



REPUBLIC OF KENYA

THIRTEENTH PARLIAMENT

NATIONAL ASSEMBLY

THE HANSARD

VOL. II NO. 20

THE HANSARD**Thursday, 16th March 2023**

The House met at 2.30 p.m.

*[The Deputy Speaker (Hon. Gladys Boss) in the Chair]***PRAYERS****Hon. Deputy Speaker:** Proceed.**MESSAGE****NOMINATION OF PERSON FOR APPOINTMENT AS
CHAIRPERSON OF KENYA FISH MARKETING AUTHORITY****Hon. Deputy Speaker:** Hon. Members, I will sit and wait for you to come in. You can take your seats.*(Several hon. Members walked into
the Chamber and took their seats)*

Hon. Members, pursuant to the provisions of Standing Order 42, I wish to report to the House that I have received a Message from His Excellency the President regarding the nomination of a person for appointment as Chairperson of Kenya Fish Marketing Authority. In the Message, His Excellency the President conveys that in exercise of the powers conferred by Section 201(1)(a) and (2) of the Fisheries Management and Development Act 2016 as read together with Sections 3 and 5 of the Public Appointments (Parliamentary Approval) Act of 2011, he has nominated Hon. Martin Otieno Ogindo for appointment as Chairperson of Kenya Fish Marketing Authority. The President now seeks the approval of the appointment by this House.

Hon. Members, Standing Order 45 requires that upon receipt of notification of nomination for appointments, such nomination shall stand committed to the relevant Departmental Committee of the House for consideration. In this respect, I hereby refer the Message from His Excellency the President together with the curriculum vitae and testimonials of the nominee to the Departmental Committee on Blue Economy and Irrigation for consideration.

Section 8 of the Public Appointments (Parliamentary Approval) Act of 2012 requires the committee to which such nomination is referred to consider the matter and table a report to the House within 28 days. In this regard, the Committee is expected to immediately commence the approval process, notify the nominee and the general public of the time and place for holding the approval hearings. Thereafter, upon conclusion of the hearings, table its report on or before Wednesday, 12th April 2023 to enable the House to consider the matter with statutory timelines.

I thank you.

Hon. Ferdinand Wanyonyi (Kwanza, FORD-K): On a point of order, Hon. Deputy Speaker.**Hon. Deputy Speaker:** What is your point of order, senior?

Hon. Ferdinand Wanyonyi (Kwanza, FORD-K): Hon. Deputy Speaker, I thought fisheries is in the Departmental Committee on Agriculture and Livestock. Why is it going to the Departmental Committee on Blue Economy and Irrigation? I just thought that there is miscommunication on the same.

Hon. Deputy Speaker: Hon. Member, if you look at the new revised mandate of each of the various committees and new redesignations, that is where it falls under. Look at the back page of your Standing Orders.

Thank you, Hon. Member. Proceed.

PETITIONS

RESETTLEMENT OF RESIDENTS OF MUTHANGA FARM

Hon. Mary Njoroge (Maragwa, UDA): I, the undersigned on behalf of the residents of Muthanga Farm Company Limited in Murang'a County, draw the attention of the House to the following:

THAT, Muthanga Farm is situated at Muthiga Township along Thika- Makutano-Nyeri Road, approximately 40 kilometres to the North-East of Thika Town, within Kambiti Trading Centre in Makuyu Sub-County, Murang'a County;

THAT, the great grandparents of the petitioners have lived on Muthanga Farm for a long time and were present in 1936 when a white settler, Michael Cantonias, arrived and occupied the farm;

THAT, the settler started planting coffee on the farm in 1952, thus forcing those residents to live in a camp in order to use them as workers on the farm;

THAT, in 1964, the white settler became sick and left the country for treatment but did not return and, therefore, the residents continued to cultivate and occupy the land;

THAT, in 1983, a private citizen who claimed to have been allocated the land by the Commissioner for Lands wanted to evict the petitioners but, upon public participation led by the local administration, it was agreed that the purchaser of the land should compensate the residents;

THAT, Muthanga Farm farmers purchased Muthanga Farm, that is Makuyu/Kambiti/Blocks 1, 51, 61 and 62, formerly LR No. 9447/2, from the Department of Settlement of the Ministry of Lands in 1988, and Members were issued with title deeds.

THAT, some of the members of the Ex-Muthanga Farm Farmers Co. Ltd went to court in 2002 to seek eviction orders for the residents without title deeds to be evicted;

THAT, following a judgment by the High Court on 19th November 2002, the court gave orders for the residents to be evicted;

THAT, despite the fact that the residents have been issued with eviction orders severally, they have not managed to move because they have no land to relocate to;

THAT, efforts to arbitrate the matter between the residents of the farm and Muthanga Farmers have not been fruitful.

THAT, the matter presented in this Petition is not pending before any tribunal, court of law or independent body.

Therefore, your humble petitioners pray that the National Assembly, through the Public Petitions Committee inquires into all matters raised in this Petition to:

- (i) Ensure that the residents without title deeds are not evicted considering that they have stayed on the farm for a long time;
- (ii) Ensure that long lasting amicable solutions to the concerned warring parties therein is brought to an end; and,

(iii) Make any other necessary recommendation that the Committee deems fit to address the issues raised in this Petition.

And your petitioners will ever pray. Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Thank you Hon. Member. Next is the Member for Kitui West, Hon. Edith Nyenze.

DE-SILTATION OF MATINGA DAM

Hon. Edith Nyenze (Kitui West, WDM): Thank you, Hon. Deputy Speaker. Mine is a Petition on behalf of the residents of Kitui West, particularly Mutonguni and Kauwi wards, concerning the de-siltation of Matinga Dam in Kitui Constituency.

I, the undersigned, on behalf of the residents of Kitui West Constituency, draw the attention of the House to the following:

THAT, Article 69 of the Constitution provides that the State shall ensure sustainable exploitation, utilization, management and conservation of the environment and natural resources, and ensure the equitable sharing of the accruing benefits;

THAT, water is a key natural resource which is essential for the wellbeing of every individual;

THAT, Kitui West Constituency is an arid and semi-arid area and, as a result, experiences dry spells and lack of water and pastures throughout the year;

THAT, the Kitui West residents' main economic activity is livestock farming and, therefore, it is crucial to have adequate water for livestock use;

THAT, in the recent past, the residents of Kitui West and, in particular, Kauwi, Mutonguni, Matinyani, Kithumula/Kwa Mutonga wards in Kitui West Constituency have been facing difficulties in regard to provision of water for their livestock and households;

Concerned that, for more than 42 years, Kitui West residents have suffered due to lack of basic necessities such as water for both domestic use and for livestock due to silted Matinga Dam;

THAT, the residents have persistently sought assistance from the Government and non-governmental organizations for de-siltation of Matinga Dam to provide water to the residents with no avail;

THAT, efforts to resolve this matter with the relevant Government levels and agencies have been futile; and,

THAT, the matter presented in this Petition is not pending before any tribunal, court of law or independent body.

Therefore, your humble petitioners pray that the National Assembly, through the Public Petitions Committee, makes an inquiry into all matters raised in this Petition with a view to:

1. Ensure that the de-siltation of Matinga Dam in Kitui West Constituency is carried out by the Ministry of Water, Sanitation and Irrigation to provide water to the residents around the dam and its environs; and,
2. Make any other necessary recommendation the Committee deems fit to address the issues raised in this Petition, bearing in mind that Matinga Dam was done during the colonial times and now it has no water because of siltation.

And your petitioners will ever pray. Thank you, Hon. Speaker.

Hon. Deputy Speaker: Thank you, Hon. Member. Permit me to reorganise the Order Paper slightly for efficiency. I kindly request that we move to Order No. 8 and then go back to Questions.

Next Order.

SPECIAL MOTION

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

CONSIDERATION OF NOMINEES AS MEMBERS OF THE
NATIONAL CLIMATE CHANGE COUNCIL

THAT, taking into consideration the findings of the Joint Committee of the National Assembly Departmental Committee on Environment, Forestry and Mining and the Senate Standing Committee on Land, Environment and Natural Resources in its Report on the Vetting of Nominees for Appointment as Members of the National Climate Change Council, laid on the Table of the House on Tuesday, 14th March 2023, and pursuant to Article 132 (2)(f) of the Constitution, Section 7(4) of the Climate Change Act, Sections 3 and 8 of the Public Appointments (Parliamentary Approval) Act, 2011 and Standing Order 216 (5)(f) of the National Assembly and the Senate Standing Order 228 (4)(f)-

(a) approves the appointment of the following persons as Members of the National Climate Change Council –

- (i) Ms. Emily Mwendu Waita;
- (ii) Mr. John Kioli Kalua; and,
- (iii) Prof. George Odera Outa.

(b) rejects the appointment of Ms. Umra Omar as a member of the National Climate Change Council.

(Moved by Hon. David Gikaria on 15.3.2023 – Afternoon Sitting)

(Debate concluded on 15.3.2023)

(Question put and agreed to)

Hon. Deputy Speaker: Hon. Members, allow me to recognise the following schools that are seated in the Public Gallery: Mwioko Secondary School, Ruiru Constituency, Kiambu County; Mirira Secondary School, Kiharu Constituency, Muranga County and Tchundwa Primary School, Lamu East Constituency, Lamu County. Since Lamu is far away from Nairobi, I will allow Hon. Capt. Ruweida to take a minute to greet her guests.

Hon. Ruweida Mohamed (Lamu East, JP): Ahsante sana, Mhe. Naibu Spika, kwa kunipa nafasi kuwakaribisha watoto wangu wa Tchundwa Primary School kutoka Lamu East, Faza Ward. Wametoka mbali. Walitoka saa tisa asubuhi ili wapate boti, maji iwaruhusu wafike Mokowe. Ili wafike Nairobi, wameondoka huko saa tatu na kufika saa tisa usiku. Nachukua nafasi hii niwaombe watoto wangu wasome. Tumewaleta hapa musome na muangalie dunia ilivyo Nairobi. Watu wamesoma. Kusoma ni muhimu. Musome ili kule kwetu kujengwe kuwe kama Nairobi. Sisi tumesoma na tunaambiwa tujipange ama tutapangwa. Masomo ndio *equalizer*. Mmeingia Kenyatta International Convention Centre (KICC), mumeenda Nairobi School, na pia kule tumeambiwa tujihadhari kabla ya hatari. Kwa hivyo, sisi tuna mambo mengi. Hatari iko karibu na sisi. Kwa hivyo, naona mutakayoyasoma hapa muende mukafanye bidii ili pia nyinyi mchukue nafasi hizi. Muje mfanye kazi Nairobi. Sio kwamba wengine waandikwe kazi lakini sisi Wabajuni tuwachwe nyuma. Karibuni sana.

Ahsante Bi. Naibu Speaker.

Hon. Deputy Speaker: Thank you. Hon. Members, we shall now revert to Order No. 4, which is Petitions. I think the last Petition is by Member for Narok East, Hon. Aramat Lemanken.

PETITION

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

ACCESS ROADS FOR RESIDENTS OF NAROK EAST CONSTITUENCY

Hon. Lemanken Aramat (Narok East, UDA): Hon. Deputy Speaker, I rise to present a Public Petition on the access road of residents of Narok East.

I, the undersigned, on behalf of residents of Inkoirienito, Olmara, Narasha, Oltepesi and Suswa communities draw the attention of the House to the following:

THAT, aware that access roads enable connectivity and safe mobility, and also facilitate access to health, education, economic opportunities and other essential services;

THAT, the residents of Inkoirienito, Olmara, Narasha, Oltepesi and Suswa communities are socially and economically landlocked due to the fact that the only available access road is limited by farms and other structures like the Kedong Farm, Gorge Park, Hell's Gate National Park and Oserian Farm;

THAT, for a long time, the said communities have lacked direct road access to potential markets, health services and other essential services and are disadvantaged compared to the rest of the areas and the residents have been forced to take longer routes to access health services;

THAT, the only existing road that runs through the Hell's Gate National Park is owned by the Kenya Wildlife Service (KWS) and is only open on Mondays and Thursdays and remain closed for the rest of the week thus resulting in service disruptions. In addition, residents who wish to use the road must pay the management of Hell's Gate National Park access fees or obtain prior permission to do so.

THAT, in the event of a medical emergency, affected people must wait for long at the Olkaria and Narasha Gates to be granted permission to pass, and that on numerous occasions, lives have been lost and mothers have given birth while seeking to be granted access;

THAT, efforts to resolve the matter with the relevant Ministry and agencies have been futile; and,

THAT, the issues in respect of which this Petition is made are not pending before any court of law, constitutional or statutory body.

THEREFORE, your humble petitioners pray that the National Assembly, through the Public Petitions Committee:

1. intervenes to have the Government provide an access road to directly link the affected areas and Moi South Lake Road in Naivasha;
2. intervenes to have the Government, through the Ministry of Transport and Infrastructure, construct a public road to directly link the affected areas, Naivasha Town and other parts of the country;
3. makes any other order or direction that it deems fit in the circumstances of this matter.

