

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Wednesday, 13<sup>th</sup> November, 2013

The House met at 9.00 a.m.

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

### PRAYERS

### Quorum

**Hon. Deputy Speaker:** Okay, hon. Members. Let the Division Bell be rung because there is no quorum in the House.

*(The Division Bell was rung)*

**Hon. Deputy Speaker:** Order! Order, Members! We can now begin transacting business.

### PAPER LAID

The following Paper was laid on the Table:-

Report of the Select Committee on Delegated Legislation on the Public Finance Management *Uwezo* Fund Regulations, 2013.

*(By hon. Cheptumo)*

### NOTICE OF MOTION

ADOPTION OF REPORT ON PUBLIC FINANCE  
MANAGEMENT *UWEZO* FUND REGULATIONS

**Hon. Cheptumo:** Hon. Deputy Speaker, I beg to give notice of the following Motion:-

THAT this House adopts the Report of the Select Committee on Delegated Legislation on the Public Finance Management *Uwezo* Fund Regulations, 2013 laid on the Table of the House today, Wednesday, 13<sup>th</sup> November, 2013.

Thank you, hon. Deputy Speaker.

**Hon. Deputy Speaker:** I see no other notice. Next Order! This is the schedule of responses. I see three responses here, but I cannot see the request from the Chairs. Hon. Sabina Chege, Chair of Committee on Education, Research and Technology.

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## STATEMENTS

## FEMALE STUDENTS DENIED OPPORTUNITY TO SIT KCSE

**Hon. (Ms.) S. W. Chege:** Thank you, hon. Deputy Speaker. I would like to respond to a question that was raised by hon. Kajuju. She raised an issue of some head teachers denying female students who have given birth recently, the opportunity to sit for their Kenya Certificate of Secondary Education (KCSE) examination despite being fully registered. She gave a case of one Charity Kananu, a student at Antwanduru Day Secondary School, who was denied a chance to sit for the KCSE examination by the school principal on the ground that she had given birth two weeks prior to the start of examinations. She said the matter had been reported to the District Education Officer (DEO), Officer Commanding Police Station (OCS) and Officer Commanding Police Division (OCPD) Tigania East but no action was taken.

In her Statement she wanted to find out the measures to be put in place to ensure that Charity Kananu and others like her take the examinations within this period and also the disciplinary action to be taken against the principal of Antwanduru Day Secondary School and any other officer found liable. She also wanted to know the compensatory measures to be availed to Charity Kananu.

The response I got from the Ministry was as follows:-

The following information gives the circumstances that led to the failure of Charity Kananu to sit the KCSE Examination, 2013. The name of the student and the reference is Charity Kananu, Index No.349113017 of Antwanduru Secondary School, Tigania East District, Meru County. According to the records from the school, the girl left the school on 10<sup>th</sup> June, 2013 allegedly due to pregnancy and did not show up until 22<sup>nd</sup> October, 2013, the first day of KCSE. She reported one hour late after the examination had started and was asked to provide satisfactory reasons to the supervisor which she did not. Failure to provide satisfactory reasons was contrary to the 2013 KCSE examination guidelines 321 and 322, copies of which are attached to this report.

The supervisor consequently barred her from sitting for the paper; her lateness could have led to commissioning of an examination irregularity as provided for in section 40 of Kenya National Examinations Council (KNEC) Act. The Ministry is greatly concerned about the examination irregularities and allowing a student to take exam, more than 30 minutes after commencement of an examination, greatly undermines the conduct and compromises the integrity of examination as provided for under Section 10(1)(A) of the Kenya National Examinations Council Act.

I am aware that Charity Kananu was expected to sit for the subsequent papers as provided for in the Kenya National Examinations guidelines referred above, however she did not turn up as instructed by the DEO. There is also supplementary information.

Basic Education Act, 2013, Section 28(1) guarantees each child free and compulsory basic education. Additionally, Sessional Paper No.1 of 2005, a Policy Framework for Education, Training and Research, Section 419 commits the Ministry of Education, Science and Technology to ensure re-entry of girls who drop out of schools due to pregnancy and/or forced marriage. It is noteworthy that despite the girl's absence

from school since 10<sup>th</sup> June, 2013, the principal had made adequate preparations for her to sit for the exam by providing a clearly marked desk with her name and an index number.

It is therefore the opinion of the Ministry of Education, Science and Technology that there was no impropriety on the part of the principal of Antwanduru Secondary School, or any other officer involved in the administration of the examination, and therefore no disciplinary action is necessary in this case. Given that the circumstance that led to Charity Kananu's failure to sit the exam were her violation of examinations guidelines and reluctance to avail herself for the examination, it is also the Ministry's opinion that she does not qualify for any compensation whatsoever.

In conclusion, the Ministry is satisfied that the Kenya National Examinations Council (KNEC) has put in place adequate measures to ensure that candidates are adequately briefed on conduct of examination. Before the examination commences, examination guidelines are availed to each candidate, prior to commencement of the examination and are also available in Council's website. This is to ensure that candidates do not commit examination offences that may compromise the integrity of the examination.

Thank you, hon. Deputy Speaker.

**Hon. Deputy Speaker:** Give hon. Florence Kajuju the first opportunity to ask any supplementary clarifications.

**Hon. (Ms.) Kajuju:** Thank you, hon. Deputy Speaker. As much as I appreciate the response that has been given by the Chair of the Committee on Education, Research and Technology, I feel that the actual issues that affected Charity Kananu have not been addressed, or either the Ministry or the Chair has been misled to state that there was provision for this child, Charity Kananu to sit for her exam.

The Constitution speaks of the child's best interest under any circumstance. Under these circumstances, the same Charity Kananu's interests were not undertaken neither were they put into consideration. It is, therefore, my request that further investigations be conducted especially in as far as the DEO of the area is concerned and the principal of Antwanduru Secondary School because this is not the only case that has been reported, especially from Meru County.

I am not yet satisfied with the response that has been given and the actual opinion of the Ministry is totally misleading.

**Hon. Deputy Speaker:** Let a few Members seek clarifications and you can write them down Chair and respond afterwards. Hon. Clement Wambugu.

**Hon. Wambugu:** Thank you, hon. Deputy Speaker. The case of this girl who missed examination because of pregnancy, I think is becoming something of great concern to this country. All over the country we have got children, some of them in Standard Eight and others in Form Four, who are made pregnant by men and even thereafter, we never hear of any action that is taken against them. What action is the Ministry or the Government going to take against these people who are making our girls pregnant even before they sit exams? Thank you.

**Hon. Deputy Speaker:** Jakoyo Midiwo Washington.

**Hon. Midiwo:** Thank you, hon. Deputy Speaker. I knew that was coming anyway. However, this is a serious issue. Just last Friday, I heard over the radio that a kid

who was late for exams somewhere in Bondo, Siaya County was pregnant and had to deliver during the time of exams. The District Education Officer (DEO) there was magnanimous enough to follow the law and follow the kid with the exams and after she delivered, she did her exams. What rule would a DEO in Meru use to deny a girl-child examinations? Is that not like ruining the life of this girl? Which law is used in Siaya County that is not used in Meru County?

Hon. Deputy Speaker, this issue is serious because in the past one week, the *Citizen Television* has been running a series of stories of abused kids. In Mount Elgon, 18 primary school children have been made pregnant by the Kenya Defence Force (KDF) officials. Since that story was aired, we have not heard of any action on the KDF or from the KDF. What is happening in our country? In Mombasa just yesterday, I saw a story on *Citizen Television* two days ago where school children are---

**Hon. Deputy Speaker:** There is a point of order, hon. Jakoyo from John Serut who is a Member of Parliament of that area.

**Hon. Serut:** Hon. Deputy Speaker, as you know, I am the Member of Parliament for Mount Elgon. I think the Member of Parliament who is on the Floor, hon. Jakoyo Midiwo, is misleading the House because there was no mention that KDF raped those girls. The suspects are known and I have requested the Departmental Committee on Education, Research and Technology to go to Mount Elgon and collect facts about that issue and especially on one of the girls who was in Standard Four. The suspects are known.

**Hon. Deputy Speaker:** Hon. Serut, is that a point of order really? It is a point of argument. I see William Cheptumo. Are you on a point of order? Do you want to contribute?

**Hon. Cheptumo:** Yes, hon. Deputy Speaker.

**Hon. Deputy Speaker:** Please, allow hon. Jakoyo to finish. Do not put your card in the intervention slot; put it in the correct slot.

**Hon. Midiwo:** Thank you, hon. Deputy Speaker. Sorry if I have offended hon. Serut. I hope this issue concerns him as much as it concerns many Kenyans. It not the time to defend KDF. The girl said that they threatened her with a gun and she feared death and so she had to give in. I watched the story. Nobody has sued *Citizen Television*. This is a child. We need to do something since we have a responsibility. I wanted to suggest to the Committee to encourage the Government that this education system is simply too large. What you are calling exam irregularities cannot be stopped if you have to transport exam materials from Nairobi to Garissa or Moyale. It is like the health problem which we have sorted out, where the Medical Officer of Health (MOH) comes to the Kenya Medical Supplies Agency (KEMSA) to pick medicine for Siaya. There must be pilferage. We need to do what people have chosen to do; devolve their systems. We must have people in Kwale County having some kind of exam. We cannot be so trusting that one person sitting in Nairobi is the only one you trust to set and mark exams. As a country, we can do better. This problem will only go away if we let these things go down to the devolved structures. In any case, how do you expect a kid in Moyale to take the same exam with a kid in Alliance or Riara? So, I want to plead that I think this Committee has a duty to give a better answer to hon. Kajuju and to defend it. If the

answer is not satisfactory, do not give it because Kenyans are watching. Kenyans are feeling hopeless and helpless.

Thank you, hon. Deputy Speaker.

**Hon. Deputy Speaker:** Thank you, hon. Jakoyo.

**Hon. Cheptumo:** Thank you, hon. Deputy Speaker. The girl actually gave birth, as was said by the Member here, on 10<sup>th</sup> June, 2013. The exams are done in November – four months after. I want to agree with the other Members that the DEO in that particular area and even the principal who actually took the decision that the girl should not do the exam are in breach of Article No.53(2) of the Constitution which says: “A child’s best interests are of paramount importance in every matter concerning the child.”

Hon. Deputy Speaker, I want to emphasise the words “every matter” including this one where they are under responsibility to make a decision whether this girl should do the exam or not. Was this girl punished for giving birth? I think this is a very serious issue and I want to suggest that the Committee should be able to recommend action to be taken on the parties who made the decision, whether it is the principal or the DEO. It is critical and this then shall be an example to the rest of the country.

**Hon. Deputy Speaker:** Thank you, Irungu Kang’ata.

**Hon. Kang’ata:** Thank you, hon. Deputy Speaker. My intervention is just to seek a clarification from the Chair. The clarification is with respect to the procedure adopted by the Committee during the inquiry. Maybe the Committee can tell us whether the Member who has the question appeared before them and whether those people who have been mentioned in the report appeared in person before the Committee and whether there was some form of cross-examination by the person who had asked that question.

The reason I am asking that is because I have previously asked a question and the committee just does a letter to the relevant party and then the relevant party just does a write up. So, the relevant party does not come before the committee. That party is not cross-examined. So, you cannot even tell the veracity of the information that is contained in the response. There was a time the Chair ruled to the effect that every time there is a question, a Member must always appear before the Committee to prosecute his question. So, probably you can give us guidance so that we know what to do in the event the Committee does not adhere to that procedure which was set out by the Chair.

Thank you.

**Hon. Deputy Speaker:** Okay. Dennitah.

**Hon. (Ms.) Ghati:** Thank you very much, hon. Deputy Speaker. As much as the Departmental Committee on Education, Research and Technology has this, I think it is one of the busiest committees in this House. I really want to thank the Chair. She is really trying, since I know that a year spent in school for a poor girl translates into family planning, how you space your child and good life generally. However, I wanted to find out something from the Chair. What is the policy? If you look at the trend in this country, the girls who get pregnant either from teachers, *boda boda* operators or from the KDF that we are hearing here, are the poor girls who have nobody to speak for them and there is a policy in this country that actually looks at how these girls rejoin schools. What steps have the schools, DEO and the education sector taken to make sure that even these girls who do not know that there is a re-entry policy to go back to school are sensitised on this matter to know that even if they give birth at home, they are entitled to go back to

school? I think that is what we are not getting. What are the deliberate efforts that we need to be put in place so that these children know that they can actually give birth and still go back to school and continue with their education?

**Hon. (Ms.) Chepkwony:** Thank you very much, hon. Deputy Speaker. I would like to know from the Chair what the Government is doing to the people who are raping school-going children. These people are raping children who are underage or below 18 years. What will the Government do to help those children, if they are barred from going back to school?

**Hon. Deputy Speaker:** Hon. Hellen, are you suggesting that it is okay if they rape people who are older?

*(Laughter)*

**Hon. (Ms.) Chepkwony:** No, hon. Deputy Speaker. We are talking about school children and that is why I have asked a question about them. I want to know the disciplinary action that should be taken by the Ministry of Education, Science and Technology or the Government. What should we do especially when it comes to children? I think hon. Ndung'u had brought a Bill to Parliament to the effect that men who are doing that should be castrated.

*(Laughter)*

Anyone will fear raping anybody in this country if that is done. We plead to men to support us to bring such legislation.

**Hon. Members:** What about ladies?

**Hon. (Ms.) Chepkwony:** Hon. Deputy Speaker, if there is a way the ladies can also be castrated, they can do it. However, this issue is serious. This is because the victims are being infected with HIV/AIDs and we should not take this matter lightly.

**Hon. Kabando wa Kabando:** On a point of order, hon. Deputy Speaker. I do not intend to query the hon. Member because I think anybody mistreating and exploiting children should not just be castrated but does not deserve to live in this world. This question is very serious. I am just wondering and I seek your guidance on this.

The Chair of the Departmental Committee on Education, Research and Technology is answering this question based on the information obtained from the Ministry of Education, Science and Technology. Given the gravity of this matter, I think you should give us guidance as to whether we should take this matter to another level so that the Cabinet Secretary or the officer in charge of children's rights in the Department of Education or even the State organ or human rights can be summoned by this House to come and give a full disclosure of efforts that have been made to prevent these abuses because they are widespread or rampant. It is actually an exhibition of complete impunity for the officers involved and it is not the age of the small girls. I am seeking guidance from the Chair as to whether this matter would sufficiently be addressed because hon. Sabina Chege, the very able Chair, has strived to given an answer to the extent to which she has received the information from the State Department. I think that this matter, as much as we have agreed that Departmental Committees should be the ones to bring

information from the Government, we should also remember that it is not Ministers who are sitting here or Cabinet Secretaries.

Hon. Deputy Speaker, Sir, I seek your guidance. Given the gravity and crisis on this matter, that this Committee should not summon the Cabinet Secretary to come and be faced with numerous questions on this matter, an inquiry can be constituted to handle it. As I finish, I am not in agreement with anybody who says that Cabinet Secretaries should not be summoned. They should as and when necessary or often.

Thank you, hon. Deputy Speaker.

**Hon. Deputy Speaker:** Hon. Sabina and your Committee, you can see that although this is about one particular girl in Meru, the level of interest from everybody across the country even on the media on the question of pregnant girls and their return to school is immense. What is the government doing about it? The suggestion is that as Members of that Committee, you do not need to be prompted by anything that is said on the Floor of this House. A matter such as that, you can take it up on your own as a Committee. Because you can see the interest of the Members, whenever you will do that, please make sure that all Members are aware so that they can come and ask any of the relevant questions that they may have. This will be when you call the Cabinet Secretary to discuss the same.

I think you need to give them enough time to prosecute that matter. Are all these clarifications still on the same issue, hon. Members? If the Chair promises that they will prosecute this matter thoroughly, do we need to seek all these clarifications or shall we allow her, first of all, to let us know whether the Committee does intend to bring up the matter of student pregnancies? If that is the case, then those clarifications can be sought when she will call the Cabinet Secretary. Like hon. Kabando has said, even if we seek many clarifications from her, she will still need to go back to the same Cabinet Secretary to get those supplementary clarifications and then bring them back to this House. So, she cannot authoritatively give answers to these questions because she is not a Cabinet Secretary but a Member like you.

Hon. Members, do we need all these further clarifications or shall we allow her to respond to the ones that have been given? Hon. Kathuri, you are burning with your clarification.

