

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Tuesday, 6th August, 2024

*The House met at the Senate Chamber,
Parliament Buildings, at 2.30 p.m.*

[The Speaker (Hon. Kingi) in the Chair]

PRAYER

DETERMINATION OF QUORUM AT COMMENCEMENT OF SITTING

The Speaker (Hon. Kingi): Clerk, do we have a quorum?

(The Clerk-at-the-Table consulted with the Speaker)

Serjeant-at-Arms, kindly, ring the Quorum Bell for 10 minutes.

(The Quorum Bell was rung)

Hon. Senators, I have been informed that we now have a quorum. Those who are standing, kindly proceed to take your seats.

(Several Senators walked into the Chamber)

The Speaker (Hon. Kingi): Clerk, you may proceed to call the first Order.

PETITION

REDRESS OF HISTORICAL INJUSTICES IN MOMBASA COUNTY

Sen. Miraj: Mr. Speaker, Sir, I rise pursuant to Standing Order No.232(1)(b) to present a Petition that has been submitted by residents of Mombasa County, who are citizens of the Republic of Kenya.

As you are aware, under Article 119(1) of the Constitution-

“Every person has a right to petition Parliament to consider any matter within its authority, including to enact, amend or repeal any legislation.”

The salient issues raised in the Petition are as follows-

(1) THAT, the petitioners reside on the parcels of land registered as original plot numbers MN/11/803, 804, 805, 806, 807, 80, 49 and 79, Mainland North of Mombasa, VIMN/211/12/R secondary Kashani, 360/11/MN, Kisauni, 219/XV11/232/XV11, Mwembekuku, 1068/XV11/XLV/54, Bondeni, all in Mombasa Island.

(2) THAT, the petitioners are the legal landowners residing on the specified plots of land. However, they are now referred to as "tenants-at-will" and forced to pay monthly rent to absentee landlords;

(3) THAT, landlords conduct unfair rent practices by charging the petitioners illegal monthly rent without providing formal receipts. They also arbitrarily increase the rent without any consultations;

(4) THAT, despite paying rent for many years, none of the petitioners have registered lease agreements;

(5) THAT, the landlords have illegally subdivided the original plots into smaller parcels without the knowledge or consent of the petitioners and without following proper procedure for changing land use from agricultural to residential. Additionally, they have assigned exorbitant valuations to each subdivided plot;

(6) THAT, the petitioners are not squatters in the said plots having inherited the land from their forefathers, who acquired through legitimate agreements with the original landowners;

(7) THAT, the petitioners have made the best efforts to have the matters addressed by the relevant authorities all of which have failed to give a satisfactory response; and,

(8) THAT, none of the issues raised in the Petition are pending before any court of law, constitutional or legal body.

THAT, the Petitioners, therefore, pray that the Senate-

(1) Initiates investigation into allegations of human rights violations and land injustices within the affected plots of land in Mombasa County with a view to ensure that the petitioners are awarded land lease agreements.

(2) Utilizes the findings of this investigation to formulate lasting solutions to the ongoing land ownership issues faced by residents of Mombasa County.

(3) Recommends mechanism that allows for the petitioners to directly pay taxes to the Government.

(4) Makes a recommendation for the legal recognition of petitioners' tenancy rights.

(5) Undertakes a comprehensive analysis to define the specific challenges faced by coastal communities regarding land ownership.

(6) Makes a recommendation on provision of clear definitions for terms such as "squatters," "absentee landlords," and "houses without land" within the context of ongoing coastal land reforms.

I thank you.

The Speaker (Hon. Kingi): Hon. Senators, pursuant to Standing Order No.238 (1), I commit the Petition to the Standing Committee on Land, Environment and Natural Resources. In terms of Standing Order No.238(2)(a), the Committee is required in not more than 60 calendar days from the time of reading this prayer, which is today, to table a report in the Senate for consideration. The Senate shall thereafter consider and adopt the report of the Committee.

Next Order.

Sen. Faki: On a point of order, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): Sen. Faki, certainly you cannot rise on a point of order.

Sen. Faki: Mr. Speaker, Sir, allow us to comment on this important Petition brought by Sen. Miraj. As you are aware, land is a very important issue---

The Speaker (Hon. Kingi): Sen. Faki, kindly take your seat and acquaint yourself with the amended Standing Orders as far as Petitions are concerned.

Next Order.

QUESTIONS AND STATEMENTS

STATEMENTS

The Speaker (Hon. Kingi): Statements pursuant to Standing Order No.52(1). Proceed, Sen. Lemaletian.

ELECTION OBSERVATION MISSION IN RWANDA

Sen. Lemaletian: Thank you, Mr. Speaker, Sir. I rise pursuant to Standing Order No.52(1) to make a Statement on an issue of general topical concern, namely, the Election Observation Mission (EOM) of the Presidential and Parliamentary Elections to the Republic of Rwanda organized by the Forum of Parliaments of the Member States of the International Conference of the Great Lakes Region (FP-ICGLR).

Mr. Speaker, Sir, the Parliament of Kenya participated in an Election Observation Mission (EOM) to Rwanda from 8th to 19th July, 2024. This Mission was organized by the Forum of Parliaments of the Member States of the International Conference on the Great Lakes Region (FP-ICGLR).

The Kenyan Delegation, which included Sen. Wahome Wamatinga, MP, Hon. Mugambi Rindikiri, MP, and I, accompanied by Ms. Lillian Osundwa and Mr. Polycarp Matara from the Senate Secretariat, was part of a 26-member team from five FP-ICGLR Member States that included Central African Republic, Kenya, Tanzania, South Sudan and Zambia. The Mission was led by Rt. Hon. Moses Moyo, MP, Second Deputy Speaker of the Parliament of Zambia.

Mr. Speaker, Sir, the delegation was honoured to be part of the international observation groups accredited to observe the 2024 General Elections in Rwanda. The observation mission entailed preparatory activities, including training, briefings and mapping of polling centers. On election day, the delegation observed various aspects of the voting process, such as the opening of polling stations, the availability and management of voting materials, and the tallying of votes

Rwanda's elections took place on 15th July, 2024, with voters choosing both presidential and parliamentary representatives. The presidential race was decided by a simple majority, while the Chamber of Deputies, with 80 members, included 53 representatives elected by universal suffrage; 24 women elected by specific councils, two youth elected through the National Youth Council, and one person elected by the Federation of the Association of the Disabled. Approximately 9.5 million voters were registered, including about 2 million first-time voters and 53,000 diaspora voters, a significant increase from previous elections.

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Mr. Speaker Sir, the Mission's activities before the elections included the release of an Arrival Press Statement, a Comprehensive Briefing and Orientation Programme, a briefing by the National Electoral Commission (NEC), and meetings with various electoral stakeholders. These activities aimed to increase public awareness about the Mission and assess the state of preparedness for the elections.

Observers were deployed in teams to different provinces, including Kigali City, Eastern Province, Northern Province and Southern Province. The pre-election period was noted to be calm and peaceful with strong engagement from stakeholders. Political parties conducted peaceful campaigns, promoting unity and cohesion. The Mission observed that all election-related activities were carried out as per the electoral calendar set by the NEC.

Mr. Speaker Sir, on Election Day, the Mission observed that polling stations opened on time, voting materials were sufficient and polling staff demonstrated good knowledge of procedures. The voting process was orderly, with a significant number of women among the polling staff, reflecting a positive trend towards gender parity.

Security personnel were present and conducted themselves professionally. There were no incidents of voter inducement and priority was given to the pregnant women, mothers with small children, the elderly and special service personnel.

Mr. Speaker, Sir, the Mission also observed the closing procedures, noting that polling stations closed at the scheduled time and voters still in queues were allowed to vote. The closing process was conducted in the presence of political party agents and election observers.

While the electoral process was generally professional, there were isolated cases of improperly sealed ballot boxes and ballot papers without serial numbers.

Based on these observations, the Mission made several recommendations to the Rwanda's National Election Commission (NEC), ensuring proper sealing of ballot boxes, including serial numbers on ballot papers and considering an extension of the campaign period from the current 20 days, to allow more time for political parties to explain their manifestos to the electorate.

Mr. Speaker, Sir, the Mission commended Rwanda for several practices that could serve as lessons for other countries. This included the absence of campaign posters and billboards, which reduced campaign costs, the discipline and decorum of candidates and their supporters during campaigns, the involvement of locals in the electoral process, including the decoration of polling stations and peacefully guarding them and the inclusive voting process that allowed voters without Identification Cards (IDs) to vote after verification.

Mr. Speaker, Sir, in conclusion, the Mission praised Rwanda's electoral process for its unity and responsibility. They noted that Rwanda has a legal framework to address electoral disputes ensuring that any grievances would be handled through established structures, promoting peaceful dispute resolution.

The Mission expressed gratitude for the opportunity to participate in this significant event and thanked the Speaker and the Clerk for their facilitation.

Mr. Speaker, Sir, overall, the Rwandan election demonstrated the strength of unity and responsibility, setting a commendable example for other Member States in the Great Lakes Region.

Thank you.

The Speaker (Hon. Kingi): Sen. Karen Nyamu, proceed.

That Statement is dropped.

RISE OF CYBERBULLYING IN KENYA

(Statement dropped)

Sen. Miraj Abdullahi, proceed.

REPLACEMENT OF LOST ACADEMIC
CERTIFICATES BY KNEC

Sen. Miraj: Thank you, Mr. Speaker, Sir. I rise pursuant to Standing Order No. 52(1) to make a statement on a matter of general topical concern, namely, the matter of expensive tedious process of replacement of lost academic certificates by Kenya National Examination Council (KNEC).

Mr. Speaker, Sir, following public complaints about the torturous process of application for replacement of lost certificates, the KNEC issued a brief feedback on their X formerly *Twitter* handle, clarifying that they do not replace lost certificates and that, instead, they issue a certified letter.

In that clarification, they listed the number of documents that must be attached during the process of application, including application fees as follows:

- (i) a copy of lost certificate results slip, mandatory;
- (ii) copy of ID;
- (iii) passport size photo;
- (iv) police abstract;
- (v) confirmation from the registrar of persons, National Social Security Fund (NSSF) Building, Seventh Floor, Upper Hill, Nairobi; and,
- (vi) a payment of cash Kshs5,220.

Mr. Speaker, Sir, from the foregoing, several questions emerge. One, realising that ordinary life is prone to various misfortunes such as fire, flooding, theft, which cause loss of vital documents such as title deeds, ID cards, passports, certificates, *et cetera*, why would KNEC fail to put in place effective and efficient systems to ensure that lost certificates are actually replaced in a similar manner as other documents are replaced? If a passport or ID can be replaced, why not academic certificates?

Two, why would KNEC charge a whopping Kshs5,220 for a letter of certificate besides the process being completely tedious? For instance, the requirement for application to travel from wherever they reside countrywide to confirm personal details with the Registrar of Persons in Nairobi is totally unwarranted.

Mr. Speaker, Sir, if there is something we must learn and take seriously, especially, following the political crisis, is that public institutions must begin to be accountable. We cannot continue to treat service delivery so casually.

I hope that KNEC will come forward to not only answer the above questions, but also begin a genuine process of internal audit to ascertain whether they are truly responsive and efficient in discharging their mandate.

I thank you.

(Interruption of Statements)

COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM HIGH FLYER SCOUTS OPEN CREW

The Speaker (Hon. Kingi): Hon. Senators, before we move to the next Order, allow me to make the following Communication –

I would like to acknowledge the presence in the Public Gallery this afternoon, of visiting students from High Flyer Scouts Open Crew from Lugari, Kakamega County. The delegation comprises one teacher and 12 students, who are in the Senate for a one-day academic exposition.

Hon. Senators, in our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them. On behalf of the Senate and my own behalf, I wish them a fruitful visit.

I will call upon the Senator for Kakamega, Sen. Boni, to extend a word of welcome.

Sen. (Dr.) Khalwale: Thank you, Mr. Speaker, Sir. Indeed, it is a privilege for me that these children are here with us today.

This is the first time we are receiving any delegation from Kakamega, Bungoma, Trans Nzoia, Vihiga or Busia. So, young people, I will just use this opportunity to remind you that, here, we are guided by the Constitution which provides for culture. This is why I welcome you and end by addressing you in your mother tongue.

“Murio muno, mukalukhe ingo bulahi”.

God bless.

(Laughter)

The Speaker (Hon. Kingi): Sen. Boni, if you are to ever welcome a delegation, you need to change your ways. Reserve some language to some social gatherings back in Kakamega, not before the House.

(Resumption of Statements)

Request for statements pursuant to Standing Order No.53(1), the Senator for Bungoma County, Sen. David Wakoli, proceed.

BUNGOMA COUNTY SCHOLARSHIP PROGRAMME FOR NEEDY STUDENTS

Sen. Wakoli: Thank you, Mr. Speaker, Sir. I rise pursuant to Standing Order No.53(1), to seek a Statement from the Standing Committee of Education regarding the Bungoma County scholarship programme for the needy students.

In the Statement, the Committee should -

(i) provide the list of scholarship programme beneficiaries in the county for the years 2023/2024, stating the wards they come from and the schools they are attending;

(ii) explain the criteria used to select, retain or remove students from the programme;

(iii) state the amount in school fees paid, the fee balance that the county is supposed to have paid from 2022/2023 to date, and table proof of payment paid in school fees for each student in the programme;

(iv) state the amount allocated by the County Government for the scholarship programme in the financial years 2022/2023, 2023/2024, comparing this with the amount paid so far, explaining reasons for discrepancies---

The Speaker (Hon. Kingi): Order, hon. Senators.

Sen. Wakoli: ---if any, and list the number and name of---

The Speaker (Hon. Kingi): Sen. Wakoli, when the Chair speaks, you put a break to your speech.

Sen. Wafula: I am sorry, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): Hon. Senators, may the Senator for Bungoma be heard in silence, please.

Proceed, hon. Senator.

Sen. Wafula: Thank you, Mr. Speaker, Sir.

(4). State the amount allocated by the county government for the scholarship programme for the financial years 2022/2023 and 2023/2024 comparing this with the amount paid so far, explaining reasons for discrepancies, if any.

(5). List the number and names of students in the scholarship programme whom the county has not paid any fees to date, giving reasons for the non-payment.

CONSTRUCTION OF KAMUKUYWA MODERN MARKET IN BUNGOMA COUNTY

Mr. Speaker, Sir, I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Trade, Industrialization and Tourism regarding the construction of Kamukuywa Modern Market in Bungoma County.

In the Statement, the Committee should-

(1) Table the legal documentation detailing the ownership history of the market land, stating when the land was bought, providing evidence that the land was owned by the County Government of Bungoma by the time the tender was awarded.

(2) Provide clear evidence of when the tender for the project was advertised and awarded. State who was awarded the tender, detail the tender award process and share a documented list of subcontractors involved, including their services, project delivery details and payment status.

(3) Disclose the total project cost and provide financial statements detailing payments made to the contractors so far, the remaining balance and clarify whether the funds for the project were available and budgeted at the time the tender was awarded.

(4) Elaborate on the current challenges in the ongoing market construction and describe the strategies for addressing them.

Thank you, Mr. Speaker Sir.

The Speaker (Hon. Kingi): Sen. Wakoli, you had two Statements. Are you done with the two?

Sen. Wafula: Yes, Mr. Chairman, Sir.

The Speaker (Hon. Kingi): Thank you.
Proceed, Sen. Mwaruma.

BLOCKAGE OF NJORO SARAFU WATER CHANNEL
AT CHUMVINI, TAITA-TAVETA COUNTY

Sen. Mwaruma: Mr. Speaker, Sir, thank you for this opportunity to request for a Statement on the blockage of Njoro Sarafu Water Channel in Taita-Taveta.

I rise, pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Land, Environment and Natural Resources regarding blockage of River Njoro Sarafu Water Channel at Chumvini area, Chala Njukini Ward of Taita-Taveta.

In the Statement, the Committee should-

(1) Apprise the Senate of the persons who blocked the Njoro Sarafu Scheme Water Channel, outlining the reasons for blocking the channel, which the residents of Sarafu Scheme depend on for domestic and irrigation use that form their source of livelihood.

(2) State any appropriate measures put in place to open the water channel and to ensure that the residents of Sarafu Scheme can freely access and use the water channel.

I thank you, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): The two Statements by Sen. Alan Chesang shall be deferred pursuant to his own request.

ANOMALIES IN THE TRANS NZOIA COUNTY EXECUTIVE PAYROLL

(Statement deferred)

TRANS NZOIA COUNTY EXECUTIVE PAYMENTS
FOR SETTLEMENT OF COURT JUDGEMENTS AND DECREES

(Statement deferred)

Therefore, we will move to Statements pursuant to Standing Order No.56(1).
Sen. Boni, you may proceed.

CONSIDERATION OF SPEAKER'S COMMUNICATION
ON THE REPORT OF THE SENATE NOMINEE TO SRC

Sen. (Dr.) Khalwale: Thank you, Mr. Speaker, Sir. I rise pursuant to Standing Order No.56(1)(a) of the Senate Standing Orders to make a Statement regarding the Standing Committee on Finance and Budget consideration of the Speaker's Communication on the report of the Senate nominee, on behalf of the county governments, to the position of member of the Salaries and Remuneration Commission (SRC).