And your humble petitioners will ever pray. Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Hon. Members, allow me to recognise the presence of the following schools in the Speakers Gallery:

Rukanga Secondary School, Mwea Constituency, Kirinyaga County and Kaai Girls Secondary School, Mwingi Central, Kitui County.

Hon. Members I shall now give 30 minutes for Members to comment on the three petitions. Those who want to comment kindly press the intervention button.

Member for Kuria East, Hon. Marwa Kitayama.

Hon. Maisori Kemero (Kuria East, UDA): Ahsante sana Mhe. Naibu Spika. Naomba niunge mkono ombi hili ambalo rafiki na jirani yangu ameleta katika Jumba hili ili watu wake waweze kwenda sokoni. Watu wake wanafunguliwa barabara siku mbili za wiki. Hili sio jambo la kawaida ya kwamba katika Kenya hii, kuna watu ambao ili waende mahali popote pale,

lazima wangoje zile siku ambazo Shirika la Kenya Wildlife Service limetenga ili wapitie barabara hiyo. Naunga mkono ya kwamba Bunge hili litatue jambo hili. Wakati Bunge linapoangalia barabara hii na zinginezo, pia kuna barabara ambayo inatoka Lolgorian inapitia Mara Rianta, Lemek kuja mpaka Ngorengore, ambayo iko na matatizo kama hayo. Tutakapoweza kuishughulikia, itakuwa ni barabara ambayo itafanya safari hiyo iwe fupi kutoka Nairobi, Muhuru Bay, Migori, Kuria hadi sehemu ya Lolgorian na Kilgoris. Safari hiyo itapunguzwa kwa kilomita 150. Lakini kwa sababu ya masharti mbali mbali ambayo yamewekwa, barabara hizi zimefungwa. Sisi tunapenda Wanyama. Wanaleta rasilimali katika nchi hii na ni maridadi. Lakini kuwa na wanyama isiwe ni kizingiti bali iwe ni faida kwa kila mtu.

Mhe. Naibu Spika, naomba jambo hili liangaliwe kwa upana. Barabara hiyo aliyoisema Mheshimiwa na hiyo niliyotaja zishughulikiwe ili watu wa maeneo hayo waweze kupata faida ya rasilimali ya nchi hii.

Hon. Deputy Speaker: Thank you. The nominated Member, Hon. Sabina Chege. You have two minutes each.

Hon. Sabina Chege (Nominated, JP): Thank you, Hon. Deputy Speaker. I want to support the Petition by Hon. Wamaua regarding the settlements of residents of Muthanga Farm. Looking at the history of this land dating back from 1936, 1964 and 1983, there is a chronology of events on the farm ownership and the people who finally occupied it and bought several blocks of land. I would request that this matter be sorted out. This is not just the first case. We have people who have occupied land and after disagreement with the people who are the legal owners and the ones who have become settlers, they kill each other most of the times.

I urge the Committee on Petition to fast-track this matter so that it can be sorted out once and for all, and the rightful owners are given back their land. Once this is done, it will also enable the settlers to have a place they can call home. When people stay in a place for a long time and then they are evicted, they have no place to go. I just want to thank, Hon. Mary Wamaua for bringing this Petition so that the matter can be settled.

Thank you very much, Hon. Deputy Speaker.

Hon. Deputy Speaker: Member for Kitui South, Hon. Rachael Nyamai.

Hon. (Dr) Rachael Nyamai (Kitui South, JP): Thank you, Hon. Deputy Speaker, for giving me this opportunity. I would like to support the two petitions. On the one that has been raised by Hon. Mary Wamaua, many of our citizens have found themselves in a situation where they were pushed out by colonialists. This is where somebody who may have been within the system or Government at that time was allocated land, and then they are forced to pay. This matter touches on many other areas. Therefore, I would like to encourage Hon. Mbai, with his Public Petitions Committee, to fast-track it and also encourage the Departmental Committee on Lands, led by Hon. Nyamoko, to ensure that Kenyans who are in these situations are taken care of.

I would like also to support the Petition raised by Hon. Edith Nyenze, the Member for Kitui West. Colonialists seem to have planned our counties very well, and given us huge dams in every constituency. This name, 'Matinga,' seems to be the name that was given to almost all those big dams in our constituencies.

I would like to request the Committee that, as they deal with this matter which has been raised by Hon. Nyenze, which is going to bring some sustainability in acquisition of water in her area, it also considers other dams that may be of the same magnitude that are within the eight constituencies in Kitui.

So, I would like to congratulate Hon. Nyenze and request the Committee to think of the other eight dams with similar names that can be sorted out.

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Thank you. Member for Kigumo, Hon. Joseph Munyoro.

Hon. Joseph Munyoro (Kigumo, UDA): Thank you, Hon. Deputy Speaker. I rise to support the Motion by Hon. Mary Wamaua on Muthanga Farm. I would like to propose that these issues be dispensed with. We come from Murang'a, and we have had many issues of land. We have a lot of historical injustices where people were evicted from their ancestral land that was occupied by whites and eventually, when we got independence, the land went to other people. And looking at how long this matter has stalled; those people have been there for almost 100 years and they are still being dispossessed of that land.

I propose that this Petition be handled and be dispensed with and those people be rightfully given that title of the land so that they can occupy it rightfully. We have had issues with such schemes of land, murders and killings because of people feeling that they have been dispossessed of their land. It is only right and fair that Muthanga Farm be dealt with, and those people settled.

I rise to support this Petition. I also rise to ask that it be dispensed with fast, and any other that we have, because we have several in our county.

I, thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: The Member for Tetu, Hon. Geoffrey Mwangi.

Hon. Geoffrey Wandeto (Tetu, UDA): Thank you, Hon. Deputy Speaker. I also rise to support the resettlement of those people. It is very important that I highlight that this does not just affect the people of Maragua Constituency. There are many people who find themselves in those situations. We have people who have been squatters on lands that they have occupied for a long time, but without having the requisite titles. There are also people who have been living outside some of our forests and who, at some point, were evicted. It is important that we now come up with a comprehensive resettlement policy in this country for all people who basically live as squatters on their own land.

I rise to support and say that this should be extended not just to the residents of Maragua but, indeed, many other areas in this country with similar situations.

I rise to support.

Hon. Deputy Speaker: Thank you, Member for Mwingi Central, Hon. (Eng.) Gideon Mulyungi.

Hon. Gideon Mulyungi (Mwingi Central, WDM): Thank you, Hon. Deputy Speaker for giving me this opportunity to contribute to this Petition. I also want to take this opportunity to welcome students from Kaai Secondary School from my constituency who are in this House today.

Matinga Dam is very important to Kitui. Desilting and preservation are very important for the people of Kitui. Kitui still experiences inadequate water, over and above the current provision. Kitui still needs more water resources to enable us supply more water for drinking and irrigation. Therefore, continued silting will dry up the dam and elevate the problem of scarcity of water. Desilting should, therefore, be done very quickly as a matter of priority.

I support that this Petition by Hon. Edith Nyenze be dispensed with as quickly as possible. However, in doing so, there are cartels which purport to desilt dams but they go and harvest sand for business purposes. Those in charge should, therefore, take care.

I support. Thank you.

Hon. Deputy Speaker: Hon. Member for Nakuru Town East, Hon. David Gikaria.

Hon. David Gikaria (Nakuru Town East, UDA): Hon. Deputy Speaker, I rise to support my brother, Hon. Ken Aramat from Narok East with regard to the refusal by KWS to enable them use that route. As rightfully as the Member has just indicated, their main market from Narok East is Naivasha, Gilgil, Nakuru and beyond. Unfortunately, the residents and the people of Narok East cannot be allowed to use the road on Mondays and Thursdays.

First, there is the Geothermal Development Company (GDC), which has environmentally spoilt the ecosystem of that region, and there are no animals anywhere in Hell's Gate other than on the upper side where the road itself does not pass.

In the first place, for KWS to lock that gate and charge money for anyone who wants to use it is, in my view, not right. Roads are supposed to open up a place. They should allow the residents of Narok East to do their business of marketing and other things with a lot of ease. I once went to that place and I had to pay money to access the route from Oserian and upon exiting, I was again supposed to cough a few shillings. What saddened me most is about the sick people whenever they want to be rushed to the hospital. The nearest hospital is in Gilgil, which is approximately 20 to 25 kilometres, but they have to go all the way to Mai Mahiu, and then come down to Gilgil or come up to ...

Hon. Deputy Speaker: Thank you. The Member for Mwingi West, Hon. Charles Ngusya.

Hon. Charles Nguna (Mwingi West, WDM): Thank you, Hon. Deputy Speaker for giving me this opportunity to support the three Petitions, beginning with the one for Kitui West. I have known that dam for many years. It was very important for Hon. Nyenze to present it here on the Floor of the House. The dam used to supply water to three constituencies; that is, Kitui Rural, Mwingi West and Kitui West. It is very important we engage and conclude this matter, since the President said he would focus a lot on water.

There is another issue in Narok East. It is very important that we deal with it once and for all. I visited the area and residents do not have freedom to move and transport goods and services to other areas.

With regard to Hon. Wamaua's Petition, there are so many land issues in our country which need to be dealt with. I support the three Petitions fully. Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Member for Lamu East, Hon. Ruweida Obo.

Hon. Ruweida Mohamed (Lamu East, JP): Ahsante, Mhe. Naibu wa Spika, kwa kunipatia nafasi ya kuchangia. Kusema kweli, hii kupimiwa barabara inaleta adhari nyingi sana. Sisi tunayapitia mambo haya Lamu. Imekuwa ni kama ya kawaida. Nimeshangaa kwa sababu nilifikiri ni Lamu peke yake ambayo inapata shida kama hizi. Ikifika saa kumi na mbili Lamu, barabara na Kaunti nzima inafungwa na hakuna ruhusa ya kutoka nje. Kukiwa na mambo ya dharura, ni gari la wagonjwa pekee ambalo linatoka. Katika sehemu zingine nilipatana na *Special Force* wakanisomea kama mtoto mdogo.

Katika barabara ya kwenda Kiunga, hakuna gari linapita. Kukiwa na jambo la dharura Kiunga, lazima utumie bahari ambayo saa zingine ina mawimbi makali. Watu wengi wamepata ajali nyingi. Naunga mkono huyu Mheshimiwa. Maombi yake yafuatiliziwe na pia katika sehemu zingine.

Ilipotokea COVID-19, Wakenya walipata amri za kutotoka nje. Sisi tulikuwa tumezoea kwetu. Kwetu Lamu, mara kuna amri ya kutotoka ya wavuvi ama barabara ambayo haipitwi. Hii inatuadhihi sana kiuchumi. Naomba maombi haya yaangaliwe na Kamati vizuri, na ihakikishe jambo hili limerekebishwa. Pia, hizo baraka zisonge kwetu.

Ahsante, Mhe. Naibu wa Spika

Hon. Deputy Speaker: Member for Kilifi North, Hon. Owen Baya.

Hon. Owen Baya (Kilifi North, UDA): Hon. Deputy Speaker, thank you very much for giving me the opportunity to contribute to these three Petitions. One, as you noticed, the Public Petitions Committee will have a lot of work. I do not know what we are going to do within our Standing Orders. I used to be a Member of the Departmental Committee on Lands under the leadership of Hon. (Dr) Rachael Nyamai. We used to have very many petitions. It came to a time when we were always seeking for more time from the House to consider them. At the end of the 12th Parliament, there were several petitions which we did not manage to

consider. I do not know how a Committee whose job is only to look at petitions from all areas will manage them. As we try to amend Standing Orders, we may need to re-look at what this Committee is able to do. Otherwise, we might just be presenting important petitions here on land...

I was there. I know how tedious they can be and how you have to travel very many kilometers to go and see those lands. You have to meet almost every day to consider them and bring the reports to the House. We are almost going to the first break, but we do not even have one report which has been presented here after all those many petitions that have been presented. As you sit with Hon. Speaker, you need to reconsider this issue of Public Petitions Committee. They might be biting more than they can chew.

I thank you.

Hon. Deputy Speaker: Member for Mbeere North, Hon. Geoffrey Ruku, you are the second last one.

Hon. Jared Okello (Nyando, ODM): On a point of order, Hon. Deputy Speaker.

Hon. Deputy Speaker: What is your point of order, Member for Nyando?

Hon. Jared Okello (Nyando, ODM): Hon. Deputy Speaker, I thank you. Just before we began the Sitting, this House was full. I am disturbed because our colleagues from across the aisle are not in this House. I would like to know whether they are safe wherever they are and what has occasioned their mass exit. We may also excuse ourselves and leave to find out whether they are in good shape or there is a serious catastrophe that has befallen them.

Hon. Deputy Speaker: The last one is a comment on the petitions. Member for Kitui Rural, Hon. David Mboni.

Hon. David Mwalika (Kitui Rural, WDM): Thank you, Hon. Deputy Speaker. I do not want to support the Member for Nyando. He is trying to tell us that he is a coward.