**Hon. Murungi:** Thank you, hon. Deputy Speaker. I want to add my voice on this issue touching on Meru County. One girl from a school in my constituency known as Gaatia Day Secondary School was barred from doing her Form Four examination because she had missed some months from school. This is a similar case as the one which happened in Tigania East Constituency. The reason was that she had missed school three months because she had a baby.

Also in the same school, two boys, one orphaned were barred from doing the examination because they had not cleared school fees. As much as I know that during examination, the contract is between the Kenya National Examinations Council and the students, I do not understand why in the case of Tigania East, a supervisor of an examination could determine who was in class and who was not because the work of a supervisor as stated by the Chair was only to come and present the examination and supervise so that it is done well.

I would like to request the Chair of the Departmental Committee on Education, Research and Technology to focus on Meru County because I do not know what bug is in Meru County. Maybe, she will do more work. Luckily, the Cabinet Secretary comes from the same county. So, he should be able to appear before this Committee so that he can express his sentiments.

**Hon. Deputy Speaker:** Hon. Members, I want to give hon. Sabina a chance to respond. I have a long list and I do not know whether all of them are on clarifications. However, she might clarify what you wanted to ask in her response.

**Hon. (Ms) S.W. Chege:** Thank you, hon. Deputy Speaker, Sir. I might give some of the answers. I want to start with the one for Mount Elgon which hon. Jakoyo Midiwo raised.

As a Committee, we were willing to travel to the place on Friday but the hon. Member informed us that the DEOs will be busy because exams are ending on that day. We were also told that it is raining heavily. So, the Committee is ready to travel to Mount Elgon and carry out investigations.

I want to put it clear to this House that no principal or supervisor is allowed to bar any student from sitting exams because they have not cleared their schools fees. So, such cases should be forwarded to us immediately. Neither is a principal or supervisor allowed to stop any girl from sitting exams because they have given birth.

I want to note that from the report that was given by the Ministry, there is a bit of contradiction. If you look at the report given by the DEO, the report given by the County Director and what the Ministry has finally given as their conclusion, there is a bit of contradiction. Hon. Kang'ata asked whether we asked the Member to come. I just want to take this House back and state that when this question was asked, I asked for two days and the Members insisted that I take only one day. So, there was no sufficient time for me to write to the Cabinet Secretary, ask him to come and request the Member to come for the response. I would like to state something that the DEO has written. The DEO said: "It is true that the girl is a student and also was last in Form Four Class on 10<sup>th</sup> June". He also says that on Monday, 22<sup>nd</sup> October, the girl reported to the examination about one hour late. This lateness led to the supervisor and the Principal not to allow her to sit for the exams. He also says that after being barred from sitting for the exam, the girl went to the DEO's office to report the matter accompanied by her father and the DEO instructed the Principal and the supervisor on telephone to allow the girl to sit for the examination. He told the girl to report immediately to the school and inform the DEO on the development.

Instead of the girl reporting to the school as instructed by the DEO, she reported the matter to the OCPD, Tigania East, who went to the school and conducted his findings in the company of his officers. The OCPD took with him the school's visitors book, log book and Board of Management book. As a follow up matter, the DEO went to the school on 23<sup>rd</sup> considering that the girl is a registered candidate and a bona fide student of that school, he instructed the supervisor and the Principal to allow her to sit for the examination unconditionally. This was because barring her from sitting for the examination on account of lateness or pregnancy was illegal and a violation of her rights. In the view of the DEO, the Principal and the supervisor did not exercise due discretion



in not allowing her to sit for the examination as required by the KNEC's rules and regulations concerning lateness, but interpreted the rules superficially.

In order to reach the girl, they requested the ward representative to call the father immediately for him to assist them to trace the girl. The ward representative, however, reported back that the father said that he could not trace the girl. Then he says that he instructed the Principal together with the ward representative to trace the chief also to ensure that they had traced the girl to sit for the examination. It is, however, reported that by the time they were writing this report, the girl had never showed up to sit for the examination.

I want this House to know that this is a report from the County Director which indicates that the Principal and the Deputy Principal said that the student went to the school on 22<sup>nd</sup> November, to sit for her English Paper and proceeded to the examination room after the morning prayers. That means that she was not late. They said that the Principal and the Deputy Principal, however, took her writing items like the clipboard and the pen and ordered the student to go outside the classroom and the school compound despite the student requesting for a letter from KNEC barring her from sitting for the examination. There is also something here that says that the Board of Management had already made up its mind.

The school Principal, Mr. Peter Kinyororo Lichoo informed the student that she did not qualify to sit for exams after she had missed classes when she was pregnant. He said that he was acting on orders from the Board of Governors. We also need to take the Ministry to task on the answers that they have given us because there is a contradiction on the answers given from the DEO, the County Director of Education and this report from the TSC. I want to ask for more time, so that we can further interrogate the issues. I want to challenge the leadership from Meru County. We know that it is a very bad sign when young girls get pregnant. This is not only for the Meru County, but we, as the leadership, need to talk to our girls and encourage them to finish school without getting pregnant. However, when it happens, no girl should be punished.

I also want to speak to the men and the Members in this House. Kindly, help us to talk to our men. It is illegal and criminal for anyone to impregnate a girl under the age of 18 years. I am also hoping that the administration will take stern steps against men who make these girls pregnant when they are under the age of 18 years. I ask for more time and as we go to Mount Elgon, we will also go to Meru. We will invite Members when the Cabinet Secretary will be coming to meet the Committee, so that we can give a conclusive answer on this matter.

**Hon. Deputy Speaker:** Okay, I think the matter will be on early childhood pregnancies in general. So, you will give the Cabinet Secretary enough time to do research and by the time you call Members, it will be a comprehensive exercise and they can ask all the supplementary questions they have on the same.

**Hon. A.B. Duale:** Hon. Deputy Speaker, just a word of advice to Chairs of Committees, that when you are given an answer by the Executive, please, before you bring it to the House synchronise it. If you feel that it is not sufficient, do not bring it. Return it to them. It is very unfortunate for my good Chair, the Chair of the Committee on Education, Research and Technology to read the report of the DEO, the report of the County Director of Education and report of the Cabinet Secretary. The final report that

comes to the House should be a summary; a conclusive report from the Cabinet Secretary. So, you have the leeway to say that the answer you got was insufficient and go back. So, we should not come with all the answers that have been given by different stakeholders in the same Ministry in future.

#### ALLEGED PLANS TO STAGE CIVIL DISOBEDIENCE

I also have a small Statement sought by the Member for Kieni, hon. Kanini Kega. I hope he is in the House. I can see him. He requested for a Statement on the subject of alleged plans by some Non-Governmental Organizations (NGOs) to stage mass civil disobedience in the country. My answer is very short and it is a summary. It is both from the Ministry of Interior Coordination of National Government and the office of the Inspector General.

The Government is not aware of any plans by NGOs to cause national wide civil disobedience in the event that the President attends or fails to attend the International Criminal Court (ICC) However, the Inspector General of the National Police Service and the Director of Criminal Investigations Department are investigating the said allegations. Further, the Government is not aware of any foreign organizations, embassies or even individuals who could be funding NGOs to conduct mass protests in the event the President and his Deputy attend the trial at the same time. So far, the police have not identified any foreign bodies or organizations that could be funding any civil society organizations neither have they identified the local recipients who could be benefitting from the alleged funding.

Finally, the Government will not condone any acts of violence or planned demonstrations to disrupt peace in the country. All demonstrations and meetings are regulated by the Officers Commanding Stations countrywide. Organizers of any meetings or demonstrations must notify their respective OCSs in their places of command who will then assess the security situation in the area. All demonstrations which are not notified to the OCS are deemed unlawful and the organizers are dealt with according to the law.

**Hon. (Ms.) Shebesh:** Yes, hon. Deputy Speaker. I have listened to the Leader of Majority Party give an answer that is a bit puzzling. I think the issues that had been asked by the Member for Kieni were in the public domain. It, therefore, means that there is speculation through the media or other means or the Government simply does not want to tell the truth. Those Members of Parliament from Nairobi know that there are planned and organized demonstrations against the President and the Deputy President in relation to the ICC. What I want to ask the Leader of Majority Party is whether the Ministers are just afraid to say what is obvious or is it that they do not have the intelligence? One of the Committees of this House could probably do a better job than the answer that the Leader of Majority Party has given us.

**Hon. Kanini Kega:** Hon. Deputy Speaker, the Report that we have been given by hon. A.B. Duale is not convincing. During the last General Election we had an organization called “Yes Youth Can.” When it was confronted by the Government to disclose their activities, they went underground. In my county, Nyeri, we have an NGO called “Mercy Corps” which took over from what the Yes Youth Can group was doing. I concur with hon. Ms. Shebesh that there is something that we are not getting right. We

know that for sure there are NGOs operating in this country. I can provide information, especially about the Nyeri County case whereby these organizations are going round recruiting youths and putting them into groups and promising them so many good things. I am, therefore, not convinced that what the Leader of Majority Party has given us is the absolute truth.

**Hon. Wandayi:** Hon. Deputy Speaker, I also want to concur with the other speakers that the answer provided by the Leader of Majority Party is puzzling, to say the least. Hon. A.B. Duale has stated that despite the lack of information concerning these plots, as he called them, the Police Department is carrying out investigations on allegations. Who is the complainant here? Why is the police carrying out investigations?

He also stated that the Government is not aware of any NGOs which are funding any persons to cause trouble in the country. Only two months ago, if I am not wrong, the police summoned one Eliud Owalo on allegations of receiving money to cause trouble. He was summoned through a letter signed by the police. So, why the double speak?

**Hon. Bosire:** Hon. Deputy Speaker, the response of the Leader of Majority Party on this very important subject, I must also say is puzzling. This is because even recently some Members of this august House in their private activities in the rural areas made public statements that, indeed, if the President will be going to ICC they will organize something and go to the airports and block him from going out. This is public knowledge and the President himself has not even responded to caution them that they were making very dangerous statements.

The Leader of Majority Party has said that investigations are going on. What has prompted the investigations if he is not aware, indeed, that certain activities are going on to this end? The Leader of Majority Party, who is a good friend and I respect him seriously, should take this question seriously and respond formerly.

**Hon. Injendi:** Hon. Deputy Speaker, mine is not a clarification, but it is a follow-up. I put some request for a Statement.

**Hon. Deputy Speaker:** Yesterday was when we were making requests for Statements. Today we are just dealing with responses. Let us stick to our agreed formula of how we do things. What we are doing now is seeking clarifications on the Statement given by hon. A.B. Duale.

**Hon. Injendi:** Hon. Deputy Speaker, it is a follow-up because I made this request two months ago and up to now there has not been any response.

**Hon. Deputy Speaker:** Hon. Member I have just clarified that now we are not dealing with which Statements were given when. We are dealing with the Statement by the Leader of Majority Party.

**Hon. Waititu:** Hon. Deputy Speaker, mine was to ask whether my colleague hon. Bosire is in order to say that roads will be blocked when the President goes to The Hague and yet he knows that I am in the public domain as having said that I will not only block the roads, but also resign from this Parliament if an elected President goes to The Hague.

*(Laughter)*

**Hon. Deputy Speaker:** Hon. Members, remember that you are responsible for utterances that come out of your mouth. It is in our Standing Orders.

**Hon. (Dr.) Pukose:** Hon. Deputy Speaker, having listened to the Leader of Majority Party give an answer to the Statement sought by hon. Kanini Kega, I was just wondering whether he needs to clarify further because we are aware that this Statement was sought from the Ministry in charge of national security which is headed by people we know attempted to fix the Deputy President and President. These are individuals who could be sabotaging the Government from the inside. Could he, please, clarify that? If it is to that extent, then they need to resign from their dockets.

**Hon. Ng'ongo:** Hon. Deputy Speaker, I was a bit disturbed when the Leader of Majority Party said that in this country you have to seek the authority of the OCPD and such like officers. It is just notification anyway. Demonstration is a right that all of us enjoy. I seek two clarifications.

I want to follow up on what hon. Timothy Bosire asked. Many Members have said that they will block roads and even go and camp at our international airport to stop--- I have just heard this morning that even one hon. Member is ready to resign. I would urge him to prepare his pen and paper because he is likely to resign. However, if hon. Members can talk the way they talk and no action is being taken--- Even recording of statements has not been done.

Jomo Kenyatta International Airport (JKIA) is recognised internationally. Any threats to peace and security at the airport should concern all of us. The hon. Members who were talking carelessly about our international airports should not be taken lightly. This is a country for all of us, and not for a few individuals. Neither is it for a few sections of members of the society.

Finally, is the talk of demonstration a scheme by the Government to create a picture of possible instability in this country to justify the request by the so-called African Union to have the cases that affect the three Kenyans at The Hague withdrawn? I do not see that kind of threat. It is only coming from hon. Kanini Kega and hon. Waititu, who are not in the security system. Could they tell us the source of their information or are they being used to create an environment for us to go and justify our case before the UN Security Council?

**Hon. Deputy Speaker:** Okay, Leader of Minority Party.

**Hon. Nyenze:** Thank you, hon. Deputy Speaker. This issue is weighty. Since it involves lives of Kenyans, it is good for it to be handled with the care it deserves by both sides of the political divide. Support should be exercised cautiously, so that hon. Members do not go overboard by saying that they will block the national airport and hold national demonstrations. I am sure they are not talking for the people who have cases at The Hague. Their emotions show support but I want to urge the House that these are cases involving the President, the Deputy President and another Kenyan, Mr. Sang.

We need to exercise caution because these are people with families and relatives, who have feelings. The Hague cases are not very good to the families of the affected people. Rather than extend the debate on the statements that were made by the hon. Members who have shown support or sought clarification, we should let it die because these matters are very sensitive. I can imagine how I would be feeling if I were the one having a case at The Hague. Therefore, I would rather the clarifications sought by some hon. Members on this matter be treated as hot air and some way of trying to drum support for the affected individuals, which is not very important.

**Hon. Deputy Speaker:** Let hon. Jakoyo Midiwo make his statement and then I will give the Floor to the Leader of Majority Party.

**Hon. Midiwo:** Thank you, hon. Deputy Speaker. It will be very wrong for me to disagree with my leader. So, I will restrain myself. Nonetheless, let me say that this is a serious matter. There is no peace around the country. Whether you believe in the ICC or not, much of this lack of peace is about Kenyans being prosecuted in a foreign land. The carelessness with which politicians are treating this issue is unacceptable for our country. Hon. Waititu has just spoken of an elected President. He said that he will resign if the elected President tries to go to The Hague, and that he will block the road to the airport.

The law says that the presidency is a co-ticket nowadays. There is a running mate. Hon. Ruto leaves this country for The Hague frequently and loyally. Why have they not gone to block hon. Ruto from going to The Hague? What is so special about our President that is not special about my friend, hon. Ruto? Are we encouraging one person to disobey the law and the other one to respect the law? For those of us who are Members of Parliament, this is real. I want the Leader of Majority Party to clarify this matter because there is disquiet.

We listen to the ongoing trials in The Hague every day. We listen to the evidence. We listen to the lies or the truths. Hon. Members of this House have asked why the people who framed hon. Ruto are still sitting in the Executive. What is the opinion of the Government? When will they resign? I want to know because they are the same people who led us into the violence of 2007. Why are these people still in Government? What is the opinion of the Executive on the matter?

**Hon. Deputy Speaker:** Yes, Leader of the Majority Party.

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

**Hon. Deputy Speaker:** Order, hon. Members! We have too many hon. Members who are seeking to raise points of order. Maybe, the Leader of Majority will clarify the matter.

**Hon. A.B. Duale:** Hon. Deputy Speaker, on the outset, I want to say that the Statement that was sought by the Member for Kieni has muted into many other things. From where I sit, I will not shy away. I will answer the questions in either their mutation form or the original form.

I want to start with what the Deputy Minority Leader said. I want to confirm that, from where I sit and from the evidence provided, there is nobody in the Government who coached witnesses to fix hon. William Ruto, we heard it from the legal team of hon. Ruto in their presentations. So, we do not want this matter to be political. I want to confirm to all and sundry that this matter will not be an entry point for dividing the Jubilee Coalition. We are firmly united. Whether one praises one side or the other, the URP and TNA are more united than ever before. So, there is nobody in Government who has fixed either hon. Ruto or hon. Uhuru Kenyatta.