Mr. Speaker Sir, vide letter Ref:EOP/CAB.26/4A/VOL.III/(175) dated 23rd May 2024, the Office of the Clerk received notification from the Head of the Public Service indicating that the tenure of six members of the Commission would be lapsing on 10th September, 2024. Consequently, under Article 230(2)(b)(vii) of the Constitution, the Senate is required to nominate a member of SRC on behalf of county governments.

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Pursuant to Standing Order No.77(1) of the Senate Standing Orders, at the Plenary Sitting of the Senate held on 11th June 2024, the Speaker made a Communication in regard to this matter and referred it to the Standing Committee on Finance and Budget for processing.

Mr. Speaker, Sir, the Committee-

(a) Advertised for the position on 12th June, 2024, inviting applicants from interested persons not later than 3rd July, 2024 at 5 p.m. 2024. By the close of the application period, a total of 39 applications had been received and there was a double entry on two applicants.

(b) Long-listed 37 applicants and published in *The Daily Nation* Newspaper and *The Star* Newspaper on 12th July, 2024.

(c) Considered the applications received to determine their compliance with the provisions of the constitution and law.

(d) Shortlisted 15 candidates with distinguished careers and having regard to gender and regional balance. The shortlist of the applicants was also published in *The Daily Nation* and *The Star* newspapers on 12th July, 2024.

(e) Invited members of the public to send memoranda on the suitability of the shortlisted candidates.

(f) The Committee further wrote to the following agencies seeking for information relating to the suitability of the shortlisted candidates:

The Kenya Revenue Authority (KRA) was to confirm whether the candidates are tax compliant.

The Registrar of Political Parties (RPP) was to confirm that the applicants are not members of a governing body or a political party as required by section 5(3)(a) of the SRC Act.

The Ethics and Anti-Corruption Commission (EACC) was to determine whether any ethics and integrity complaints or issues had been raised with respect to any of the applicants.

The Higher Education Loans Board (HELB) was to ascertain whether the shortlisted applicants are up to date on any loans advanced to them by the Board.

The Directorate of Criminal Investigations (DCI) was to ascertain whether the shortlisted applicants have been adversely mentioned in any investigations that have been carried out.

The Independent Electoral and Boundaries Commission (IEBC) was for purposes of confirming that applicants were not Members of Parliament or the county assembly as required by Section 5(3)(a) of the SRC Act.

Finally, various universities were to confirm the authenticity of degree certification, including the University of Nairobi, Egerton University, Moi University, Kenyatta University, Kenya Methodist University, Eastern and South African Management Institute (ESAMI), Commission for University Education in the case of a certificate submitted from a foreign university.

Mr. Speaker, Sir, the Committee also sought submissions from the Council of Governors (CoG) and the County Assemblies Forum (CAF). Indeed, the Committee held a meeting with the CAF, where matters relating to the representation of CAF at SRC were deliberated upon.

Mr. Speaker Sir, the Committee conducted interviews for the shortlisted applicants on 19th July, 2024 and considered the results of the interview and prepared this Report on 22nd July, 2024.

The Committee took note of the information obtained from various agencies during the consideration of the Report.

Hon. Abdirahman Ali Hassan, who was shortlisted and interviewed, had the best score, but was dropped following a letter from the University of Nairobi (UoN) dated 22nd July, 2004, referenced UON/AA/CEC/1/22/1, signed by Mr. Emmanuel Mumba for the Academic Registrar.

The university indicated that of the five candidates who had provided copies of degree certificates issued by the university, hon. Abdirahman Ali Hassan's copy was not issued by the UoN and, hence, not genuine.

The Committee adopted this Report, which was tabled in the Senate on 23rd July, 2024. Following the tabling of the Committee report, the Chairperson gave Notice of the Motion pursuant to Standing Order No.60 of the Senate Standing Orders on Wednesday, 24th July, 2024.

Mr. Speaker, Sir, on 24th July, 2024, the Committee received a letter from the UoN referenced UON/AA/CEC/1/22/1, signed by Mr. Emmanuel Mumba for Registrar Academics, which indicated that hon. Abdirahman Ali Hassan was indeed a student of the UoN and was conferred with the Bachelor of Arts, Gender and Development Studies in 2008.

This letter, therefore, contradicted an earlier one from the same university received on 22nd July, indicating that the certificate submitted for verification by hon. Abdirahman Ali Hassan was not genuine, and that it was not issued by the UON.

Mr. Speaker, Sir, at the sitting of the Senate held on Wednesday, 24th July, 2024, Sen. (Dr.) Boni Khalwale, CBS, MP, on behalf of the Chair, was called upon to move the Motion for consideration of the Report of the Committee. However, prior to the Motion being moved, Sen. (Dr.) Boni Khalwale, CBS, MP, sought the intervention of the Speaker and informed the Senate of the two contradicting letters from the UON regarding hon. Abdirahman Ali Hassan's degree certificate.

Following intervention by various Senators, the Speaker then directed that the Motion be stood down and that he would make a ruling to be issued on Tuesday, 30th July, 2024.

Mr. Speaker vide a communication dated 30th July, 2024, made a ruling referring the matter back to the Committee. The Committee was required to specifically conduct verification of the two letters and table a report in the Senate on or before 6th August, Tuesday, 2024.

Mr. Speaker, Sir, at a meeting held on 1st August, 2024, during the consideration of the matter as directed, the Standing Committee on Finance and Budget received a letter dated 1st August, 2024 from the hon. Abdirahman Ali Hassan. The letter indicated that the applicant had requested to withdraw his application for the position of Senate nominee on behalf of county governments to the Salaries and Remuneration Commission (SRC).

During the meeting, the Committee considered the Speaker's Communication, the two letters from the UON and the letter of resignation from hon. Abdirahman Ali Hassan.

The Committee then concluded that the applicant's letter, withdrawing his application from the position, meant that there was no need to pursue the matter further, as the applicant was no longer under consideration whatsoever.

Consequently, the Committee resolved to proceed with the moving of the Motion on the Report, as per notice that was issued on Wednesday, 24th July, 2024, and requested the Senate Business Committee (SBC) to schedule and prioritize the matter for consideration by the Senate.

Mr. Speaker, Sir, I thank you and issue this Statement on behalf of Sen. (Cpt.) Ali Roba, EGH, MP, Chairperson of the Senate Committee on Finance and Budget.

The Speaker (Hon. Kingi): Hon. Senators, we will have interventions on those Statements for a maximum period of 30 minutes. From my dashboard, I have quite a number of Senators indicating their willingness to make interventions in this regard. Therefore, we may have to limit the time each of us will speak.

I will persuade you, any Senator who wants to speak, to take a maximum of 30 minutes, so that we can have as many of ---

(Loud consultations)

Sorry, I meant three minutes. I would have given the entire 30 minutes to Sen. Olekina but not today.

I will start with Sen. Maanzo.

Sen. Faki: Mr. Speaker, Sir.

The Speaker (Hon. Kingi): Yes, Sen. Faki. Certainly, it cannot be a point of order.

(Sen. Gataya Mo Fire consulted Sen. Joe Nyutu)

Sen. Faki: Mr. Speaker, Sir, I can see the Chair of my Committee on Delegated Legislation. I do not know whether he is squatting or he is ---

(Laughter)

The Speaker (Hon. Kingi): Sen. Joe Nyutu and Sen. Gataya Mo Fire, there is decorum in the Chamber. You do not mount each other.

(Laughter)

There was a justification why these seats were spaced out. Kindly, maintain the distance. You may consult but, please, you do not have to lean on each other. Please, do not do that, Sen. Gataya Mo Fire and Sen. Joe Nyutu. You can hear him even where he is seated. He need not sit on your lap.

Proceed, Sen. Maanzo.

(Laughter)

Sen. Maanzo: Thank you, Mr. Speaker, Sir. I would like to comment on the Statement of Sen. Miraj.

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Mr. Speaker, Sir, it has been very difficult for many Kenyans who have lost their certificates over the years to recover one. When one has a valid reason as to why their certificate has been misplaced, it only serves right for it to be replaced as quickly as possible.

At times, it is needed for one to join a university and for a job interview. If it is made extremely difficult to obtain it, then we have quite a number of young people losing opportunities that they would have already got.

Mr. Speaker, Sir, if it is possible to replace a serious document like an Identity Card (ID) or a passport, then it must be much easier to pick out the details of what they scored in Form 4, in the university or college. It should be on record, able to be processed and in documentation, which can be traced.

There must be a file for each person who went through the Kenya National Examinations Council (KNEC). Therefore, it is easy to get a copy and have that person go on with their life, so long as there is an affidavit or reasons advanced as to what happened to their certificate.

Mr. Speaker, Sir, I support that because it goes a long way to help many Kenyans from all over the world. Probably, KNEC could attach a fee to it, because replacing a lost certificate has an expense and also discourages people from losing their documents. By doing that, they will be careful with their documents. Otherwise, if you make it difficult, then it disadvantages and disorients many young people and makes them unhappy.

We need a system that can serve Kenyans, so that they feel the country is there for their service, but not make their lives difficult.

I thank you, Mr. Speaker, Sir. I support the Statement.

The Speaker (Hon. Kingi): Before I call upon another Senator to speak, allow me to make the following Communication.

(Sen. (Dr.) Khalwale consulted with Sen. Orwoba)

Sen. Khalwale, please, take your seat.

(Interruption of Statements)

COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM KAPUTIEI
SECONDARY SCHOOL, NANDI COUNTY

I would like to acknowledge the presence in the public gallery this afternoon, of visiting teachers and students from Kaputiei Secondary School in Nandi County. The delegation comprises four teachers and 29 students, who are in the Senate for a one-day academic exposition.

Hon. Senators, in our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them. On behalf of the Senate and my own behalf, I wish them a fruitful visit.

(Applause)

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I call upon the Senator for Nandi County to, under one minute, extend words of welcome.

Proceed, Sen. Cherarkey. As you do that, proceed to take your three minutes.

Sen. Cherarkey: Thank you, Mr. Speaker, Sir. I welcome the teachers and students of Kaputiei Secondary School, which is in Nandi County, Tinderet Constituency. I am happy that as they go for recess, they have an opportunity to see the proceedings of both Houses of Parliament; the National Assembly and the Senate. I am happy that the delegation is led by my neighbour, Mr. Songok, who is the principal of the school. It is good to see them. I hope they can learn from other teacher as much as they can. I would like to tell the students to be focused and work hard and smart to achieve their dreams. They are the leaders of today, not tomorrow.

(Resumption of Statements)

Mr. Speaker, Sir, in quick succession of my time, so that they can also benefit from my solomonic presentation, I want to join in the Statement on the replacement of lost academic items.

I disagree with Sen. Maanzo. This is a public document, and it should be free. You remember when we wanted to raise the cost of getting an Identity (ID) card from Kshs100 to Kshs1,000, many Kenyans objected. Some of the concerns of the Generation Z was also provision of public documents. The issuance of letter of certificate by Kenya National Examination Council (KNEC) at a cost of Kshs5,220 is embarrassing and unfortunate. It should be withdrawn.

I expect the Chairperson of the Standing Committee on Education to transmit, through you, that KNEC should remove this punitive Kshs5,220 because it is a public institution. The KNEC gets its budget from Kenyans. This is double taxation.

Mr. Speaker, Sir, why is it so hard to access my Kenya Certificate of Secondary Education (KCSE) or Kenya Certificate of Primary Education (KCPE) certificate? There is a Member of this House that questioned my performance. It should be a matter of printing and giving it to the Kenyans. I remember when there were floods in Naivasha, Nakuru County, the other day, the Government ordered free issuance of IDs without charge.

It is very unfortunate that ordinary young Kenyans who do not have jobs are being told to pay Kshs5,220 for documents and testimonials from KNEC. Most of them are young people who do not have jobs. Sometimes, the loss is caused by fires. Some are involved in love triangles, where somebody “*anakula fare*”, and then they come and burn your documents. At the end of the day---

The Speaker (Hon. Kingi): Senator for Nandi County, kindly use parliamentary language.

Sen. Cherarkey: Okay. Let me replace that with “people eat the fare.” Sometimes, even in matrimonial issues, somebody decides you become a victim of your academic documents by taking them away. Some professional thieves run away with your identity, which include personal effects like academic testimonials.

I agree that the replacement of IDs and academic documents should be free of charge. In fact, the introduction of Kshs100 or even 1,000 to IDs--- It should be zero because we allocate money to those agencies.

Mr. Speaker, Sir, with those very many remarks, I support this Statement. I commend Sen. Miraj for this wonderful Statement. It speaks a lot. I hope we---

(Sen. Cherarkey microphone went off)

The Speaker (Hon. Kingi): Sen. Olekina.

Sen. Olekina: Thank you, Mr. Speaker, Sir. I rise to support the Statement by my dear sister, Sen. Miraj. As I support this Statement, I call upon the Chairperson, Prof. Nyabundi, and the Chief Executive Officer (CEO), Mr. David Njengere, to think about digitising all certificates for all former students.

(Applause)

Once you digitize, then it becomes a very simple process for you to print a copy of your old certificate. If today one of us loses their certificate of registration of a company, you will log on to E-Citizen platform, and you can print out a duplicate. I have taken a few minutes to look at how it is done across the world, and I came back home to the KNEC website. They have a portal. The process requires you to register in that portal. Once you have registered---

One shocking thing is, you have lost a certificate, but they still require you to submit a copy of the lost certificate. If you have lost, you have lost. It does not make any sense. They also require you to pay all this amount of money; the Kshs5,200. Things are very difficult. You are struggling to get a job and you are unable get one.

I call upon the two gentlemen – the Chairperson and the CEO – this is an opportunity that that issue has been raised by the Senate of the Republic of Kenya – to consider digitizing everything. You already have the portal. You are collecting data, and you already have that data; nothing has changed. The best thing you can do is to make sure that you meet us halfway. I have no objection with you charging Kshs200, but asking for 5,200 does not make sense. I know it costs money for someone to sit and process the documentation. However, once you carry out the digitization process, it makes it easy.

One of the other reasons I am persuaded that this is something that can be done at a very cost-effective manner, is that when you go through the process of KNEC, they require you to keep on sending SMSs every now and then for you to follow through to find out whether the process has been finalized. Instead of them collecting money through telecommunication and also collecting the Kshs5,200, why not reduce it to Kshs200? You do not have to go to their office. They do not require you to go to their office. They say in their website, “you do not need to come to our office.” Why do I need to pay you Kshs5,200 to access my certificates online? Come on! We are in the age of digital technology. Let us go digital and change life for our Kenyans.

Thank you, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): Sen. Mungatana, proceed.

Sen. Mungatana, MGH: Thank you, Mr. Speaker, Sir. I would like to make a comment in support of the Statement by Sen. Lemaletian on election observation.

I take this opportunity to congratulate the Republic of Rwanda for a successful election. In Africa, this is a sensitive year because many countries are going into election. We had a successful election in Senegal the other day, where the opposition took over

power. We had a successful election the other day in South Africa, where the sitting Government was forced to share power after failing to get the requisite 50 per cent. We had our own mission as Kenyan Parliament and the Pan-African Parliament, to observe what Rwanda was doing. This is the new way to go.

This is the new idea that was being introduced in Kenya the other day; that people would want to have regime change in other ways other than through the ballot.

Mr. Speaker, Sir, Africa looks down upon it and does not accept it. If you have a regime change in the African Union (AU) other than through the ballot, you are immediately removed as a member of the AU, Pan African Parliament and all the other organizations. I, therefore, urge Kenyans who know that we have strong democratic credentials, and if they have issues with the President, Governor, Senator, Member of Parliament (MP) or with the Member of County Assembly (MCA), there is a time and space for that.

Our nation must follow what all the other countries in Africa have done. It is my prayer that when 2027 comes, we shall have good elections like what the other countries are going through in 2024.

I thank you, Mr. Speaker, Sir. I beg to support.

The Speaker (Hon. Kingi): Sen. Crystal Asige.

Sen. Crystal Asige: Thank you, Mr. Speaker, Sir. I rise to support the Statement by the Committee on Finance and Budget, which was read by Dr. Boni Khalwale. I appreciate this Committee for putting in place a credible process of trying to vet the nominee for the SRC.

We would be wise to follow the example of this Committee, which is led by Sen. Ali Roba, and take some of the examples they have given us today as a nation. We saw over the weekend the vetting process of Cabinet Secretaries. I would wish that some of these principles and steps that the Committee on Finance and Budget took would have been taken as well.

Mr. Speaker, Sir, as Sen. Miraj said that this was not a Cabinet, but a closet and the reason was that procedures were not duly followed, especially in the minds of Kenyans. Listening to several Kenyans, the overwhelming view of the public was that this was a political pawn game that served only to confirm the fidelity of politicians to their friends, and not to the act of building a stronger nation.