I want to support the Petition by Hon. Nyenze for desilting Matinga Dam. Actually, Matinga in Kikamba means tractors. These dams are dotted everywhere in Ukambani. The colonialists knew that there was a lot of water shortage in Ukambani, and they constructed many dams. Unfortunately, they are silted and they do not provide water. People walk for long distances to fetch water. It is our request that, as they look at Matinga Dam in Kitui West, they can also look at other dams that are dotted across the county.

Kitui Town gets water which is not enough from Matinga Dam. There is a lot of water shortage, even in Kitui Town. I urge the Government to fast-track the work going on in Thwake Dam because it will provide adequate water for drinking, hydropower and irrigation.

There is also the proposal for High Grand Falls Dam, which will be very big. If the Government can get enough funds to construct that dam plus Thwake Dam, the water shortage in Ukambani will be sorted out.

Thank you very much.

Hon. Deputy Speaker: We will now move to the next Order. However, Hon. Members, allow me first to recognise the presence, in the Public Gallery, of Kikaso Secondary School from Mwala Constituency, Machakos County.

(Applause)

Hon. Members, we can now proceed. Next Order.

PAPERS

Hon. Deputy Speaker: Hon. Baya is sitting in for the Leader of the Majority Party.

Hon. Owen Baya (Kilifi North, UDA): Thank you very much, Hon. Deputy Speaker. Before I lay the Papers, I just want to tell my friend that when I am here, the Majority Party is here. So, do not worry. If you see me here, we are enough. We can handle you very well.

(Laughter)

So, do not worry about the absence. They are safe but we can handle you.

Hon. Deputy Speaker, I beg to lay the following Papers on the Table:

Reports of the Auditor-General and Financial Statements in respect of the following constituencies for the year ended 30th June 2019, and the certificates therein:

- (a) Ol Jororok;
- (b) Samburu North; and,
- (c) Ol Kalou.

Reports of the Auditor-General and Financial Statements in respect of the following institutions for the year ended 30th June 2020, and the certificates therein:

- (a) Kenya Post Office Savings Bank; and,
- (b) National Cancer Institute of Kenya.

Reports of the Auditor-General and Financial Statements in respect of the following institutions for the year ended 30th June 2021, and the certificates therein:

- (a) Agricultural Development Corporation; and,
- (b) Kenya Export Promotion and Branding Agency.

Annual Report and Financial Statements of the Power of Mercy Advisory Committee for the Financial Year 2021/2022 from the Office of the Attorney-General and Department of Justice.

Annual Report and Financial Statements of the National Council on the Administration of Justice (NCAJ) for the Financial Year 2021/2022, from the Office of the Attorney-General and Department of Justice.

Reports of the Auditor-General and Financial Statements in respect of the following institutions for the year ended 30th June 2022 and the certificates therein:

- (a) Capacity Development Project for Sustainable Forest Management in Kenya (CADEP) (Grant No. 22) – Kenya Forest Service;
- (b) Youth Enterprise Development Fund;
- (c) COVID-19 Emergency Response Fund - The National Treasury;
- (d) National Exchequer Account - The National Treasury;
- (e) Contingencies Fund - The National Treasury;
- (f) Agricultural Information Resource Centre Revolving Fund;
- (g) Office of the Director of Public Prosecutions Staff Housing Mortgage and Car Loan Scheme;
- (h) The Commission on Administrative Justice - Staff Mortgage and Car Loan;
- (i) The Commission on Administrative Justice;
- (j) Kenya National Commission on Human Rights;
- (k) Kenya National Commission on Human Rights Car and Mortgage Loan Scheme;
- (l) Strengthening Drought Resilience for Small Holder Farmers and Pastoralists in the IGAD Region Project No.03/Dress-EA/07/OSS-KE/20 – Ministry of Environment and Forestry;
- (m) Sirare Corridor Accessibility and Road Safety Improvement Project: Isebania-Kisii-Ahero –(AI) road rehabilitation – Kenya National Highways Authority;

- (n) Nairobi Outer-Ring Road Improvement Project – Kenya Urban Roads Authority;
- (o) National Action Plan on Artisanal Small-Scale Gold Mining Project – Ministry of Environment and Forestry;
- (p) System Land Based Emissions and Estimation in Kenya (SLEEK) Project – Ministry of Environment and Forestry;
- (q) Kenya Enabling Activities for HFC Phase – Down Project (Grant No. UNEP/KEN/SEV/81/TAS/01+) - Ministry of Environment and Forestry; and
- (r) East Africa Skills for Transformation and Regional Integration Project (EASTRIP) (IDA Loan No.6334-KE) – Meru National Polytechnic.

Hon. Deputy Speaker: Thank you, Deputy Leader of the Majority Party. Next Order.

QUESTIONS AND STATEMENTS

ORDINARY QUESTIONS

Hon. Deputy Speaker: We will begin with the Question from the Member for Dagoretti North, Hon. Beatrice Elachi.

Question No.047/2023

PREPAREDNESS FOR IMPLEMENTATION OF COMPETENCY-BASED CURRICULUM IN INFORMAL SETTLEMENTS

Hon. Beatrice Elachi (Dagoretti North, ODM): Hon. Deputy Speaker, I rise to ask the Cabinet Secretary for Education the following Question:

Could the Cabinet Secretary –

- (a) Report on the state of preparedness for implementation of the Competency-Based Curriculum in junior secondary schools located in informal settlements, particularly those in Nairobi County?
- (b) Explain the measures that have been put in place to address the inadequacy of facilities such as laboratories and recreation facilities in junior secondary schools, especially those located in informal settlements in Nairobi County?
- (c) Provide details on the number of teachers who have been trained and deployed to teach in junior secondary schools nationally, specify the number that has been deployed to junior secondary schools in informal settlements in Nairobi County, and state whether the teacher allocation meets the recommended student-teacher ratio?

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Thank you, Member for Dagoretti North. That Question will be replied to before the Departmental Committee on Education. Next is the Member for Suba South, Hon. Caroli Omondi.

Question No.048/2023

GAZETTEMENT OF SUBA SOUTH AND SUBA NORTH SUB-COUNTIES AS HARDSHIP AREAS

Hon. Caroli Omondi (Suba South, ODM): Hon. Deputy Speaker, I rise to ask the Cabinet Secretary for Public Service, Gender and Affirmative Action the following Question:

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

Could the Cabinet Secretary –

- (a) State when the Government intends to gazette Suba South and Suba North sub-counties as hardship areas for purposes of enabling the Teachers Service Commission (TSC) to implement the Collective Bargaining Agreement (CBA) that declared the two sub-counties as hardship areas?
- (b) Confirm that the Government is committed to facilitating the TSC to pay teachers in the said sub-counties all outstanding hardship allowances that ought to have become payable from the date the CBA became effective?

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Hon. Caroli Omondi, your Question will be replied to before the Departmental Committee on Administration and Internal Security.

The next Question is deferred as the Member for Wajir East, Hon. Aden Mohamed, is away on official duties.

Question No.049/2023

ESTABLISHMENT OF FOREIGN MILITARY
BASE AT WAJIR INTERNATIONAL AIRPORT

(Question deferred)

So, we will move to the next Question by nominated Member, Hon. Sabina Chege.

Question No.050/2023

STATUS OF CONSTRUCTION OF MIRIRA DAM

Hon. Sabina Chege (Nominated, JP): Hon. Deputy Speaker, I rise to ask the Cabinet Secretary for Water, Sanitation and Irrigation:

Could the Cabinet Secretary –

- (a) Provide details regarding the contract sum and period for construction of Mirira Dam in Murang'a County and the number of households that the dam was supposed to benefit?
- (b) Give the status of construction of Mirira Dam and state when it will be completed for residents to benefit?

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Hon. Sabina Chege, the Question will be replied to before the Departmental Committee on Blue Economy, Water and Irrigation. I know that the Committee was previously called the Departmental Committee on Blue Economy and Irrigation, but it has since been amended by the Procedure and House Rules Committee and was approved by the House.

The next Question is by the Member for Kinango, Hon. Gonzi Rai.

Question No.051/2023

OWNERSHIP DETAILS OF TARU RANCH

Hon. Gonzi Rai (Kinango, PAA): Hon. Deputy Speaker, I rise to ask the Cabinet Secretary for Lands, Public Works, Housing and Urban Development the following Question:

- (a) Could the Cabinet Secretary provide details of the ownership of Taru Ranch and confirm whether the parcel of land is validly registered?
- (b) Could the Cabinet Secretary explain why there was a grant of extension of lease of Taru Ranch without the necessary stakeholder approvals required before such grant is given?
- (c) Could the Cabinet Secretary consider taking appropriate interventions through the Lands Registrar, Kwale County to undertake investigations into the new title number CR66309 provided to Taru Ranch and order revocation of the title deed to its rightful owners?

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Hon. Gonzi Rai that Question will be replied to before the Departmental Committee on Lands.

STATEMENT

Hon. Deputy Speaker: There is a Statement by the Leader of the Majority Party.

BUSINESS FOR THE WEEK OF 20TH TO 24TH MARCH 2023

Hon. Kimani Ichung'wah (Kikuyu, UDA): Thank you, Hon. Deputy Speaker. Pursuant to the provisions of Standing Order 44(2)(a), I rise to give Statement on behalf of the House Business Committee which met on Tuesday, 14th March 2023 to prioritise business for consideration during the week.

As Members are aware, this week, the House approved reports of the 2023 Medium-Term Debt Management Strategy and the 2023 Budget Policy Statement for the Financial Year 2023/2024. Hon. Deputy Speaker, allow me to thank the Committees and the House for the steadfast commitment that saw the conclusion of this important business in our budget cycle.

On Tuesday next week, it is expected that the Division of Revenue Bill, 2023, which is pegged on the 2023 BPS that was approved yesterday, will be published and read the First Time. The House will continue with the general debate on the proposals to amend the Constitution and the Standing Orders, as well as debate on reports of the 61st Session of the Organisation of Africa, Caribbean and Pacific Group of States (OACPS) Parliamentary Assembly and the 42nd Session of the ACP-EU Joint Parliamentary Assembly; and Second Reading of the Statute Law (Miscellaneous Amendments) Bill, 2022, should they not be concluded today. The House will also begin debate on Reports of delegations representing Kenya in the Pan-African Parliament (PAP) and the Inter-Parliamentary Union (IPU). Finally, the House Business Committee shall reconvene on Tuesday, 21st March 2023, to schedule business for the rest of the week.

I now lay this Statement on the Table of the House. Thank you.

(Hon. Kimani Ichung'wah laid the document on the Table)

Hon. Deputy Speaker: Thank you, Leader of the Majority Party, Hon. Kimani Ichung'wah. Hon. Members, we had re-ordered the Order Paper but now we can go back to Order No. 9 because we had already dispensed with Order No. 8. Next Order.

MOTIONS

REPORT ON DRAFT SALARIES AND REMUNERATION COMMISSION

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

(REMUNERATION AND BENEFITS OF STATE AND OTHER
PUBLIC OFFICERS) REGULATIONS OF 2022

THAT, this House adopts the Report of the Committee on Delegated Legislation on its consideration of the Draft Salaries and Remuneration Commission (Remuneration and Benefits of State and other Public Officers) Regulations, 2022 laid on the Table of the House on Wednesday, 8th March 2023, and pursuant to the provisions of Section 26(2) of the Salaries and Remuneration Commission Act, 2011 rejects the Draft Salaries and Remuneration Commission (Remuneration and Benefits of State and other Public Officers) Regulations, 2022.

(Moved by Hon. Samuel Chepkonga on 14.3.2023)

(Resumption of Debate interrupted on 14.3.2023)

Hon. Deputy Speaker: We shall resume debate. I have on the list the Hon. Member for Kathiani, Hon. Robert Mbui.

Hon. Robert Mbui (Kathiani, WDM): Thank you, Hon. Deputy Speaker, for this opportunity to contribute on the Report of the Departmental Committee on Delegated Legislation that is dealing with Regulations brought to it through the Salaries and Remuneration Commission (SRC). Let me quote a few things.

Firstly, Chapter 15 of the Constitution of Kenya, Article 248, identifies that there are 10 commissions and two independent offices. Then, Article 249(2) states that:

“The commissions and the holders of independent offices -

(a) are subject only to this Constitution and the law; and

(b) are independent and not subject to direction or control by any person or authority.”

None of the commissions is supposed to be a prefect to others. When this Committee met with the Judicial Service Commission (JSC), the Teachers Service Commission (TSC), the Parliamentary Service Commission (PSC) and the Public Service Commission, they all complained of the SRC meddling in their affairs. It is important to note that the Constitution is very clear about each and every one of them, and the mandate given to them.

When these commissions were being formed in 2010, we need to ask ourselves whether each of them really needed to be full time. When you form a commission and the job and responsibilities it is given is not enough, they start interfering and getting involved in other State corporations. We needed to ask ourselves whether the SRC needed to remain as a full time commission because maybe the idle time they are getting is what is making them start meddling.

On the general functions and the powers of commissions and independent offices, Article 252 (d) states as follows:

“May perform any functions and exercise any powers prescribed by legislation, in addition to the functions and powers conferred by this Constitution.”