Secondly, of course, the Deputy Leader of the Minority Party has also sent an appeal to all the politicians in the country to speak only when they are sober, particularly over the weekends. It depends on where you slept and where you had been but, please, let us speak with sobriety, so that we send the right message to the country.

Hon. Deputy Speaker, I disagree with the Leader of Minority Party because we do not come from the same coalition. He cannot gag the House. Hon. Members will debate

issues. They will seek Statements, be they on the ICC or political parties or election financing. It is their right to do so. So, the Leader of Minority Party cannot gag hon. Members. The ICC matter is a reality. It has lived with us for the last five years. We will overcome it. It is a challenge to the country, to the continent and to all and sundry. So, the Leader of Minority Party should know better.

To my good friend, hon. Mbadi, of course I said that you notify the Officer Commanding Station (OCS) of the respective areas in which you want to do demonstration or picketing. Let me clarify that there is no scheme in place. The Government has no intention of creating instability. The Jubilee Coalition can only fulfil its manifesto and pledges in a secure environment. If you look at the Budget, you will appreciate that the Jubilee has allocated more resources to this country's security institutions.

Hon. Deputy Speaker, in my opinion, hon. Pukose was only speaking as the Member for Endebess. He was not speaking for the URP or the Jubilee Coalition. There is nobody in Government fixing the ably and respectable Deputy President.

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

**Hon. A.B. Duale:** Hon. Deputy Speaker, allow me to finish. I know that these are the politics at play. I am assuring Kenyans that we can discuss this matter on the Floor of this House and elsewhere but the discussions will only serve to cement the relationships within the Jubilee Coalition that I ably represent in this House.

Hon. Deputy Speaker, hon. Waititu is, indeed, a great leader if he can really sacrifice his parliamentary seat for the sake of our President. I am sure that the HANSARD is capturing these proceedings. If in February, 2014 the President goes to the ICC, we better have a by-election in his constituency.

*(Laughter)*

The question that hon. Kanini Kega asked me was on NGOs. He never asked me about the utterances of politicians. You can take an opportunity to ask me for another Statement; or, you can ask the Chair of Administration and National Security Committee what politicians do, because maybe yours was to say that politicians are talking; they say they are going to block the airport. I want to say very categorically that when you go to the airport, you can take as many people as possible, but there are designated areas that you cannot--- I am sure when great leaders like the Deputy President come back from The Hague, a huge number of Kenyans go to the airport. When the leader of CORD Coalition, hon. Raila Odinga comes, there are always good dancers who go there and dance and leaders welcome him. So, Kenyans have the right to go to the airport, but they have no right to go to designated security areas, including the runaways. So, Kenyans are not blocked from going to the airport, but I am sure if it means 10,000 people, then I hope flights will not be diverted; that is a security issue.

Hon. Wandayi, yes, the allegations which are being investigated are by hon. Kanini Kega. I remember, when hon. Kanini Kega raised this matter, the hon. Maj-Gen. Nkaisserly asked, "can you be specific and name the NGOs"? So, he gave a general statement. I do not want to use the privilege of working with NGOs before I joined politics. Let us not defame the names of respectable NGOs in our country. I believe

Mercy Corps have done a good job; unless you have serious intelligence report on Mercy Corps, it will be very sad if we use the Floor of the House to---- I am sure hon. Members sitting here maybe in your constituency, Mercy Corps has done some work or Action aid has done it. Please, let us refrain from using the Floor of the House to raise serious allegations.

On the issue of Eliud Owalo, from where I stand, Eliud Owalo does not work for an NGO; he works for a serious coalition in this country. Based on what the Criminal Investigations Department had on Eliud Owalo, he is under investigation. I am not dealing with political parties; I am dealing with NGOs, unless hon. Wandayi will tell us that Eliud Owalo has left the CORD Coalition and ODM Party and he is now working for an NGO; that one I am not aware of. He is a man I respect a lot.

Hon. Kanini Kega says he is not convinced. You know we do not want to raise temperatures when there is no NGO planning, when there is no foreign embassy funding, when there is no foreign organization funding. If they are there, please let us get the information; we have very able committees that can even call the Director of National Intelligence Service and any security institutional head, including the Inspector General to explain. Hon. Kanini Kega talked about Mercy Corps and 'Yes You Can' is a youth organization. I want to confirm that, the biggest youth organization funded by USAID for the past six years is in my constituency. It is called 'Garissa Youth Group' and is funded by the United States of America. I know what they do. So, there are many youth organizations, many women organizations, there are many water, sanitation and health projects funded by NGOs in our country; MPs are aware of them. So, let us not defame respectable donor institutions and donor funded NGOs.

Lastly, the great lady of Nairobi, hon. (Ms) Shebesh, says it is in public domain. So, how do we draw the line between public domain and--- What I know is that people want to hold demonstrations to block the President. Even that, we are yet to see. Hon. (Ms) Shebesh if you are one of the crusaders of the people of Nairobi and Kenya, please share that public domain. I am sure the question sought, the intelligence, the national security docket, they have all shared and they said--- Today if, something has happened in Gem and hon. Jakoyo says we are not aware, you need to be specific. Tell us where the NGOs are based. Tell us where their offices are, what they are doing and such kind of information. But the question was very general.

Hon. Pukose, my good friend and a Member of the coalition, please there will be nobody fixing hon. William Ruto. Hon. William Ruto does not need to be defended; he is a great leader who can defend himself, and we will stand with him. I do not think we should turn this into politics, and I am sure there is a lot of ---

**Hon. Deputy Speaker:** Order, Members! What is your point of order, hon. Ochieng? Where are you?

**Hon. Ochieng:** On a point of order, hon. Deputy Speaker, The time for Statements is a very serious time. Is it in order for the Leader of Majority Party in this House to keep on yapping and blubbing on issues he does not know about? Issues to do with witness fixing and witness I do not know doing what? Is he in order? I want to know from him because he has been claiming that hon. Raila Odinga fixed hon. William Ruto, and he is just now saying that no one fixed hon. William Ruto. Can he confirm before this House that hon. Raila Odinga never fixed anybody?

Thank you very much.

**Hon. Deputy Speaker:** Allow hon. Midiwo and hon. Bishop R. Mutua to get three clarifications, and then we bring this matter to a close hon. Members.

**Hon. Midiwo:** Hon. Deputy Speaker, I beg your indulgence. What we are discussing is actually a serious issue, and the casual manner in which our Leader of Majority Party is treating it is amazing. If hon. A. B. Duale was on this side, we would have fired him this afternoon or yesterday. Just the other day, last week, I was watching him on television saying how hon. Ngilu must go; yesterday I watched him on television saying Ngilu is there to stay. We cannot have a leader who flip-flops. Just not too long ago, I asked for a clarification and when he is telling hon. Pukose that no one is fixing hon. William Ruto--- The campaign which we went through was so intense; it was about who took people to The Hague.

The Secretary General of URP, hon. Keter and hon. Murkomen, have not said--- Are you leading yourself or you are leading a group of people whom you have a different opinion on? We want to know who is fixing who. We also want to know, if you are accepting that hon. Waititu is a great leader, it means that his insinuations that hon. William Ruto is not elected is what you are agreeing with. You must tell us.

Thank you.

**Hon. Deputy Speaker:** No, I said hon. (Bishop) R. Mutua. Yes hon. (Bishop) R. Mutua

**Hon. (Bishop) R. Mutua:** Thank you, hon. Deputy Speaker. I want to make two observations. One, right from the beginning when the issue of International Criminal Court was discussed in Kenya, people addressed it very casually. We are still behaving very casually when dealing with the issue. We are forgetting that people are affected and that this nation needs a healing a process.

Hon. Deputy Speaker, my appeal to hon. Members is to begin taking this issue a little bit more cautiously than we are doing, so that we do not just look like we are throwing statements right, left and centre, without knowing that every statement we make about this issue affects lives of people and emotions of others. Therefore, I would like to request the Leader of Majority Party, whom I respect so much, that when dealing with questions like these not to dramatize them. Let him be very sincere because these are issues that affect the entire nation and the emotions of our people.

Thank you.

**Hon. Deputy Speaker:** Okay. Thank you, Bishop Mutua. I gave you the chance last because you are a bishop and you can help us to get some sanity into this matter.

Hon. Leader of Majority Party, please wrap it up. As Bishop Mutua has said, it is emotional. Their emotions will come up, but let us allow the Leader of Majority Party to contribute.

**Hon. A.B. Duale:** Thank you, hon. Deputy Speaker. I did not get what hon. Ochieng' was saying. I have never flip-flopped in my life. I have never been a pendulum, particularly in politics. Of course, in the last Parliament, there were many politicians who behaved like pendulums. Given an opportunity, hon. Midiwo can even name them. But you see it has mutated to one hon. Charity Ngilu.

Hon. Deputy Speaker, the Motion can still--- I speak for a coalition and there is no crime if the Leader of Majority Party speaks on behalf of the coalition on any matter



that may arise. Whether it will carry the day or not, that is the position. So, hon. Midiwo, I was speaking as per the office that I hold.

When matters become serious, who fixes who? If we go to that, then we need to go back to the days when I was in the great party called ODM and say what made me and the Deputy President leave the party. If we go to that history, then we will have a full day to say who fixes who. If there is an idea that some people want to clean others, that is a different story and I will have a day on it outside the House.

What has been said by the legal team of hon. William Ruto, whether hon. Keter raises it--- He said it! He said it in his personal capacity. He did not speak for the Deputy President's office, and he did not speak for the great party of which I am a founding member, that is URP. If he said he spoke for the URP, that could have been a different issue. He did not speak for the party that I had an opportunity to help many other great leaders in creating. But that is water under the bridge. I think that was a matter that was in the media as a developing story.

Hon. Deputy Speaker, I want to confirm that as it develops it will have no bearing on the Jubilee Coalition. We are united, firm and ready to implement the coalition agenda under our two great leaders. Therefore, we better, fast-track the developing story, so that we get another story.

Thank you.

**Hon. Deputy Speaker:** Thank you. Hon. Members, we have wrapped up that matter now. I want to give this chance to hon. Alex Mwiru to respond to a different request for a statement.

**Hon. Mwiru:** Thank you so much, hon. Deputy Speaker. I have a Statement that was sought by the hon. Member for Narok East, hon. Aramat Lemanken. I was trying to look around to see whether the hon. Member is in the House. I found that he is not, but following your earlier ruling during the week, we are supposed to be digital, as Parliament. I have found out that the hon. Member is on his way from his constituency. He had some things that he was doing there. Administratively, I know Statements like mine are supposed to be read tomorrow in the afternoon. But, I am seeking your indulgence to see whether I can deliver this Statement to him today afternoon, so that we can clear some of our intrigues.

**Hon. Deputy Speaker:** I always prefer that the hon. Member is there to ask for clarification. So, can we make sure that the two requests are on the Order Paper this afternoon?

## NOTICE OF MOTION FOR ADJOURNMENT

### SECURITY SITUATION IN NYANZA

**Hon. Mirenga:** Thank you, hon. Deputy Speaker. Pursuant to Standing Order 43 (1), I wish to seek leave to move an adjournment of the House for the purpose of discussing the security situation in the country, particularly in Nyanza region.

Hon. Deputy Speaker, Sir, there has been a rise in cases of insecurity in this area, and the most recent one was the slaying of the parents of an hon. Member of Parliament

in unclear circumstance. I am happy to see that my colleague, the hon. Aduma Owuor, is in the House.

Hon. Deputy Speaker, I wish to appeal for immediate Government intervention in this matter, so that it can re-establish peace in the area and save the lives of Kenyans.

As I finish, I contend that---

**Hon. Deputy Speaker:** The hon. Member has not actually told us what he wants to do and I am seeing hon. Members standing up.

**Hon. Mirenga:** I am happy that from the mood of the House, there is a compelling necessity for hon. Members to express themselves on this matter. Therefore, I seek leave to move a Motion for Adjournment in order to discuss the security situation in the country.

**Hon. Deputy Speaker:** Hon. Obura, you are seeking leave for what?

**Hon. Mirenga:** For the adjournment of the House to discuss the security situation the country.

**Hon. Deputy Speaker:** How many supporters are there for that?

*(Several hon. Members stoop up in their places)*

Okay; thank you hon. Members. I will order that the House will adjourn at 11.30 a.m. for us to show our sympathy with our colleague and also to discuss insecurity in general. So, 11.30 a.m. it shall be. Hon. Members, we have barely one hour for discussing business of in the House.

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

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

## PROCEDURAL MOTION

### EXEMPTION OF BUSINESS FROM PROVISIONS OF SO 40 (3)

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

THAT, pursuant to the provisions of Standing Order 256(1), this House resolves to exempt the business appearing in today's Order Paper from the provisions of Standing Order 40(3), being a Wednesday Morning, a day allocated for Business not sponsored by the Majority or Minority Party or a Member belonging to the Majority or Minority Party or Business sponsored by a Committee.

Standing Order No.40(3) states: "On Wednesday morning, a Bill or a motion not sponsored by the Majority or Minority Party or a member belonging to the Majority or Minority Party or by a Committee, shall have precedence over all other business in such order as the House Business Committee shall ballot."

Hon. Temporary Deputy Speaker, Sir, this is in line with the HBC meeting last night. Because we have over 15 Bills; both public and private, and we have only 14 days, or about 80 sitting hours of the House remaining before this year's session ends, we agreed to fast-track and maybe dispose of the Bills.

Hon. Temporary Deputy Speaker, of course the Media Council Bill is a very important constitutional Bill. It has a constitutional timeline, under the Sixth Schedule. Last time we extended time by three months; we have realized that we should give it priority this morning; because of its nature, hon. Members should get time to ventilate on it. Again, I would ask all the stakeholders and hon. Members of this House to prepare the relevant amendments to this very important Media Council Bill.

I beg to move and ask hon. Washiali to second.

*(Question proposed)*

**The Temporary Deputy Speaker** (Hon. Kajwang'): Hon. Members, I have requests, but I am not sure all the requests which are coming are as a result of the Procedural Motion; so, I request that if you are not speaking on the Procedural Motion, please release the request, so that I am able to know who wants to speak.

Hoping that the requests list is the way I see it, the next persons to speak on this is hon. Diriye Abdullahi Mohamed. You see, that is one of the things I am saying; Members have pressed the buttons and then left the Chamber. Hon. Grace Jelagat Kipchoim, take the Floor. Hon. Members, you are pressing the button, yet you do not want to speak on this issue. I have to go according to the list that I have. The next person is hon. Mbadi John Ng'ongo, are you speaking on this subject?

**Hon. Ng'ongo:** Thank you, hon. Temporary Deputy Speaker. I agree that this is a Procedural Motion and I want to support it, but just with two quick comments. We need to support this Motion because we have very limited time between now and the December break; it is coming on 4<sup>th</sup> December, 2013 and we have quite a bit before us.

I want to just urge the Leader of Majority Party and the House Business Committee that even as they prioritize Bills, they should fast-track the VAT (Amendment) Bill, which I am sponsoring and has gone for printing, so that we may pass it before we break for Christmas. If we do not pass it, it will outlive its usefulness. I would request that, that be considered.

With those few remarks, I support.

**The Temporary Deputy Speaker** (Hon. Kajwang'): Hon. Ichung'wah and hon. Gichigi, instead of interventions why not make contributions, either in support or against it, instead of points of order. I can see here you are on points of order. It is not necessary unless something is really out of order. Hon. Abdikadir Omar Aden, what are you saying?

**Hon. Aden:** Thank you, hon. Temporary Deputy Speaker. I do not have much to say, but just to support this Procedural Motion. Indeed, the Media Council Bill is very important, given the facts brought to us by the Leader of Majority Party in terms of the timelines. The fact that we might not have much time to do a lot of the other very important Bills, including the wildlife Bill, which I believe must be done with within the

coming eight sittings, it is important to consider it. I really want to support this Procedural Motion, so that we are able to discuss this very important Bill and pass it.

Thank you.

**The Temporary Deputy Speaker** (Hon. Kajwang’): Hon. Mary Emaase Otucho .

**Hon. (Ms.) Otucho:** Thank you, hon. Temporary Deputy Speaker. I was queuing to contribute to another Motion, and not this one. But I support this Procedural Motion.