They said that was a sham and a mockery, with Parliament having abdicated its duty of challenging the genuineness of this process, unlike what the Committee on Finance and Budget has shown us today. Kenyans said it was a cosmetic exercise with a shallow questioning, with the Chairperson even throwing bail at the nominees on numerous occasions and even answering on their behalf at times, directly or with anecdotes of times gone by.

(Applause)

I did not hear from the Report by Sen. (Dr.) Khalwale that our Committee on Finance and Budget shares the same thing because he understands the importance of following a process, duly. This seems to be another exercise in household chores, where laundry was being done to try and remove stains, so that they wash, rinse and repeat in the Cabinet. Where stains cannot be removed, what they did---

The Speaker (Hon. Kingi): One more minute, Sen. Crystal Asige.

(Sen. Sifuna spoke off record)

Sen. Sifuna, you are out of order!

Sen. Crystal Asige, proceed to take your minute.

Sen. Crystal Asige: Mr. Speaker, Sir, I was saying that people had been poured into the mix of dirty water to act as bleach, turning the most soiled areas to appear as white as snow in the previously seen vetting of Cabinet Secretaries. It is unfortunate.

We listened to many of them with their repetitive, lackluster and for the most part, visionless responses, many of whom were being egged on by the Committee on Appointments because we heard, by their own submissions, that they were all good old friends. That is wrong and is something the Committee on Finance and Budget has shown us is unacceptable for them and for the Senate. I appreciate them for that.

The Committee on Appointments for the Cabinet nominees unfortunately showed that they were just friends who were exchanging seats or musical chairs, because they had known each other for 10, 20 or 30 years. Frankly, it was more exciting waiting for water to boil in my house.

Mr. Speaker, Sir, with no ideas they had; they had no foresight, no tenacity, just a selection of nominees in a broad-based Cabinet, giving broad-based responses, exposing their broad-based competencies.

(Laughter)

This is the group of people that the President believes and is convinced will take Kenya to the next level. Are these the most outstanding minds we have in our midst because Kenyans feel the majority of them were sadly dug up from the bottom of the barrel?

Mr. Speaker, Sir, I would like to again appreciate the Committee on Finance and Budget through the leadership of Sen. Ali Roba for---

The Speaker (Hon. Kingi): Sen. Joe Nyutu.

Sen. Joe Nyutu: Thank you, Mr. Speaker, Sir. I must admit that I have learnt a lot of English from Sen. Asige.

I rise to support the Statement by Sen. Miraj Abdullahi on the replacement of academic certificates by KNEC. Sen. Miraj could not have brought a better statement and at a better time like this.

Those who have spoken before me have said that KNEC has all the data of each and every candidate that ever sat a KNEC exam. Therefore, it should not be a big deal replacing a lost certificate. If there are problems with making these replacements, they should just make a new certificate and stamp it 'replacement'. It should not be a tedious process because all the information is there and, as Sen. Ledama has said, KNEC should digitize their processes.

The other thing that caught my eye was on the need to travel to Nairobi to verify registration details with the Registrar of Persons. The Registrar of Persons is an office that has branches in all counties and sub-counties. Therefore, the requirement that one should travel to Nairobi in order for them to verify their details should be removed by KNEC

immediately. If there is need for verification, it should be done at the nearest Registrar of Persons office.

Mr. Speaker, Sir, the charge of Kshs5,220 is punitive because KNEC is funded by the Government of Kenya. No student pays for examination fees. What they should do is make a proper budget from the funding they receive from the Government. This should operate like insurance and only a few students will lose their certificates.

This charge should be scrapped and there should be no Kshs100 charged for replacement of certificates because this should have been put in the budget of KNEC and they should plan for such losses---

The Speaker (Hon. Kingi): Sen. Beth Syengo.

Sen. Beth Syengo: Thank you, Mr. Speaker, Sir, for giving me this opportunity to also support the Statement by Sen. Miraj. The replacement of lost academic certificates happens a lot in this country. It happens due to fire, floods where papers are damaged by water and other disasters that may happen.

Some of our young people who lose their certificates come from very humble backgrounds and the only weapons they have to fight poverty and suffering are the certificates. When the process of replacing certificates becomes tedious, it makes their lives a nightmare.

I would propose that this is done seamlessly and the Ministry and KNEC should have a system that makes the replacement of lost certificates seamless. This will make Kenyans enjoy the fruits of their education.

Mr. Speaker, Sir, if possible, I would suggest the replacement of these certificates to be free because, in most of the instances, as I have already mentioned, what makes people lose their certificates are accidents. People may not prepare for accidents; as they say in Kiswahili "*Ajali haina kinga*"

So, it would make life easier for Kenyans if the replacement of lost academic certificates is done freely and in the shortest time possible, so that Kenyans can get back to their lives. If they are seeking jobs, they will continue to seek and if it is applying for any qualification, they can do that also.

Many people suffer when they lose their academic certificates. I have seen in the past, even when politicians or people are looking for jobs, they are forced to look for their classmates to testify that they went to school together. This is because they are asked, if they really went to school, who were their classmates, in which institution they went to; which secondary school or university.

As one of us said, to digitalize this process would be the way to go. Then if this happens, we would not---

(Sen. Beth Syengo's microphone went off)

The Speaker (Hon. Kingi): Proceed, Sen. Chute.

Sen. Chute: Thank you very much, Mr. Speaker, Sir. Allow me to add my voice on the Petition by Sen. Miraj Abdullahi.

Mr. Speaker, Sir, we have a problem in this country especially at the coastal region. There are historical land injustices. There are absentee landlords who have tortured residents, who have built houses on those parcels of land.

Former coastal rulers who are referred to as tenant---

The Speaker (Hon. Kingi): Sen. Chute, acquaint yourself with the amended Standing Orders, more particularly on the Petitions. We amended our Standing Orders such that, immediately the Petition is committed, no comments should ensue and that Senators will have an opportunity to comment on the report as tabled by the committee that is looking into that Petition.

Therefore, you may proceed to take your remaining one-and-a-half minutes to comment on another issue, but not the Petition.

Sen. Chute: Mr. Speaker Sir, let me request for my three minutes, starting from now, because I am getting into a new subject now.

Let me now divert to the Statement by Sen. Hezena Lemaletian. Some time back we went to Rwanda, Kigali and I got a taxi. That taxi would not start to move because I did not put on my belt. The driver told me that I had to put my belt on, otherwise, he would be fined and jailed for two days. So, I obliged.

I am saying this because it is the rule of law. If you go to Rwanda, the city is very clean. The hotels are very clean. If you ask anybody in Rwanda, “are you a Tutsi or a Hutu,” they will tell you: “No, I am a Rwandese”.

If you look at the election they held, it is credible. Somebody from Marsabit who was there told me that he went there and people were voting almost 100 percent for their President because tribalism and clannism have been completely eliminated.

I also want to thank the observers from Kenya who went to observe the election in Rwanda. I wish and hope this country would look at what the President of Rwanda, President Kagame, is doing. I want to congratulate and thank him for the development that is in Rwanda today. I think we need to have our politicians travel to Rwanda frequently and see what is happening in that country.

After the 1994 clashes in Rwanda, so many people died, but if you go to that country today, you will not know there was that problem in 1994. The problems that we are facing today in this country, I think we need to learn from President Kagame.

Look at corruption. If you look at the statistics, corruption in Rwanda is almost zero. Ethiopia is about 10 per cent---

(Sen. Chute’s microphone went off)

The Speaker (Hon. Kingi): Proceed, Sen. Orwoba.

Sen. Orwoba: Thank you, Mr. Speaker, Sir. I rise to support the request for Statement by Sen. Miraj on the issue of replacement of lost certificates by the Kenya National Examination Council (KNEC). I had a lot of points on digitization of these certificates. So, let me not belabour that point.

In the interest of not only those who have lost their certificates, but in the interest of also making sure that we do not have people who are submitting fake documents or creating documents from downtown, I think the process of digitization will actually cure the issue of authenticity and making sure that people are able to be tracked in terms of what they have studied, where they have studied and even who their classmates are because it should be in a public portal.

I also want to add on that when we were digitizing our title deeds, if you ask for a report, and I hope the Committee on Lands, Environment and Natural Resources can ask for a report on how many data entry people were employed during digitization of the title

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deeds, this is also a source of employment. This is actually an intentional source of employment for young people.

If we have to make sure that we are digitizing all the existing KNEC certificates, and that does not mean just KCPE and KCSE. We have diplomas in KNEC; we even have certificate courses that are in KNEC. That can offer two years' worth of jobs for our youth, just in terms of digitization of this process.

In an era where we have QR codes and one-time passwords and things like that, I do not even understand why you need an actual physical certificate. This kind of thinking was when we were in the analogue spaces. I think we should move with time.

I want to urge our Cabinet Secretary nominee – hopefully, he is approved - to make sure that when they are doing the budgeting, they should focus on putting a budget on digitization of all certificates from the Kenya National Examination Council.

I thank you.

The Speaker (Hon. Kingi): Now the 30 minutes meant for this session is done. We will move to the Next Order.

Next Order.

BILLS

First Reading

THE CREATIVE ECONOMY SUPPORT BILL (SENATE BILLS NO.30 OF 2024)

(Orders for First Reading read - Read the First Time and Ordered to be referred to the relevant Senate Committee)

The Speaker (Hon. Kingi): Next Order.

First Reading

THE LIVESTOCK PROTECTION AND SUSTAINABILITY BILL (SENATE BILLS NO.32 OF 2024)

(Orders for First Reading read – Read the First Time and ordered to be referred to the relevant Senate Committee)

The Speaker (Hon. Kingi): Next Order.

First Reading

THE SPORTS (AMENDMENT) BILL (SENATE BILLS NO.33 OF 2024)

(Orders for First Reading read - Read the First Time and Ordered to be referred to the relevant Senate Committee)

The Speaker (Hon. Kingi): Next Order.

First Reading

THE COUNTY GOVERNMENTS (STATE OFFICERS'
REMOVAL FROM OFFICE) PROCEDURE BILL
(SENATE BILLS NO.34 OF 2024)

*Order for First Reading read – Read the First Time and ordered
to be referred to the relevant Senate Committee)*

The Speaker (Hon. Kingi): Let us go to the next Order.

First Reading

THE TOBACCO CONTROL (AMENDMENT) BILL
(SENATE BILLS NO.35 OF 2024)

*Order for First Reading read – Read the First Time and ordered
to be referred to the relevant Senate Committee)*

The Speaker (Hon. Kingi): Let us go to the next Order.

MOTIONS

ADOPTION OF REPORT ON SENATE NOMINEES ON BEHALF OF
THE COUNTY GOVERNMENTS TO THE POSITION OF SRC MEMBER

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, on behalf of the Chairperson of the Standing Committee on Finance and Budget, I beg to move the following Motion-

THAT, the Senate adopts the Report of the Standing Committee on Finance and Budget on the Senate nominees, on behalf of the county governments, to the position of Member of the Salaries and Remuneration Commission, laid on the Table of the Senate on Tuesday, 23rd July, 2024, and further pursuant to Article 230(2)(b)(vii) of the Constitution and Section 7(2) of the Salaries and Remuneration Commission Act, recommends Ms. Lynette Washiali Muganda and Mr. Mohamed Aden Abdi to the Cabinet Secretary for the National Treasury and Planning for transmission to His Excellency the President for consideration for appointment to the position of Member of the Salaries and Remuneration Commission.

Mr. Speaker, Sir, following the conclusion of the interview process, my Committee retreated on 22nd July, 2024, to consider the interview results and prepare the Report.

In accordance with Salaries and Remuneration Act, the Committee is required to propose names of two persons so qualified who are of the opposite gender for consideration. Therefore, the Committee having considered the results, resolved to recommend Ms. Lynette Washiali Muganda, a female of Identification (ID) No.8837482 and Mr. Mohamed Aden Abdi, a male of ID No.27512996, for consideration for nomination to the position of member of the SRC under Article 230(2)(b)(vii) and Section (7)(2) of the Salaries and Remuneration Commission Act.

Ms. Lynette Washiali Muganda holds a Bachelor of Arts (BA) degree in Economics and Business Studies and a Masters of Business Administration (MBA), both awarded by Kenyatta University (KU). She has wide experience in Human Resource Management (HRM), having served as the Deputy Director of Human Capital at Kenya Wildlife Service (KWS) for eight years; Human Resource and Administrative Officer at the Federation of Kenya Employers (FKE) for three years; and as Senior Human Resource Consultant at Deloitte and Touch for three years. She is currently a council member of Dedan Kimathi University of Technology (DeKUT).

Mr. Mohamed Abdi on the other hand holds a Bachelor of Business Management (BBM) degree in Human Resource Management (HRM) from Moi University and an MBA degree from the University of Nairobi (UoN). He is a current member of Human Resource Management Professionals Examination Board (HRMPEB).

He has wide experience in HRM and administration, having worked at Siliton Telmec Limited as an HR Administration Officer. He is currently working at Rightways Consulting Limited as a Director where he has served for the past nine years.

The Committee is grateful to all Kenyans who expressed their interest in the position of nominee to the SRC and for their cooperation during the entire selection process. The Committee appreciates various agencies and public institutions, which provided the information requested concerning different interviewees. The Committee is also grateful to the Offices of the Speaker and Clerk of the Senate for the support we enjoyed while discharging our duties.

I, therefore, request Members of this House to stand behind this Committee and recommend these two people for onward transmission, through the Cabinet Secretary, to His Excellency the President.

Having gone through this exercise on behalf of this House and Parliament, I could not help comparing it with a similar process going on in our other House. It concerns me that we made this decision without belabouring the net worth of a candidate.

I have reflected on it, and I think that asking about the net worth of a candidate is a waste of time, unless the interviewee is going to be pinned down to justify their wealth, submit tax returns and explain how they apply that wealth. If there is no threshold that you are speaking to, it does not matter for all Kenyans who care.

It appears that for you to become a Cabinet Secretary, you must be a millionaire. Who said that? I even saw one of the interviewees struggling to appear like she is rich by stating the much she has and what her husband has. Putting it together, they now have many millions. Therefore, they are rich enough.

Who told people that Cabinet Secretaries of Kenya must be rich? Asking how much people have without following it up with intelligent interrogation is a waste of time. It must be dropped.

I, therefore, commend my Committee Members for making this good decision.

(Sen. Maanzo spoke off record)

I am being asked to read the Motion. I already read it at the beginning. Daniel, why are you insisting? I am an old dog and, therefore, know the ropes.

The Speaker (Hon. Kingi): Sen. Boni, whom are you addressing?

Sen. (Dr.) Khalwale: I am addressing the Clerks-at-the-Table.

The Speaker (Hon. Kingi): You know you are not supposed to do that.

Sen. (Dr.) Khalwale: Through you, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): You are not doing it through me. You went straight to them and that is wrong. You are out of order.

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, through you, I have been requested---

The Speaker (Hon. Kingi): Can you move the Motion?

Sen. (Dr.) Khalwale: Yes.

The Speaker (Hon. Kingi): Remember, last time, you did not move this Motion. You came up with a preliminary issue, which I ruled on. Now that you are proceeding with the Motion, you need to move it. Once you are done, get your seconder to second and then we will propose the question and allow your colleagues to make interventions where necessary.

Sen. (Dr.) Khalwale: Yes, Mr. Speaker, Sir. There was so much consultation at the beginning, but I started by moving the Motion. I said that I beg to move the following Motion-

THAT the Senate adopts the report of the Standing Committee on Finance and Budget of the Senate, on the Senate nominees on behalf of the county governments, to the position of Member of the Salaries and Remuneration Commission (SRC), laid on the table of the Senate on Tuesday, 23rd July, 2024,-three Tuesdays ago-and further, pursuant to Article 230(2)(b), (vii) of the Constitution and Section 7(2) of the Salaries and Remuneration Commission Act, recommends Ms. Lynette Washiali Muganda and Mr. Mohamed Aden Abdi to the Cabinet Secretary for the National Treasury and Planning for transmission to His Excellency the President for consideration for appointment to the position of Member of the SRC.

Mr. Speaker, Sir, the moving was my opening, but because of the loud consultations, it missed the ears of the watchful Clerks-At-The-Table. My apologies.

Mr. Speaker, Sir, there is a story of an old dog. You just wished me many years when I told colleagues that I am 64 years old. I am an old dog. I have spent over 50 per cent of my adult working life in this Parliament. Therefore, I can proudly say that I can also teach the Clerks-At-The-Table to be more attentive---

The Speaker (Hon. Kingi): Sen. (Dr.) Khalwale, that is uncalled for.

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, I withdraw.

The Speaker (Hon. Kingi): If you are done moving, can you proceed?

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, because of your age and mine, we also have a responsibility to educate the young.

The Speaker (Hon. Kingi): Sen. (Dr.) Khalwale, are you done moving your Motion?

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, I am moving it. My time is still on. I was just---

The Speaker (Hon. Kingi): Okay. Call upon your Seconder, kindly.

Sen. (Dr.) Khalwale: So, Mr. Speaker, Sir, with those many remarks, I request the young Senator, who is one of the youngest Members in the House, Sen. Orwoba, to second my Motion. I hope that she will come along together with the others in the House.

