cannot be trivialized. We are living in a country where we are aspiring to achieve greater levels in our economic development. We cannot achieve economic development if we do not take care of our security. I would like to recite a situation in Shinyalu Constituency, specifically in Ilesi Ward, where a young entrepreneur, Allan Kisi Shisundi, was working very hard and had put up about two or three shops. Two weeks ago, he was waylaid at the doorway of one of his shops by thugs who captured him and forced him to drink poison. He has since been buried and this left all the shopkeepers and other development-conscious people, in fear.

The happenings in Bungoma have left very many people out of any development activity. These are people who have businesses that will enable this Government to attain the two digit economic growth. It is a pity that the security officers and I would like to be very specific here, and even Administration Police (AP), who are charged with the responsibility of providing security to the citizens and taxpayers--- When they go out they are interested in making money. They conduct illegal arrests of old women, youth, especially *boda boda* operators and demand bribes from them. We are dealing with a serious issue. The *boda boda* operators in Shinyalu are beaten every day. So, they cannot operate anytime after 6.00 p.m. because APs are always on their back; they snatch the little income they have made in a day. The old *mamas* who sell *sukuma wiki* are attacked by these policemen and forced to pay bribes to earn their freedom.

Hon. Temporary Deputy Speaker, Sir, the citizens of this country entrust their security with the Government. So, the Government should be obligated to provide enough facilitation to the Inspector-General. I have read about the Inspector-General pleading for money. The Government needs to be responsive to this. The Inspector-General cannot achieve if he is not provided with resources. He should be provided with enough resources, so that he can take care of the welfare of his staff. If he does not have enough resources, he will not have the equipment. When some police officers go out, you see them running away from thugs because they are not armed, or do not have proper equipment. Some have to walk to get to the places where they have to provide service. I think it is high time we took life seriously. It is high time the Government prioritised security as a fundamental requirement for development to take place.

Hon. Temporary Deputy Speaker, Sir, I rise to support this Motion.

The Temporary Deputy Speaker (Hon. Cheboi): I will give hon. Leshoomo two minutes to contribute.

Hon. (Ms.) Leshoomo: Ahsante sana Mheshimiwa Naibu Spika wa Muda. Ningependa kuchangia Hoja hii. Ningependa kusema---

*(An hon. Member crossed the Floor
without bowing to the Chair)*

The Temporary Deputy Speaker (Hon. Cheboi): The hon. Member has just crossed the Floor again. Could you kindly proceed to the Bar and bow to the Chair?

Proceed, Hon. (Ms.) Leshoomo!

Hon. (Ms.) Leshoomo: Ahsante sana Mheshimiwa Naibu Spika wa Muda. Ningependa kuunga mkono Hoja hii kuhusu ukosefu wa usalama. Si watu wa Kaunti ya Bungoma ambao wanaathiriwa na ukosefu wa usalama bali ni sisi sote. Nilikuwa ninachangia mambo ya *Peace Caravan* katika eneo letu.

Ningependa kuwapa pole watu wa Kaunti ya Bungoma. Sisi zote tumepitia mambo haya na inafaa tushirikiane ili wauwaji waweze kupatikana haraka. Pia, inafaa viongozi wote wa mashinani washirikiane ili maafisa wa Serikali waweze kujua ukweli kwa sababu maafisa hawajui waelekee wapi.

Sisi watu tunaotoka Baragoi, tumeathiriwa kutokana na ukosefu wa usalama tangu 2009. Watu 40 waliuwawa na kukatwa shingo tarehe 17 mwezi uliopita. Tumegundua kwamba ni wale watu tunakaa nao ndio wanachangia vita hivi.

Ukiangalia utaona kwamba Tana River, Garissa, Turkana, Samburu---

The Temporary Deputy Speaker (Hon. Cheboi): Hon. (Ms.) Leshoomo, your two minutes are over. I will now give this opportunity to the Leader of the Majority Party to respond.