As a Member, the commission that represents us is the Parliamentary Service Commission. Article 127(6)(a) has mandated it to deal with matters of Members’ services and facilities. It is very unfortunate that the SRC has continuously encroached on the roles and responsibilities of the PSC and try to usurp its roles. It is important we figure out how to deal with this monster called SRC. Article 230(4)(a) sets the roles and regulations of the SRC. It states that they are supposed to:

“(a) Set and regularly review remuneration and benefits of all State officers; and

(b) Advise the national and county governments on the remuneration and benefits of all other public officers."

While doing this, Article 230(5) is very clear that they must follow the following principles:

- (a) They must check whether the wage Bill is sustainable.
- (b) They make sure that the pay given to these public and state officers is attractive and competitive enough to attract people or workers to the public sector.
- (c) Recognise productivity and performance.
- (d) Have transparency and fairness.

It is very shocking to note that salaries of JSC State officers are increased on an annual basis but PSC State officers get stagnant pay. Is that transparent? Is that fair? Why do you treat one State officer different from another? I thank God for the provisions on the SRC. They compel the SRC to present any regulations to this House before they can be acted upon, unlike all other State corporations and implementing bodies.

The Statutory Instruments Act that governs the operations of the Committee on Delegated Legislation is very clear about public participation when making subsidiary legislation. Even if there were any invitations, all these commissions are complaining that their views were not taken into consideration. That obviously means you cannot say there is public participation when you call drivers and bodyguards to sign attendance sheets and you do not deal with the matters brought to the commission. I believe there was no adequate public participation that was carried out by this body.

Finally, the SRC somehow believes that in carrying out their responsibilities, they have to cut down salaries to size. It is very unfortunate that there is a body that sits down there and figures out how to reduce salaries when we are going through inflation. It is not just reducing salaries. When you deal with mandates of other commissions and affect allowances of other State officers, obviously you are reducing their buying power, therefore creating a situation where they are unable to carry out their responsibilities as they were able to before. You cannot do that at a time when prices of *unga* and petrol have gone up. It is unfortunate. I think this SRC needs to be stopped.

With those few remarks, I support the Committee. I ask that we all support the Committee's Report. Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Member for Machakos County, Hon. Joyce Kamene.

Hon. Joyce Kamene (Machakos County, WDM): Thank you, Hon. Deputy Speaker, for the opportunity. I just want to air my voice on the SRC.

The draft Regulations it forwarded clearly show that there was no public participation from the other commissions. For example, it is not the mandate of the SRC to regulate the non-financial benefits given to State officers or salaries of public officers. I do not see why the SRC wants to overstep its mandate. It is clear in the Constitution and they know what they are supposed to do. Pensions to employees of other State bodies that have service commissions—the PSC, TSC, JSC and the Public Service Commission... Those institutions have the mandate to regulate the salaries and pensions of their employees. Why the SRC wants to step in the mandate that is not theirs leaves a lot to be desired. It means and clearly shows that the SRC does not have enough work. It is overstepping on other bodies.

(Loud consultations)

Hon. Deputy Speaker: What is your point of order, Leader of the Majority Party?

Hon. Kimani Ichung'wah (Kikuyu, UDA): Hon. Deputy Speaker, sorry for interrupting Hon. Joyce Kamene. I am really perturbed by the actions of the Members for

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

Nyando and Muhoroni. They are speaking and conversing in Dholuo right in front of Hon. Kamene. For all I know, *Luo* is not a language recognised in the House. It is this kind of impunity that is destroying the fabric of our nation and we cannot allow them from the streets to their houses and now bring it to the august House. Hon. Deputy Speaker, you must take action against the Hon. Member for Nyando Constituency.

I know he is probably feeling he has impunity because last night he was hosting a delegation of people who are planning to cause violence and chaos in Nairobi on Monday. But we must tell him that this is the National Assembly and we shall not allow him to carry on with the same impunity on the Floor of the House. He must also know that even his house on Bogani Road is now under watch. It is a crime scene. We shall not allow you to use even your private residences to plan bloodshed in this country and we shall not allow you and your leader to continue swimming on the blood of Kenyans to access power. It shall not happen. It might have happened in the past but not anymore.

Please, protect Hon. Joyce Kamene from the unnecessary, I do not know if it is picketing or a violent display of arrogance or impunity to be conversing in Dholuo in the National Assembly. Maybe they can join the Kisumu County Assembly from here.

Hon. Jared Okello (Nyando, ODM): On a point of order Hon. Deputy Speaker.

Hon. Deputy Speaker: Do you have a point of order Hon. Member for Nyando Constituency? Okay. I cannot hear you Hon. Member for Nyando Constituency.

Hon. Jared Okello (Nyando, ODM): I thank you very much, Hon. Deputy Speaker. I seldom engage in altercations, especially with people who claim to have some leadership roles within this House. Hon. Deputy Speaker, I have been mentioned quite adversely by the Leader of the Majority Party. Firstly, I decide who visits me at any given time and no one has any control over who visits me at my place. The Leader of the Majority Party seems to have a very big problem when the leadership of Azimio la Umoja – One Kenya Coalition Party visits my House.

Hon. Deputy Speaker, I can even extend an invitation to my friend Hon. Kimani Ichung'wah at any given time of the day and even you as a very good friend of mine. But fundamentally, we should not belittle this august House by bringing in extraneous matters that have absolutely no linkage to what is happening in this House. We have said and repeatedly so, that on Monday we shall be exercising our democratic right as enshrined in the Constitution under Article 37, to peacefully assemble within the Republic of Kenya, specifically Nairobi. We shall not and let me repeat for the record, we are not going to do anything that is outside the constitutional ambit.

Hon. Deputy Speaker: Thank you, Hon. Member for Nyando.

Hon. Jared Okello (Nyando, ODM): Hon. Deputy Speaker, lately—I mean you gave him a lot of time to speak so let me also respond. Lately, my very good friend Hon. Ichung'wah seems to be...

Hon. Samwel Chepkonga (Ainabkoi, UDA): On a point of order, Hon. Deputy Speaker

Hon. Jared Okello (Nyando, ODM): Hon. Member for Nyando, one minute while we allow the point of order from the Hon. Member for Ainabkoi.

Hon. Samwel Chepkonga (Ainabkoi, UDA): Hon. Deputy Speaker, I rise pursuant to Standing Order 83. It is very clear in the Standing Orders that no Member shall rise pursuant to no Standing Order. You have allowed the Hon. Member for Nyando Constituency to rise on no point of order. You know he is a very good Member of my Committee and he knows all the Standing Orders. On this particular one, there is no Standing Order that he has risen on. In fact, what he is canvassing is quite irrelevant from what Hon. Joyce Kamene is contributing on. I expected him to contribute on Salaries and Remuneration Commission. In fact, he should wait to respond to the Leader of the Majority

Party on that issue when he is canvassing. In fact, I had asked him to contribute. The only thing that he is doing is to respond to the Leader of the Majority Party on something that is true anyway. Under Standing Order 91, we know what he was saying was true. There nothing for him to respond to other than to contribute to the Motion that is in place.

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Thank you Member for Ainabkoi, Hon. Chepkonga. I only indulged the Member for Nyando hoping that within a few sentences he would come up with a Standing Order. He has made his point.

Let us allow the Member for Machakos County, Hon. Joyce Kamene to complete her contribution.

Hon. Joyce Kamene (Machakos County, WDM): Thank you, Hon. Deputy Speaker. Finally, let me state that the main role of SRC is to set and regulate salaries of State officers and that its role is advisory when it comes to salaries and benefits of other public officers. So, I support the Committee on Delegated Legislation on this issue of SRC.

Thank you.

Hon. Deputy Speaker: Thank you. The Member for Emuhaya, Hon. Omboko Milemba *aka Mwalimu*.

Hon. Omboko Milemba (Emuhaya, ANC): Thank you Hon. Deputy Speaker and thank you for acknowledging my teaching profession.

Hon. Deputy Speaker, if there is any one profession that has been hurt most by the SRC, it is that of teachers of Kenya. They have continuously released circulars and letters which otherwise control everything in terms of terms and conditions of service for the teachers. This has made the teachers of Kenya to stagnate in the same job groups for the longest time. Currently, the teachers of Kenya have stagnated and remain at a Collective Bargaining Agreement (CBA) stage that was negotiated in 2016. Since that particular time, it is over 10 years ago.

The SRC has been given extra leeway and this historically began when it was thought that SRC would control the wage bill. In fact, what is increasing our expenditure in terms of recurrent expenditure is payment of the loans and not the wage bill. The wage bill has really reduced and, in fact, it has gone down by about 13 per cent compared to what it was.

Hon. Deputy Speaker, let me tell you what SRC is doing in these Regulations. It wants to proceed and usurp the powers of all other commissions so that it remains the only commission that would overrule and oversee the other commissions, which is wrong as per the Constitution because all the 10 independent commissions are only subject to the Constitution.

The SRC wants to take over negotiations of CBAs from both the employer and the unions of this country. It has already terminated any acting allowances for workers in this country specifically for teachers, despite the Employment Act, Section 4(1) allowing that. The SRC has terminated special allowances which is allowed in the Labour Relations Act and the Employment Act. Currently, it has stopped any negotiations with workers of this country through a letter which I think the Chair of this Committee will be receiving so that he may squash it because as per the law, workers are supposed to negotiate CBAs after every three years but the SRC has stopped it via a letter only.

There is a group of workers in this country called the Early Childhood Development Education (ECDE) teachers who have been volunteers over the years. Along the way, county governments picked ECDE teachers and gave them some contractual work. Today, the SRC, via a circular which I have and which I shall surrender to the Chair of this Committee, has reduced the salaries of those ECD teachers by between Ksh7,000 and Ksh10,000. In fact, they have reduced some of the salaries to below the minimum wage. That is the commission we are dealing with. In these Regulations, I want to tell you that the SRC was pursuing to have the control of regulating pensions of all workers in the country. This is against the law because

pensions are under the Pensions Act, the National Treasury and other institutions that have been mandated to do that. Members should listen to this: In these Regulations, the SRC was even trying to change the formula of calculating pensions which has been there for several years. Therefore, you will soon realise that your pensions are calculated lower than they should have been because of these Regulations by SRC.

[The Deputy Speaker (Hon. Gladys Boss) left the Chair]

[The Temporary Speaker (Hon. (Dr) Rachael Nyamai) took the Chair]

Lastly, Hon. Temporary Speaker, the SRC is trying to make sure that the pensions of all workers are reduced. Having said all that, I want to commend this Committee for having annulled all the SRC Regulations in totality. I want them to follow up and deal with the issue of reducing the salaries of ECDE teachers. The ECDE teachers have no voice. Nobody is speaking for them. I know this Parliament will speak for the ECDE teachers of Kenya. Their salary has been reduced from Ksh18,000 to below Ksh15,000 which is the minimum wage required by the International Labour Organization (ILO) Convention No. 98. It is high time that we have SRC under control. We need to regulate it because they are doing all these without any public participation and consultation. In all these, they have always had their way out.

I want to support the Report and ask that this Committee continues to deal with the many other circulars that have been given by the SRC. This is including the one on ECDE teachers that Homa Bay County has already started applying. It is the first one to have reduced the salaries of those particular teachers. In law, a salary that somebody is enjoying cannot be reduced. If it were to be reduced, it is required in law under the Labour Institutions Act that a conversation ensues. In such cases, there must be a big thing that has happened, what we call *force majeure*. For example, when we had COVID-19 pandemic. That is when you go to an extent of reducing people's salaries.

Therefore, I support this Report and thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): Very well spoken, Member for Emuhaya. Hon. Peter Kihungi, Member for Kangema. It looks like the Member for Kangema has stepped out. Hon. Rindikiri Mugambi, Member for Buuri. He seems to have stepped out of the House too.

I would also like our technical department to check whether these Members have pressed the button or there is a problem with the system.

Hon. Donya Dorice, Member for Kisii County. I am very sorry, Hon. Members. The system also indicates to me that the Member has pressed the button. Members, I will go to Hon. Geoffrey Ruku, Member for Mbeere North. You may proceed.

Hon. Ruku GK (Mbeere North, DP): Thank you, Hon. Temporary Speaker. I am a Member of the Committee on Delegated Legislation which sat and looked at these matters of SRC. We had an occasion to invite the SRC commissioners as well as the Chief Executive Officer (CEO) to come and explain all these as far as the Regulations they were proposing for our consideration were concerned.

If there is a constitutional commission which does not understand its mandate, then it is the SRC. This is because its mandate is clearly stipulated in our Constitution but they end up giving themselves powers that they do not have and not provided for by the laws of this country. Actually, this House should go a step further and maybe demand the vacating of office of all the SRC commissioners. This is because they have continued to mislead and misguide different Government bodies in terms of their salaries and remuneration. They have taken the Judiciary,

Teachers Service Commission, this Parliamentary Service Commission and many other institutions in circles.