Sen. Orwoba: Thank you, Mr. Speaker, Sir. I rise to second this Motion and support the Report that has been tabled by the Standing Committee on Finance and Budget. Before I comment on why I support this Report, it is imperative that Kenyans understand what the SRC does.

Before the SRC, we used to have issues of remuneration and benefits pegged on *ad hoc* committees. Those committees were limited in the work that they could do in the sectors that they went in to try and streamline. Due to those shortcomings, the SRC was set in place to make sure that all public servants are able to channel their views on the benefits, salaries and working environment, so that we can have a system that ensures the market is competitive.

Mr. Speaker, Sir, I know many people are also wondering what the Senate has to do with the SRC. Our role in Senate is to make sure that we represent counties and protect their interests. In those counties, we have public servants who also need to be taken care of. That is why, as it has been set out in the Constitution, the Senate nominates two people to the SRC, hence the direction the Committee has taken.

[The Speaker (Hon. Kingi) left the Chair]

[The Temporary Speaker (Sen. Veronica Maina) in the Chair]

Madam Temporary Speaker, I have heard a lot of comments from Members of this House saying that unlike other processes that are ongoing in the National Assembly, this process was better than others. I urge Members in this House to understand that in order for us to strengthen our institutions, as responsible Members, we have to also understand the process.

For those who are making comments that the Committee on Finance and Budget has done way better than what is happening in the National Assembly, I do not even think a report has been tabled in terms of the vetting of the Cabinet Secretaries. As responsible leaders, let us be fair and guide Kenyans to understand the processes that are within the National Assembly and the Senate before we can stand and make sensational comments, so that we can be popular out there.

A report is yet to be tabled on the vetting of the Cabinet Secretaries, the same way we have had to wait for this report from the Standing Committee on Finance and Budget as leaders in this House. We have waited for the process to take place and a report to be tabled. Having read the Report as a responsible leader, I am commenting and seconding it.

Madam Temporary Speaker, I urge Senators in this House that we are better. We are the 'Upper' House. We should understand the process and respect these institutions if we are going to trust them. If we can, let us accord the same to the Members of the National

Assembly, and particularly to the Committee that is dealing with the vetting of the Cabinet Secretaries.

The Standing Committee on Finance and Budget of this House has done an impeccable job. There was a huge pool of candidates or applicants who wanted to be seconded to become Commissioners of the SRC through the Senate. The Committee took their time, vetted all the applicants, and even scored them. Of the two nominees that are being presented in this House; the lady, Ms. Lynette Washiali, if I am not wrong, scored 74 per cent as a mean score, and Mr. Mohammed Aden, scored 70.29 per cent.

I would like to speak on the transparency of this process within the Committee. In the interest of positive criticism, what we can maybe add on in the National Assembly in terms of the vetting of the Cabinet Secretaries is to have a more transparent process. Perhaps, we could see some of the scores they are giving the Cabinet nominees, so that we can say that, indeed, this person either performed poorly or did not perform at all, as we have seen with the nominees of this Committee.

Madam Temporary Speaker, as we send these two nominees to represent and ensure that they protect the interests of the counties in the SRC, it is important that a lot of sensitization is done on what the mandate of the Commission is. People associate the SRC with benefits, particularly those of legislators or Members of Parliament (MPs).

It is imperative that in their working and operating procedures, committees within SRC that work on different mandates should make Kenyans to understand that it is the same SRC that has a structured system to send a representative to deal with the issue of the wage bill, the legal and policy frameworks, the job evaluation and the salary structures that we have, not only within the National Assembly and the Senate, but also in public service and all other sectors down to the devolved institutions.

Madam Temporary Speaker, I commend the Members of the Committee. The Mover of the Bill has stated that there are many unnecessary bureaucratic processes that we put in when we are vetting either commissioners or members of the public service.

As much as we are making fun of this area, we really need to look into it. During the vetting of one of the Cabinet nominees in the National Assembly, I heard some complaints from the Committee on how the recruitment of the Kenya Defence Forces (KDF) soldiers is still outdated, such that they are still asking for physical measures of certain body parts and things like that.

Madam Temporary Speaker, I think that is the point Sen. Boni Khalwale was trying to say; that in the interest of improving the efficiency and our work as public servants and leaders who are there to make sure that there's transparency and checks and balances, maybe we need to question ourselves as to why we are asking for certain information, if that information is not necessarily being used for the interests of the public.

As Sen. (Dr.) Khalwale said, what was their intended purpose when they ask someone about their wealth? I believe, when that particular question was structured, the intended purpose was, first of all, to declare, so that those who are watching you can check if you are stealing any monies from the public coffers.

We also need to sensitise the public that, perhaps, we are asking, so that we can go to their Kenya Revenue Authority (KRA) Portal to see what percentage of that is remitted as taxes, since we have seen many Cabinet nominees increasing their wealth with over Kshs100 million. Personally, my wealth has gone down within this year.

If we do not have proper structures of checks and balances, then we end up being a House of talking and just creating nonsensical bureaucratic measures that are not needed in terms of vetting.

I add my voice on that and say that, perhaps, the Standing Committee on Finance and Budget, which has done a good job, should have the vetting and deciding of which nominee is going to a Commission televised. This is so that we could have followed and listened to our nominees; Lynette and Mohamed, and understand how the Committee decided on these two people.

Maybe a lesson for the Standing Committee on Finance and Budget is, as much as you are criticising the National Assembly, a point to take is that there should be more transparency. I believe we have the measures and the systems in Bunge Towers and we can televise some of these things that are happening in the Committee. I was also a bit curious as to how the other members performed with regard to these final ones who are shortlisted.

With those remarks, I encourage Kenyans who are out there that we have a lot of these kinds of opportunities that seem to be passing even the young Kenyans because they are not aware. A lesson to the Standing Committee on Finance and Budget is how to put out the information that they are looking for a Commissioner to go and protect the interests of the counties and sit in the Salaries and Remuneration Commission (SRC).

That information should be put out publicly and sent to our young generation, like the Gen Z, so that they can also get an opportunity to participate in the process, even if they do not make it to the final list. If you look at the age of the nominees, you will see that both are senior citizens. I say this in jest because we need to get to a point where we are having more youths participating and coming to the table where the decisions are made.

Madam Temporary Speaker, in the interest of time, I will conclude. However, before I do that, I do not know if this will be taken as a recommendation. Since we have seen that the Committees of the Senate are actually very effective and efficient, maybe this is an opportune time to have a conversation as to why the Senate is not involved in vetting Cabinet Secretaries or all other nominees that are sent to the National Assembly.

If it is because it is pegged on a Standing Order or the Constitution, that is why we are here as legislators. I believe this House can add good input in terms of vetting. As you can see, the Standing Committee on Finance and Budget has proven time and again that we are good at this and our processes are transparent. I believe some of us can also pose certain questions.

On Sunday, I was listening to the Cabinet Secretary nominee for the Ministry of Gender, Culture, Arts and Heritage and I told myself that maybe it was an issue of lack of preparedness or a mismatch in what she was told to prepare for and what they were asking. I do not know what the issue was. However, had we been sitting there as representatives of the Senate, we would have been able to demystify why a Cabinet Secretary nominee for Gender, Culture, Arts and Heritage could not express what a two-third gender rule entails.

Perhaps, we would also be able to shed some light to the leaders out there or the electorate as to why we had a Cabinet nominee for Gender, Culture, Arts and Heritage who was completely unable to even give direction on what her plans were on femicide or issues such as Gender-Based Violence (GBV).

It was a very sad moment as women leaders because, having read the credentials of the Cabinet nominee of Gender, Culture, Arts and Heritage, it was me who stood on this

Floor of this House and said that I have so much faith in her, based on what I could read from her Curriculum Vitae (CV).

Perhaps, if you can juxtapose that with Nominee hon. Joho, this is a clear indication that sometimes we can get very good profiles on paper, but at the end of the day, the person is unable to rise to the occasion.

The Temporary Speaker (Sen. Veronica Maina): What is your point of order, Sen. Joyce?

Sen. Korir: Thank you, Madam Temporary Speaker. Is it in order for the hon. Member to touch on the nominees or the role of the other Houses to an extent that we are creating attention, yet the House is going on with their reports?

The Temporary Speaker (Sen. Veronica Maina): Sen. Gloria, you have touched on the nominee and the process is ongoing. What is your response to the point of order by Sen. Korir?

Sen. Orwoba: Madam Temporary Speaker, I was simply highlighting their process of vetting and trying to juxtapose it with that of the Standing Committee on Finance and Budget, which was able to bring together the two nominees, which we are actually supporting the report.

I have heard Members of this House, if I may be a bit more specific, Sen. Crystal Asige, engage in how maybe we can better our processes by referencing the current on-goings in the National Assembly.

If I am out of order, I withdraw.

The Temporary Speaker (Sen. Veronica Maina): Sen. Gloria, my guidance is that since the process is ongoing, we would not want to put the cart before the horse. I believe, the report is not yet done and the determination is still pending before the House. The comments on the Floor of this House could as well give an impact on the mind of the interviewing panel. So, the best is to leave that issue out in your debate until it is determined by the National Assembly, and when then, it becomes open for us to also debate upon it.

Please, be guided accordingly and for the time being, you can withdraw it.

Sen. Orwoba: Thank you, Madam Temporary Speaker, I, definitely, hope that the comments I have made will impact the Committee. However, I withdraw.

The Temporary Speaker (Sen. Veronica Maina): We do not want those comments. Just to clarify, these comments should not be the ones that are guiding that Committee; that House is independent and should objectively make its own finding and verdict. There are competent hon. Members who are superintending over that matter. They have the capacity to determine, prepare and give us a report upon which we will be able then to debate on.

Sen. Orwoba: Thank you, Madam Temporary Speaker, I stand guided.

I wish to conclude by saying that we need to be responsible enough to make our processes efficient. My point was that, as Senators who are watching the vetting, there are a lot of glaring questions in terms of the processes. Perhaps, what I was trying to shed some light on is that, maybe, a few notes could be taken from the Standing Committee on Finance and Budget.

Madam Temporary Speaker, maybe the conversation that I am trying to forcefully introduce to this House is; how does the Senate at one point interact with that process and give its input?

Having said that, I conclude by saying that I proudly second this Motion and support this Report. I hope that once we have the two nominees approved and they start their work, they will remember that as Senate, we are there to protect the interests of the counties and their nomination as Commissioners within the SRC should guide and help protect the interests of the counties as well.

I submit.

Thank you.

(Question proposed)

The Temporary Speaker (Sen. Veronica Maina): Hon. Senators, the Motion is open for debate. I will ask Sen. Cherarkey Samson Kiprotich to take the Floor.

Sen. Cherarkey: Thank you, Madam Temporary Speaker. From the onset, I applaud the Standing Committee on Finance and Budget. I know it is one of the busiest committees.

The Temporary Speaker (Sen. Veronica Maina): Sen. Cherarkey, before you proceed, I must guide the House that the law requires the recommendation of two candidates, a man and a woman, and the President will appoint one of them.

Thank you, you may proceed.

Sen. Cherarkey: Madam Temporary Speaker, thank you for that guidance. I was to indicate, but it is important you did. I support and the Standing Committee on Finance and Budget Committee has done a good job. This Report is well captured. Apart from the Sessional Committee on County Public Accounts Committee (CPAC), the second busiest committee is the Standing Committee on Finance and Budget.

I have seen the credentials and the role of the Salaries and Remuneration Commission (SRC). Under Article 230, the role of SRC cannot be gainsaid. It is very critical because of the decision of review of several civil servants' salaries, which we are being told today, that out of the revenue we collect as a country, Kshs1.1 trillion goes to public servants in this Republic.

I have seen that the SRC has not been taking lightly the comments we make about their work. I have even suggested in the past that the SRC should be a part-time Commission because their work is not from 8 a.m. to 5 p.m.

Their work is to periodically review the salaries and remuneration and personal remunerations of public servants and state officers across this country, as was envisaged in Article 230. In fact, we should be looking at the possibility of reducing the number of SRC commissioners in this Republic. It is unfair if we are spending Kshs1.1 trillion on salaries and personal remunerations for state officers and civil servants because majority of Kenyans are not employed by the Government.

As we wait for the report of the National Assembly on the vetting exercise and transmit this Motion to Hon. John Mbadi Ng'ongo, if he gets the opportunity as the Cabinet Secretary of the National Treasury, he should ensure that these people we approve give value to the offices that we are talking about. SRC has not been helpful in advice.

Madam Temporary Speaker, you are a very senior lawyer in this Republic and a Secretary General *emeritus*, who ensured the midwifery of the current Government. It cannot be gainsaid that the work of SRC is to advise. I do not know how they allocated themselves powers to set the salary. It is not their business.

We have sat and they never assisted us, for example, in the case of Universal Health Care (UHC) interns. We spend hours here. They told us that they will work with the Council of Governors (CoGs) to confirm the interns under permanent and pensionable terms. The UHC interns served this country as true heroes when we had the COVID-19 in 2020.

We have had push and pull over the issue of personal emoluments and welfare of the Members of County Assembly (MCAs), but they have done nothing. You know, under the labour laws, the law does not allow anybody to have their salary cut. It is never practiced anywhere in the world.

We have asked them to advise the country on the issue of the welfare of MCAs. We have insisted and sat through the Association of Members of County Assemblies (AMCA) and SRC has not shown up. We have also sat with the CAF. Do you remember the intern doctors who demonstrated for the longest time possible? The SRC could still not advise the country.

It is their domain to give a practical implementable with--- You saw the embarrassment that they wanted to put members of--- I suspect SRC was part of the people inciting Gen Z in this Republic. When there were protests in this country, SRC went and issued a circular of salary increments of Members of Parliament (MPs) and other State Officers. If we had not rejected, '*tungesalimiwa*' by these Gen Z. They are not having their work cut out and follow what they should be doing as SRC. They embarrassed the Presidency, the State Officers and MPs.

Madam Temporary Speaker, why would you want to increase the salary when the economy is going through a hard time? In fact, I propose that through your office and the Head of Public Service, the SRC must give an unreserved apology to the country of Kenya and State Officers for putting us into embarrassment and setting us against the great people of Kenya.

We have Kenyans who are earning less. Why not look at that? You have heard from the Secretary General of the Central Organization of Trade Unions (COTU), Francis Atwoli, during the recent Labour Day and every other time on the minimum wage. This is where we need the wisdom of SRC. It is not their business to look at what MPs and State Officers should do. They should be looking at the *Wanjikus*, the *Madzayos* and *Kiprotich* of this world who do not have anything with minimum wage.

That is why, today, we hear allegations that the Governor of Nandi hired young people, gave them helmets and *jembe* sticks to walk around Kapsabet harassing law-abiding citizens because members of the public wanted to go occupy his office to ask about close to Kshs50 billion that has been allocated to Nandi. Where is it?

As we talk, it is shameful for a Governor to use the resources--- Gov. Sang must be called out. Instead of providing drugs to the Kapsabet County Referral Hospital, he is busy providing *jembe* sticks to young people to harass others. I am embarrassed by the Nandi County security team.

In Namgoi Town, criminals are walking around with *jembe* sticks, yet the County Commander and the county security team are sitting, unless they have been compromised by Gov. Sang. Unfortunately, we tax Kenyans to give money to counties, then the Governors misuse that money for their selfish gains.

We cannot allow this in this country. I challenge the Acting Inspector General of Police, Mr. Kanja, to tell us why the police officers, County Commander and county

security team are sitting while criminals hired by the Governor are walking around with the *jembe* sticks, harassing young men and women, pregnant mothers and the disabled in Kapsabet Town in broad daylight.

Why should this happen yet we are struggling here? As we talk, the Early Childhood Development (ECD) teachers of Nandi County are supposed to go on strike because they have not been paid. The county has money to hire hooligans, but cannot buy drugs and pay ECD teachers well. The roads are impassable in Nandi as we speak.

Madam Temporary Speaker, I will bring a comprehensive Statement to have the Inspector General of Police, because we are doing what we call ‘bad manners’ in this country.

If we are allowing criminals to walk around with *jembe* sticks or crude weapons in a big town such as Kapsabet, what are you selling to the rest of the country? I will be challenging this and, therefore, we must agree that even as we approve or pass anything in this House, we must ensure that we speak truth to powers.

The governors should understand that they do not have powers to overrun the police or security apparatus, unless you are telling the country you no longer trust the security apparatus.

Article 37 of the Constitution provides for the right to picket and demonstrate. You saw there were national protests and I did not hear the President directing or taking people to streets to counter-demonstrate. The President said “let people demonstrate and be given security as Article 37 and 38.” This cannot happen unless Kapsabet Town is in another country. However, if it is in the country that is Kenya, just like Kilifi, Mombasa, our neighbours in Kakamega, Homa Bay and Tana River, then there is a big problem.

We should call this out and I want to challenge the Acting Inspector General of Police, even as he comes for vetting. We must see action as at now to ensure that we protect the right of Kenyans. Why would somebody have a problem with that?

We normally have demonstrators here at the gate, and you as the Temporary Speaker, have never ordered anybody to be clobbered or harassed for coming to Parliament to present a Petition.