**The Temporary Deputy Speaker** (Hon. Kajwang’): Hon. Samuel Gichigi.

**Hon. Gichigi:** Thank you, hon. Temporary Deputy Speaker. One of the core duties of this House is to make laws. It is all right for us to deal with Motions concerning various issues; at the end of the day it is not the number of Motions that are going to be used to measure our performance, it is the number of laws that we enact. Some of them, as has been stated, have constitutional deadlines and it is important that we sit down and comply with the constitutional provisions and then move on. I support.

**The Temporary Deputy Speaker** (Hon. Kajwang’): Thank you, Members; I see most of us are in support of this Procedural Motion. *Mheshimiwa* Ichung’wah, are you also in support?

**Hon. Ichung’wah:** Of course, I am supporting and, indeed, in my point of order, there was nothing really out of order with the Motion. I was just asking that we put the Question to save the time as asked by the Leader of Majority Party.

**The Temporary Deputy Speaker** (Hon. Kajwang’): Hon. Rachael Nyamai.

**Hon. (Ms.) Nyamai:** Thank you, hon. Temporary Deputy Speaker. I stand to support this Procedural Motion, that it is a process towards enactment of laws. Time is limited; we are soon heading for recess. This is a Motion that we should all support.

Thank you.

**The Temporary Deputy Speaker** (Hon. Kajwang’): All right Members, since many of us are in support of the Motion, I will now put the Question.

*(Question put and agreed to)*

## BILL

### *Second Reading*

#### THE MEDIA COUNCIL BILL

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

Hon. Temporary Deputy Speaker, Sir, I beg to move that the Media Council Bill (National Assembly Bill No.20 of 2013) be read a Second Time.

I want to make very important general statements. The Media Council Bill, 2013 is in this House based on Article 34(5) of the Constitution; that this House has the role to legislate after the enactment of the new Constitution. Secondly, my role as the Mover of this Bill is to highlight the salient features of this Bill as it is today. At the Second Reading, Members will contribute on the Committee Report that was tabled after sitting with all the key stakeholders. The Committee Stage of the Bill accommodates

amendments from both the Committee and individual Members of Parliament and they will be brought to the House.

From where I stand today, I want to give all the salient features of this Bill for Members to follow, then bring the relevant amendments to make sure that we create a Bill for posterity. Thirdly, the media in our country is a very important investment sector. It informs and watches the other arms of Government, namely Parliament, the Judiciary and the Executive on behalf of the 40 million Kenyans.

If I may start on the Media Council Bill 2013, the principal object of this Bill is to provide a framework for the realization of the right to freedom for the media as provided under Article 34 of the Constitution. Secondly, the other principal object of this Bill is that it seeks to repeal the current Media Act 2007, which establishes the Media Council of Kenya as a leading institution in setting media standards and ensuring compliance with standards.

Thirdly, another object of this Bill is to comply with the demands of the Constitution of Kenya 2010 at Section 7 of the Sixth Schedule; demands that all laws will continue to be enforced with the necessary modification in order to comply with the letter and the spirit of the Constitution.

For the benefit of the House, the High Court has, in Petition No.346 of 2012, held, for instance, that the Kenya Information and Communications Act 1998--- I am sure the able former Chair of the Committee on Energy, Communication and Information, hon. Rege is here. That Act of 1998 and the Communications Commission of Kenya as properly constituted are empowered to undertake responsibility in terms of regulations as contemplated under Article 34 of the Constitution.

So, hon. Temporary Deputy Speaker, the Constitution does not bar the creation of two bodies; I am sure people will raise a query that a similar body has been created in the Kenya Information and Communications Bill that awaits presidential assent. Otherwise, if the President, in his humble opinion, refers back the Bill with a memoranda as per the Standing Orders, then this House will look at it because we want to create laws for posterity.

Hon. Temporary Deputy Speaker, the current Media Act that created the Media Council of Kenya was media industry initiated, as self regulation legislation, but does not have the public funding. However, I am sure in the subsequent statute, which was the Statute Law (Miscellaneous Amendments) Act of 2009, the element of public funding was provided to entirely give the Media Council of Kenya a self regulatory mechanism, of course with an oversight by the Government and that is where we are coming from.

Hon. Temporary Deputy Speaker, from the outset, as I said earlier, I am setting the stage for what the Bill says before amendments. I want it to be very clear that this is the Bill that was received in Parliament before the anticipated amendments. This Bill provides for a body that will be free of Government control. The Government will not have a role in it, in whatever form. This Bill provides for a body that will be free from the politicians and the political class. Lastly, this Bill provides for a body that is free from commercial interests; that body will be mandated to set the media standards, to regulate and to monitor compliance within the framework of this Bill.

Hon. Temporary Deputy Speaker, the Bill also further establishes the Complaints Commission as anticipated under the Media Council of Kenya and its main function is to

arbitrate in media-related disputes and to enforce the code of conduct for the practice of journalism in Kenya. This Bill provides the definition of a “journalist” and sets the standards for practicing journalism. Further, this Bill recognizes freedom of the media as important and critical thing; both Articles 33 and 34 of the Constitution provide for it.

Hon. Temporary Deputy Speaker, this Bill anticipates a scenario where journalists, while free to enjoy this right, they should enjoy it subject to the limitations set out in the Constitution; they will enjoy their rights but again the Constitution places some limitations on the enjoyment of such rights. The Bill also creates a delicate balance that must be achieved; there are limitations on the fundamental right as contemplated under Article 24 of the Constitution.

Hon. Temporary Deputy Speaker, this Bill also provides for a quality assurance and media standards framework for the persons who will be accredited by the Media Council. The Council will provide quality assurance standards. It will create a framework under which media bodies can be accredited by the Council. It also provides a framework for media standards. This Bill provides for monitoring of compliance with these standards. How do you monitor? The Bill focuses on the establishment of a body to set media standards, regulations and also how to monitor the behaviour and workings of the industry.

Hon. Temporary Deputy Speaker, Part 1 of this Bill provides the short title, interpretation of terms, application of Acts and the guiding principles under the Act. Part II provides the establishment of the Media Council of Kenya. It provides for the establishment of the Media Council, the functions, the powers, the composition, the qualifications of the membership, the independence of the Council, the vacancies, the terms and the procedure for removal of the Council members, the secretariat, the seal and the liability of the Council. Still in Part II, the Bill talks about--- Currently, the Media Council is drawn from a number of institutions.

Hon. Temporary Deputy Speaker, the functions of the Council are set out in Clause 6; they are related to disputes, how to promote and protect freedom and independence of the media in a regulated and media standard framework. I think the Committee will bring its amendments and Members will also do so. I am sure it is a Bill that will create media laws for posterity and for a win-win situation. It is an industry that is regulated. If you look at all the professional bodies, the legal profession has the Advocates Act; the accountants have their own Act; the engineers have the Engineers Registration Act; the doctors have a medical practitioners body and so on. So, I think this is a law that will primarily promote and protect the freedom and the independence of the media. Of course, it will create a regulatory framework, media standards, setting and monitoring, so that everybody in the country--- We will legislate the best media law for the region. Kenya has been known as a hub or as a country which has the best Constitution, the best institutions, the best laws in all sectors, and I think we want to go ahead and make sure we create the best media laws.

Hon. Temporary Deputy Speaker, the Council’s powers are provided for under Clause 7, and this includes resolution of disputes relating to media and the promotion of professional standards. The criteria for the membership are set out in Clause 9 of the Bill. Removal of a member will be through a fair process under Section 15. The Council will appoint a complaints commission as provided for under Clause 28 of the Bill.

Hon. Temporary Deputy Speaker, Part III of the Bill contains the financial provisions of the Media Council of Kenya, and its operations will be fully funded by the National Treasury through a vote approved by Parliament. So, after the enactment of this law, the National Treasury will create a vote and that vote will come to Parliament for approval. However, unlike before, this Bill provides that the Council may receive donations from recognised entities in order to achieve its objectives. So, it will have some leeway.

Part IV, hon. Temporary Deputy Speaker, provides for the establishment of a complaints commission; the membership, appointments to and the independence of the commission. It further provides for the procedures on complaints, including procedure on hearing, records and appeals. The complaints commission will be comprised of seven members and will be headed by a person qualified to be a Judge of the High Court as provided for under Clause 29 of this Bill.

Hon. Temporary Deputy Speaker, the process of dispute resolution and appeals from the complaints commission to the High Court are also set out in clauses 33 and 34 of the Bill. The Bill proposes that the decision by the complaints commission shall be final after 30 days as set out in Clause 43 of the Bill. That again is subject to the amendments that will come from the Committee and individual Members, taking into consideration that the law that we are going to create will be a law that will serve this country and the media industry for long. I am sure that this House, the Government and the leadership have no intention of gagging the media industry. This is because the media, as I said earlier on, is a huge investment and plays a very big role in the growth of our economy in terms of employment and investment. So, it is upon this House, as a legislative organ, to make sure that it enacts laws that will provide for all sectors and are founded on the Constitution.

Hon. Temporary Deputy Speaker, Sir, Part V of the Bill contains miscellaneous provisions that talk about maintenance of the media code of conduct and the accreditation of journalists. The accreditation of journalists is provided for under clause 46 of the Bill. Clause 47 provides for offences and a general penalty subject to amendments.

Part VI of the Bill contains provisions on the repeal of the Media Act, 2007 and for the transition of the Council. The law we are creating is for the transition from the Media Council of 2007 to the complaints commission with all the staff, rights, liabilities and proceedings. That transition will be guided by Part VI of this Bill. The enactment of this Bill shall occasion additional expenditure of public funds, which shall be provided for in the Estimates. Those are the salient features and highlights of this Bill.

Today, this Bill will go through the Second Reading which I am moving now for Members to raise concerns and critique it. There is a Report by the Committee on Energy, Communication and Information before the House that will guide Members on the stakeholders' concerns and presentation. I urge the House that when it comes to the Third Reading, we kill the notion that this House wants to gag or fight the media. We want to create the best law for the media fraternity in our country, the region, continent and the globe. This is because the 11<sup>th</sup> Parliament has a chance, or a very unique opportunity, in the implementation of the 2010 Constitution.

Hon. Temporary Deputy Speaker, Sir, I hope that the stakeholders out there will engage the Committee of Parliament, the leadership of Parliament and individual

Members of Parliament, so that when this Bill comes to the Committee Stage, amendments suitable to all the stakeholders are brought to the House for the enactment of this law. We want Bills to be enacted.

With that, I request the able Vice-Chair of the Committee on Energy, Communication and Information, hon. Kiptanui, to second the Media Council Bill, National Assembly Bill No.20 of 2013.

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

**The Temporary Deputy Speaker** (Hon. Kajwang’): Thank you, the Leader of Majority Party. Yes, hon. Kiptanui.

**Hon. Kiptanui:** Thank you, hon. Temporary Deputy Speaker, Sir. I rise to second the Media Council Bill, National Assembly Bill No.20 of 2013. In supporting this Bill, I would like to say that as a Committee, we have gone through it, we have received some comments and views from various stakeholders, and we are still compiling the list of amendments which we intend to propose in the next stage, which is the Committee Stage.

I would like to say that a few days ago we were here debating the Kenya Information and Communications (Amendment) Bill. After listening to various stakeholders as a Committee, we proposed some amendments which came to this House; they were passed and we are currently waiting for the President to assent to that Bill. Apparently, after this House passed that Bill, a number of media practitioners raised some issues. As we debate the Media Council Bill, I want to believe that when we bring amendments as a Committee, most of the issues which shall be raised by the Media Council, the Media Owners Association and a number of Kenyans will be taken into consideration, so that we will not have to raise issues after we pass the Bill in this House.

Hon. Temporary Deputy Speaker, Sir, as much as we are listening to a number of stakeholders, I want to say that laws are enacted in this country for the benefit of all Kenyans. As we listen to the Media Owners Association, we should also listen to *wananchi*. We should listen to the parents who are raising issues with regard to the content of some FM radio stations in the morning when they air very interesting topics. We should also listen to Kenyans who are complaining about what appears on our television screens when they are watching with their children. Therefore, let us listen to the media fraternity, parents and all Kenyans and we take into consideration all their views.

As I have said earlier on, laws are made for the benefit of all Kenyans. Each set of laws which is made by this House is presumed to apply fairly and equally to all people. Therefore, there is no law which is enacted for the sake of one person, or a section of the community. This law must apply fairly and equally to all Kenyans. When this issue was being debated, a number of FM radio stations, TV stations and even the social media undertook a survey and a number of the opinion polls which were undertaken were in support of this House. In fact, I would like to say that all the opinion polls which were undertaken by the media supported the Bill which we passed. Therefore, this implies that most Kenyans are in support of the Kenya Information and Communications (Amendment) Bill

Today, we are discussing the Media Council Bill. As I have said, we have listened to a number of stakeholders; we are still open as a Committee and we shall still receive many views from the Media Council and the Media Owners Association. We are



listening to the parents who are complaining. We are also listening to all Kenyans. We believe that when we bring the amendments to this House, all their interests will have been taken into consideration.

Hon. Temporary Deputy Speaker, Sir, a few amendments which we proposed in this Bill include, but are not limited to the definition of the “Cabinet Secretary”. This Bill says “a Cabinet Secretary means the Cabinet Secretary responsible for matters relating to the media.” However, we are amending that so that it means the man or lady in charge or responsible for matters of information, communication and technology as provided for in the Kenya Information and Communications (Amendment) Act.

On the definition of the “media”, we have retained it the way it is. It is good to note that we have adopted this definition from the Kenya Information and Communications Act and the Mover of this Bill, the Leader of the Majority Party, has gone through it.

In Clause 8, this Council will comprise of a Chairperson and some members who will be appointed by a selection panel, which will be composed of all the stakeholders. If you look at Clause 8(3), this selection panel, which shall select the members of the Council will include membership from the following organizations, namely, the Media Owners Association, the Kenya Union of Journalists, the Law Society of Kenya, a news agency, the Consumers Federation of Kenya (CFK) and quite a number of other stakeholders. I want to believe that the interests of the various stakeholders will be taken into consideration and the Council, once formed, will take care of all the interests of the other Kenyans including the media.

When you look at Clause 15(2), it talks of a complaints commission. The Kenya Information and Communications (Amendment) Bill talks about a tribunal. We discussed as a Committee and agreed with quite a number of stakeholders that we do not have to have a tribunal or complaints commission in the Media Council Bill. Therefore, we shall be replacing the “complaints commission” with the “Communications and Multimedia Appeals Tribunal” which will take care of the interests of the tribunal on the other side and this complaints commission.

This will imply that in Part IV of this Bill, on the complaints and dispute resolution, we have proposed to delete this entire section because already dispute resolution has been taken care of by the Communications and Multimedia Appeals Tribunal. We have agreed that we should have one.

As I conclude seconding this Bill, we are all in support of the media. I want to urge all Kenyans to go through this Bill. When we passed the Kenya Information and Communications (Amendment) Bill, we were surprised as a Committee that quite a number of the Members of Parliament and even Senators, were not even aware of what we were discussing. Many of those who gave their comments were commenting on the Media Council Bill, which we are discussing today, yet they were supposed to be discussing the Kenya Information and Communications (Amendment) Bill. Therefore, I want to urge all Kenyans to go through this Bill. When I talk about all Kenyans, they include Members of Parliament, Senators, Kenya Union of Journalists, the Kenya Correspondents Agency, CFK, Public Relations Society of Kenya and everybody else.

**The Temporary Deputy Speaker** (Hon. Kajwang’): Hon. Member, you need to wind up. Your time is running out.

**Hon. Kiptanui:** I have finished, hon. Temporary Deputy Speaker, Sir. I beg to second.

**The Temporary Deputy Speaker** (Hon. Kajwang’): Thank you very much. Your time is up.

*(Question proposed)*

**Hon. Wandayi:** Thank you, hon. Temporary Deputy Speaker, Sir, for giving me this opportunity to contribute to this very important Bill. It is important to note that this Bill is intended to give effect to Article 34 of the Constitution. The matter of the freedom of the media is so important that when debating this Bill, we need to take stock of where we have come from as a country.

If you look at Article 34(5), this Parliament is expected to enact a legislation that will provide for the establishment of a body that will be independent of control by the Government. Those are the operating words; a body that will be independent of control by the Government, political interests and commercial interests. The Bill as it is, is fairly okay. If you look at the membership of the Media Council as proposed in the Bill, it is drawn from a wide cross section of interest groups. You find KUI, MOA, the Editors Guild, the LSK and so on. In fact, the membership of this Council is drawn largely from the media fraternity and that is how it is supposed to be.