For instance, we have the State Law Office employees who work day and night and put a lot of effort to work together with the Ministry of National Treasury and Economic Planning. However, you will find that the State Law officers cannot benefit from their required allowances for putting extra effort because SRC gave guidelines. These guidelines are completely out of the law. This has been the case not only between the State Law Office and the National Treasury, but many other Government officers. These officers work very hard for the Republic of Kenya but they cannot get their benefits because the SRC does not clearly understand what they are supposed to do and their mandate.

As the Select Committee on Delegated Legislation of this House, it is our considered opinion that we have complete annulment of what SRC has proposed through the Regulations. It was also mischievous that those Regulations were purported to have come into effect at the wee hours of the 12th Parliament. Why is it that they could not bring those Regulations at the appropriate time for the purposes of proper debate of this House? Therefore, it is clear that they do not have good faith, intentions and do not understand their role and mandate.

I support the recommendations of the Committee on Delegated Legislation. Further, I move forward to seek that the SRC commissioners resign. This is because they are taking our nation in circles.

I thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): Thank you very much, Member for Mbeere North. Hon. Onyango K'oyoo, Member for Muhoroni.

Hon. James K'oyoo (Muhoroni, ODM): Thank you very much, Hon. Temporary Speaker, for giving me the opportunity to add my voice to this serious debate. I want to commend the Committee for prioritising changes in the way that SRC operates. The SRC is the beneficiary of the 2010 constitutional review that was done by this country. That is what created this monster called SRC.

Upon assuming office, I do not know whether by default or design, the SRC has decided that their main mandate is to review emoluments and benefits of Parliament, apart from other Kenyan workers. Throughout the world, there is nobody who is ready to give away what they already have. All the representatives of workers are advised that they must jealously guard what they have and fight for more. However, other than developing or sticking to their mandate which is to advise, the SRC has become a menace to workers' organisations. Sometimes they even encroach into the field that is not theirs. The last time SRC did something to do with Parliament, they duped the Parliamentary Service Commission into believing that they had created house allowances for the parliamentarians, when indeed it is just one allowance they split into two and part of it became house allowance and one remained stand-alone. They want Kenyans to believe that parliamentarians now have a house allowance, their income has improved, and so on and so forth.

I want them to be taken to task to either shape up or shape out if they cannot run their mandate to prescription. I also want to advise the workers everywhere to stand firm against this encroachment of SRC into their various mandates.

I want to correct something my good friend, Hon. Kimani Ichung'wah has left out. I want him to know that if he is a serious parliamentarian, heading a serious job like Leader of Majority Party, he should be the towering figure of the Government in the House. He should be having the intelligence of the country at hand. When I was with my colleague, the Member of Parliament for Nyando, we were not talking about something about Monday or insulting somebody. Hon. Jared Okello is a representative of Nyando. Nyando and Muhoroni once stood as Nyando. Muhoroni was split out of Nyando. The last two days, we have had small skirmishes at the border arising from rice farms. People fought and one might have just died. This is what

we were trying to resolve here as leaders; it had nothing to do with his imagination. If he is in charge, let him get the correct information and advise the Government well.

Otherwise, I want to support.

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): Thank you. Hon. Abraham Kirwa. He seems to have stepped out. Hon. Adan Haji.

Hon. Yusuf Adan (Mandera West, UDM): Thank you so much, Hon. Temporary Speaker, for giving me this opportunity. I also stand to support the Motion. The so-called SRC has become a nightmare in Kenyans' livelihoods. Theirs is to threaten, to chop whatever they see without any consultation, without any basis of the law, without public participation and without looking at the negative effect that it will have on the Kenyan population. It is as if they are hyenas who have been released on a herd of goats to do justice. What can a hyena do to a herd of goats? It is just to eat and chew. Nothing else. The SRC has given itself powers that the Constitution has not given them. They have gone out of their way to give themselves authority that is nowhere else in this country.

I remember sometime early this year when National Assembly had a recess and SRC appeared there, when they were asked few questions, their answers were very unsatisfactory. Theirs was a sort of self-defence, no logic behind it. Therefore, I think this very noble House which is here for the sake of *wananchi*... We are elected by *wananchi* to make sure that anything that is done by this Government is beneficial to this country. But all SRCs activities have negative effect on the economy, negative effect on the communities, negative effect on leadership and negative effect on everybody.

With those few remarks, I stand to support. Thank you.

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): Thank you very much, Hon. Yusuf Adan. Hon. Beatrice Elachi.

Hon. Beatrice Elachi (Dagoretti North, ODM): Thank you, Temporary Speaker. I also rise to appreciate the Committee and thank the Chairman for this very serious issue on rejection of the draft SRC Regulations.

As much as the Constitution of Kenya, 2010 gives us an opportunity to appreciate that we can agree and support each other, the most unfortunate thing is that the SRC has deliberately refused just to work with other organisations.

The issue of salaries is not an issue of Parliament only because whenever we talk about it people think we are talking about Parliament. We have several commissions – Judicial Service Commission, Teachers Service Commission and many other commissions –and SRC should sit down with each of them and agree on recommendations that are favourable. I have never seen in the world, even in the ILO agreements and labour laws, and in our own labour laws, where a CEO of an institution reduces salaries. You find that SRC has powers at any given time to decide today you can earn less salary.

We should go back to SRC and look at the formula they use to look at different institutions. Why is it that when we agree that you are in the same scale with, for example, Principal Secretaries or Cabinet Secretaries, you find yourself earning less remuneration in terms of allowances? Nobody comes and tells you the reason. If indeed they did job analysis of each of these institutions, they should be able to determine what job group to give you. The reason we are in conflict with them is because of this issue of public participation and SRC just refusing to appreciate the CBAs which have been signed in this country. Also, accepting that after three years officers must be promoted is a problem for them. After three years, SRC should give the job groups that they have defined and the pay for each group.

The hardest part was when they decided to determine the pay for ECDE teachers. If there is anything everyone here is proud of, it is the foundation you started with when you joined your ECDE class. That is the teacher who builds your foundation. In Europe, those are the teachers who are most acknowledged and paid well but in Kenya, SRC, which has women,

discriminates ECDE teachers, most of whom are also women. Are we saying that this is a commission that is unable to quantify the job that an ECDE teacher does?

As we reject these Regulations, we want to also reject other regulations. We are telling the Chair that between 2017 and 2022, there are many Regulations that were passed that need to be relooked at. We have to now redefine in the Constitution that Parliament is the arm that deals with Regulations and they must be approved on the Floor of this House. It is time for the SRC to ensure public participation is taken seriously. As we launched open Government partnerships today, we want to see how we can work together with them in openness and transparency on how they deal with these issues.

With those few remarks, I beg to support the rejection of these Regulations.

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): Very well, Member for Dagoretti North.

Let us have Hon. Bidu Tubi, the Member for Isiolo South. He seems to have stepped out. This chance goes to Hon. Pauline Lenguris, Member for Samburu County.

Hon. Pauline Lenguris (Samburu County, UDA): Thank you, Hon. Temporary Speaker for granting me this opportunity to support this Motion. May I inform the House that I am a Member of that Committee. We have sat and gone through all the Regulations and realised that the SRC had overstepped into the roles and responsibilities assigned to other independent bodies. As we know, the Teachers Service Commission has the responsibility of employing, deploying, regulating and setting the remuneration of teachers in this country. However, if you look at what the Act stipulates, you will realise that the SRC has taken up a responsibility that is not theirs. This is the work of the Commission that was established. We have realised that the SRC has overstepped their mandate. We have also noted that they had stopped negotiations with the workers of this country, which is their real mandate. We have heard a lot of cries and concerns by workers who are being demoralised because the SRC has never given them a platform to air their grievances.

The SRC has also frustrated the ECDE teachers of this country. As mentioned by one of the Members here, there is no law that allows a body to reduce a salary that has been earned by an individual for some time. The SRC has gone ahead to reduce the salaries of the ECDE teachers, who are really suffering. We all have children and they are all first nurtured by ECDE teachers. If the teachers are not motivated, they will not discharge their roles as expected. That is one of the roles that we need this Commission to look at. That decision was not right and it needs to be revisited as soon as possible.

Hon. Temporary Speaker, we have also realised that the SRC wants to reduce the pension of the workers of this country. People have worked for so many years and some of them are nearing retirement. Instead of giving such people a good retirement package, the SRC wants to reduce it. The Commission does not have the mandate of reducing the pension of the workers of this country. It is demoralising for the workers of this country to realise that they will not enjoy their retirement benefits. As a Member of the Committee and a leader who is concerned about the issues that have been raised by the workers of this country, I support the Motion of rejecting the recommendations made by the SRC in totality as well as any other law that they may have passed that has infringed on the rights and privileges of the workers of this country. Members are silent, but there are issues that have been touched by the SRC which also affect the work and facilitation of the workers of this House. We would like the SRC to look at their enabling Act and do the work that is stipulated therein.

With those few remarks, I support the Motion of rejection of the recommendations made by the SRC to this honourable House.

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): Very well-spoken, Member for Samburu. Next is the Leader of the Minority Party, Hon James Wandayi.

Hon. Opiyo Wandayi (Ugunja, ODM): Thank you, Hon. Temporary Speaker. I have just rushed in to make my voice heard on this critical issue. Let me start by thanking my friend, Hon. Chepkonga, who is here looking at me. He has breathed new life into the Committee on Delegated Legislation. I am saying this from experience. Under the Statutory Instruments Act, it is quite clear that delegated legislation or regulations can only have the force of law once approved by this House. In the past, these characters would run around and make regulations and implement them without caring whether we approve them or not. I am happy that for the first time, this House is stamping its authority. Whether you are a Cabinet Secretary or a commission, if you intend to develop regulations that have the force of law, you must subject them to the approval process of the National Assembly.

Secondly, on the matter of SRC, when some of us were in the trenches when this new Constitution was being birthed, it was never the intention to create another monster in the name of SRC. The idea of not allowing public officers and State officers, including parliamentarians, to determine their own benefits and remuneration is noble. When the Constitution was approved in the Referendum of 2010, it was never the intention of the drafters and that of Kenyans to create another monster in the process, who shall be lording over everybody. I am in full support of the decision of the Committee, chaired by my good friend, Hon. Chepkonga, to reject the proposed regulations in totality.

As much as the SRC was established under the Constitution, we must take into cognizance the fact that other commissions were equally created. In the same manner, the SRC was created, the Public Service Commission, the Parliamentary Service Commission and the Teachers Service Commission were also created with clear mandates. A reading of the Constitution does not show that the mandates of these independent commissions overlap each other in any way. It is only that the SRC have an insatiable appetite to encroach on territories which do not belong to them. By this House taking this decision, we shall be creating a sense of order and discipline as well as making it loud and clear to the SRC that they can be independent as they are envisaged in the Constitution. They must be made to understand that they report to this House. When all is said and done, the only authority that has oversight role over all the other commissions is the National Assembly. They do not report to anyone else – be it the President or whoever – but to this House.

This House gives them their budgetary allocation, oversees how they spend it and can disband it. I am sure you know that. If anybody is doubting, they must be reminded that this House has got unfettered power to create and disband. However, we do not want to go there. We should let sanity reign. I want to plead with the current chairperson and the commissioners of the SRC to, please, come back to the ground. Climb down from your high pedestal, acclimatise yourselves, acquaint yourselves with your mandate as provided for under the Constitution and re-appraise yourselves of what you ought to be doing under the Constitution.

Hon. Temporary Speaker, this tug of war of back and forth is totally unnecessary. If every other institutional agency would be operating in good faith, we would not have this kind of push and pull every now and then. Ultimately, the end result is that they want to (*inaudible*) Parliament.

Hon. Temporary Speaker, I am an avid reader of newspapers. Today I was reading some commentary by one activist in *The Star*, who was trying to castigate Parliament for doing its work. By Parliament rejecting these Regulations, it is doing its work. *Ama namna gani?* It was not the intention of the drafters of the Constitution that once regulations are drafted, they will basically be passed through Parliament as a formality. I do not think Parliament was meant to be a conveyor belt. The reason why Parliament was given the mandate to approve such regulations is that it could as well refuse to approve them.

Let this be the last debate on this matter. I want to encourage the Chairperson and the Committee on Delegated Legislation to keep a keen eye on all these actors, agencies, ministries

and State departments which will be coming up with regulations from time to time. Let them know that there is no other route. You cannot develop regulations and have them implemented through the backdoor; they must pass through this House. In the wisdom of this House, they will be enriched, changed and amended, if need be. I do not think we need to belabour the point. If some people think that what the Constitution has given them is not enough, they can bring forth their suggestions on how we can improve on their mandate if the time comes for reviewing the Constitution. However, as it is, unless the Constitution is reviewed or amended otherwise, you have to live by what you are provided for under the Constitution.

Hon. Temporary Speaker, this country is going through a difficult time and hence we need to focus on more serious issues. The Kenyan employees whose salaries and benefits are determined by the SRC are going through a very rough time. Therefore, any attempt to withdraw benefits or gains that employees have got over time can only be tantamount to punishment.