Madam Temporary Speaker, the Salaries and Remuneration Commission (SRC) is established under Article 230 of the Constitution. During the reading of the Message to vet the Inspector General of Police, I was embarrassed that some Members of the National Assembly and it is in the interest of the Minority Leader, Sen. Rtd. Justice Madzayo, that some Members were saying that the Senate does not have a role in the vetting of the Inspector General of Police. It is on the HANSARD. If somebody challenges me, I can produce the HANSARD. Which constitution and law are they reading?

Security is a shared function just like emergency disaster preparedness. I always get shocked about this. Which country are we in when Members of the National Assembly contest on vetting?

If the Members of National Assembly embarrassed themselves with what they did, they should not use the Senate to redeem themselves. They should redeem themselves. Why were they bashed, yet they attack the Senate? They attacked us on Conflict of Interest Bill and it is on the HANSARD. They did not want the Senate to be part of the vetting of Inspector General of Police, yet it is in the Constitution.

The law is very clear under Article 93 on the establishment of Parliament.

Article 93 (1) state that –

“There is established a Parliament of Kenya, which shall consist of the National Assembly and the Senate.”

Security is a shared function and that is why we fought in this Parliament. I know people who have stayed longer in this Parliament like Sen. Madzayo and Sen. (Dr.) Khalwale who will tell you, we wanted even governors to sit in the County Security Committee. If a problem occurs today, you will need that governor to be part of security restoration within that county or within that constituency.

We fought for long. It was embarrassing and I even thought that senior House leaders like the National Assembly Majority Whip, hon. Silvanus Osoro, should know better. The HANSARD can bear me witness.

I saw the vetting of the Cabinet Secretaries and I know the report is being written, but we can make general observations because it was an open process. You will find that during the process of vetting of Cabinet nominees, the Chairperson was talking more than the nominees by making funny comments.

How do you tell a nominee, do not bring your bedroom matters before this Committee? Is that even a valid question to ask? Instead, he should have asked how much taxes they have paid for this country and their ability or competence.

Madam Temporary Speaker, I am impressed by a number of nominees. One person who impressed me is the former Governor of Mombasa, hon. Ali Hassan Joho. Despite getting a D-minus, he is having two Masters and he is going for PhD. Which inspiration would you want? That inspiration is the best.

It means you must work hard in life. Consequently, from that vetting, at least the young people or people who do not perform well or people who went to *Gumbaru* can learn from that inspiration.

I know Sen. (Dr.) Khalwale has not been having kind words towards me, but the inspiration from the former Governor, hon. Ali Hassan Joho, the nominee of Mining, Blue Economy and Maritime Affairs. He even shocked the country with the grasp of the Queen's language and clear thought process. I think that was the observation.

Another nominee that impressed me was the former Member of Parliament (MP) of Garissa Town, hon. Aden Duale. I was happy with his honesty. He said that he does not receive phone calls from the MPs because they are corrupt. Anyway, the Chairperson did not decide to correct, so it is on HANSARD, and no one corrected that. We can print it and bring it here. Therefore, we need honesty.

The Cabinet Secretary nominee, Mr. Eric Muriithi's worth was about Kshs32 million. I agree and challenge the Gen Z that if Mr. Eric Muriithi is approved, he will be a Cabinet Secretary. He is only Ksh32 million worth and does not have a car. He is a young man with a vision. That should encourage us on how we perform as a country. We should believe in the people that we have.

Madam Temporary Speaker, going into the future, I am proposing that you direct our Committees such as the Committee on Finance and Budget to have video recording when they are doing vetting. I have noticed there are no video recordings in our Committee rooms. It is only the HANSARD.

I wish and I request, and I wish the Commissioners or the Commissioner is here. At least every Committee room should have a video recording, so that we have the

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HANSARD and video recording. This is to help some of us to go through the videos where people are being vetted.

Subsequently, for the exercise that has been carried, we hope the report will be tabled. Going into the future, let us ensure the track record, the capacity and ability is taken care of.

Madam Temporary Speaker, we believe in the vetting that was being done. I request that we do not follow the way vetting in National Assembly with the Cabinet nominees was being done. However, I do not know if we should have structured questions to be used in vetting, like the way the Committee on Finance and Budget does it.

Sen. (Dr.) Khalwale is here and he should tell us what would happen. Some of the questions that were being asked were embarrassing and some were supposed to juxtapose.

I hope we will get the report from the National Assembly when they table it on Wednesday or Thursday. We should get that report and ensure that it comes to place.

Of course, I would not have comments on the nominee of the Ministry of Youth Affairs, Sports and the Arts, because that is transferring incompetence from the Ministry of Roads and Transport to the Ministry of Youth Affairs, Sports and Transport.

Madam Temporary Speaker, going into the future, we must agree under Article 230 of the Constitution on SRC, that let us approve ---

The Temporary Speaker (Sen. Veronica Maina): Sen. Cherarkey, I had given direction regarding commenting on a process which has not been completed by the other House. I gave that direction to Sen. Gloria and it should have clearly informed your debate.

It seems not to have been informed by that. I now guide you not to touch that process until it is determined and a report done by the other House. The integrity of that House is equally protected as the process they are undertaking is equally protected, just like the process is being done by this House. Please, withdraw that comment.

Sen. Cherarkey: Madam Temporary Speaker, there is what you call fair comment in a fair administration process. I am just making a general comment. I have not mentioned anybody's name, unless you know that person. Have I?

The Temporary Speaker (Sen. Veronica Maina): The nominee is clearly known, Sen. Cherarkey. Every Member would take judicial notice of who the nominee in respect of the Ministry of Sports is. It is safest to do what Sen. Gloria did. Leave that process until it bakes fully, so that you do not interfere with the judgment of that particular process.

Sen. Cherarkey: I leave that process there. However, for the benefit of the House, I would want to refer the House to Speaker Mate's case on the decision of his removal as the Embu Speaker. If you read the principle of the High Court, it talks about such instances. Nonetheless, I stand guided by your directions.

Madam Temporary Speaker, I might be your voter in future, so you need to handle me very nicely also, as you try to get back to be the Secretary-General of the United Democratic Alliance (UDA).

Sen. (Dr.) Khalwale: On a point of order, Madam Temporary Speaker.

The Temporary Speaker (Sen. Veronica Maina): Sen. (Dr.) Khalwale, what is your point of order?

Sen. (Dr.) Khalwale: Madam Temporary Speaker, I have been listening to your guidance. I need further clarification on your comment on Sen. Orwoba and Sen. Cherarkey.

In view of the centrality and the importance of public participation, does it, therefore, mean that nominees are not protected from the kind of speech that Sen. Orwoba and Sen. Cherarkey have made? They are making unfair comment. They will not vote. It is up to the National Assembly to vote as they care, and get as much information about those candidates as they can, including the remark that has been made by the Senator for Nandi County. It is a question of opinion.

If public participation is allowed, he should be free to say what he thinks about that candidate, to help Parliament make the proper decision. Please, guide us, I am lost.

The Temporary Speaker (Sen. Veronica Maina): Hon. Senator, thank you for seeking that clarification. The difference is that those nominees are already sitting and have the opportunity to respond to any claim that will be raised by the interview panel. The nominees are not yet in this House, so if any issue is raised, they do not have the advantage.

We will be breaching their rules of natural justice when they are going through an important process. It is important that when such is raised before the determination is made, at least, they be present to respond to it. Since they are not here, and the report is not yet out--- If the report was out and a verdict has already been rendered by the panel on the other House, then it would be easy to debate and accept as a public record. I still guide that since they cannot defend themselves, we allow the National Assembly to complete the process while we await the report. I believe we will still have a chance to debate that report.

I thank you.

Sen. Cherarkey, you can finish.

Sen. Cherarkey: Madam Temporary Speaker, I wish the two candidates well. I know the law says the President will appoint one. Of course, we hope to see those Salaries and Remuneration Commission (SRC) members before this Committee.

I support and ask the House to support too. I ask the SRC that if either of them succeeds because they are two, they should assist the country in advising on the issue of ballooning wage; not only the national wage but also county wage. The only county that is below 35 per cent is Turkana County. The rest are beyond 35 per cent as per the regulations on wage bill. We also need to work with the County Public Service Board (CPSB) to bring that to an end.

Madam Temporary Speaker, with those many remarks, I support the report. I thank you.

The Temporary Speaker (Sen. Veronica Maina): Thank you. Sen. M Kajwang', proceed.

Sen. M Kajwang': Madam Temporary Speaker, I rise to contribute to this Motion. Whenever we give a task to Committees of the House, it is our belief that they prosecute and execute it in the best interest of the House and the nation, and in accordance with the Constitution of Kenya. I have requested for disclosure on the Curriculum Vitae (CVs) of the applicants that the Committee considered. In the report, the Committee has mentioned that there were very many applicants. There were 48 applicants, and then there was a short list of about 15, and then two persons were picked from that list.

Madam Temporary Speaker, I take note that when I look at the short list, we have two ladies who topped the list. That is quite impressive to find that two female applicants were considered to be the best. The law requires that the House nominates a man and a woman.

As a result, I can see from this report that there is a female applicant who came from Mombasa County, who was number two; that is, Mohamed Nahida Athman, who got 71.29 per cent score, higher than Mohamed Aden Abdi, the male whom the lot has fallen on, who got 70.29 per cent.

When we are debating this kind of Motion, it is important that the clerks give us the full information and the full picture. I would be very interested in seeing the Curriculum Vitae of Linet Washiali Muganda, Mohamed Nahida Athman and Mohamed Aden Abdi.

Madam Temporary Speaker, the Senate has a role in constitutional commissions. This is part of it, and a very important role that we play. How I wish that our colleagues knew how important this role is, and how hard we have fought for the Senate to be involved in appointments and financing of independent commissions.

The approval of the Inspector General of Police is another solemn duty that this House must undertake, because the Constitution requires Parliament collectively to make that decision. The Commission on Revenue Allocation (CRA) is another constitutional commission where our input is required. The Parliamentary Service Commission (PSC) is another constitutional commission where the Senate is involved.

Our role is not only limited to vetting and making proposals. Our role, as per the Constitution, extends to funding. I like reading Article 249 (3) of the Constitution out because sometimes people wonder why the Senate wants to be involved in the affairs or financial matters of independent commissions. When it comes to funding, Article 249 (3) of the Constitution says---

Sen. Orwoba: On a point of order, Madam Temporary Speaker.

The Temporary Speaker (Sen. Veronica Maina): What is your point of order, Sen. Orwoba?

Sen. Orwoba: Thank you, Madam Temporary Speaker. I bring your attention under Standing Order No.245 on broadcasting of Senate proceedings.

There has been a recurring incident at least three times when I was speaking. It is an intentional sabotage that when I am on the Floor, somehow, for a very peculiar reason, the online stream is tampered with. I am speaking this confidently because I have walked out to find out.

When I was seconding this Motion, which is very important, you can go and confirm and ascertain that they went offline. They are claiming that there is some technicalities and issues.

If you look at the Sixth Schedule - Broadcasting Rules - on Standing Order No. 245 (2), Rule No.3 says-

“When broadcasting the proceedings of the Senate on television, the following guidelines shall apply-

(a) The camera shall focus on the Senator recognized by the Chair until the Senator has finished speaking.”

I rise to draw the attention of the Speaker and this House to the fact that whatever monkey business is happening must come to an end.

The Temporary Speaker (Sen. Veronica Maina): Sen. Orwoba, what Standing Order are you rising on?

Sen. Orwoba: Standing Order No. 245 talks of Broadcasts of Senate Proceedings. If you go further to page 238, the Sixth Schedule - Broadcasting Rules - Rule No.3 talks on television broadcasting. The page is 238, the Standing Order is 245. This issue was even raised before by Sen. Oketch Gicheru on the quality and the provisions of all that.

I have realized that when I am making my submissions, there is somebody trying to make sure that Kenyans do not hear what I am saying. I protest. This is against our Standing Orders and my privileges and rights as a Senator.

I call for an investigation, and whoever is found culpable must be taken to that same Powers and Privileges Committee that they want to send all Senators every time. It is a shame that people who should be assisting in ensuring that Kenyans get everything that is happening in this House, are being used by cartels of this House to sabotage my message.

The Temporary Speaker (Sen. Veronica Maina): Sen. Orwoba, you cannot reference cartels without substantiating whether there are cartels in the House. So, you will be required to substantiate that.

Sen. Wambua: On a point of Order, Madam Temporary Speaker.

The Temporary Speaker (Sen. Veronica Maina): You have a point of order?

Sen. Wambua: Yes, Madam Temporary Speaker. In all due respect, Sen. Orwoba stood on a point of order when Sen. M. Kajwang' was contributing. I have been asking myself, what was out of order with what Sen. M. Kajwang' was presenting, and the connection between what he was presenting and what she has spoken.

Madam Temporary Speaker, this is also a House of record and have to draw a line between issues that are administrative and issues for debate on the Floor. I say this as a leader in this house because there is wisdom in what I am saying.

(Sen. Orwoba spoke off record)

The Temporary Speaker (Sen. Veronica Maina): Sen. Gloria, can you allow the Senator to be heard in silence? You got your chance.

I have said that you allow him to finish what he is saying.

Sen. Wambua: Madam Temporary Speaker, if we were to deal with administrative issues on the Floor, it would mean that every time we have an issue with the secretariat, we bring it on the Floor. We would not look good because this is a House of record.

I thank you.

The Temporary Speaker (Sen. Veronica Maina): Thank you. I will hear Sen. Joyce and then give direction.

(Sen. Orwoba spoke off record)

Sen. Gloria, wait for your chance.

Sen. Korir: Thank you, Madam Temporary Speaker. I want to echo the sentiments of Sen. Wambua. As much as I am in agreement with Sen. Gloria, I also humbly request her to do a formal complaint that will go the legal way, so that it comes on the Floor of the House. This is because, the issue she is raising touches on our staff and they do not have room to come and defend themselves here.

I, therefore, request her to write a formal complaint letter, so that the Clerk's office can address the issue. It will not look proper because Sen. M. Kajwang' was on the Floor

prosecuting the Motion, which was seconded by Sen. Gloria, and then this issue affecting Sen. Gloria and Parliament staff is brought in the middle.

The Temporary Speaker (Sen. Veronica Maina): Sen. Gloria, an issue has been raised by Sen. Wambua on the nexus between your point of order and the discussion on the debate by Sen. M. Kajwang’.

In half a minute, is there any nexus, so that I can give direction on the matter?

Sen. Orwoba: Madam Temporary Speaker, this is not about me as an individual, and this is where we go wrong. I have even quoted a Standing Order and it was not tailor-made for Gloria Orwoba. This is an issue about broadcasting and transparency.

This Motion that Sen. M. Kajwang’ is contributing to was seconded by me, as a Senator, on the Floor of the House. The reason I raised it in the middle of his contribution is because we do not know if the same is happening to his contribution. I did not even know that it was happening to me until I stepped out and confirmed that indeed, it was happening. Therefore, this issue is not about me and the secretariat, but about the transparency of the processes of this House.

Madam Temporary Speaker, I daresay that if they keep singling out the complaints I make on this Floor as an issue about Gloria, they should know that, first, they came for Jews, then they came for others, and there will no one left in this House. We must address this important issue.

The Temporary Speaker (Sen. Veronica Maina): Sen. Gloria, your point is heard, and I will give a direction on it.

You have raised an issue on broadcasting, and if I can recall, this issue was still raised last week because broadcasting is important. However, as the Chair right now, I may not know what has happened with regard to the broadcasting.

The only way the House will get to know what has transpired as you were seconding the Motion would be for the Clerks’ Dispatch Box to ensure we have a report on whether the transmission was or was not happening.

Last week, the House had genuine technical challenges on transmission of live broadcasts. I would guide Sen. Gloria to consider that last week, it had nothing to do with Gloria or any specific Senator. It was an equipment challenge and I believe the secretariat can give a report and guide us on whether we still have the delayed transmission.

Further, when you are raising such an issue, Sen. Gloria, you should raise it as an issue that is affecting the House. You do not have to always personalize it. It has nothing to do with you. This technical hitch was also an issue that was raised last week by several Senators and the secretariat desk has been working on this issue.

I, therefore, request the secretariat to give a report on whether transmission was done and this should be reported in the next session. That should be the guide that will help us in this issue.

Sen. M. Kajwang’, you can resume the debate.

Sen. M. Kajwang’: Madam Temporary Speaker, I hope you will allow me to recover the lost time because it was not related to what was before us.

The Temporary Speaker (Sen. Veronica Maina): Your time was paused. You will not lose your minutes.

Sen. M. Kajwang’: I will go back to the important undertaking the Senate is called upon to do on behalf of county governments and on behalf of the nation. When you bring

this Motion for delegations and Senators to approve or reject, you must provide full information and full disclosure.

Madam Temporary Speaker, as I had said earlier, there were 48 applicants who were narrowed down to 15 and the Committee has given us the names of two applicants for consideration and approval. I cannot make a decision in the absence of the details on the qualifications of those other applicants who had been shortlisted.