In the developed world, the media does self regulation. The media is better left to self regulate. That is why I want to support this Bill. Again, as you are aware, the devil is in the detail. If you look at the composition of the Media Council as proposed in the Bill, it is quite okay, but when people are nominated by the bodies that nominate them, they sometimes tend to start serving their own interests. That is a problem in this country. When you go further in the Bill, you find that the Cabinet Secretary has been conferred tremendous powers when it comes to the issue of removing a member or any member of the Media Council on whatever grounds as set out in the Bill. The Cabinet Secretary has been given powers to appoint a tribunal. If you allow me, the Cabinet Secretary has been given exclusive mandate to appoint a tribunal comprising of a chairperson who qualifies to be a High Court Judge and two other persons. These are a man and a woman who are competent to assess and terminate the petition that has been drawn by a member of the public against a particular member of the Media Council.

My fear is that if on the one hand, you say that the Media Council should remain independent and in fact the members are nominated by independent bodies, and on the other hand, you give the Cabinet Secretary the power to exclusively determine who sits on the tribunal; a tribunal that has been given powers to recommend the sacking or the removal of a member of the Council, then you can see what I am talking about. Automatically, you are trying to say how the members of the Council will continually behave, knowing full well that a petition can be instigated or orchestrated. As we know, it is possible in this country that whenever it is orchestrated or instigated, the Cabinet Secretary can easily appoint a tribunal that comprises of people who can be controlled by the appointing authority and who can do his or her bidding.

Therefore, I would want to suggest that for this Bill to give proper effect to the meaning of Article 34 of the Constitution, safeguard the freedom of the media and protect

the media from interference by the Executive, then the powers of the Cabinet Secretary in the appointment of a tribunal to determine the membership of the Council should be shared. That power of the Cabinet Secretary in forming the tribunal should be shared with Parliament, so that he or she does not determine solely who sits on that tribunal, which has the powers to recommend the sacking of a member of the Council.

It is important that the Media Council remains as independent as practically possible for it to be able to serve the members of the media fraternity effectively. The key issue here is the protection of the freedom of the media. I also hope, because we have learnt from experience, that there are attempts in this country of late to muzzle the media. I hope that there will be no underhand dealings to sneak in amendments that will negate the essence of the freedom of the media as is enshrined in Article 34 of the Constitution. This is very important.

The Media Council has been in existence for a number of years now in this country. So far, it has done its work quite well. What we need to do at this particular point in time is basically to make it perform better under this new law that we are creating to give effect to the Constitution. The freedom of the media is so cardinal that we should not allow ourselves to try and roll back the gains that we have made over the years by sneaking in amendments that will water down the powers of the Media Council.

The pertinent issue here is self-regulation. The Government has got no business meddling in the affairs of the media. The media must be let to do its work independently without fear or favour. In fact, you will agree with me that the gains that have been made in this country on the political front, the freedom of expression and the freedom of anything you can talk about, it is largely because of the courageous work that was done by what we used to call then “independent media.”

**The Temporary Deputy Speaker** (Hon. Kajwang’): Hon. Member for Ugunja, prepare now to deliver your parting shot.

**Hon. Wandayi:** Thank you, for reminding me. Hon. Temporary Deputy Speaker, the upshot of all these is that whereas I agree largely with the contents of the Bill, I want us to ensure that we protect the independence of the Media Council at all costs by not giving any little room for the Executive, through the Cabinet Secretary, to interfere with the running of the Media Council.

I support.

**Hon. (Ms.) Kanyua:** Thank you, hon. Temporary Deputy Speaker. I am happy to contribute to the debate on the Media Council Bill, but I wish to start by complying with Standing Order No.90 that requires one to declare any personal relationships before. I have had the opportunity to serve in the Complaints Commission of the Media Council of Kenya in this country. I, therefore, have some proposals that will seek to amend this Bill to ensure that it does serve as a progressive self regulation model for the media.

In looking at matters on regulation of the media, there are two models that we can use. There is the self-regulation or co-regulation. With regard to self-regulation, that is what the doctors, engineers and lawyers are using in managing themselves and in making sure that the bad apples in their profession are taken care of. In my own profession, the legal profession, being called by the disciplinary committee is a fairly harrowing experience. In fact, many a time, one has to go with other counsel. You cannot even go and face the disciplinary committee on your own. There are many punishments that can

be applied by the Law Society of Kenya Disciplinary Committee, including removal from the Roll of Advocates in which you remain until death – actually we remain counsel for a long time. So, it is a very painful experience to be summoned by the disciplinary committee.

Therefore, self-regulation can work and should work. This is what we are asking the media to be subjected to. Through the Media Council of Kenya Bill we are asking that the media be given the power, the capacity and the legal teeth to deal with their bad apples.

The model of co-regulation reminds me to consider the review of the freedom of the media in Article 34(5). In the Advocates Complaints Commission, we also have the Government. In the Law Society of Kenya, we fully fund the disciplinary mechanism. In the case of media, we need to get some taxpayers' funding. If that is the case then there must be some presence of Government, but very minimal presence really if we are to have the co-regulation model. That is the model with which we should pursue the Media Council ideals that we have here today – a little bit of Government in the sense of taxpayers funding and, therefore, the Cabinet Secretary in charge of matters of media having a role, but as much as possible the media be able to self-regulate.

We have seen some excesses of media here in our country which should be addressed by the Council. As far as possible, this Parliament has to avoid chilling the media. When we have the fines like the ones we show in the KICA Bill going up to Kshs20 million, then that is chilling the media. If we have a chilled media, we are going to suffer lack of information. If we have a free media and we are a developing country--- There have been studies, including by a Nobel laureate that show a country with free media does not even suffer famine deaths; a country with free media will be able to take care of road safety; a country with free media will be able to address its health issues; a country with free media will be able to address its corruption matters. We do need a free media and we cannot afford, in any way, to chill the media.

For the leaders here and a lot of us who are in public life and, therefore, get covered wrongly, the answer is to leave well from Parliament to the church or the mosque to the constituency and to the games and no other places. If you pass any other place, the media is going to follow you there and there is going to be report on you. But even when the media makes a mistake, as they often do, the answer is not a fine because fines do not even go to the person who was wronged. The answer is information.

If the media today says that I am a dishonest woman the answer is not for them to pay me because a lot of people might believe that I am actually a dishonest person. The answer is for the media to put a story and probably with a photo as well showing that I am, indeed, a very honest woman and therefore, correct the information that they had given. Any payment of money does not quite erase the earlier picture created. So, as we look at this Bill, those are the sort of matters that we will be seeking to provide for, so that wrong information is corrected with information. If the media gives a wrong story of you on page 1, then they should correct that with a right story of yourself on page 1. That way, the public will have the right image of the leaders that it has.

Yesterday we passed the Matrimonial Property Bill. The 11<sup>th</sup> Parliament should confirm to this country that it can implement the Constitution, and that it can implement

the ideals that the Constitution requires us to implement without really putting a lot of our personal emotions into the laws that we are passing.

The Kenya Information and Communications Bill provided for a tribunal. There is nothing stopping this Parliament from allowing the Media Council to then create a first instance hearing body at the Media Council level. So, the appeal in the Kenya Information and Communications Act level can really become a second instance hearing body. Every time you are wronged by the media, the first place you should go to should really be the Media Council. I, therefore, disagree with the Report of the Committee that requires us to delete Part IV on the complaints commission of the Media Council Bill as drafted. I urge this House to pass a comprehensive Media Council Bill and the proposals that will come in the Presidential Memorandum on the Kenya Information and Communications Bill can be addressed at that time. We, therefore, should return Part IV; the complaints commission.

The other issues that we should look at is registration of newspapers. I am sure you know what happens to the alternative Press. They register today as “Sharpener” and when you complain they close “Sharpener” and register “Sharpener 2000”. When you complain again, they close “Sharpener 2000” and open “Sharpener 2013”. When you complain and you have judgment, they close “Sharpener 2013” and open “Wembe”. When you complain again they open “Wembe Weekly” and so they take you through a run around that you cannot even manage to catch up with them legally. It is important that the Media Council is allowed to register newspapers in this country. We need to look at the Books and Newspapers Act and make sure that we amend it accordingly.

In terms of the education standards, a lot of the media schools now are on top of bars. I have a problem with educational institutions that are on top of market centres.

Educational institutions should be properly situated, so that people can be properly educated as envisaged. In terms of media education, there is a very delicate balance between press freedom and responsibility. Only those who have been properly trained, including on matters of taste and tone, are able to carry out the media freedom that we expect in this country. Test and tone can really be a controversial issue. I do not know how many of us are willing to see dead people. A lot of us are not willing to see dead people. It is really in bad taste to put on the front media people who are dead. That is in bad taste. Even describing the style and manner of death is really in bad taste.

Therefore, those who go to media schools are able to learn the balance of taste between tone. If we get the Media Council to regulate the education standards of media schools, it will really be helpful. In this country, we have journalists who never went to journalism schools. This kind of education is not static. It is continuous education, so that you learn how to be a responsible media person. So, the definition of “journalist” will become important as we look at this Bill. Regulations of media education standards should be in line with the Commission for Higher Education that we have.

As I wind up, I would like to say that the code of conduct needs to be tightened and continuously revised. We now have ICT and the controversial question of patriotism. So, there is need for the Media Council to also have power to continuously revise the media code of conduct. Lastly, we need to keep to the constitutional parameters and the constitution of the Council. The membership of the Council should have regional balance. Gender concerns also have to be taken care of.

Therefore, I urge this House to stand up to the test of time and give this country a Media Council Bill that supports co-regulation and confirms that the 11<sup>th</sup> Parliament is, indeed, implementing the Constitution.

Thank you.

**The Temporary Deputy Speaker** (Hon. Kajwang’): Thank you, Member for Nyeri County. Hon. Rege, you are an old Member of this Committee. So, you have the Floor.

**Hon. (Eng.) Rege:** Thank you, hon. Temporary Deputy Speaker. I am not only an old Member but I was also the Chairman of the Committee.

Thank you very much for giving me the opportunity to support this Bill and my colleagues who have spoken in its favour. First of all, this Bill was brought to us after it was thoroughly dealt with by the Ministry, stakeholders and the Chairman of the Commission for the Implementation of the Constitution (CIC). It was brought to us to make the few changes that we made.

First of all, on the complaints that were made, Article 35(5) was actually meant to be for the Media Council. How come that now the Communication Commission of Kenya (CCK) is hijacking the process to have control over the media? What I want to explain is simply that technology increases every now and again. During this time, there is convergence of media globally. Today you can receive television programmes via internet protocol video streaming. The Media Council will not be able to monitor such transmissions simply because they do not have the capability to do so. That is why we decided to also bring in the CCK or the future Kenya Communications Authority (KCA).

So, we did not have a problem with it. Nonetheless, the Media Council is also right to claim that they also have to be enjoined in the provisions under Clause 34(5) in that the content is surely for the Media Council to control, and not for the CCK. Therefore, in that regard, we have no problem with the Media Council being given that aspect to control. Most of Clause 34(5) is really for the future CCK because they have the tools. The CCK had bought in equipment worth Kshs1 billion – a vehicle that drives around to monitor frequencies and the power of frequencies as they are transmitted. They must do that to also safeguard transmission stations. Sometimes a media house could be transmitting on top of another media house’s frequency. So, it is up to the CCK to control that kind of thing.

Hon. Temporary Deputy Speaker, I received a call from a gentleman in Kericho, who was trying to complain. I asked him what the problem was. He said: “James, you cannot put an engineer in the tribunal. What is he going to help us with?” It occurred to me that he did not understand what the tribunal will be doing. The tribunal is for the ICT sector. The tribunal will be controlling the telecommunications, the ICT, including the internet protocols, the media, *et cetera*. Therefore, we have to have, in the tribunal, members from all sectors. Previously, we used to have only three members in the tribunal. This time round, even the Media Council has been made part of the tribunal. Therefore, the Media Council cannot complain that they are being short-changed in terms of membership in the tribunal.

We need the media as much as they need us. There is absolutely no reason as to why the media should complain that the National Assembly is trying to gag them. Doing so is not in our interest. We want our country to have solid media and ICT regulations,

just as in any other country. Yesterday I was very saddened when I read in the *Daily Nation* that the media in Ethiopia has more freedom than the media in Kenya. I have been travelling to Ethiopia for many years. Until today, Ethiopia does not have a free ICT sector. The Government has a grip on the ICT sector in Ethiopia. Therefore, they do not have as much freedom as we have in this country.

Hon. Temporary Deputy Speaker, the complaints section was not supposed to be eliminated. Therefore, I concur with hon. Nyokabi that it must be reinstated because the tribunal is too high up in the hierarchy. The complaints commission should be there to handle preliminary issues. Anybody with further complaints can go to the tribunal, after which he can go to the High Court if he is not satisfied. So, we will have to look at that particular bit.

In fact, the Bill is not cast in stone. The media stakeholders in Kenya should not go out to say that Kenya is the worst place for journalists to operate in, and that the National Assembly is gagging them. It is not true. If there is anything that we need to look at, why can we not just sit down and take a look at it? We are all human beings. We need them just as much as they need us. We will hear the rest between now and the Third Reading as we move towards concluding the enactment of this Bill.

Thank you, hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Kajwang'): Thank you, Member for Karachuonyo.

Hon. Members, you are aware of the direction from the Chair, I want to recognize hon. Ken Obura to move his Motion. Hon. Ken you are recognized.

### **MOTION FOR ADJOURNMENT UNDER STANDING ORDER NO. 33(4)**

#### **SECURITY SITUATION IN NYANZA**

**Hon. Mirenga:** Thank you hon. Temporary Deputy Speaker. I want to request that we address ourselves to rampant insecurity issues in the Kisumu County in general.

Kisumu County has seven constituencies namely Seme, Kisumu West, Kisumu Central; which I represent, Kisumu East, Nyando, Muhoroni and Nyakach

On 12<sup>th</sup> September, 2013, a Danish Missionary by the names Kristensen Jan was killed at his Milimani Residence in my constituency. It was done very early in the evening and apparently some APs were involved. They were allegedly arrested and up to now we are yet to know the fate of their case.

Hon. Temporary Deputy Speaker, Sir, a few weeks ago, a great farmer by the name Mr. Abira was killed at Ruga Farm, along Muhoroni-Tinderet border. Up to now – of course this matter was raised by the hon. Member for Muhoroni Constituency – we are yet to get concrete information as to what exactly may have lead to this and who were involved. Again, just around the same time, at a market called Kupele, two people were also killed and still we are waiting for answers. In another farm called Nyangore, a lady and a daughter in-law were also killed in broad daylight. The OCPD, the OCS, the Regional Commissioner and all the security personnel were tasked to show cause why this should continue. We are still waiting.

Hon. Temporary Deputy Speaker, Sir, only about a month ago, the hon. Aduma Owuor, the hon. Member of Parliament for Nyakach Constituency, actually went to police and recorded a statement claiming that his life was in danger. I am happy that the hon. Member is with us here, despite the fact that he has lost his parents and he is still mourning. He actually raised the matter on the Floor of this House. He is yet to get concrete answers.

Hon. Temporary Deputy Speaker, Sir, last week, on Thursday, the 7<sup>th</sup> November, 2013, at about 7.30 p.m. some gunmen, unknown assailants, went to the homestead of the hon. Aduma Owuor, somewhere in Nyabondo, Kabete in Nyakach Constituency. They found the mother, the father and a young man who works for the two old parents. It is very sad that these guys decided to tie up the young man somewhere around the gate. They then went ahead and killed the step mother, Madam Mary Owuor, who died at a kitchen, at 62 years of age. They then went ahead to the main house where they found the father, Mr. Francis Owuor, aged 83 years, locked him up and apparently used some fuel, probably some petrol, and lit up the whole house. The father was burnt beyond recognition.

Hon. Temporary Deputy Speaker, Sir, it is also important to note that the late Francis Owuor and his late wife, Mary Owuor, were also parents in-law of hon. Olago Aluoch, the hon. Member of Parliament for Kisumu West.

Hon. Temporary Deputy Speaker, Sir, it is very saddening to realize that soon after this, they have already started again sending threatening messages to hon. Aduma Owuor, whose parents were only killed last week. So, as a county of Kisumu we are worried because the cardinal function of any government is to protect the lives and property of its people.