As we speak, the value of the Kenya Shilling has dropped to unprecedented levels. Never in the history of this country has the shilling lost against the dollar in the manner it has for the last couple of months. It is, therefore, the responsibility of this House, even as we reject these Regulations, to find out where the rain started beating us. What has caused this kind of situation? Is it bad politics? If so, why can we not fix it? There seems to be something happening in this country which is making life increasingly unbearable for all Kenyans, and more so those who are in the low-income earning bracket.

Hon. Temporary Speaker, as I support this Motion, let us also fix the politics that are causing the value of the shilling to drop like a stone thrown from the sky. You may think that I am saying this in jest, but it is a very serious issue.

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): Leader of Minority Party, your time is up, but I will add you another two minutes.

Hon. Opiyo Wandayi (Ugunja, ODM): Thank you, Hon. Temporary Speaker. The country is gambling with the serious issue of skyrocketing prices of basic commodities. The shilling has lost value in a manner we have never witnessed in the past. These are the issues that our minds should be engaged in, but I do not see any effort being made in that direction. It, therefore, behoves all of us to come together and address this issue.

If more than 90 per cent in a country of 40 to 50 million people are undergoing this kind of suffering, one day, it will cause a revolution. People out there are not able to make ends meet. This House must, therefore, find a mechanism to address this situation before it gets out of hand.

This is a good start. Let us reject these Regulations and others that could be having similar mischief. Hon. Temporary Speaker, I am sure you know them.

Thank you. God bless, you.

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): Thank you very much, Leader of the Minority Leader. Hon. Jackson Kosgei, Nominated Member.

Hon. (Dr) Jackson Kosgei (Nominated, UDA): Thank you, Hon. Temporary Speaker. I take the Floor to support the Motion.

Sometimes those who lead and operationalise functions of certain bodies created by the Constitution become so overzealous and forget that you can never be absolutely independent from others. When the drafters of the Constitution drafted and gave a provision for this particular Commission, they said it was subject to the Constitution. That means it is the Constitution which makes all public organisations, including the independent commissions, constitutional. In their operations, they must at all times realise that fact. Over time, there has been a lot of complaints because the SRC has interfered with the human resources and management functions of other public institutions. The public workforce in the country is affected across all cadres. The Government must spur growth and confidence amongst public

officers serving in every position. It is upon this House to make sure that no organisation created by law takes advantage of its provision and discretion to stifle the progress of workers by being insensitive to the needs of the people.

With those remarks, I support the findings and recommendations of the Committee.

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): Thank you very much, Hon. Kosgei. Hon. Timothy Wanyonyi, Member for Westlands.

Hon. Tim Wanyonyi (Westlands, ODM): Thank you, Hon. Temporary Speaker. I also want to support the Report of the Committee on Delegated Legislation. I served in the Committee during the last two parliaments and I know the kind of work they do. The decision by the Committee to reject these Regulations is in order.

The SRC has been very notorious in interfering with the work of other independent institutions. For example, we have the Public Service Commission and the Parliamentary Service Commission, which are equally created by the Constitution. The SRC has been overstepping their mandate by trying to regulate these constitutional commissions without any authority at all. The SRC's sole objective should be to harmonise the salaries of public officers and iron out existing discrepancies, but they have forgotten that role. In fact, they think all they need to do is to frustrate other commissions.

We, therefore, support this Motion to annul any Regulation that comes to this Committee. If there was no public participation, the Regulations should fall on their face. There is no bargaining about that. We want to make sure that this Commission is also put to task. Who is regulating them? We should have someone to even check their salaries. Nobody checks them, and they do not regulate themselves. So, we need to have a way of dealing with them. This House processes the budget, which includes their allocation, but they have always overstepped their mandate by frustrating this House and interfering with the Parliamentary Service Commission. That is why we must reject these Regulations in entirety and make sure they work within the core mandate that was given to them by the Constitution. This same Constitution can take away their mandate.

I believe this Commission has outlived its usefulness and it needs to be disbanded. That is my opinion.

Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. (Dr.) Rachael Nyamai): Thank you, Member for Westlands. Next is Hon. Emanuel Wangwe, Member for Navakholo.

Hon. Emmanuel Wangwe (Navakholo, ODM): Thank you, Hon. Temporary Speaker. Allow me to join my colleagues in supporting this very noble decision to reject the proposed Regulations by the SRC. I thank Hon. Chepkonga for what he has done for us; ensuring that that the correct Regulations are brought to this House.

The SRC is established under Chapter 15 of the Constitution as an independent commission amongst other commissions. Being the commission in charge of salaries and remuneration in this Republic of Kenya does not give them a senior mandate over others. Instead, it gives them the mandate to superintend over issues to do with salaries and remuneration. One of the cardinal rules in our Constitution today is the issue of public participation. When you are superintending over colleagues, you create problems. For instance, our colleague, the Leader of the Majority Party, has just been elevated by virtue of the position he holds in order to help coordinate us into an organised sitting. That does not mean that his role will now be to cause injuries to other Members. That is what the SRC is doing to other commissions.

While making law for public consumption, we look at the issue of public participation. When it comes to inter-commission relations, the principle of consultation should apply. When the SRC does not consult equivalent commissions, then they go beyond the powers bestowed upon them by the Constitution. The proposals contained in these Regulations have gone far

beyond the SRC's mandate. It is, therefore, important that the Committee uses its eagle's eye to see what has gone wrong and seek redress. Therefore, we should completely reject and annul these Regulations. This action will serve as a lesson to other public bodies that may want to overstep their mandates when dealing with other public institutions.

Hon. Temporary Speaker, at times the SRC would want to have a look at other commissions and make decisions behind the scenes. More often, immediately Parliament is adjourned *sine die*, the SRC sits and decides on what happens with the next Parliament. Kenya is a signatory to various treaties, the International Labour Organisation (ILO) being one of them. What does the ILO say about the salary of someone who has been in the same organisation and doing the same job? A Member who comes to Parliament to serve a second term is not a new employee. He has been an employee of the Parliamentary Service Commission. Why are we now changing the salary and the terms of engagement of such Member? What has changed? Does it mean that when you upgrade and get a second term you cease to be a normal Member or you upgrade and become a lesser Member? Are you motivating first term Members to advance and become second term Members?

The SRC looks at issues from one angle, but on another angle, someone who has a bit of experience should earn more. What changes when it comes to a Member of Parliament? What changes such that the Member is now looked down upon? The issue of double speak by the SRC makes us feel that it is not a good organisation that will help Kenyans to move forward. The ILO Treaty says that you cannot pay a worker less the amount he is earning today in a future engagement for the same job. Therefore, this puts us in an awkward position. The SRC is established under Chapter 15 with independence to decide and not to politic or be part of the political sphere. If they want to politic, let them join politics and then we can move forward. For now, let them behave like other commissions. Independent commissions are very independent and they move independently.

I salute my good friend, Hon. Chepkonga and his Committee. You have done us proud. For any other issue coming here in the same manner, we shall stand together and make sure that this country moves forward as one, and the rule of law shall always prevail.

With those remarks, I support the Committee's Report.

The Temporary Speaker (Hon. (Dr.) Rachael Nyamai): Thank you, Member for Navakholo. Next is Hon. Musa Sirma, Member for Eldama Ravine.

Hon. Musa Sirma (Eldama Ravine, UDA): Thank you, Hon. Temporary Speaker. First and foremost, I want to congratulate the Committee on Delegated Legislation for finding it wise to audit some of the illegal Regulations, which are bringing inequalities in terms of how people have been employed. I want to support the rejection of these Regulations, which the SRC wanted to impose on State officers and other public officers.

Once you are employed, the Constitution does not allow anybody to reduce your salary while serving in the same position. Therefore, I would like to say that the SRC has become a monster to most Kenyans. They have given themselves responsibilities that are not theirs. I encourage Hon. Chepkonga and his Committee to bring a Motion of impeachment on SRC so that they can get disciplined and know that there is law that protects people who are not able to come and speak on their own behalf in Parliament.

Public participation is the only forum where members of the public, public servants included, usually go to give their views. In the absence of that process, the rest of the regulation-making process becomes an illegality and breach of human rights. The SRC are so inhuman that they want to reduce people's salaries. I had a candid discussion with some of the commissioners, including the chairperson, who said that they have no business with us and that they shall do whatever they want. That is why I propose that since they do not know what is supposed to be done, Parliament should teach them a lesson. I want the chairperson of the SRC to read about what happened in the 10th Parliament. We amended the Kenya Anti-Corruption

Authority (KACA) Act and brought in the Ethics and Anti-Corruption Commission (EACC). We did not include a transitional mechanism in the EACC Act, and PLO Lumumba lost his job as the Chair of KACA. We can still do the same for the arrogant commissioners, so that they may know that the voices of the Kenyans we represent in this House are important.

I would like to thank the Committee. I ask the Committee to go further and do away with other Regulations that have been put in place, but which are illegal and dictatorial in nature thus disadvantaging the common *mwananchi*.

With those remarks, I support the Report of the Committee on Delegated Legislation.

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): Very well, Member for Eldama Ravine. Hon. Members, the next opportunity goes to Hon. Tom Odege, Member of Parliament for Nyatike.

Hon. Tom Odege (Nyatike, ODM): Thank you very much, Hon. Temporary Speaker. If there is ever a day I would say I am a very happy man, it is today. I see Parliament living to its name and sending a very strong message that we are the legislators in this country. We are setting the record straight.

Some of us who have been in the labour movement and have represented workers have faced the true wrath of the SRC. Currently, if you are representing workers in the public service, you have no business negotiating with the Ministry of Public Service, Gender and Affirmative Action because you will not go anywhere. Even if the Government says that they are willing to pay, the SRC will say “No”. The most unfortunate thing is that the SRC has not taken the chance to negotiate with the workers. They will wait for you to negotiate. After negotiating, they want you to subject your agreement to them and then they mark it as if it is an examination paper. When marking the agreement, there is no single day that the SRC will come up with a favourable agreement for public workers. We were talking about doctors in the public service. They negotiated and signed a Collective Bargaining Agreement (CBA) with Kenyatta National Hospital, and it was subjected to the SRC and was rejected. Kenyatta National Hospital said that they had money to pay, but the SRC said “No”, and the doctors were not given that money.

In the public service where we have civil servants, we negotiated with the Ministry of Public Service, Gender and Affirmative Action and agreed that workers deserved to be given a salary increment. When the agreement reached the SRC, they said that there was no money.

Hon. Temporary Speaker, as Parliament, I want us to refer back because we have partially failed the country. Why do I say so? The first lady who chaired the SRC was a banker. I do not know the background of the lady currently chairing the SRC, but I have traced her records in public service. She has never been a public servant. The SRC is entirely about public servants. When we talk about public servants and the work of the SRC, it is a human resource function. Why do we bring people who do not have any experience in public service to come and frustrate the public service itself? The kind of people we recruit to serve at the SRC is what causes problems there. There are many career-civil servants in this country who have aided the growth of the public service. Those are the right people to be vetted to head such an important organ. The current commissioners of the SRC, who only occupy those positions because of political rewards, will never understand what public service is. We will continue suffering and singing songs every day and public servants will never get what is rightfully theirs.

I challenge Parliament today. As we prepare the Budget to be read in June, we need to go an extra mile and ignore the SRC. We need to budget for salary increments for all public servants in the country. Let the SRC refuse to allow salary increase, but let us put it in the Budget. I can tell you for sure that in July this year, we will encounter many strikes because life has become unbearable for workers in the public service.

Hon. Temporary Speaker, let us consider a typical example. The Government introduced a commuter allowance in the public service in 2012. That allowance has not been reviewed to date. If you want to know how much public servants are suffering in this country,

go to Uhuru Park very early in the morning tomorrow. You will see public servants walking to work because they cannot afford bus fare. The house allowances paid to a majority of those people cannot allow them to stay near town. They must stay in Kayole. You cannot afford a bus from Kayole to your place of work in town or Community Area. You walk in the morning. That is how the Government is losing. If you must walk from Kayole, you must wake up at 5.00 a.m., so that you are in your office at 8.00 a.m. You bear all the risks on the road from Kayole to town because you want to protect your job. On reaching Community Area, you are tired. Since you slept on an empty stomach the previous night, you have to take a glass of water. You need another one or two hours to rest and recover before you start working. Who is losing? It is the Government. The Government is happy that people have reported to work, but they do not have the ability to work. They are tired. Those people will wait for tea at 10.00 a.m., they will have to put more sugar in it so that they can get more energy to push them until lunch time. After lunch time, whether you like it or not, those people are tired and they will sleep on the job. You see them at their work stations, but they do not deliver.

It is important for Parliament to ensure that those people are remunerated accordingly and motivated to go and work. To do that, we must first fix the SRC. My recommendation is that we kick out the current SRC and participate as Parliament in determining who will sit on that Commission. We should ensure that people who are appointed to the SRC have a record in the public service. We should know their backgrounds. They should have worked in the public service and know how people suffer there. They should not be poached from outside. A banker knows nothing about the public service. You cannot bring a banker to chair a key organ like the SRC yet they have never worked in the public service. They do not know how people are suffering out there.