In this list, I see Mr. Silas Otieno Owiti from Homa Bay who scored 59.71 per cent. At least give me a glimpse of his CV or give me a note so that I can see from the minutes how the performance was. When it came to the appointment of Dr. Amoth, which is a Motion before the House, I see annexures, minutes and all the details of the consideration of the Committee.

However, when it comes to the discussion of these two nominees to the SRC I have even requested in the official WhatsApp group for the annexures that carry the CVs and the conversations that led to this decision. We must be careful because I have been through this exercise.

Madam Temporary Speaker, I do recall about six years ago when this House was called upon to make a similar decision. There were accusations of favouritism, tribalism and how the Committee was operating with an end in mind. At that time, some of the applicants were former Senators and colleagues. It was sad when some of them like a former Senator who has been in this House for five years was disqualified for lack of experience.

If you have been a Senator or an MP for five years, what other experience do you need to get a job in this country? What other experience to undertake a role in a constitutional commission? I would like to be convinced that such considerations were not made in this case.

It would be important that before we take the vote, we get the full disclosure of the minutes and the conversations, resolutions and any dissenting opinion, if there was a dissenting opinion by Members of that Committee. This is because, the adoption schedule was approved by five out of nine and I would like to hear what the other four had to say with respect to the final decision that has been brought to this House.

Madam Temporary Speaker, I am not imputing any improper motive but I am asking for full information so that I can make a decision on the Motion that is before us.

The Temporary Speaker (Sen. Veronica Maina): Sen. (Dr.) Khawale, what is your point of order?

Would you like to be informed by Sen. Bonny Khalwale?

Sen. M. Kajwang': Madam Temporary Speaker, out of respect, I would wish to listen to Sen. (Dr.) Khalwale.

The Temporary Speaker (Sen. Veronica Maina): Sen. (Dr.) Khalwale.

Sen. (Dr.) Khalwale: Madam Temporary Speaker, the concerns by the Senator for Homa Bay are right and justified. It is true that what he is looking for is in the HANSARD recording of the proceedings of the Committee.

Madam Temporary Speaker, it is also true that it is part of the report which has not been brought here. What you have here is the executive summary of the report. We could not have done all that, that we did for all the candidates.

Secondly, the issue he has raised about the fear that there could have been tribalism and stuff like that, it will help. We had a marking scheme. The nearest way the Committee

approached the issue of how to handle the great tribes of Kenya was the constitutional requirement of regional balancing as to how much one was getting for academic endowment. If you had a Bachelor's degree, you scored less than Master's degree and so on, up to PhD.

Madam Temporary Speaker, I beg to inform.

Sen. M. Kajwang': Madam Temporary Speaker, I want to thank Sen. (Dr.) Khalwale. Indeed, as a member of this Committee, if there is important information that has not been brought before this House, then this Motion should be stood down.

I am looking at a similar report of a nomination for Dr. Amoth and I am looking at the iPad here. There is an annexure that is 244 pages. It has minutes; it has details. Why is this different and it is a similar process, where we are being called upon to exercise our constitutional and statutory duty to make approvals or appointments to constitutional commissions?

This Motion should be deferred and this conversation should stop at this moment until the committee brings us a full report. The report we have is 28 pages. How do we know that justice was served? If it was not for the respect that I have for Sen. (Dr.) Khalwale, how would this House have been informed of those criteria?

Madam Temporary Speaker, as I have said, I have gone through this process and this particular process, we came to some conclusions. It was established that a committee had dismissed a former Senator on the basis of lack of experience.

I have kept asking that once you have been elected as a Senator or nominated as a Senator, you have sat in this House approving budgets, approving appointments, writing laws, you have sponsored laws; how can a committee then come and tell you that you do not have the requisite experience to become a member of a commission? That is why we are insisting we need to see those annexures to see whether those kinds of arguments found their way in the decision of this committee.

I will leave it to the leadership of the House and to your wisdom to decide whether we are proceeding with adequate information and whether we are doing the right thing. However, let me make certain broad comments as that point is still under consideration.

Our role does not end with appointments. Our role extends to funding for constitutional commissions. We have been weak and we have allowed that function or that role to go to the National Assembly when Parliament or when the Constitution clearly states that that is the role of Parliament.

I want to read Article 249(3) which says that Parliament - and not National Assembly and not Senate –

“Parliament shall allocate adequate funds to enable each commission and independent office to perform its functions and the budget of each commission and independent office shall be a separate vote.”

Madam Speaker, the word there is Parliament and it is not National Assembly. We have a responsibility and a duty to be engaged in the budgeting and resource allocation for constitutional commissions.

It is an embarrassment when the office of the Auditor General is running around begging for funds and saying that the National Assembly has arbitrarily trimmed down the allocations. It is an embarrassment when other commissions like the Ethics and Anti-

Corruption Commission (EACC) come to us and say that, yes, Senate, you have referred 146 matters to us, but give us the resources to undertake our job.

How can the Senate expect the EACC to carry out investigations in 47 county executives and in 47 county assemblies and yet the Senate is not involved in allocation of budget to that commission?

We must rise above our partisan political formations and stand for this House. When this House insisted on vetting the Inspector General (IG) of Police, I was in this House and Sen. (Dr.) Khalwale was there. The initial mischief was to process and fast track it through the National Assembly. This House stood up and eventually the IG became a client of both Houses.

We must also insist that we give effect to Article 249(3), otherwise, these commissions will have no respect for the Senate. These commissions will not follow up any matter that has been referred to them by the Senate because he who pays the piper calls the tune.

If they know it is the National Assembly that is involved in their resource allocation, even if there was competing recommendations, if you tell the EACC to pursue something, they will tell you they are still dealing with the recommendations of the National Assembly because that is where their bread is buttered.

Madam Temporary Speaker, let me talk about the interview process. We have the Public Appointments Parliamentary Approval Act. This is a statutory instrument or law that relates to how Parliament shall conduct itself when it comes to constitutional and statutory appointments.

I do not agree with the Committee on paragraph 13, page 16. I disagree with the Committee when it makes reference to Standing Order No.76 and No.77. This interview should have been done in line with the Public Appointments Parliamentary Approval Act, the same instrument that the National Assembly has been using to vet the Cabinet Secretaries.

The reason why I say so is that the Public Appointments and Parliamentary Approval Act provide great detail on how this exercise should be conducted. That Act says that Parliament shall focus on academic credentials, professional training, experience, personal integrity and the background of those who have been proposed to take up constitutional and statutory appointments.

Being a member of the Salaries and Remuneration Commission is a constitutional appointment. How I wish the committee would have made reference to the Act of Parliament that is currently in existence rather than to Standing Order No.76 and No.77.

That Act, if it would be properly implemented and not with the kind of mischief that we have seen in past vetting for Cabinet Secretaries, there is a question that has always come up, the question of net worth. I can tell you that many a times when you are vetting nominees to the Cabinet, Kenyans do not remember what they said they are going to do because it is one thing for them to aspire to do something, but there are also the established government policies.

I have seen some Cabinet Secretaries say how they are going to be publicly spirited and how they are going to do things differently but let us remember that there are already budgets that have been established. There is already a President who is in office. If you come with views that are at variance with those of government, the existing budgets,

existing plans and the personal views of the President, then you are just going to get frustrated.

The question of net worth is one that has animated the nation. I saw a computation of the net worth of the nominees that are currently before the House without getting to the substance of the matter, to be Kshs10 billion and Kenyans are offended. Kenyans are offended. What is this magic that politicians play that makes them wealth that serious corporate organizations cannot make?

Before I got into politics, I was in the financial services sector. You will find an insurance company collects revenue of Kshs4 billion and at the end of the day, it makes a profit of Kshs50 million, a technical profit; that is once the premiums have been collected and the claims have been paid.

That is an institution that perhaps has employed 200 people, that has got branches throughout the country, that is integrated, that is creating a lot of opportunities and contributions to the GDP of this country and that is paying taxes. At the end of the day, they will probably make Kshs50 million as an underwriting profit.

What is this thing that Members of Parliament do that generates them the kind of profits that even insurance companies cannot generate? It is becoming an insult to the people of this country. The majority who cannot afford, the majority hustlers, we are building for them 2 million houses, or 3 million houses and then we are proclaiming that we are billionaires. How will a billionaire understand the needs and aspirations of that person whose biggest wealth is a house worth Ksh2 million?

Madam Temporary Speaker, if we were faithful to this process, those who are here should see an annexure showing how much taxes they have paid. If I am worth Kshs300 million, the taxes I pay must be different from those paid by somebody else who is worth Kshs31 million. It must be different with another person who just relies on salary and has nothing of value because his liabilities exceed his assets.

Another question that must be asked is that of conflict of interest; in the substantive Act that I have referred to, there is a question of conflict of interest. If my family is doing business, perhaps in the Information, Communication and Technology (ICT) sector and then I get into the Government as a Cabinet Secretary for Information, Communications and the Digital Economy, I must disclose and lay bare before Parliament how I will prevent potential conflict of interest.

In fact, in serious jurisdictions, once you get into certain constitutional and statutory positions, you put your assets or wealth in a trust, so that you are no longer directly involved. Therefore, you will not be compromised when it comes to procurement and provision of opportunities. We never ask those questions.

Another question that we are required to ask under the Public Appointments (Parliamentary Approval) Act is whether one has ever been charged in a court of law. You do not hear those questions being asked.

Another question one is supposed to be asked is whether they have ever been adversely mentioned in any report before Parliament. All the 47 county governors have been adversely mentioned in reports before this House.

If we take seriously the reports of Parliament, which we must do because we are Parliament, we must ask questions, for example, during his tenure as Governor for Tana River County, did the Auditor-General ever raise queries? Did the County Public Accounts

Committee (CPAC) bring a report to the House? Did the House adopt a report that recommended their investigation and prosecution?

You find many people in public offices. There are reports we have adopted here. However, when we vet them, we never ask those questions. That is why I insist that this process should not be done as per Standing Order Nos.76 and 77, but it should be done in accordance with the Public Appointments (Parliamentary Approval) Act.

Let me finalise by saying this: If we will see the annexures and satisfy ourselves that Ms. Lynette Washiali Muganda and Mr. Mohamed Aden Abdi, indeed, were the best of the best, I will have no problem supporting this Motion. However, I will still need to be convinced by seeing the annexures, Curriculum Vitae (CVs) or resumes, and minutes of proceedings of those meetings.

Once the nominees get to office, let them remember that they are there to represent the interests of county governments and not the Executive. That is why the Senate has been called upon to nominate them.

There are two nominees. There is one from the Parliamentary Service Commission (PSC), which is part of Parliament. There is also a specific nominee of the Senate to represent county governments.

Let them remember that they are there to represent county governments and not their stomachs or the Executive. Let them focus on how they can help county governments to reduce their wage bill to go below 35 per cent.

Right now, the general rate is 40 per cent plus. Let them focus on building synergies with the County Public Service Boards (CPSBs), County Assembly Service Boards (CASBs) and the Public Service Commission, so that we can have a better way of managing human resources in the counties.

The national Government has introduced a system called the Integrated Personnel and Payroll Database (IPPD). It only deals with the payroll aspect. Payroll is not Human Resources Management (HRM). Issues of recruitment, appraisal, promotion, and leave management are not being managed in any system. So, we encourage these nominees to build those kinds of synergies---

The Temporary Speaker (Sen. Veronica Maina): You have one minute to finish that sentence.

Sen. M. Kajwang': Thank you, Madam Temporary Speaker, encourage these nominees to build those synergies and involve the Institute of Human Resource Management (IHRM).

The greatest resource that we have in county governments is human resource. Let these two nominees go there knowing that they will look at the interests of county governments and not those of the presidency or a broad-based government.

Madam Temporary Speaker, my decision on support will depend on the annexures.

The Temporary Speaker (Sen. Veronica Maina): Hon. Senators, we have that report which Sen. M. Kajwang' has indicated that he does not have sufficient information on. Thankfully, Sen. (Dr.) Khalwale has offered some of the information. Ideally, there is a formal way of bringing that information to the Floor of the House, so that all Senators have an opportunity.

I would like to hear from a few Senators on their take on the status of that report before I make a verdict or give a direction on how we should proceed with the report being used as a basis for debate. I will allow comments from Sen. Danson Mungatana who was

next, followed by Sen. Mwinyihaji Mohamed Faki. They are commenting on the sufficiency of the report before I give a direction.

Sen. Mungatana, MGH: I am guided, Madam Temporary Speaker. I assume that I will still have my time for debate.

The Temporary Speaker (Sen. Veronica Maina): Yes.

Sen. Mungatana, MGH: Madam Temporary Speaker, I am of a different view, which could be unpopular. If you listened to the very beginning of this afternoon's session, Sen. Boni gave a lengthy presentation of the process that took place and the report that was there.

If my colleagues were there at the beginning and were listening, I am convinced that the information that was given is sufficient for us to proceed with the debate. If we are not happy or somebody is not sufficiently informed, we have services of the Serjeant-at-Arms all over here who can give you any information you require if you request.

I may be wrong or right, but I know for a fact that the term of some constitutional office holders in the SRC is coming to an end. So, we must not stagnate too much because there are seven other appointees from other areas.

We have been given one and we have two names. Looking at their qualifications, I may not know whether there were other issues. However, I am sufficiently informed to feel confident that when I make my remarks, they will be in support of a process that was good.

We must have some faith in what our colleagues are doing. The Committee on Finance and Budget has always been praised because of the work they are doing.

Madam Temporary Speaker, I have no reason to impugn, unless there is other information that I do not have. From where I stand, my humble opinion is that we should proceed with this debate and conclude.

I thank you.

The Temporary Speaker (Sen. Veronica Maina): Proceed, Sen. Mwinyihaji Mohamed Faki.

Sen. Faki: Madam Temporary Speaker, I am a Member of the Committee on Finance and Budget of the Senate and participated in the whole process that resulted to this Report.

First of all, Sen. Shakila and I dissented this Report and its recommendations. Even this morning, during the committee meeting, I said that we had a dissenting opinion and wondered why it was not captured in the report.

Standing Order No.223(5) states that—

“A report having been adopted by a majority of Senators, a Minority or Dissenting Report may be appended to the report by any member or members of the Committee.”

Madam Temporary Speaker, this has not been complied with by Members of the committee.

[The Temporary Speaker (Sen. Veronica Maina) left the Chair]

[The Temporary Speaker (Sen. Wakili Sigei) in the Chair]

Mr. Temporary Speaker, Sir, this has not been complied with. As Sen. M. Kajwang' said, the report is sketchy and does not show the true import of what transpired during the interviews.

Mr. Temporary Speaker, Sir, it will not be prudent for us to continue with the debate if those issues have not been considered. I thank you.

(Sen. Thang'wa spoke off record)

Sen. Thang'wa: On point of order, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Wakili Sigei): Sen. Thang'wa, it cannot really be a point of order. There is no one on the Floor, unless it is a comment, then you may comment.

Sen. Thang'wa: Mr. Temporary Speaker, Sir, what you are witnessing now on the Floor of this House today is one of the reasons why people are in the streets in this Republic of Kenya. This is because information is scanty. We are unable to get information when vetting is going on.

If you ask this country, you will only be told that the vetting that was going on within this period was that of the Cabinet Secretaries. The people, probably, did not have information that there was a vetting of these commissioners to represent the county government at the SRC.

It is very sad for a member of this House to request for a postponement of a report that has been tabled, yet these vetting was open to the public and Members of this House. Anybody who wanted to find out the nitty-gritties could have attended these sittings.

(An hon. Member spoke off record)

Sen. Thang'wa: It is not a point of order. I am commenting on this the same way you have commented on it so that we assist the Speaker to make a decision.

Mr. Temporary Speaker, Sir, I request to be heard in silence. We listened to the two gentlemen in silence. My issue is that once a report has been tabled in Senate, every Member should be given an opportunity to discuss either to reject or support it.

Mr. Temporary Speaker, Sir, the issue of standing down a report that has been tabled on the Floor of the House, goes against our standing orders. If you did not have the report, you had enough time to request for it. They are there because they are public documents. It is my prayer that we shall continue debating this report. We have many people who will have an opportunity to debate it.

I trust the Committee that was mandated to do this vetting. It is one of the committees that has been praised in this House for doing its work diligently. I go against those who are saying that we should stand down the report.

Mr. Temporary Speaker, Sir, I urge you to rule that we continue the debate, so that these people who have been nominated can have a chance to serve the people of this country.

Sen. M. Kajwang': On a point of order, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Wakili Sigei): Resume your seat, Sen. Thang' wa. You have been heard.

Hon. Members, remember when the Senator indicated that he was rising on a point of order, I told him it was not. Unfortunately, Sen. Mungatana, MGH, had been asked to step down for an intervention that had come in. That is exactly what had transpired prior to this intervention by Sen. Thang' wa.

Hon. Members, I am directing that even as we raise concerns about the content of this report as to whether or not we will stand it down, or defer it to tomorrow, I will allow two more Members to comment on it, so that the Chair issues a ruling as to the concerns that have been raised.