Hon. Temporary Deputy Speaker, Sir, we are law abiding citizens as you know, we pay taxes and we belong to this Government. We are members of this country and we do not understand why all these things must continue day in, day out and without answers. On Friday, we went to the PC's office and he did not have answers to give to us. In fact, the only promise he gave us was that the following day, the Cabinet Secretary in charge of Interior and Coordination of National Government, Mr. Ole Lenku would be in the county.

I want to say from the Floor of this House that even the presence of the Cabinet Secretary did not add any value to the security situation in the county. Therefore, we are asking the Government--- We are not urging them. We are actually asking them to come to Kisumu County. A lot of times the President and his Deputy are all over and you do not understand why they do not come to the County of Kisumu and address this issue once and for all.

Hon. Temporary Deputy Speaker, Sir, it is also saddening that the heads of security departments within the county are all from one tribe, except two. We read more as a community. We think that there is more than meets the eye. We demand immediate sacking of the heads of the security agencies within our county. Those who cannot be sacked for whatever reason must, of course, be transferred elsewhere, so that we can have a team that can do their job. We are law abiding but as I speak, there is a lot tension in the county and we do not know what more cannot be done in terms of this high level insecurity within our county.



Hon. Temporary Deputy Speaker, Sir, you can imagine, people walking to the homestead of an hon. Member of Parliament, at about 7.30 p.m. - 7.30 p.m. in a village, unlike in a town, is still very early. They could do all this despite the fact that they knew very well, when you do such an act, there will be a lot of publicity by the Press urging the Government, and security agencies to do which they must do. Even after doing this, they still went ahead to send threatening messages to the bereaved hon. Member.

I therefore ask my colleagues to find it necessary to express themselves on this matter and help the great County of Kisumu to deal with this rampant insecurity that is now threatening the lives of people. There is no investor willing to come to the great County of Kisumu unless something drastic happens. It can happen if we are able to do it from this House; if we insist that sackings and transfers must happen, then I am sure they will be done.

Thank you, hon. Temporary Deputy Speaker, Sir.

**The Temporary Deputy Speaker** (Hon. Kajwang'): Thank so much, hon. Ken Obura. Hon. Members, this is a Motion for Adjournment. I want to draw your attention to Standing Order 33 (4). You will see that each one of us has only five minutes to speak to the subject.

We still want somebody to second the Motion. Hon. Obura, who will do that?

**Hon. Mirenga:** Hon. Temporary Deputy Speaker, Sir, let us have hon. Yusuf Chanzu seconding the Motion.

**Hon. Chanzu:** Thank you, hon. Temporary Deputy Speaker, Sir. I want, first of all, to commend the hon. Member, my brother Ken Obura, for raising this very important and urgent matter.

Secondly, I would like to send my condolences to the hon. Member who lost his dear parents, and who happens to be in the House. He reported the matter; we saw it; he brought here some tapes and so on and displayed what was going on. It is very unfortunate that the Government did not take note of this matter. I think every human being is entitled to security, which, particularly in this country, is a serious mess.

Hon. Temporary Deputy Speaker, Sir, first of all, I would not like us to regionalize this matter because it is happening everywhere. It is only that when it happens to people they do not have the capacity to report it. It is happening in my constituency – somebody comes and rapes young girls in the presence of the father and mother and then picks on the mother and rapes her as the man watches helplessly. Then they come to the man--- It happened when they went to a home of a former Deputy Commissioner of police and took a gun from him. That gang went up to Busia, Bungoma and now it has turned round and gone to Kisumu County. So, I would really like to plead with my brothers and sisters in this House that we do not regionalize this matter. It is the responsibility of the Government to provide security.

It happened to hon. Members during the last Parliament. We lost quite a number of hon. Members. Some of them were just caught at their gates and shot and killed. It has taken us almost ten years to unravel those killings. But if somebody steals just ten or five shillings, a whole court is convened and somebody is jailed for that.

Hon. Temporary Deputy Speaker, Sir, this is a very serious issue and I would like to plead with the Government to spend a little bit more on it; I think the police are working in the old way.

So, hon. Temporary Deputy Speaker, it is a very serious issue and I would like to plead with the Government to spend a little bit on this issue because I think the police are working in the old ways. What used to happen sometimes back is that when a crime was committed and the police were informed, they would rush in the opposite direction. I think it is the same thing that is happening. This is because it cannot be happening at a place just near Kisumu at 7.30 p.m. and I am sure there must have some regular police or Administration Police (AP) officers within the same area that would have seen what was happening.

So, when one reports occurrences of crimes in this country no action is taken. I concur with what the Member has said that we need a total overhaul of the police force. The Chairman of the Departmental Committee on Administration and National Security has talked about the issue of the police. We are saying that those who cannot be able to perform should be retired or we just engage new ones whom we can train and then they can perform in line with what is required as a country and as is expected of the Government of Kenya.

Hon. Temporary Deputy Speaker, I beg to second.

*(Question proposed)*

**The Temporary Deputy Speaker** (Hon. Kajwang): The Member for Gem.

**Hon. Midiwo:** Thank you, hon. Temporary Deputy Speaker. Due to lack of time, I will speak very fast. First of all, let me express again on the Floor my sincere condolences to the Member of Parliament for Nyakach who is here with us and say that we are with you.

Hon. Temporary Deputy Speaker, the issue we are talking about is not confined to Kisumu County. The issue we are talking about is everywhere in many parts of this country. The Government has the sole responsibility of protecting its citizens. A few weeks ago, a teacher by the name Abira was killed together with his son and what was interesting is that he was hit by an arrow while standing in between policemen. The reason the police gave was that their gun had been snatched by the thugs. These police are still there.

Hon. Temporary Deputy Speaker, my assessment of the situation in Nyanza is that Nyanza being a CORD zone, policemen were brought there in expectation that there may be violence after elections and nobody has gone to debrief the policemen to come back to their normal duties. We cannot sit back and watch.

Hon. Temporary Deputy Speaker, on the Aduma situation, I have personally contacted the Inspector General (IG) of Police and he is of the opinion that the MP is a rogue. The MP went and recorded a statement. He was instead put in police cells. What are we supposed to do? What are Kenyans supposed to do if the Government or the Executive is resisting the will of the people? We collected and collated views of Kenyans to reform the police force. The police force today is worse than it was ten years ago and it is getting worse. One of our own Members of Parliament, hon. Johnstone Muthama, who is a Minority Whip in the Senate, has over the weekend had his security and all his privileges withdrawn by the police like his car and all that. He called me on Sunday and told me: "Somebody has to speak for me." He told me he called the IG and the IG told

him: "I am at home in the village and I will look into the matter when I come back." He asked the IG: "But who do I turn to?" The IG told him: "Turn to your God."

We are faced with a serious problem. Even as we debate these police Bills, this House is creating a monster that we will never be able to kill because we are thinking with emotions and politically and it will work against us in a way that we will live to regret as a country. We will never see any change unless we agree to police reforms and unless we devolve the police force and they go under the Governors.

I beg to support.

**The Temporary Deputy Speaker** (Hon. Kajwang'): Thank you very much. Hon. Joseph Magwanga, I see you are on the intervention button.

**Hon. Magwanga:** Thank you, hon. Temporary Deputy Speaker. I want just to raise a very fundamental point here. As we are discussing this issue of insecurity of which I am a victim and my constituency has also been a victim - it is not a regional issue; it is a national issue - the substantive Speaker, the substantive Deputy Speaker, the Chair of the Departmental Committee on Administration and National Security and the Leader of Majority Party are not in the House. Would I actually be in order to ask for adjournment so that we discuss this issue while they are in the House?

**The Temporary Deputy Speaker** (Hon. Kajwang'): Order! That is a very easy issue to dispose of. I want to refer you to the Standing Orders since this is a House of order. Standing Order No.2(c) which is on page 6 states: "reference to the Speaker includes the Deputy Speaker or any other Member when presiding over the Assembly pursuant to Article 107 of the Constitution."

So, hon. Member, when you see the Speaker on session, treat the Speaker as the Speaker of the National Assembly. I am not aware that the Leader of Majority Party needs to be present in any discussion before the House but I think it is preferable that the Chair of the Committee concerned should be in the House to be able to take information that we are dealing with to the Committee for issues of testimony. I do not know if the Vice-Chair of the Committee is here. I see the Vice-Chair of the Committee and I think that he has the brief to take that information.

Thank you very much. Hon. Gumbo.

**Hon. (Eng.) Gumbo:** Thank you, hon. Temporary Deputy Speaker and let me add my voice like the rest of my colleagues in extending my deepest and heartfelt condolences to the Aduma Owuor following the extremely evil and dastardly act of the murder of his poor helpless parents in Nyakach.

Hon. Temporary Deputy Speaker, I do not want to speak much on this matter. I have spoken on this matter before but I think time has come for us as a House that we must say what it is that is happening in our country. If we continue to see a big spoon where there is clearly a giant spade, we are not helpful to the course that our people have bestowed upon us.

Hon. Temporary Deputy Speaker, the truth of the matter is that criminals are taking over our country and if we continue this way, nobody in this country including these hon. Members sitting in this House will be safe. Criminals are getting emboldened by the day. To me, it appears as if the police have given up on fighting criminals in Kenya. We have serious cases that are going on all over the country. I follow the insecurity in the country.

If you look for example in Kirinyaga County, there have been these unexplained kidnappings and killings which have been going on and nothing is happening.

If you go to Busia, you will find a poor girl who was gang-raped by 16 teenagers more than three months ago and yet, the teenagers are still at large. Here in Nairobi, there is the case that hon. Shebesh brought to this House of the gang fights at the Dandora Dump Site. I am told that, actually, those people fought for five days and yet, the police station is near the dump site. Nothing was done.

Today, it has become like a routine for criminals to shoot people in traffic jams and walk away casually or board motorbikes and nothing happens. What are we waiting for? Those things have happened in other countries. I can tell you that, unless we do something, we will start seeing kidnappings and killings of senior religious leaders in this country. We will start seeing kidnappings and killings of senior members of the Executive in this country. We will start seeing the kidnappings and killings of senior Members of this House or the political elite.

Hon. Temporary Deputy Speaker, Sir, is the Government waiting for diplomats--- That is because it will happen. God forbid it should not, but that is where we are headed to.

I do not want to repeat what our colleagues have said; that this is not me or you or them affair. This is an all of us affair. If the Government cannot take tough action now, we are giving up this country to criminals. Let the Government not come later on and say that this House did not stand up to warn it.

If my mind serves me right, this must be, at least, the third Motion for Adjournment that the 11<sup>th</sup> Assembly is bringing on matters of security. This is the case and yet, we have been here for hardly seven months. Is this the way we want to go? This is a dire situation. Let us see serious and responsible action on matters of security in this country.

Hon. Temporary Deputy Speaker, Sir, I support.

**Hon. Chumel:** Thank you, hon. Temporary Deputy Speaker, Sir, for giving me this opportunity to join my colleagues in saying *pole* to our colleague, the Member of Parliament for Nyakach. On behalf of the people of Kapenguria, West Pokot County and on my own behalf, I send condolences to our colleague.

It is unfortunate because what we are discussing here has repeatedly been discussed in this House without any action being taken. Those who are in charge of the Government are watching. Even the Departmental Committee on Administration and National Security whose Vice-Chair is here--- I am also among the Members who sit in that Committee.

I come from an insecurity prone area known as West Pokot. The area is situated between the Pokot and Turkana, the Karamojong and the Sebei of Uganda. In those places, men face each other. Sometimes, we say that it is a game. It is just like people playing football in the field. But it is now going beyond because you will get innocent people being attacked. Women and children who cannot defend themselves are attacked and yet, those in charge of security are watching. The President, the Deputy President and others are there. This is an outcry. It is not only here. This includes the terrorist attack that happened in Westgate Mall.

Hon. Temporary Deputy Speaker, Sir, it was unfortunate. I remember when the attack in Nyakach happened, there was also an attack between the Pokot and the Turkana in Turkwel where even a child aged nine years was slaughtered. That was the case and yet, the General Service Unit (GSU), the Administration Police (AP) and the regular police are there. No action has been taken up to this moment.

You will find County Commissioners from other regions like Turkana behaving as if they are Turkana and not Government officials. The same applies to those in the Pokot side. What is happening in Nyakach in Nyanza? Personally, I am not afraid to say this. I think they are divided and some people are playing politics or there is a go-slow by the police. That is between the group allied to the Inspector General and the other group of the other man. We need to defend our people as a House because they elected us to this House. We can even hold demonstrations as a House against whoever is there.

*(Applause)*

Hon. Temporary Deputy Speaker, Sir, if you go to Uganda, because of the experiences that they have had of fighting all along, they know how to defend their people and secure their borders. My prayers are always bad; that we better fight once and reach a level where we can take care of our people.

With those remarks, I support this Motion.

**The Temporary Deputy Speaker** (Hon. Kajwang'): The Member for Tinderet, I understand that your constituency borders Muhoroni Constituency. Press the intervention button so that we can recognize you.

**Hon. Melly:** Thank you, hon. Temporary Deputy Speaker, Sir. I rise to support this Motion for Adjournment. I want to sincerely thank the Mover, hon. Obura Mirenga.

On behalf of the people of Tinderet and on my own behalf, I want to send my condolences to the family, friends and relatives of the Member of Parliament for Nyakach for the worst catastrophe that befell his family. I want to sincerely say here that our constituencies and counties are becoming a security problem.

I want to talk about Tinderet. That constituency in Nandi County has been a very peaceful constituency for most of the years. However, for about three months, there has been a problem of thuggery and robbery where several individuals have lost their lives. From May up to this time, several people in Nandi County---

**The Temporary Deputy Speaker** (Hon. Kajwang'): Hon. Kipyegon, what is your point of order? Where are you?

**Hon. Kipyegon:** I am here, hon. Temporary Deputy Speaker, Sir. It was just an intervention on the same.

**The Temporary Deputy Speaker** (Hon. Kajwang'): It is okay. Continue, hon. Melly.

**Hon. Melly:** Hon. Temporary Deputy Speaker, Sir, several people in our County of Nandi have lost their lives because of robberies and violent crime. About three managers in the tea estates have lost their lives. One was shot and killed by thugs last weekend. A shopkeeper in my neighbouring shopping centre, Captain Lelei, was also killed by robbers.

A few days ago, when I had a meeting with the Inspector General, the Cabinet Secretary for Interior and Coordination of National Government and the Member of Parliament for Muhoroni, one of the people at the Potopoto Shopping Centre was attacked by robbers, his wife was raped and one of his children was hurt and is currently hospitalized at Nandi Hills Hospital. The Government needs to be serious about this. How many people does the Government want to be killed so that it can come and stop this menace?

In fact, it is very insecure now to go to the constituencies where we grew up and did not know a gun. Many people have not even heard about a bullet in Tinderet Constituency, but it is now the order of the day. We have reported this to the Government and every police officer in the county has been informed. But most of them take it casually. Sometimes, people will report a case but because Tinderet Constituency has no Police Land Rover, the police will say that they have no vehicle and ask what they should do.

I would like to ask the Minister concerned to look into the security issues in this country. I remember a case where people in Kabsabet were killed and a shop was robbed in broad daylight. The robbers just walked scot-free. So, is this becoming a country of robbers where they rule and criminals have taken charge? Up to now, in the cases that I have talked about, no one has been brought to book and yet, the Government will tell you that it is taking security issues very seriously and it is going to take action. But up to now, no action has been taken. The Minister in charge of security should take a day and explain to this House whether the Government is in charge in this country.

I beg to support the Motion.

**The Temporary Deputy Speaker** (Hon. Kajwang'): Thank you very much. I want to recognise hon. Olago Aluoch, because he is one of the Members who are affected. Yes, John Olago Aluoch, you have the Floor. Right where you are!

**Hon. Aluoch:** Hon. Temporary Deputy Speaker, Sir, there is a problem with my card and I cannot speak from there. Thank you very much for giving me this chance to support this Motion. Hon. Aduma is my brother-in-law and I am equally affected and pained for what has happened to my father and mother-in-law.