Hon. A.B. Duale: Thank you, hon. Temporary Deputy Speaker---

Hon. Kaluma: On a point of order, hon. Temporary Deputy Speaker, Sir. I seek your indulgence to move a Motion for the extension of this sitting under Standing Order No.30. Many of us are sitting here until very late because this is a very sensitive Motion. I request the Chair to extend the sitting for 30 minutes.

The Temporary Deputy Speaker (Hon. Cheboi): Since this is a Motion for Adjournment, I think it will not be proper for us to extend the sitting further. The enthusiasm is understood because insecurity is affecting everybody. Probably, we need to have another opportunity so that we can have another Motion of the same nature.

Proceed, Hon. Duale!

Hon. A.B. Duale: Hon. Temporary Deputy Speaker, Sir, from the outset I would like to condole the people of Bumula and Kanduyi in Bungoma County, and the people of Amakura Division of Teso South District.

I want to join my colleagues by saying that it is the responsibility of any Government to make sure that it protects the lives and property of its people. What is happening in Bungoma and Busia counties is extraordinary security situation. Gangsters are waking up early in the morning in a rural Kenyan setting, not to steal anything but to slash children, women and the elderly.

After this attack, an operation was mounted by the Kenya Police. This is particularly in Bumula, Kanduyi and Teso. A number of arrests have been made. I want to confirm that 48 persons were injured. Among them were 20 men, 18 women and ten children. This is not the age when we should have this kind of thing in Kenya.

If we look at the Budget Estimates that the Government has laid on the Table today, and if hon. Members scrutinize that Budget, particularly the allocation to the security organs, they will find that many resources have been earmarked for what the Inspector-General of Police requested. This includes more resources for equipment,

personnel and the intelligence arm of the Government. We expect Members to re-look at this Budget, and more so that of the National Security when it is committed to different committees so that Kenyans can get value for their money.

Hon. Temporary Deputy Speaker, Sir, a number of measures have been taken in Bungoma and Busia counties. Among them is the transfer of all police officers who have served in that region for more than three years. We feel that there is collusion between some security agents and the marauding gangsters in that region. A deployment of security officers to reflect ethnic balance in that region has also been done to make sure that no one ethnic community has more security personnel in that area.

District Officers have been reshuffled in that county and more changes are expected within the next one week.

(Applause)

The Assistant Chief of Tuti Sub-location of Kibabii Location, Bungoma South District is being investigated for alleged involvement in the crime. If that is found to be the case, he will be taken to court and charged with the offence.

Community policing has been enhanced. Today, 2nd, the Deputy Inspector-General in charge of Administration Police is already on the ground meeting with the Provincial Security Intelligence Committee, the District Security Intelligence Committee and the local leadership including the Governor and the local county representatives.

Hon. Temporary Deputy Speaker, Sir, I agree with hon. Members of Parliament that the economic growth that we anticipate; the manifesto that Jubilee has given this country, the double-digit growth rate and the kind of infrastructure we want will not be achieved if the security of our people is not enhanced.

A certain percentage of the resources that the Inspector-General of Police has requested is in that Budget. We expect that once we allocate that money to the relevant security agency, Kenya will be a safe country; and Kenya will not be a country where gangsters walk around with machetes to kill women, children and the elderly.

Hon. Temporary Deputy Speaker, Sir, with those few remarks, I beg to support this Motion and tell the Government that a lot needs to be done. This is because I not only support the Government in this House, but I also bring its message.

The terror networks were dismantled when Garissa Township, which is my constituency, had a huge problem and the Government did what it was supposed to do. We expect the Government to go to Bumula and Busia. We also expect the Government to secure each and every village in our country.

Thank you, hon. Temporary Deputy Speaker, Sir.

ADJOURNMENT

The Temporary Deputy Speaker (Hon. Cheboi): Thank you, hon. Members. I want to thank you for your contributions. I also want to say that this is my maiden speech in this seat.

Hon. Members we have come to the end of today's sitting. Therefore, the House stands adjourned until Tuesday, 7th May, 2013, at 2.30 p.m.

The House rose at 6.30p.m.