(Loud consultations)

I will give Members time to comment. However, I need to give directions that if we will ultimately have to make a decision as to how to treat this Report. There is no need for us to spend the entire afternoon saying the report is scanty and we need additional documents on the basis of the objections that Sen. M. Kajwang' had raised.

Hon. Members, as I said, I will give directions so that we proceed in an orderly manner and deal with the report appropriately. I am giving direction. I want to give an opportunity to unlock this stalemate, particularly on the issues that have been raised to Sen. (Dr.) Khalwale because he is the Mover of that particular Motion.

(Loud consultations)

Sen. Olekina is not contributing because he has already spoken to the Motion. I want us to unlock this stalemate so that we take directions appropriately. Allow Sen. (Dr.) Khalwale, so that we progress in a civilized manner.

Sen. (Dr.) Khalwale: Thank you, Mr. Temporary Speaker, Sir. I would like to associate myself with the sentiments and concerns by colleague Senators that they want the full report. There is no way you can debate a decision of a committee of Parliament without proper information being availed to you as a Senator or a Member of Parliament (MP). Sen. M. Kajwang' is right.

Mr. Temporary Speaker, Sir, I also want to associate myself with the remarks by the Senator of Mombasa County, Sen. Faki. He is a Member of this Committee, just like myself. He is right when he tells the House that there were two Members who dissented; Sen. Shakilla Abdalla and himself. It is a fact. The other two Members whose votes are not recorded, did not attend the process at all. The other Members signed and adopted the report. Yes, there were only two who dissented.

Mr. Temporary Speaker, Sir, when the matter was raised before the Committee, the Member was reminded that they failed to request for the dissenting view to be part of the record. Usually, as you know according to procedure, Sen. M. Kajwang', Sen. Olekina and Sen. Wambua, dissent is normally signed. Let it rest there.

Now, let me come to the substantive issue by Sen. M. Kajwang' which concerns me; the report which I have---

The Temporary Speaker (Sen. Wakili Sigei): Sen. (Dr.) Khalwale kindly listen to the Chair. Do you confirm that the report that your committee tabled and the one you tabled before the House is a complete report? Just answer that question; 'yes' or 'no.'

Sen. (Dr.) Khalwale: I want to confirm.

The Temporary Speaker (Sen. Wakili Sigei): Proceed. Do that confirmation directly.

Sen. (Dr.) Khalwale: Mr. Temporary Speaker, Sir, this is what I wanted to say substantively. The Report of the Committee is here. It is complete. It has the candidates' documents and annexes of everything. The only problem is that the Clerk did not circulate.

The Temporary Speaker (Sen. Wakili Sigei): Sen. (Dr.) Khalwale, you have answered my question. Kindly take your seat.

In regards to the situation we are in now, I will give directions with that confirmation from Sen. (Dr.) Khalwale. However, I will only allow one other Member from this end. Sen. Olekina, kindly give your comments. You have listened to Sen. (Dr.) Khalwale answer to my question. I expect you not to go beyond a specific comment on the report because it has been confirmed as complete. It is just that the Secretariat did not avail all the documentations concerning the report that was tabled.

Sen. Olekina: Mr. Temporary Speaker, Sir, the reason why the public is throwing rotten eggs in our faces is because of this kind of behaviour. Sen. M. Kajwang' has raised pertinent issues, which brought your Chair to direct us not to continue contributing to this debate on whether to confirm these two individuals or to stand down the Report.

Mr. Temporary Speaker, Sir, what has been circulated to us is basic cut and paste. It is the role of the Senate. What is the role of the Senate? It is the SRC; cut and paste. Then you come and tell us that you are forwarding two individuals, when we have credible information that the entire process was flawed. That is one of the things I will not tolerate.

Mr. Temporary Speaker, Sir, when you look at what is happening, you will not come short of saying that everything done there was tribal. How on earth do we reject a former Senator, who through some shoddy process with the university, submitted wrong information which amounted to discrimination? The university said that he was not their student and then later on, they come in and say that he was their student.

I sat in the Standing Committee on Health when we were confirming the Director General of Health. We went through volumes of documents, which we again transmitted to the Floor of this House. In fact, after this debate that we have right now, there will be a Motion by my colleague, Sen. Okenyuri, to discuss the issue of Dr. Amoth. So, this issue is very clear.

My view is that this process is flawed. The only way for us to maintain the integrity of this House is for the entire House to be given an opportunity to go through the documentation because all of us have interest.

The Temporary Speaker (Sen. Wakili Sigei): Now, Sen. Olekina---

Sen. Olekina: Let me finish, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Wakili Sigei): I want to guide you so that you finish in a proper way.

Sen. Olekina, are you arguing that we stand down this particular Report? From the way you are arguing, you are actually going to its merits.

Sen. Olekina: When you argue for or against a matter, you must give the background and reasons as to why. So, I am arguing as I respond to the statement that you raised. Your colleague who was sitting there before you, I assume you are still the same Speaker, gave directions and indicated that---

The Temporary Speaker (Sen. Wakili Sigei): Very well. Now, Sen. Olekina, the Chair is directing that you conclude by saying that we close on this debate for now. We

defer it so that the Secretariat can avail full report containing all the recommendations for the Chair to direct accordingly.

Sen. Olekina: Mr. Temporary Speaker, Sir, although I agree with you entirely, you know, when you sit in school and you are taught how to speak, you never use anyone else's words. However, in this case, I gladly accept we stand down this report until this House has proper information. If it calls for the entire process to begin afresh, so be it, because whatever we are getting here is not right.

If you look at these results of 70, 71 and 74, you will just conclude that it was an average given and the scoring was skewed. I can see we have a person from Narok, David Olalpapit, who I would also want to see him given an opportunity.

So, I agree, let us stand down.

The Temporary Speaker (Sen. Wakili Sigei): Hon. Members, I will not allow any other Member to contribute. My direction is that we will stand down any additional comments or debate on this particular Report.

I also direct that it be listed in tomorrow's Order Paper as an item to be debated. Secondly, the Secretariat to avail the full Report with all the documents that were availed such as the annexures for the House, thereafter, to make a decision on how to deal with it.

That is the direction of the Chair and the Clerk is directed accordingly.

(Debate on the Motion was adjourned)

Now, hon. Members, let us call the next Order.

I now call upon the Chairperson Standing Committee on Health to move the Motion.

Proceed, Sen. Okenyuri.

ADOPTION OF REPORT ON APPROVAL OF DR. PATRICK OMWANDA AMOTH
FOR APPOINTMENT AS DIRECTOR GENERAL FOR HEALTH

Sen. Okenyuri: Thank you, Mr. Temporary Speaker, Sir. I beg to move the following Motion-

THAT, the Senate adopts the Joint Report of the Standing Committee on Health of the Senate and the Departmental Committee on Health of the National Assembly on the approval of a nominee for appointment as Director General for Health, laid on the Table of the Senate, on Thursday, 1st August, 2024, and further that, pursuant to Section 16 (2) of the Health Act (Cap. 241) and Section 8 (2) of the Public Appointments (Parliamentary Approval) Act, approves the nomination of Dr. Patrick Omwanda Amoth, EBS, for appointment as the Director General for Health.

Mr. Speaker, the Public Service Commission (PSC) advertised for the position of Director General for Health on 18th March, 2024 in print media and the Public Service Commission website. A total of 118 applications were received to close of the advert on 9th April 2024. Out of the 118 applicants, nine candidates were shortlisted for the position on 4th June 2024.

On the 12th and 13th June 2024, the PSC conducted interviews of the shortlisted candidates at its offices in Commission House, Harambee Avenue, Nairobi.

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Out of the nine shortlisted candidates, one declined to be interviewed, while one candidate was not interviewed since she did not produce original academic and professional certificates. The remaining seven candidates were interviewed and ranked in order of merit.

Mr. Temporary Speaker, Sir, pursuant to the provisions of Section 16(2) of the Health Act, Cap 241, the Cabinet Secretary for Health submitted the name of Dr. Patrick Omwanda Amoth, EBS, as the successful candidate for appointment of the position of Director General for Health.

The Hon. Speaker of the National Assembly vide a Communication made on 26th June 2024 and the Hon. Speaker of the Senate vide a Communication Made on 2nd July 2024, conveyed to the National Assembly and the Senate, respectively, the message from the Cabinet Secretary.

They further referred the matter to the National Assembly Departmental Committee on Health and the Senate Standing Committee on Health, respectively, for the joint consideration of the committees.

Consequently, the Clerk of the National Assembly and the Clerk of the Senate invited interested members of the public to submit any representations by written statements on oath, that is affidavits with supporting evidence on the suitability of the candidate for appointment to the position of Director General for Health.

The invitations were made vide advertisements which appeared in *The Daily Nation* and *The Standard* newspapers on Friday, 5th July of 2024.

Mr. Temporary Speaker, Sir, this notification was followed with the letters to the candidates, inviting him to attend the vetting and requesting him to submit the completed questionnaire set out in the schedule to the public appointments, that is, Parliamentary Approval Act, Cap 241, together with clearance certificates from Office of the Director of Public Prosecutions (ODPP), the Ethics and Corruption Commission (EACC), the KRA, the Higher Education Loans Board (HELB), the Directorate of Criminal Investigations (DCI), Office of the Registrar of Political Parties and the Credit Reference Bureau (CRB).

Further, the Clerks of the Houses of Parliament wrote to the ODPP, EACC, KRA, HELB and DCI seeking reference and background checks relating to the suitability of the candidate to ascertain whether there were any corruption or criminal proceedings pending against the candidate.

Mr. Temporary Speaker, Sir, the committees conducted the approval hearing on Thursday, 25th July of 2024. In conducting the approval hearing, the committees were guided by the provisions of the Constitution, the Public Appointment Act, Cap 7(F), the Leadership and Integrity Act, Cap 185(c), the Public Officer Ethics Act, Cap 185(B), the Public Service Commission Act, Cap 185, the Health Act, Cap 241 and the National Assembly Standing Orders and the Senate Standing Orders.

Following the committee's analysis of the submissions and representations received on the suitability of the candidate for appointment to the position of Director General for Health, the committees observed that Dr. Patrick Omwanda Amoth, EBS, demonstrated the requisite knowledge and experience to perform the functions of the Director General for Health.

He further met all statutory and constitutional requirements for appointment to the office of the Director General for Health. The committees further observe that the issues

raised in the three memoranda were sufficiently addressed by the candidates during the approval hearing. However, informed by the concerns raised in the submissions received, the Ministry of Health ought to undertake adequate, purposive and meaningful public participation and stakeholder engagement as provided for in Articles 10 and 232 of the Constitution to ensure that there is balanced and adequate representation and input of the divergent views of all stakeholders in the health sector in the development of policies and guidelines.

Mr. Temporary Speaker, Sir, the committees having considered the suitability, competence, experience and integrity of Dr. Patrick Omwanda Amoth, EBS, following the approval process and taking into account its observations and findings and pursuant to the provisions of the Constitution, the Public Appointments Act, the Health Act, the National Assembly Standing Orders and the Senate Standing Orders, recommend that Parliament approves the nomination of Dr. Patrick Omwanda Amoth, EBS, for appointment as the Director General for Health under Section 16 of the Health Act (CAP 241.)

Mr. Temporary Speaker, Sir, the committees also wish to thank the Office of the Speaker of the National Assembly, the Office of the Speaker of the Senate, and the Clerks of both Houses and their staff for their logistical support accorded to them during the approval hearing.

In addition, the committees thank the candidate for his cooperation during the approval hearing. The committees also are grateful to the members of the public who submitted their memoranda and the media for their live coverage of the proceedings, thus enhancing accountability and transparency of the approval process.

Further, the committees appreciate the DPP, the Chief Executive Officer of the EACC, the Commissioner General of the KRA, the Chief Executive Officer of the HELB, the DCI and the RPP for providing references and background checks relating to the suitability of the candidate.

Mr. Temporary Speaker, Sir, I thank you and wish to request the Nyamira Senator and Parliamentary Service Commission (PSC) Commissioner, Sen. Okong'o Omogeni to second.

The Temporary Speaker (Sen. Wakili Sigei): Proceed, Sen. Okong'o Omogeni, Senior Counsel.

Sen. Omogeni: Thank you, Mr. Temporary Speaker, Sir. I rise to second the nomination of Dr. Patrick Omwanda Amoth to be appointed Director General for Health.

Mr. Temporary Speaker, Sir, I am a member of the Committee on Health of the Senate. I was privileged to sit in a joint sitting with Members of the National Assembly that undertook this very important process. We must applaud the 2010 Constitution that has made the accountability card for those who want to serve in the public very high. We must thank those who sent memoranda to the Committee.

Specifically, I acknowledge and thank Dr. Wahome, who I believe brought about a 500-page memorandum objecting to the suitability of Dr. Patrick Amoth. Even though the Committee did not agree with the issues that were raised by Dr. Wahome, it demonstrated to the public that Parliament undertakes a fair process that is open to the public and affords Kenyans an opportunity to raise any objection they have on the suitability of a candidate, provided the memorandum and the reasons raised can demonstrate that such a candidate is not suitable. Though Dr. Wahome's objection did not carry the day, he got a hearing.

I remember hearing him for more than one and a half hours as he took us through what he thought were some omissions by Dr. Amoth when he served in this position in an acting capacity when this country was going through COVID-19 pandemic. So, I encourage the likes of Dr. Wahome that even though his reservations did not carry the day, it should not discourage any Kenyan. We received the memorandum and gave it time. If we are convinced that the nominee is not suitable, that will carry the day.

Secondly, we need to relook at the provisions of the Public Appointment Parliamentary Approval Act, a law that was introduced before this House by my good friend Sen. Mungatana I believe in 2011, soon after the passage of the 2010 Constitution. It has served us well, especially where these Houses may unnecessarily delay the approval of a nominee.

On the other hand, it puts a lot of pressure on Parliament to rush the confirmation process of nominees. I sympathize with our colleagues in the National Assembly who have been faced with the task of undertaking a confirmation of 22 Cabinet Secretaries together with an Attorney General in a record period of 14 days. That period needs to be reviewed as well as the recruitment of the Independent and the Electorate Boundaries Commission (IEBC) commissioners.

The recruitment panel is given 90 days. You need to get information from some of the Chapter 6 commissions like the EACC, DPP, DCI *et cetera*. We need to amend this piece of legislation and give Parliament at least 90 days.

If we retain 14 days, it will be reduced to a matter of the National Assembly or the Senate just ticking boxes. We know how detailed the Houses that do confirmations are. In the United States of America (USA), out of about 118 nominees to the Supreme Court, the Senate of the USA has rejected 37 nominees because they are so detailed.

They not only look at the integrity of the candidate, but also your conduct. Remember the judge who was rejected on account of an article he wrote in 1964, opposing the passage of the Civil Rights Act of 1964 that was extending liberties to black Americans? He was rejected because of that article.

I know for a fact that about eight of those who have been nominated to serve as Cabinet Secretaries in the USA have faced rejection. Nine various presidents have been forced to withdraw their nominations. I remember the case of Sen. John Tower of Texas who had been nominated by President Bush.

When it came to the public that he was a heavy drunkard, the President was forced to withdraw the nomination. I remember the case of Sue Bate nominated by Bill Clinton in 1993. When information came to the Floor of the Senate House that she had employed an illegal immigrant who had no papers and she had evaded paying statutory deductions to the Government because she did not want that information to go to the public, her nomination was rejected by the Senate. Therefore, that is how high Houses that do confirmations have put the bar.

I remember hon. Andrew Johnson who was the President in 1800s. He faced an impeachment before the Senate and he asked his Attorney-General to resign and defend him during the impeachment. The Attorney-General then was Mr. Henry Stanbery. He resigned and defended President Johnson ably.

Once, President Johnson went through the impeachment process in the Senate, he reappointed Mr. Henry to take back his position as the Attorney-General. However, the Senate said, we cannot play ping-pong games. If you want to resign and go to private

practice do so and go to private practice. His nomination was rejected on the basis that he did not show commitment to serving in that office.

This process is so critical and it is important that we, as a House, raise the bar. If we abuse this power of vetting and confirming nominees, the next time you will hear there is a constitutional review process, the way I heard a proposal that Kenya should have a convention to look at the 2010 Constitution.

This power can easily be taken away from us. We need to do the right thing by making sure that we build public confidence on the process by making it meaningful, so that we retain this power as a House as it is very important.

This power is one of the best concepts of a country that has adopted limited government. It means the Executive can propose a nominee but if that nominee does not meet the bill, they can be rejected.

Thirdly, I do not think it serves this House and the country well for us to continue doing joint vetting by the Members of National Assembly. Health is a devolved function. We should look at the process of vetting, so that on positions such as this one of the Director General for Health, the vetting should be undertaken by the Senate.

There are so many offices, including the office of the Cabinet Secretary, where the vetting is undertaken by the National Assembly without any reference to this House. As a House, we need to revisit this process, so that we demarcate the roles for the two Houses.

Mr. Temporary Speaker, Sir, I was very impressed when I listened to this nominee. He is a person who has vast experience on health matters. He is a trained medic who graduated from the University of Nairobi (UoN). It is unfortunate, that we have subjected this Kenyan to be in an acting position for five years.