It is only in a primitive country that a Member of Parliament reports insecurity to the police, his life is threatened, he takes a dead body to the Commissioner's office to demonstrate the seriousness of the issue, comes to Parliament and reports the threats on this life and nothing happens. It is only in a non-civilised society that, that happens. We do not expect this to happen in a country like Kenya, but it has happened. It is pity that we are discussing this issue on the Floor of the House, but in the absence of the Leader of Government Business and the Chairman of the Committee concerned with security. In my humble opinion, this is a clear demonstration of the level of seriousness that the Government takes insecurity in this country.

Insecurity has not just hit Kisumu County. It has now become a national problem. Time has come for us to look at what is happening. When hon. Aduma felt frustrated, he decided to demonstrate the seriousness of the issue by taking a body of a victim with arrows on the body to the PC's office. That was to show how serious the matter was. Instead, he was charged with mishandling a dead body. I agree as a lawyer that the offence of mishandling a dead body is there in our Penal Code, but how many times have

we charged anybody for mishandling a dead body? When the matter has become so serious and you want it to be felt, instead you are arrested. What are we demonstrating?

This whole scenario of insecurity in the country must have a place where we are going to put it. Is it going to be at the desk of the Inspector General or the desk of His Excellency the President? Who is going to take responsibility? Investigations are happening. The insecurity between the borders of Nandi and Kisumu counties is arising because of cattle rustling and claims on farms. Indeed, hon. Midiwo has said it. Naman Abira was buried just the other day after he was shot with arrows in the presence of 13 armed policemen. Two of the policemen put down their arms to plead for peace with their hands. They put their arms on the ground, raised up their arms pleading for peace. The other stood a distance watching and they were under the command of the OCS. Nothing happened.

A few days later, the same people again raided a police post and hurt two policemen. Up to now, nothing has happened. Now, hon. Aduma is receiving threats even after those things have occurred. Who is it that has so much courage that he or she can even send threats to a Member of Parliament even after that sordid act has been done? Something is very wrong with our security system. As we demonstrate our anger and disappointment on the Floor of the House, we must come up with a resolution on this Motion on what action needs to be taken. In my view, the Inspector General of Police in Kenya must come out in the open and tell us what action he is taking on insecurity in the country. If Kisumu County and the surrounding counties had police officers prior to the general elections, who were briefed in the way that they were preparing for war and to hurt others, time has come now for them to go back to where they came from, so that we have a proper force in Kisumu. We have a police system in Kisumu that is dominated by one ethnic group. If you look at the system of security in Kisumu County, there was a reshuffle the other day after we made noise, but the system has been, from top to bottom, dominated by one ethnic group, an ethnic group that is sympathetic to those who are hurting us.

The Government must come in the open and say exactly what is going on and what it intends to do.

**The Temporary Deputy Speaker** (Hon. Kajwang'): I gave you a few more minutes through the discretion of the Speaker. Member for Ugenya.

**Hon. Ochieng:** Thank you, hon. Temporary Deputy Speaker, Sir. I will not say much on this issue, but I also want to send a message of condolence to hon. Aduma and the family. I just want to refer the Government to Article 5 of the Constitution. What we have gone through in the last seven months has not been pleasing at all. That article delienates the territory that is Kenya. Article 5 talks about Kenya consisting of the territory and territorial waters comprising Kenya on the effective date, and any additional territory and territorial waters as defined by an Act of Parliament.

We know what Kenya consists of in terms of territory, but what has been happening in the last six months points to the fact that there are some places in this country that are not being regarded as part of the territory of this country. From the time we had the Baragoi issue, then Garissa, then Bungoma, insecurity has been in Nyakach for the last more than six months. This House must put its feet down because it is not two months since we had the Westgate attack and we have had issues around it. This House

must stop being a talk shop and recommend measures that will ensure that things are done the right way.

I do not think that we will be out of order to recommend that we start the process of removing the Inspector General, so that we can have an Inspector General who can do the job. I accompanied hon. Aduma to his office two months ago. I was with you, I remember, and we went to the office of the Inspector General of Police to report the matter that has now led to the death of hon. Aduma's parents. We went there thrice - not in Kisumu - but here in Nairobi at Jogoo House, reported and left a letter there. We went back, reported and left a letter there, but there was no response or action. Then you are telling me that ole Lenku will go there. What is he coming to do in Nyakach? What is he coming to do there? We demand that the Minister and Inspector General resign if they cannot work for this country, so that we can have people who are willing to work for this country.

I support.

**Hon. (Ms.) W.K. Njuguna:** Hon. Temporary Deputy Speaker, Sir, thank you for giving me this opportunity. I want to join my fellow colleagues and condemn the vice that is happening throughout the country. First, I want to send my condolences to the Member for Nyakach who lost his father and mother. Since he is saying that he is still being threatened, he should be given more security, so that his life is not in danger. It should be taken seriously.

I come from Kirinyaga which has been named as a hot-spot for kidnappings and killings. This is very serious. Up to now, nothing is being done. Just last week, a woman's head was chopped off and carried away. To date, she has not been buried. When I left the place on Monday, the head had not been found. It is a serious matter and nothing is being done. It is like we are singing a song about insecurity. So, even as we are here, we need to decide on what to do even if it is demonstrating - like another Member has said - so that the Government can do something about it. Criminals are, sometimes, arrested, taken to court and within two days, they are released. Again they go back and commit crime. There was an old mother in Kirinyaga who was dragged to the farm by some men and they raped her. We are talking about an old woman of over 70 years. The men broke her hand too. We have people who are really merciless. This is not a joke now that we are talking about deaths. There are a lot of incidences of kidnapping and people asking for money. These people are Kenyans! I do not know why the security personnel in our counties are doing nothing. The Minister in charge is not doing anything for Kirinyaga because the situation has not changed. Children are being kidnapped.

Recently a man was kidnapped and taken to a house. When he was later released one of the gang members said, "This is not the man we wanted". The man said that where he was taken there were children and other people who had been kidnapped. To date, we have not got any reports of arrest and people being taken to court. This is a sad matter and it should be taken seriously. This should not be like any Motion that comes to the House and nothing happens. We want to see something happening in Kirinyaga. We want peace. We do not want to be named as the hot spot of killings and kidnappings. We have very many other things that we are good at. We are the best in education and farming. We do not want to be number one in issues of crime. Something must be done about security in this country.



**Hon. Anyango:** Hon. Temporary Deputy Speaker, I would like to speak as a Member of the Departmental Committee on Administration and National Security. I would like to say here that the problem is in this House. It originated from the human rights activists and it is resident in a clause in the National Police Service Act. The relevant clause says that lethal weapons may only be used to protect life. Previously it was protect life and property. As we are talking, we have tied our police with their hands in the back. That is why they put their guns down and raise their hands. We have analysed this thing in detail and we are bringing an amendment to the House to empower the police by two actions which will be undertaken by the House.

The first one is direct that the lethal weapons shall be used to protect both life and property. This is because the battle in Kenya is over property. Gangsters are growing every day. Every Kenyan wants to be rich by whatever means and we know it. In these circumstances you cannot go by human rights movements that are operating from countries that have different values.

Hon. Temporary Deputy Speaker, three months ago two gangsters killed a police officer in Awendo and took his AK47. That AK47 has been used in robberies in Kehancha, Migori, Uriri, Awendo, Rongo and Homa Bay. I buried one of my best youths two weeks ago whom they shot in the evening just because he dared to look at them too closely. When a Member says that there is a conspiracy amongst the police not to act, I would say, to an extent it looks like a go-slow for fear after we deleted the use of lethal force to discipline the gangsters. As it is now, we need to restore the power in the hands of the police by doing two things: Amend that law to allow the use of lethal weapons; enhance the budgetary allocation for security; and increase the training of special forces to deal with special gangs. This will require additional resource allocation.

As it is now, if we do not take these measures, the police will feel helpless. Small gangs will grow from mobile phone snatchers to vehicle robbers and in the end they will even dare raids in the police stations. We cannot allow these to go. Action has to be taken from this House. Resources have to be allocated from this House. Training programmes must be given. We must give the police their own accounting before we can hold them responsible for quick responsiveness when the citizens apply.

Citizens know these thugs. All the Assistant Chiefs know the bad boys in each of their sub-locations. As of now they dare not say it because we have allowed the thugs to be so bold. They threaten Assistant Chiefs and to tell them, "If you report me to the police station we shall deal with you." Now, "dealing with you" means that his life is safe and it is the policeman's life and the citizen's life that is in danger. When thugs kill Kenyans there is no extra-judicial killing. When the police kill a thug who is running away with your car, there is threat to human life and there is extra-judicial killing. We just have to be frank. I am so happy that the House is furious and angry. That amendment is already in place and it should be brought tomorrow in the House so that we deal with it and decide on this matter.

**The Temporary Deputy Speaker** (Hon. Kajwang'): Hon. Millie, what is out of order? And would you state on what ground of the Standing Order you are rising?

**Hon. (Ms.) Odhiambo-Mabona:** Unfortunately, I do not have my copy of the Standing Orders. However, my concern was on an issue that hon. Dalmas raised. Hon.

Aduma is my classmate and I am very touched by what has happened. Indeed, I am sorry and I give my condolences which I had already sent to him.

Hon. Temporary Deputy Speaker, despite how much sorrow and sadness we feel, indeed, my mother was shot during the post-election violence even though she was not harmed. So, I am a victim. However, is that a reason enough for us to suggest that human rights do not apply in this country? We protect---

*(Loud consultations)*

Hon. Temporary Deputy Speaker, I do not mind if I am the one voice on this matter. We protect both human lives for the police and the citizens. So, it is not in order to suggest that human rights do not apply in this country. They apply. They are constitutional.

**The Temporary Deputy Speaker** (Hon. Kajwang'): Member for Mbita, you know, the Chair has sympathy for you. But I understood the hon. Member to be saying that human rights in this country have been compromised. I think it was very fair discussion, on his part, to say so.

Hon. Owuor, can you proceed to the Dispatch Box?

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

**The Temporary Deputy Speaker** (Hon. Kajwang'): Hon. Members, can you reduce the points of order, so that we can have a substantive discussion on this matter? The matter borders on Members' privileges and protection. So, we cannot trivialise this debate.

**Hon. Owuor:** Thank you, hon. Temporary Deputy Speaker. I want to start by thanking my colleagues for the concern they have shown from the date that incident took place. Many of them have been quite supportive. They have sent encouraging messages and made calls. For those who have not been able to reach me, I want to be apologetic and tell that they should understand that my cell phone line has been on high demand. So, I want to be sorry for that.

Secondly, I want to thank God for giving me the courage to move on. Even after the incident, I was able to move on with my programmes, which some of the dark forces had probably wanted to ensure that I did not proceed. Before the incident, I had scheduled a *harambee*, which was to take place in Runyenjes. I thank God that things went according to plan. I was able to support the work of the Lord.

Hon. Temporary Deputy Speaker, my constituency is a unique place. It was founded by my great, great grandfather called Owuor Owuor. My father was also called Owuor. It has many clans but we have never had incidences like the one that happened recently. As hon. Members will remember, my constituency is where some very big dreaded python called "*Omieri*" was found sometime back. It is a constituency with many unique happenings. Last week, I was in the House when we celebrated the victory of Gor Mahia. The first Chairman of Gor Mahia Football Club, a very respected man and a very great friend of the late Mzee Jomo Kenyatta, the late Zakara Mogo; came from a village called "Kabete". When we talk of Kabete, many people would just think of the Kabete in Kiambu. My home school, where we have been doing the service for my late father, is called Kabete.

In the constituency and in this school called Kabete, is where we had the first fighter pilot, the late Fred Omondi, whom we buried a few months back. This is also the constituency where the late Hezekiah Ochuka came from. So, it is a constituency with many unique attributes. The man we will be laying to rest soon was also called Owuor. That is why I am called Aduma Owuor. He is a retired teacher. Both my parents were retired teachers. My biological mother lost her life when I was about four years. So, the one who was killed was my foster mother, who brought us up.

Hon. Temporary Deputy Speaker, of concern is the fact that I raised this issue in the House when I sought a Statement, but my request has not been responded to, to-date. I take great exception that the Leader of Majority Party, who is my great friend, hon. Aden Duale, who was not here when this issue was being discussed--- I take great exception because I recall at one time when I was serving the Government before hon. Duale came to this House, I was the Town Clerk in Garissa. I lost my job due to political reasons because some people thought that I was supporting him then, when he was in the Opposition. So, it is with regret that I am not seeing him in the House today.

I also want to say that I raised those issues, but they have not been responded to. Yesterday, I wanted to join my colleagues in the House. I was in Kisumu---

**The Temporary Deputy Speaker** (Hon. Kajwang'): Hon. Owuor, I would not want to interrupt your speech but let me do some house-keeping. I can see that it is 25 minutes past midday. Normally, the House would stand adjourned at half past the hour. So, I refer you to Standing Order No.30(2), which says:-

“Unless for the convenience of the House the Speaker or the Chairperson (as the case may be) directs earlier or later interruption of business, at 6.30 p.m. or (if it is an Allotted Day) at 7.00 p.m., on the occasion of an afternoon sitting and at 12.30 p.m. on the occasion of a morning sitting, the Speaker or the Chairperson of Committees shall interrupt the business then under consideration and if the House is in Committee, the Chairperson shall leave the Chair and report progress and seek leave to sit again.”

Hon. Members, this Standing Order gives the Speaker the discretion, for good reason, to extend the sitting of the House. We are not going to treat this Motion properly if we adjourn at 12.30 p.m. Therefore, I direct that we will debate this Motion up to 1.00 p.m. Therefore, the House will adjourn at 1.00 p.m.

Member for Nyakach, can you complete your other five minutes? I have given you ten minutes because you are directed affected by this matter. So, you will conclude at 12.30 p.m.

**Hon. Owuor:** Thank you, hon. Temporary Deputy Speaker for your indulgence.

As I said, I raised those concerns in the House about two months ago, but no action or report has come forth from the Government. I have been very busy making burial arrangements because the house was razed to the ground. In terms of our culture, there was need to urgently put up a structure to facilitate a quick burial. While at home, I was booked to join my colleagues here yesterday afternoon but when I arrived in Kisumu, I learnt that the District Criminal Investigations Officer, Kisumu, Mr. Ndombi, was circulating messages that I was planning a revenge attack.

When I got that word, I called on him and he told me that he was actually acting on the instructions of the Provincial Criminal Investigations Officer (PCIO), Mr. Cheruiyot. I had wanted to know who I was planning to attack and whether they knew the

culprits. That caused a bit of concern and caused me to miss my flight because I had to go to them to record a statement. I want to report to this House that I recorded a statement at Central Police Station, Kisumu, vide Occurrence Book (OB) No.13 of yesterday, at 11.00 a.m. That caused me to miss my flight, which was scheduled for 11.20 a.m.

I want to encourage hon. Members. I said that I would not mind if the blood of my father would save the people of Nyakach. There are places where we have had traditional rustling issues but Nyakach has not been one of those places. Cattle-rustling has been done at a very small-scale by people who are armed with crude weapons. So, Government can stop the practice, if it is committed. However, there has been no commitment on the part of the Government. I raised those issues. I met the Principal Secretary for Interior and Coordination of National Government, hon. Iringo, but to-date, nothing has been forthcoming.

On Saturday, I was a bit concerned when I read in the newspapers that the Cabinet Secretary personally reported to the public that they had arrested ten suspects. When I made a follow up in the police stations within the county, I realised that nobody had been arrested.

**Hon. Members:** Shame! Shame!

**Hon. Owuor:** So, frantic efforts were made the following day to get some people. I am sure that if anybody were to take any due care to follow up the matter, even with the OBs, he will find that nobody had been arrested as at the time the Cabinet Secretary made that statement.

Therefore, I warn the people and even hon. Members. Sometimes, I get perturbed when people tell me sorry wherever they get me. I think if this blood could save my people and the country, then I will not have any regret.

Hon. Temporary Deputy Speaker, Sir, I was woken up yesterday late in the night because there was another issue of theft around my home. I had to wake up the Regional Commissioner in Kisumu and some livestock were rescued by the police. So, it has been very difficult and if there was commitment on the part of the Government, I believe that we would not have got into this situation.

A few days before that incident took place, I received threats from one of the young people who run security firms. He told me that he is a very good friend of Nyanza PC, Mr. Francis Mutie and Principal Secretary, Mutea Iringo. They said that they must audit me. This is just a civilian who, to the best of my knowledge, never went to school beyond even Form Four and yet, he has police bodyguards. He is just an ordinary Kenyan.