The first cure is for us to kick out this team and then we participate in the recruitment of a new one. We must know their backgrounds. We must keep checks on them, so that they do not abuse their office. If the current commissioners have abused people out there, and they have the audacity to come and abuse parliamentarians, who else is remaining? They will be in charge of the country, not us. We must be in charge and make sure that people who work for Kenyans out there are motivated.

We are currently talking about doctors at Kenyatta National Hospital. After the SRC refused to award them their CBA, do you expect those doctors to be motivated enough to serve our people? They will suffer. Those are the people who are treating us out there. Do not forget that the most disadvantaged people are the watchdogs like Members of Parliament. If Members of Parliament are suffering, who will fight for Kenyans out there? Nobody. It is high time that we stood up as Parliament. Everybody should know that we have the responsibility of fixing all departments in the Republic of Kenya and enabling Kenyans to reap the fruits of their sweat.

Thank you.

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): Thank you, Member for Nyatike. The next opportunity goes to the Member for Samburu East, Hon. Jackson Lekumontare.

Hon. Jackson Lekumontare (Samburu East, KANU): Thank you, Hon. Temporary Speaker, for giving me a chance to contribute to this debate. I support the Report. It is very good. They have recommended very good guidelines. The SRC has been acting in a very awkward manner. They want to be supervisors of other commissions. Just as other Members have said, there are many commissions that have been created by our Constitution. I think consultation is very important when it comes to acting on areas concerning other commissions. Even in our counties, members of staff from county governments are really crying over the SRC because it is controlling everything. I see SRC as lacking what to do. They want to create work for themselves. The Committee has done a very good job. This dictatorial kind of leadership should be stopped. The Commission even wants to start controlling pension. That is

the worst thing they can ever do. They have failed to regulate, guide and advise on salaries. Now they want to kill our old people when they retire. If you retire and you do not have pension or it is calculated at a lower rate, there is nobody to take care of you. The elderly have served the country.

It is high time the SRC stopped working in isolation. They should know that they are supposed to consult during the course of carrying out their duties. Without public participation, they will not get anywhere. We have to look at the way they have been operating. During the time the SRC have been around, they have messed the employees of Kenya.

Even the Regulations they are using currently should be looked at. I think they may not have passed through Parliament. It is high time we looked at all Regulations that have been implemented without passing through Parliament. Even as regards the Competency Based Curriculum, we have challenges implementing it because its Regulations did not pass through Parliament. That is why we have a serious problem implementing the CBC. We have to be awake and try to look at all the regulations for the sake of the people and employees of Kenya.

I support the Report.

The Temporary Speaker (Hon. (Dr) Racheal Nyamai): Thank you very much, Member for Samburu East. Hon. Members, I would like to give this opportunity to the Member for Mathare, Hon. Anthony Oluoch. The Member for Mathare seems to have stepped out. So, the Floor goes to Hon. Wanjiku Muhia, Member for Kipipiri.

Hon. Wanjiku Muhia (Kipipiri, UDA): Thank you for giving me this opportunity to put my voice to this matter. First, I congratulate the Committee membership and Hon. Chepkonga. I had the benefit of listening to him as he moved this Report, which is well elaborated.

I would like to provoke Members' thoughts. I am just imagining that we may, in future, consider having members of the commission, or whatever institution, about whom a report like this one is being debated, seated in the Speaker's Gallery or Public Gallery so that they may listen to debate and take notes with seriousness rather than getting second-hand information.

Hon. Temporary Speaker, many Members have spoken on the SRC. The SRC is established by our Constitution in Chapter 15. As such, if it has to be disbanded, it can only be through a constitutional amendment. I invite Members, particularly those who have not spoken on the Motion of amending the Constitution and the Standing Order, to also include this recommendation as they debate. I have already spoken to that Motion. We may also need to introduce amendments to Chapter 15, which is the founding chapter of the SRC. We should weigh the option of either disbanding it or making its mandate clearer.

The SRC is also an employee. When an employee operates outside its mandate and interferes with other people's mandate, there can only be three explanations: Firstly, the membership of the commission has no capacity to understand its mandate. Otherwise, why would they work outside their mandate? Secondly, it could be that the membership of the commission is acting in bad faith. Thirdly, it could be that the membership of the commission simply wants to make populist statements to the media. I do not know for what reason. I just consider them populist.

Hon. Temporary Speaker, there are other institutions of similar stature to the SRC. They include the Teachers Service Commission, the Judicial Service Commission, and the Parliamentary Service Commission, among other constitutional offices. One commission cannot redefine the agreement between an employee and an employer. They cannot do such a thing. If they are doing that which is not given to them through the Articles that guide them, it is time that this House considered that cost. They spend so many hours. They are paid so much allowance and they do the wrong job. Who pays for those costs? They spend Kenyan taxpayers' money. They should either refund the money or work for free and rightfully. They cannot be

spending money working, they get paid, and they do not perform their duties in accordance with the law.

As I conclude, because many Members have spoken on the same, I want to say that the SRC cannot be a prefect of other commissions. At the same time, they cannot also have an ill motive and try to show the public that there are people who are given free money. No one is given free money in this country. Everyone works for the money they are paid. One of the contributors has spoken of experience. I think it is Hon. Wangwe. There are Members who are serving their fourth or fifth terms in this House. A Member was paid KshX when he came here for his first term. During the previous term, he was pocketing KshX. Then you want to reduce that pay when he next comes to Parliament. Is this Commission aware of what they are doing? Is it ethical? Is it moral? I think it is not. We need to cure this bad faith. The English man says that an idle mind is the devil's workshop. This Commission was working on a part-time basis at the beginning, but this House approved that they work full-time. I am imagining that they have so much time and they are idle. That is why they had time to go to all employees from all quarters in Kenya.

Hon. Temporary Speaker, this House should now resolve that they go back to working on part-time basis. Failure to conduct public participation is a very serious offence. That which is spoken of you without your involvement cannot hold. It is the Constitution that says we must have public participation even when we are giving out bursaries and undertaking development projects. This is a Commission that is entrusted with the management of employment and employees in this nation. However, they sit in boardrooms and make laws without involving the people they are supposed to be serving. Such a serious offence of not conducting public participation should entice any Kenyan, including any Member from this House, to go to court and press charges against them because they did not do the right thing.

With those few remarks, I support and urge that we stand tall and speak on behalf of the *Wanjiku* of this country because that is what we are entrusted to do.

Once more, I want to thank and congratulate Hon. Chepkonga because this Report has captured everything.

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): There is a point of order from Hon. Richard Yegon, the Member for Bomet East.

Hon. Richard, what is out of order?

Hon. Richard Yegon (Bomet East, UDA): Thank you very much, Hon. Temporary Speaker for giving me this opportunity. I rise under Standing Order 95. Since the House has intensively and extensively dealt with this Motion, I ask that you call upon the Mover to reply.

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): The Member is in order to rise on that Standing Order. However, there seems to be a lot of interest on this matter. So, I will give chance to two Members from both sides of the House. It is important to note that we are a few minutes to the end of this sitting. I will not rule you out of order, but I will give chance to two more Members to contribute. I will start with Hon. Jaldesa Guyo, the Member for Moyale. He has been waiting for a long time to speak on this subject.

Hon. (Prof) Guyo Jaldesa (Moyale, UDA): Thank you, Hon. Temporary Speaker for giving me an opportunity to speak on this matter. I also want to join my colleagues in congratulating the Chairperson of the Committee on Delegated Legislation for rejecting the proposals made by SRC.

When we came to Parliament, during the induction week, we were told that one of the reasons why the salaries of Members of Parliament were reviewed downwards was because there were no academic qualifications attached to this position. If academic qualifications were more important, a majority of university dons, who are holders of PhDs, should be earning the highest salaries in this country. However, that is not the case. Medical doctors are also highly

skilled, but they do not earn as much. That is why both university dons and medical doctors keep on striking and crying for better salaries.

The SRC needs to recognise that this country is not geographically uniform. I come from Marsabit County, where we do not have a single medical specialist working there. Together with one of the former governors, we thought that by paying people higher salaries, we would attract them to come and work in the county. We got willing specialists, but they were turned down by the SRC because we could not pay them beyond the prescribed scale. Because of that refusal by the SRC, the communities in Marsabit County could not get services or medical specialists.

Hon. Temporary Speaker, the SRC assumes the role of a “senior commission” overseeing and controlling other commissions. That should not happen. The SRC is a commission like any other. They have their mandate and they should just stick to that mandate.

Everyone has talked about what the SRC is doing to civil servants across the country. It looks like the SRC anticipates that civil servants should live in abject poverty after retirement. Everyone aspires to have a better life. However, the SRC, in their not-so-caring attitude, seems to enjoy when people suffer. For that reason, I think whoever proposed that the SRC should be recalled or checked is in order.

With these few comments, I support the rejection of the Regulations.

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): Thank you, Member for Moyale.

Hon. Members, the next opportunity will go to the Member for Mathare, Hon. Oluoch.

Hon. Anthony Oluoch (Mathare, ODM): Thank you, Hon. Temporary Speaker. I wish to support and thank the Committee, led by my senior, Hon. Chepkonga. I have a few points to canvass with regard to this matter.

First, who appointed the SRC to superintend over other commissions? Who supervises the SRC? No entity under the Constitution is allowed to set salaries and remunerations of other commissions as well as its own. As I support this Report, we should go a step further and recommend a couple of things. One, the SRC seems to be so idle that we need to consider reducing the number of commissioners from seven to a minimum of three and make further recommendations that they ought to work on a part-time basis. This is something that this House needs to do. If you look at some of the things that this Commission has done since we put it into place...

Hon. Temporary Speaker, during the 12th Parliament, a former Member of Parliament said, “Once you put me there, I will take care of the welfare of Members of Parliament.” Immediately we put them in place, in the ranking of public offices, Members of Parliament were ranked at 30 to 40-something. Amongst the three arms of Government, Parliament is a core equal. In other jurisdictions, Parliament is the supreme organ. In Kenya, we are placed at number three and the reason given is that there is no academic qualification for one to be a Member of Parliament. However, once nominated, members of the SRC come to us - who have no qualifications - for vetting. I do not know how we are supposed to vet them given that we do not have any qualifications. All nominees for appointment as members of constitutional commissions come here requiring us to vet them. We plough through volumes of materials, with our empty heads since we never went to school. How do we do that? The Executive brings all the appointees for approval and we have done that faithfully. How do we do that with empty heads?

The people of Mathare would be very offended. They have a Member of Parliament who holds LLB Degree, a first degree in Literature, Sociology and Philosophy from Kenyatta University, and a Diploma from the Kenya School of Law. I was elected for the first time by 40,000 voters, something which none of these Commissioners can boast of. I was also elected for the second time with a similar number of votes and yet we have a Commission that tells

you that Members of Parliament are No. 43! You go to public functions and you are treated as No. 43 yet these people come to this House to ask you for a budget. In the last Budget, under this notorious Article 223 where you spend before approval, the first thing these Commissioners did was to authorise for themselves V8 vehicles without approval. It is time we made this Commission part-time and have three Commissioners instead of five.

I would also like to canvass the purview of the Committee on Delegated Legislation. Going forward, I want this Committee to consider other matters and not only regulations that we want to annul. Under Article 94(5) of the Constitution of Kenya, it is only this House that has power to make anything have the force of law. We must stamp the authority of this House and ensure that all regulations, not only this one, come under the authority of Parliament in plenary.

Hon. Temporary Speaker, I want to agree with the Committee on the question of public participation. Under Article 10 of the Constitution of Kenya, if you read it together with Article 118, you will realize that public participation is one of the foundational principles. If you look at our Standing Orders, you will note that public participation is very much engrained. It is very saddening, having read the Report, that core and equal constitutional commissions were not consulted. Even the Parliamentary Service Commission, which represents these Members was not consulted. It is important that every single thing that comes before this House and every single organ that is a creature of the Constitution abides by the question of public participation. If not for any other reason, and I want to agree with the Chair, we must throw and reject these Regulations on account of gross breach and violation of the Constitution. The Article that creates these constitutional commissions and independent offices provides that all of them are creatures of the Constitution and shall work under its authority. Nobody created the SRC to act extra constitutionally.

My third point is in relation to labour laws. Speaking as a lawyer, you cannot create a provision that varies the salary and benefits of any employee downwards to their detriment. These are legislators. How do you expect that this House will put its stamp of authority on something that is totally in breach of the set labour practice? Midway through, you are also going to ask employers to review the salaries and remuneration of their employees or benefits downwards. It is not possible.

My very last point is to inquire the purview of the SRC in relation to two functions. We must inquire what is in this Report in terms of review, purview, and setting. I agree with the Committee that it is in relation to salaries and remuneration and does not extend to benefits. Benefits are set by the employer and in this case, it is the Public Service Commission. Employers such as the Parliamentary Service Commission, in their respective categories, set their benefits. Once they set their benefits, they can now seek advice. It is important that this Commission is put in its place so that we do not have what you can call constitutional over-reach.