I want to ask the Executive not to subject professionals to the anxiety of being in an acting position for more than five years. In fact, it is a bad Human Resource (HR) practice, to keep somebody in an acting capacity for five years.

I hope this is the last we are seeing of a case like this, where we deny a very qualified Kenyan a chance of serving in full capacity in a position where he is well qualified.

As he takes over, we hope he will ensure that Kenyans get access to quality health care services from our hospitals. Although, this is not directly under his docket, but he should be able to liaise with the National Health Insurance Fund (NHIF), so that the implementation of the Social Health Insurance Fund (SHIF) that is meant to benefit our people at their counties can be realized.

We went through the documentations and I do not want to belabour this point, I want to assure the country that this is a man of integrity. The ODPP confirmed to the committee that there are no pending prosecutions against this Kenyan. The EACC confirmed that they have no investigations that are ongoing against this particular nominee.

It is important for all Kenyans to pay their taxes. The Constitution is very clear that if you are not a patriotic Kenyan who pays taxes, then you should not be given a chance to serve the country. The KRA confirmed to us that Dr. Patrick Amoth is up to date on his tax obligations.

Mr. Speaker, Sir, there are people who went to school. They were assisted by the Government through HELB. Their fee was paid by the Government, but they have never paid back that loan to assist other Kenyans.

As a Committee, we were very keen to confirm whether Dr. Patrick Amoth, who was assisted by the Government, was given a loan through HELB and went to the UoN. We were very keen to confirm whether he had cleared his loan. I want to assure the House that his record is clear. He produced a certificate from HELB and he confirmed that his loan is not in arrears.

He does not have any cases pending with the DCI and he is a very impartial Kenyan. He does not belong to any political party. He is a dedicated Kenyan who wants to serve, whether you belong to Azimio La Umoja One Kenya Coalition Party or the United Democratic Alliance. He is a technocrat who wants to serve Kenyans without any discrimination. I am assuring the hon. Members that this nominee is not a member of any political party.

In terms of his financial probity and integrity; you can confirm a nominee who brings you baggage, has a lot of debts and who will join the public service to look for money to clear his many debts out there. It is important, as a House, when we are approving a nominee, we also look at his finances. Are you bringing somebody on board who is coming with baggage?

Nonetheless, I am happy to report to the House that on the case of Dr. Patrick Amoth, he produced a certificate from the Credit Reference Bureau (CRB) and confirmed that his debts are well managed.

Mr. Temporary Speaker, Sir, he has a loan, but that is taken care of. Like any Kenyan, you need to borrow to advance yourself, but he does not have any loan defaults. He is a person who we can hold in high esteem and I have no doubt that this Kenyan will serve us well. I have no hesitation in seconding his nomination to go and serve us as a Director General for Health.

Finally, I hope as the National Assembly concludes its vetting they will abide by the provisions of Article 130 of the Constitution, so that we have ethnic and regional diversity.

Kenyans are very litigious. In the history of this country, for the first time, we have seen situations where the courts have nullified two Finance Acts. We need to be careful as we undertake our vetting or confirmation of our Cabinet Secretaries. We need to ensure that we take care of regional and ethnic diversity. I hope His Excellency the President will very soon address the issue of imbalances on principal secretaries.

Mr. Temporary Speaker, Sir, people such as the Pokomos, where Sen. Mungatana comes from, they do not have a Principal Secretary or a Cabinet Secretary. The same case applies to Nyamira County.

If you go to Kuria, they have two constituencies, but have no Principal Secretary nor Cabinet Secretary; the same with the Taitas. We need to build a Kenya where all of us have a sense of belonging. It does not mean that if you come from a small town like Nyamira, where you have four constituencies, you cannot rise to be a Cabinet Secretary or a Principal Secretary. One of the most successful Cabinet Secretaries, Dr. Fred Matiangi, hailed from Nyamira County.

We need to see the face of Kenya in our Executive. This idea of a Broad-Based Government should extend to Principal Secretaries. Those who have been lucky to get Cabinet Secretaries should not again benefit from the position of Principal Secretaries. If Kisii County, for example, has gotten the position of Cabinet Secretary, let Nyamira

County benefit with the position of Principal Secretary. This cake belongs to all of us. We can share it and all of us can feel happy and appreciate the beauty of being a Kenyan.

Mr. Temporary Speaker, Sir, with those remarks, I second this report. Thank you.

(Sen. Cheruiyot and Sen. (Dr.) Khalwale stood in their places)

The Temporary Speaker (Sen. Wakili Sigei): Senate Majority Leader and Majority Whip, please, take your seats.

(Sen. Cheruiyot and Sen. (Dr.) Khalwale resumed their seats)

(Question proposed)

Hon. Members, I will allow Members to contribute if they have any comments on the Motion that we have just proposed for debate. I have seen there is interest from the Members. I will allow Sen. Mungatana to go first.

Sen. Mungatana MGH: Thank you, Mr. Speaker, Sir. On the onset, I congratulate the Senate Standing Committee on Health for the good work they have done. I have a special respect for Members of the legal and health profession and other professions who from the very early stage, make a decision that they will stick with public service. They grow in public service all the way to high positions. Some of us had those kinds of opportunities when younger, but made the decision to go into private practice. I look at a lot of successful medical doctors who went to private practice and made a lot of money.

I also juxtapose that against Dr. Patrick Amoth who started as a medical intern, became a superintendent in charge of Kiambu District Hospital. He rose all the way to the national level to head the Public Health Directorate, where he was in charge of the public health strategy that was supposed to provide good health services to all the 47 counties in Kenya. We are talking about a dedicated public servant whom we should support and should have supported much earlier.

Mr. Temporary Speaker, Sir, how can we keep a public servant so dedicated from the days of his youth to this time at an acting position for four years, since 2019 up to today? We have wronged this dedicated public servant. I pray that that should not be repeated. When he succeeded Dr. John Masasabi, the last substantive Director General, he stayed in that position for four years. He kept on doing what he should be doing now, substantively.

I want to speak to this issue of acting position. The Government needs to up its game, both at the national and county level. When someone is in an acting capacity, they do not fully exercise their authority. They are susceptible to cartels and manipulation by people who tell them to do the wrong things because they are acting. They are not quite sure whether they will be confirmed or not.

I cascade these realities to Senators. We know that many governors are very good at putting people in an acting capacity, particularly chief officers, so that they are able to tell them to do this and that. Those people do not have security in their jobs. They are hoping that they will be the ones to be confirmed. We must bring a law that will stop any governor or officer in the public sector, both at the national and county government level,

from making public servants stay in an acting capacity for too long so that these public servants can deal with their offices substantively.

I will now focus on some of the duties that this Director General for Health needs to look at and the duties that he is supposed to undertake. I hope he is listening to me, do not be a failure in this Ministry and hide behind the Principal Secretary and Cabinet Secretary.

We have had a situation in Kenya where an Inspector General of Police kept quiet when the security situation in Kenya was deteriorating, which to me, the Director for Public Health is the equivalent of the Inspector General of Police. We never saw him on television or talking to the people, and the country was going south.

We want to see a strong Director General who will not be stationed in Nairobi moving around in the shadow of the Cabinet Secretary. You are supposed to be an advisor to the Cabinet Secretary and the Government. However, amongst your duties, you are also supposed to be an advisor to all county governments and the national Government. You should not be staying in Nairobi. For you to advise the Cabinet Secretary and the Government properly on matters of health, you should be out there listening, hearing and finding out what is happening on the ground.

The Director General for Health in the USA, Dr. Fauci, was always on television explaining things during the COVID-19 pandemic time. He would go to the Congress and explain public health policies. He would explain to people what the national government was thinking. He would create measures or state health policies that would try to align with what the national government was doing.

Mr. Temporary Speaker, Sir, he was present. However, later on, he was questioned on some of the measures he had recommended to the public in the USA, but he was there at the time he was required. We expect the Director General to be present to the public.

Right now, we have been hearing about a disease called Monkey Pox (Mpox) and that it has crossed over the border into Kenya. We have been hearing and seeing pictures circulating of horrible skin infection on social media that the first case has been spotted. We are being told through the social media that that it is Mpox, but we have not heard anything from the Ministry of Health, including from Dr. Amoth the Acting Director General.

He has not been heard at all. He should not be an absentee landlord; he should come out and speak to Kenyans. This is what he is employed to do. He should not sit and hide. One of his responsibilities as he takes over that position is for him to tell Kenyans about infectious diseases. He should also be telling people how we can prevent infectious diseases coming from other countries into our nation.

Mr. Temporary Speaker, Sir, we are now being told about Mpox, but that has left me, Sen. Mungatana, my children, my constituents, my voters and all my associates at the mercy of social media. No one is speaking about this thing and the Director General is there, even if in an acting capacity.

Dr. Amoth should listen to me. He should get out of the shadows of cabinet secretaries and politicians and come out to do his duty. Let us know that we have a Director General for Health so that we can hear and know where he stands officially and technically on issues. If this is fake news, then let me hear from my Director General for Health that there is no Mpox and it is not there.

Mr. Temporary Speaker, Sir, however, if it is there, let me hear what I am supposed to tell our people and what are the preventive measures I am supposed to do. We want a culture of top public servants who speak on technical issues to be established, so that when you come to speak, you speak so that we can believe you. Do not hide behind cabinet secretaries and principal secretaries. Come out and speak on issues.

On this score, I must say that I am disappointed that the person who is acting now has not come to speak on this crucial issue. During the flooding in Tana River County and other counties that were affected by flooding, that was the time we needed to see the Director General for Health, even though he was in acting capacity. He should have come out to talk to people, telling us about the risk we had of certain diseases. Let Kenyans look at him as the doctor he is.

Mr. Temporary Speaker, Sir, it should not be principal secretaries or cabinet secretaries speaking on policy and yet, they never trained in that area. When there is an outbreak of dengue fever or malaria, let us see Dr. Amoth taking a microphone and speaking to us. We want to see that because that is his responsibility. Kenyans want an authority.

One of the duties Dr. Amoth has is the internship programme, which is fully under the Director General for Health. We have heard complains about how students are posted or paid and other things. He should tell us what to do with our children who have qualified because they are supposed to do that internship for them to be licensed to practice.

I am trying to say that it is not enough for Dr. Amoth to have all these nice qualifications, but we thank him for them. It is also not enough that he has all that experience, but we are grateful for it. However, as we confirm him for this position, the people of Tana River do not know him because he never comes out to talk about anything. He should just get out and stop this doctor thing of, 'I am a scientist and my work will speak for myself.'

Mr. Temporary Speaker, Sir, he should be like (Dr.) Khalwale and make noise until everyone listens and hears what he is saying. We need public servants to speak on technical issues. I will belabour this point again, that we need public servants to speak on technical issues so that everybody does his work.

As a Senator, I am supposed to do my work here in this House and out there and you are supposed to do your work where you are. It is wrong for us to pay these people, give them positions, but they do not do what they are supposed to do. I am not in that Committee on Health, but it is not enough to just say that, I did not do this or that. Someone needs to say what he is doing, so that we, as Kenyans can have full confidence in him as the new person taking that position.

Mr. Temporary Speaker, Sir, one of the Senators who spoke here said that Dr. Amoth does not belong to any political party and he will give fair opportunity or service to every Kenyan. That is the wrong way to approach these matters. When you are asked to take up public positions, we are not asking you to forfeit your Christian, Muslim or heathen beliefs. We are also not asking you to stop saying that you belong to the United Democratic Alliance (UDA) or any other political party.

Your belonging or not belonging is not the issue. The issue is, are you capable of doing the work that is before you? We need to accept that people can have different opinions, but when it comes to work, people must be able to execute the duties, which we have selected or elected them to do. I want to speak about the huge controversy on the

nomination and the vetting process. My colleagues have also mentioned that, but I hope the other Motion will be brought back.

Mr. Temporary Speaker, Sir, there was a Secretary for Transportation in President Obama's first administration. He was called Ray LaHood. He resigned from Obama's administration at some point because he wanted to pursue more lucrative opportunities outside the Government. So, we need to have honest people; people who will say that, 'up to here, I have children going to the university and I need to earn more money. I do not want to do this job, I want to go and look for money outside.' Let us have that level of honesty.

That man was a Republican and President Obama was a Democrat. He was a cabinet nominee of a Democrat President, but he was a Republican. That did not mean that the Republicans and the Democrats had all of a sudden merged and were forming a government.

Kenyans must start accepting that if we adopted the USA system, all these nominees are coming as individuals. We are not merging political parties. In fact, it would be very untidy to have that kind of a situation.

Many of the Secretaries of State in the USA - and it is the system that we are copying here - have served in different administrations and worked with different presidents. They belonged to different political parties and it did not matter. When the President is picking his Judges, the Military Defence Council or even his Cabinet, he is acting as the Head of State. He is acting like the person who is supposed to be in charge of this country everywhere.

When we are appointing Judges or the Chief of the Defence Forces, we do not ask which political party you belong to. People must start accepting that the Cabinet now in Kenya is just like the military council or the commissions that we are appointing here; we do not ask people which political parties they belong to. We must start accepting that people from different political persuasions will serve in the Cabinet because in Kenya, that is how it is.

Mr. Temporary Speaker, Sir, my prayer is that as you go into this job, Dr. Patrick Amoth, may you do it as a Kenyan and may you come out full force to be heard. May the people of Tana River County also know you. I am also booking you on the Floor of this Senate to come and visit, so that you see what is happening, as you advise the Cabinet Secretary for Health, and the national Government.

Mr. Temporary Speaker, Sir, I beg to support the report.

The Temporary Speaker (Sen. Wakili Sigei): Thank you, Sen. Mungatana for your contribution.

Hon. Members, we do not seem to have Members interested in contributing and I will call upon the Mover to reply.

Sen. (Dr.) Khalwale: Thank you, Mr. Temporary Speaker. I rise on behalf of the Mover to respond.

Allow me to thank colleagues for their contributions and congratulate Dr. Patrick Amoth on this appointment. I also wish to congratulate the committees of the two Houses for making the best pick that they could have made.

(Sen. Nyamu spoke off record)

Sen. (Dr.) Khalwale: Mr. Temporary Speaker, before I conclude my response, I have received a gracious request from my daughter here, Sen. Nyamu. I will give her two minutes to make her comment.

The Temporary Speaker (Sen. Wakili Sigei): Sen. (Dr.) Khalwale, remember earlier on I had indicated that there was no an interested Member, but I assume that courtesy of your interest on this matter, probably, Sen. Nyamu has equally been inspired.

Sen. (Dr.) Khalwale: Mr. Temporary Speaker, Sir, she was threatening to impeach me and I got scared.

The Temporary Speaker (Sen. Wakili Sigei): Very well. So, you will share your time to reply, so that Sen. Nyamu can just speak to the report and permit you to conclude your reply to this Motion.

Sen. Nyamu, please, proceed.

Sen. Nyamu: Thank you, Mr. Temporary Speaker, Sir. The issue of public health is one of interest, particularly in Nairobi County.

I rise to contribute to this Motion on the confirmation of the nominee for the Director General for Public Health, Dr. Patrick Omwanda Amoth. He has a very impressive education background in medicine and public health. He has also demonstrated that he has the knowledge and the experience having acted for four years in the same position.

He has had major contributions to the public health sector in the country. He has contributed to the strategies and the existing health policies over time. He has also demonstrated leadership in medical crisis during, for example, the medical pandemic of COVID-19. He has the endorsement of both committees on Health of both Houses confirming his suitability for the position.

So, what does the future of public health hold under Dr. Amoth? During his interview, I saw him commit to innovation and improving the sector, which is very important. The health sector is changing rapidly every other day, internationally and we will need someone who is progressive to adopt with innovation.

He has also committed to address the challenges that we face today, access to Health, health education and the challenge of the availability of health services.

With those few remarks, because of time, I beg to support this Motion.

The Temporary Speaker (Sen. Wakili Sigei): Sen. (Dr.) Khalwale, your time now is available to close on your reply.

Sen. (Dr.) Khalwale: Thank you, Mr. Temporary Speaker, Sir. I was just congratulating my colleague in the profession. I am glad that a man who has been forced to act for five years is finally getting the job. I believe, had he not been acting, the crisis that the country went through in terms of the strike by medical workers, maybe it would have been averted or solved faster.

Dr. Amoth is not only a medical specialist, but he has also undergone training in Israel on management of health management systems. This kind of training is just what we need if we will build a proper policy that is currently lacking in the devolved structure of managing health.

In the interest of time, may I use this last minute to reply and beg that the putting of the question be deferred to another date under the Standing Order No.66(3).

The Temporary Speaker (Sen. Wakili Sigei): Hon. Senators, pursuant to the provisions of Standing Order No.66(3), the putting of the question as regards this particular Motion is deferred to the next sitting of this House.

(Putting of the Question on the Motion deferred)

ADJOURNMENT

Hon. Senators, it is now 6.30 p.m., time to adjourn the Senate. The Senate, therefore, stands adjourned until tomorrow, Wednesday, 7th August, 2024, at 9.30 a.m.

The Senate rose at 6.30 p.m.