Hon. Temporary Deputy Speaker, Sir, I have got messages on my phone which he sent to me.

**Hon. Members:** Name him!

**Hon. Owuor:** He is called Mr. Eric Okeyo. He has several police bodyguards and he is just a civilian. So, I would really want to know on what account he is entitled to some security services.

**The Temporary Deputy Speaker** (Hon. Kajwang): Hon. Member for Nyakach, with a lot of affection, I am asking you to be on the last sentence.

**Hon. Owuor:** Thank you, hon. Temporary Deputy Speaker, Sir. I also got a message from an anonymous caller who also sent me threatening messages. He has also

sent messages telling me that he had also been enlisted by a former Member of Parliament from Nyakach. That the mission they came for was to get me and they would still be committed to that. He told me that I will remember that he called me. He intimidated me and I reported this incident to a police station.

I want to say that a few times before those things happened, I recall the Head of State had summoned the communication service providers; the heads of Safaricom, Airtel and Orange. I think one of the ways to deal with this problem is to ensure that those service providers do not license people who are not subscribed to operate the lines. I think they need to be put to account because I think there is collusion in those crimes by some of the service providers.

Thank you.

**Hon. Shidiye:** Thank you, hon. Temporary Deputy Speaker, Sir. My condolences, sympathy and empathy go to the family of hon. Aduma Owuor. I know he is facing quite a trying time. Losing a father and a mother at the same time is really tragic.

Hon. Temporary Deputy Speaker, Sir, I think we are getting our priorities wrong in this country. This country's priority number one should be security, number two security and number three security. Security has been a festering issue in this country.

The people in northern Kenya have had the feelings and pangs of insecurity in this country. The pain and the agony of the people of Turkana, Samburu, Garissa, Wajir and Pokot--- Fifty years down the road, we are the most insecure people. Today, the other parts of the country are also in pain because of insecurity.

Hon. Temporary Deputy Speaker, Sir, this country has been controlled by gangs; the *Amachuma*, *Chinkororo*, *Al Shabaab* and *Mungiki*. All are out there killing, maiming, kidnapping and injuring people left right and centre. I have been a victim of thugs. Hon. Leshore and I were shot and maimed and up to this date, those people have never been arrested. They are at large and nobody knows where they are. We need a paradigm shift in the security of this country. A paradigm shift in the sense that business as usual is no longer the thing; we need to transform our security because thugs are becoming more sophisticated.

We have thugs who are highly educated; graduates out there on the streets who have no jobs to do. Our universities are churning out about 50,000 to 100,000 youngsters who have no jobs.

Hon. Temporary Deputy Speaker, unless or until we address the poverty situation in this country and unless we look at how to create wealth for this country, we will not be out of the woods as far as security is concerned. We are taking things lightly. The regular police force is grossly underfunded. The Administration Police (AP) force is grossly underfunded. They have no vehicles. They have no fuel. They are not secured. Time has come when we have to fund the regular police, the AP force and the military.

Hon. Temporary Deputy Speaker, the police are not taking warnings. When hon. Aduma recorded a statement, nothing was done. On issues like Westgate, people knew all along that Westgate was a dangerous place and people had reported and nothing was being done. So, something has gone wrong with our security system. If you go to Kampala today, it is more than 90 per cent secure than Nairobi City. The private security guards are armed. We have only two options – to arm the general public or to disarm the

general public. We cannot have pockets of people having arms and killing people at will and nothing is being done.

Hon. Temporary Deputy Speaker, the other issue which I want to address is community policing. We are living in a very difficult time where when communities go and report instances of crime, there is a high disconnect between the police and the general public. When the general public reports criminal matters to the police, they are not listened and they feel that they cannot be part and parcel of the security of their counties. That is why we are having this problem. We know the thugs in towns and villages. They are known and some of them are collaborating with the police and yet nothing is being done. When a situation like this happens, the security forces rush to the scene. We are just dealing with postmortem issues. We are not dealing with substantive issues. We are not proactive. So, we need to do something in this country.

With those few remarks, I beg to support.

**The Temporary Deputy Speaker** (Hon. Kajwang’): Thank you very much. Members, I am doing my level best to try to balance this discussion. You will each contribute for two minutes. Let me allow this Member to speak for five minutes.

**Hon. Oyoo:** Thank you very much, hon. Temporary Deputy Speaker. I want to take this opportunity first to extend my condolences though I did it on telephone and then when I finished my function on Saturday in Muhoroni, I drove to his home and condoled with his relatives. He was away and I want to tell him that we are sharing the pain with him together with my people of Muhoroni because Nyakach borders my constituency.

When this issue started, I am the one who raised the matter of insecurity because Muhoroni was burning. We had serious border insecurity more so with our neighbours from Tinderet. In Muhoroni, we border Kipkelion West, Ainamoi, Sigoet, Soin, Aldai and Tinderet from the other side. I want to report that save for small cattle rustling incidents, we do not have major issues with the other bordering constituencies except Tinderet where we had serious skirmishes arising from people encroaching on large scale farms which was like economic sabotage. Then there were land issues of people purporting to be squatters. We have since discovered that many of them maybe members of the Kalenjin community from Tanzania who are coming and trying to get free land.

Hon. Temporary Deputy Speaker, I also want to say that pursuant to my question which I raised in this House and the way I prosecuted it here, I was the host and the hon. Aduma Owuor was supposed to join me. I sent text messages to all those who border my constituency telling them that I was going to host the Cabinet Secretary for Interior and Coordination of National Government, Mr. Joseph ole Lenku, the Inspector General of Police and many other senior ranking officers because we wanted to end border insecurity.

We had a very good meeting and we discussed various ways of solving the issues in Muhoroni. This came out very well and the Cabinet Secretary and his team took time. The Cabinet Secretary met the county security team, district security team and they addressed the chiefs before they opened the plenary with the leaders. We came out and said as much as we were willing, thinking that we were going to solve the problems.

Hon. Temporary Deputy Speaker, Sir, all said and done, I would like to say that the cardinal duty of the Government is to protect the lives of the citizenry and their property. We have played politics a lot with people’s lives and property. People can

encroach into my farm and, maybe, because I do not belong to the ruling tribe, it is just taken for granted and the matter continues. This must be brought to an end.

I have no doubt that we have an able Inspector General of Police who has risen through the ranks. He was not brought from nowhere. All he needs to do is to re-organise his departments.

We have a department that is very important in the Police Force, and it is actually the engine of the Police Force. That is the Criminal Investigations Department (CID). For a long time, CID is supposed to detect and deter crime. We have a weak CID which was dismembered by the one time powerful Police Commissioner, Maj-Gen. Ali, because of a personal problem he had with Mr. Kamau. Many able officers were reshuffled and posted to other departments.

Today, we do not have serious crime busters. We also do not have serious units like we used to have before like the Flying Squad; the people who were able to track down the *Wacucus and Wanugus* and get to know what the criminals were planning. Now, we have a police unit that is always running after crime.

We realized that we were alerted by the intelligence officers when there was a terrorist attack at Westgate Mall. However, because the CID was not doing its job, they came up with a ragtag group. Those were the people who were there and they had arrested them. They say every time that they are on top of investigations.

*(Laughter)*

We do not want this. We do not need somebody with Phd or Masters to head the CID. We want somebody with hands on experience, like Ignatius Iriga Nderi and Noah arap Too. The results were there. We do not want to play around with the lives of our people.

When we had a meeting in Muhoroni, we realized that the onus was also on Parliament. You know that serious criminal offences like robbery with violence and murder have no bail. Surely, how do you---

**The Temporary Deputy Speaker** (Hon. Kajwang'): Hon. Oyoo, you have overshot your time!

**Hon. Oyoo:** Thank you.

**The Temporary Deputy Speaker** (Hon. Kajwang'): The Chair, I am deliberately keeping you to be the last speaker. So, hold your horses. Hon. Members, we have been debating security issues. Could hon. Members, in their discussions, now bring in legislative proposals? I appreciate your views, ventilations and anger because this borders on our safety as Members of this House. However, can I listen to Members who are contributing and are bringing legislative proposals that this House can deal with effectively?

Yes, the hon. Member for Nairobi. You have two minutes.

**Hon. (Ms.) Shebesh:** Hon. Temporary Deputy Speaker, Sir, I will take two minutes. I want to convey my condolences to the Member for Nyakach and also the Member for Kisumu Town West for their loss. I will go straight to what you said. It is like you read my mind. We are now debating the National Service Commission Bill and the Police Service Bill is also on its way. I just want to ask this House: Why do we fear to say the truth? It is obvious there is a go-slow. If you look at our security systems and

what happened at the Westgate Mall, our police heads are not working in tandem. There is definitely a power game going on up to the grassroots level.

If you look at Nairobi where the Chair also comes from, you know that today, you have OCPDs and OCSs who have no power and even if they have power, they are not willing to exercise it because they are not motivated enough; neither are their police officers. The legislative agenda that we are talking about is on the Floor of this House. Yesterday, it was unfortunate that very few Members were sitting here as we were debating the National Police Service Commission Bill and the National Service Police Bill that will be coming. I am, therefore, suggesting that we should take our work seriously. You know that I have many issues here of insecurity in Nairobi. It does not add value because I belong to the Jubilee Government to say that the Government is doing the most it can. For the people of Nairobi, it is not.

Therefore, it is not about Nyanza Province or Baragoi where there are issues, but about the security of the people of this country. It is an issue of whether we, as legislators, are ready to bite the bullet and decide that the police reforms, including the vetting that was supposed to happen, should happen now before we lose more lives. That is my recommendation.

**The Temporary Deputy Speaker** (Hon. Kajwang'): Prof. Nyikal, you have two minutes!

**Hon. (Prof.) Nyikal:** Thank you, hon. Temporary Deputy Speaker, Sir. First of all, on behalf of myself and my constituents, let me pass my condolences to hon. Aduma, whose mother also comes from my constituency and clan.

Since we came to this House, almost every month there is an issue of security. We have adjourned this House more than five times, including by the Vice-Chairman of the Committee on Administration and National Security, to discuss insecurity. The issue of hon. Aduma has been stated here. He came here, but he still got threats involving even the security personnel. I think the problem is much higher than we are seeing. I do not think those are just operational issues. First, at least for Nyanza, there has to be a complete change of the top security organ. Two, at the Ministry level, we need to see change. I agree that we need to improve resources to the police, but even now, the police are leasing vehicles. How can the police work with leased vehicles? This is another way of syphoning money using our security.

In Westgate, we had a problem. The Committee on Administration and National Security summoned everybody to appear before the Committee and nothing has happened. Even the Constitution is not being followed. In Baragoi and even at the Westgate, the Army was involved. The Constitution provides that the President should, as the Chair of the National Security Council, report to this House annually. The state of security is such that, that should happen now. Therefore, I am recommending that this is the time for His Excellency the President, as the Chair of the National Security Council, to be summoned to this House to tell Kenyans the state of security in this country. If you are in doubt, check Article 240(7) of the Constitution. It provides that the Council shall report annually to Parliament. We must do that.

**The Temporary Deputy Speaker** (Hon. Kajwang'): But you see, hon. Member, you need to file a Motion in this House.

**Hon. (Prof.) Nyikal:** I will file a Motion.



**The Temporary Deputy Speaker** (Hon. Kajwang'): And then we resolve a Motion from this House to the Executive.

**Hon. (Prof.) Nyikal:** I will file that Motion that the Executive be called to this House.

**The Temporary Deputy Speaker** (Hon. Kajwang'): Hon. ole Ntutu, two minutes.

**Hon. ole Ntutu:** Hon. Temporary Deputy Speaker, may I take this opportunity from the outset to convey my condolences to the Member of Parliament for Nyakach for the heinous act perpetrated upon his parents. As a country, I think we are heading to a wrong direction. This Member of Parliament, two weeks ago, told us here that his life was in danger, but nobody listened to him. I do not know who else will listen to us.

Hon. Temporary Deputy Speaker, having worked as Provincial Administrator before, if I heard a Member of Parliament from that area right, he said that all the members of the security committee are from one tribe. That is where the problem starts. They must be transferred immediately. They are not doing anything. That is why they are just talking in their language and they are not doing their work.

I also demand, as a matter of urgency, that the Departmental Committee on Administration and National Security of this House and of which I am Member--- I am not proud of what we are doing as a Committee. I have told my Vice-Chairman to call a meeting this afternoon so that we address---

**The Temporary Deputy Speaker** (Hon. Kajwang'): Thank you very much. Hon. Members, you will allow me to have only two contributions now. One will be from the Leader of Minority Party and the other one, the Chairman of the Departmental Committee on Administration and National Security. They will each still have two minutes.

**Hon. Nyenze:** Thank you, hon. Temporary Deputy Speaker. I just want to send my condolences to the Member for Nyakach and his family for the heinous act where his parents were butchered. There is nothing as painful as losing parents in such a grisly manner and in the hands of people who are merciless. These are people who kill people who are innocent and are not involved in cattle rustling.

You have told us that it is good to have a legislative agenda. It is good that we are discussing about the police reforms. Besides giving the police force adequate vehicles and other resources to fight crime, are the police officers motivated? Are they happy about their job? When 42 police officers were killed in Baragoi, I thought the Government would lower the flag for three days to mourn those police officers. Sometimes it is good to honor the police officers. When police officers are shot dead in the line of duty, their wives are left widowed---

**The Temporary Deputy Speaker** (Hon. Kajwang'): We have seven minutes. Member for Migori Town.

**Hon. Nuh:** Thank you, hon. Temporary Deputy Speaker. I would like to send my condolences to the family of hon. Aduma Owuor, who is a good friend of mine. I had called him earlier but I would like to condemn the heinous act that was done to his family. As a country, we must agree that our security system has failed. We must open our eyes to the realities. If you close your eyes to the realities, you will not get the answers to the questions. We must accept that our security system has totally failed

throughout the country. We have to start from that bottom line. Secondly, the insecurity issue is not only in Nyakach. It is all over the country. Where I come from, cattle are stolen every night. A population of 120,000 is served by only one vehicle, which belongs to the OCPD. The OCS, the DCIO and other security personnel do not have cars. If anybody calls them, they have to either go on foot or by *boda bodas*. How can they serve Kenyans when they do not have those kinds of facilities?

Hon. Temporary Deputy Speaker, there is also laxity on their side. We are being told that it is because of the National Police Service Commission (NPSC) that the police are not working. We have been having a powerful Commissioner of Police for the last 50 years, but there is nothing to show for it. What makes us believe that if we give more powers to the Inspector General of Police we will have results, if we have not had a Commissioner of Police giving us results for the last 50 years? It is well known that the most corrupt people in this country are police officers. It is a fact. Yesterday, a report or a survey published by the Ethics and Anti-Corruption Commission showed that all the reports that got to them indicate that the police are the most corrupt in this country. So, for that reason, we need to---

**The Temporary Deputy Speaker** (Hon. Kajwang'): Can I now have the Chair of the Departmental Committee on Administration and National Security? You have five minutes.

**Hon. Abongotum:** Thank you, hon. Temporary Deputy Speaker. I want to, first of all, send my condolences to our colleague for losing his father and mother. That is a very sympathetic situation. I want to support hon. Members in saying that this is a very critical issue. It is happening all over. I am also a victim. As you directed earlier on, we need to enact laws that can bring this problem to an end.

Firstly, we need to continue with the reforms in the National Police Service and, especially, we need to dispense with the issue of vetting. Maybe, police officers are not doing their work because some of them are rogue. In the counties, we still have parallel police institutions. Currently, in the counties and sub-counties, we have commanders in charge of Administration Police (APs) and commanders in charge of the regular police. The two institutions are not working together. So, we need to focus on this issue and ensure that only one person is in charge of the police at the county and the sub-county levels.

The other issue is about equipment. Every time we go to the counties or sub-counties, we find that police officers have no vehicles. Their vehicles are grounded. They have no fuel. The other issue is recruitment. Due to the problem of unemployment, many youths are joining the National Police Service and yet, that may not be their job preference. So, you may find that one is a police officer but it is actually only the uniform that is the police officer. The other issue is lack of morale among police officers. In my constituency, more than 50 policemen were killed but the Government could not---

## ADJOURNMENT

**The Temporary Deputy Speaker** (Hon. Kajwang'): Hon. Members, it is now 1.00 p.m. Therefore, the House stands adjourned to this afternoon at 2.30 p.m.

The House rose at 1.00 p.m.