In this case, we have a serious constitutional over-reach by this rogue Commission. Its role in relation to benefits is to advise. How can you ask a Member of Parliament or the Parliamentary Service Commission to reimburse mileage and allowances? These facilities are supposed to entitle you to go to your constituents to work. These are facilitative. It is not a benefit. Nobody is doing you a favour by giving you resources and facilities to reach your constituents. It is a duty that you are performing. It is not an added advantage or a benefit to you.

I want to thank this Committee. I want us to move with speed to ensure that this Commission that thinks is above everybody is put in its place. These people are very idle. Let us first reduce them to three and put them on a part-time basis. We are sending these regulations back to the owners. They are a waste of time of this Parliament. We need to bring a Motion

and a Bill immediately to start the process of reviewing the functions and size of constitutional commissions.

Thank you, Hon. Temporary Speaker. I am very grateful to the Committee for the timely Report that they have brought before us.

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): Hon. Members, the time that was allocated this Motion has come to an end. I am now going to call upon the Mover to reply. Chairman, Hon. Chepkonga.

Hon. Samwel Chepkonga (Ainabkoi, UDA): Thank you, Hon. Temporary Speaker. I see my own Clerk is not seeing me. She is also the Clerk of this Committee. I can see the Member for Siaya and you know we served with her in the 11th Parliament in the Departmental Committee on Justice and Legal Affairs. She has a very sharp mind and we want to hear from her. We also want to hear from Hon. Kirwa. I will donate three minutes to each one of them because I can see no one else wants to contribute. I see others have spoken. So, we will reduce it to two minutes each. The Member for Siaya, Hon. Rindikiri, and Hon. Kirwa.

Hon. (Dr) Christine Ombaka (Siaya County, ODM): Thank you, Hon. Temporary Speaker for giving me this opportunity. I want to support the Report because it speaks very clearly that this Commission is one of the most hated in this country. It is hated because it has failed to perform its duties adequately. It has failed to convince people about the work it is supposed to do. I thought that the work of SRC is to first of all go to the field and talk to public servants whose salaries they are supposed to evaluate and recommend. However, since I came to this Parliament in 2013, I have never faced the SRC to talk about our salaries. If we are talking about public participation and they are touching the salaries of Members of Parliament, then they need to have talked to them. I have never heard any Member of Parliament invited to talk to SRC about the job that we do as Members of Parliament so that they can evaluate and see how much we deserve in terms of salaries. They have never performed in that line. In my view, they have failed because we have not succeeded to get what we deserve. I am doing my third term but my salary is less than what I got in 2013.

I can see the lights are on but I want to say that I support this Report that the Commission should be done away with or improved. So far, they are dissatisfying.

Thank you.

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): Hon. Abraham Kirwa, Member for Mosop. We have a problem with the microphone.

Hon. Abraham Kirwa (Mosop, UDA): Thank you again, Hon. Temporary Speaker, for this opportunity. I want to briefly contribute to this Report from the Committee on Delegated Legislation. I stand here to support this Motion of rejecting these Regulations from SRC. The SRC is overstepping its mandate. Nobody oversees the SRC. It has seen it fit to set its own rules, salaries, and benefits as it likes. It has also decided that any other commission or body is below them and that it will decide what others should earn. As such, I support the Report by the Committee that we reject any of SRC's proposals. We also need to sit back and see ways to make sure that we abolish this body and come up with one that will abide by its mandate.

Hon. Temporary Speaker, allow me to support the rejection of the proposal from SRC and commend the Committee on Delegated Legislation for a great job.

Thank you.

The Temporary Speaker (Dr) Rachael Nyamai): Thank you. Hon. Rindikiri Mugambi.

Hon. Mugambi Rindikiri (Buuri, UDA): Thank you, Hon. Temporary Speaker. I rise to support the Report from the Committee that has guided us to a point that we can confidently reject the Report from SRC.

SRC has become an animal. It has brought itself to a point that it is being seen as an authority yet we all know that it is not. It has been discriminative in the management of salaries

and remuneration of employees in this country, particularly the civil servants and the quasi-civil servants grouped under Public Service Commission. It defeats logic when they mercilessly reduce the salaries for ECDE teachers. Surely, when you reduce the salary of an ECDE teacher from Ksh10,000 to Ksh7,000, what exactly are you saying? I have never seen these people carrying out public participation. It is in the law that any adjustments of earnings must be subjected to public participation. It is high time we tamed some of these commissions because they are acting independently to the point that they have become Government by themselves.

I rise to thank the Chairperson and the Committee for this Report. We will not support SRC because it is an animal that is operating like a Government.

Thank you.

The Temporary Speaker (Dr) Rachael Nyamai: Yes, Hon. Chairperson.

Hon. Samwel Chepkonga (Ainapkoii, UDA): Thank you, Hon. Temporary Speaker.

I take this opportunity to thank all the Members who have contributed and supported the recommendations of the Committee.

They have spoken eloquently, succinctly, and vividly in support of the Committee's Report to reject the proposed regulations that have been forwarded to this House by SRC in accordance with Section 26(2) of the Salaries and Remuneration Commission Act. I would like to reiterate that what the Members of Parliament have done here is to exercise the unequivocal mandate granted to them by the Constitution under Article 95(5) (b) to oversee all State organs including the SRC.

Members have spoken here clearly that SRC does not have a vertical mandate but a horizontal one like all the other Chapter 15 commissions and independent offices. It cannot, therefore, purport to subject the mandate of the other commissions to theirs because all of them are founded on the Constitution. The rejection of the purported Regulations is to bring them to normalcy and ensure they operate within the law, Constitution, regulations and the Standing Orders of this House.

I would like to thank you, Hon. Temporary Speaker, for the opportunity you have given all the Members who have spoken, and for the manner in which you have conducted the affairs of this House in seeing to it that we conclude this Report in a manner in which we have done. We have spoken to the issues that are core to the constitutional issues of this country.

I would like to thank all Members of my Committee for the manner in which they prosecuted the Regulations as presented.

We want to thank TSC, PSC, Public Service Commission and the JSC for appearing before the Committee and making presentations that enlightened the work of this Committee.

With those remarks, I beg to reply.

The Temporary Speaker (Dr) Rachael Nyamai: Thank you very much Chairman, Committee on Delegated Legislation, and the Members.

(Putting of the Question deferred)

Next Order.

The Temporary Speaker (Hon. (Dr) Rachael Nyamai): Hon. Chairman, National Government Constituencies Development Fund (NG-CDF) Committee.

APPROVAL OF NOMINEES TO NATIONAL GOVERNMENT
CONSTITUENCY DEVELOPMENT FUND COMMITTEES

Hon. Musa Sirma (Eldama Ravine, UDA): Hon. Temporary Speaker, I beg to move the following Motion:

THAT, this House adopts the Report of the National Government Constituency Development Fund Committee(NG-CDF) on three Constituency Committees, laid on the Table of the House on Wednesday, 15th March 2023, and pursuant to the provisions of Section 43(4) of the National Government Constituency Development Fund Act, 2015 and Paragraphs 5(2) and (10) of the National Government Constituencies Development Fund Regulations, 2016 approves the list of nominees for appointment to the following three Constituency Committees of NG-CDF:

1. GARISSA TOWNSHIP CONSTITUENCY

No.	Name	Category	Statutory Provision for Assumption of Position
1.	Farah Yussuf Ollow	Male Youth Representative	Appointment, pursuant to Sec.43(2)(b)
2.	Hassan Osman Shurie	Male Adult Representative	Appointment, pursuant to Sec.43(2)(b)
3.	Maryan Somo Hussein	Female Youth Representative	Appointment, pursuant to Sec. 43(2)(c)
4.	Fatuma Ahmed Kosar	Female Adult Representative	Appointment, pursuant to Sec.43(2)(c)
5.	Siyat Hared Muhumed	Representative of Persons Living with Disability	Appointment, pursuant to Sec. 43(2)(d)
6.	Mahamud Ahmed Dayib	Nominee of the Constituency Office (Male)	Appointment, pursuant to Sec.43(2)(e)
7.	Haretha Kahiya Saman	Nominee of the Constituency Office (Female)	Appointment, pursuant to Sec.43(2)(e)

2. MBEERE NORTH CONSTITUENCY (Additional names)

No.	Name	Category	Statutory Provision for Assumption of Position
1.	Brian Wallen Muteti Njiru	Male Youth Representative	Appointment, pursuant to Sec.43(2)(b)
2.	Jervasius Nyombyekothe Ngungi	Male Adult Representative	Appointment, pursuant to Sec.43(2)(b)

3. NAROK EAST CONSTITUENCY

No.	Name	Category	Statutory Provision for Assumption of Position
1.	Oropi Ole Matuyia Meshuko	Male Youth Representative	Appointment, pursuant to Sec.43(2)(b)
2.	Tapaiya Olngashar Punyua	Male Adult Representative	Appointment, pursuant to Sec.43(2)(b)

- | | | | |
|----|-------------------------------|---|---|
| 3. | Hanah Naishipae
Kusero | Female Youth Representative | Appointment, pursuant to
Sec. 43(2)(c) |
| 4. | Gladys Wanjiru Soitara | Female Adult Representative | Appointment, pursuant to
Sec.43(2)(c) |
| 5. | Leshinka Mututua | Representative of Persons
Living with Disability | Appointment, pursuant to
Sec. 43(2)(d) |
| 6. | John Salaton Swakei | Nominee of the Constituency
Office (Male) | Appointment, pursuant to
Sec.43(2)(e) |
| 7. | Pilale Ene Kashanga
Kisotu | Nominee of the Constituency
Office (Female) | Appointment, pursuant to
Sec.43(2)(e) |

Hon. Temporary Speaker, we ask this House to approve these nominees from the various constituency panels so that they may access funds for their development, including bursary. I know it is late for some Members but in future I hope all the Members will do this at the same time so as not to delay their development projects.

I would like to ask Hon. Gichimu of Gichugu Constituency to second this Motion.

I beg to move.

Hon. Gichimu Githinji (Gichugu, UDA): Hon. Temporary Speaker, I rise to second the Motion. This is more or less like a Procedural Motion because Members from the constituencies in question have already complied with the requirement of gazettelement. It is very important that these Members embark on the important mandate of doing the proposals and forward them to the board. This is so that the constituents can benefit from the bursaries and projects that are supposed to be funded by the NG-CDF. Prior to the submission of the proposals, the board may also consider releasing the bursary funds, which is usually a percentage of a figure that might not necessarily require a proposal. Children from the constituencies should also benefit from the Fund. So, proposals for projects need to be done.

Hon. Temporary Speaker, I second.

The Temporary Speaker (Hon. (Dr) Racheal Nyamai): Thank you very much, Hon. Gichimu.

(Question proposed)

Hon. Members: Put the Question!

The Temporary Speaker (Hon. (Dr) Racheal Nyamai): Thank you very much. Hon. Members, the Question will be put at a later date. Let us have Hon. Rindikiri.

Hon. Mugambi Rindikiri (Buuri, UDA): Thank you, Hon. Temporary Speaker. I have some interest in the NG-CDF affairs. I want to thank the Chairman, the proposer and the seconder. We, however, should not only be seen to be discussing and passing the names of committee members of NG-CDF. It should be accompanied by a report on the status of revenue from the NG-CDF. I am not out of order, but this would have been a good opportunity for the Chairman to inform Members something about the status of the NG-CDF disbursement. I am sure even you, Hon. Temporary Speaker, are being asked serious questions by many people about what is happening out there. Children are on mid-term this week and there are not enough funds for bursaries. As we continue approving the committees, we need to give them work to do. We have been approving names of persons here yet they have no work to do. I saw something yesterday, which I am not sure whether it was fake or real, about delivery of parcels to constituencies. That is not what I expected from the communication of the board.

[The Temporary Speaker (Hon. (Dr)

Racheal Nyamai) left the Chair]

[The Temporary Speaker (Hon. Omboko Milemba) took the Chair]

What I expected is a list of how much money has been released to the constituencies. It is not about where we will be collecting parcels. In any case, which parcels are we collecting from the NG-CDF headquarters? So, Hon. Chairman, as much as we have seen your Report seeking approval of the names of the NG-CDF committee members, first of all, release funds so that these committees that you have sought approval for can have work to do. I know you have the capacity. In a matter of time, you need to be recognised as the best performing Chairman in this House. But, as of now, you are not working enough to force the Budget and Appropriations Committee to release our Ksh12 million. You need to take up that so that we have money for bursaries, infrastructure development, and many other projects. As it is now, if you ask the Members present, they will tell you that they support the Chairman. They will approve his list. However, the Committee should be given work to do.

Thank you, Hon. Temporary Speaker. I did not notice there was a change in the Chair. I started with the Temporary Speaker, Hon. Racheal Nyamai, now I am with the Temporary Speaker, Hon. Omboko Milemba. I was just requesting the Chairman, as he brings the list of names to be approved, to also give us a breakdown of how much money he has released to our accounts.

Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Rindikiri, you are in order. Hon. Godfrey Ruku.

Hon. Ruku GK (Mbeere North, DP): Thank you, Hon. Temporary Speaker. Since this is a House of records, it is good to put records straight as far as Mbeere North Constituency is concerned. It is one of the constituencies that have been cited for having two additional members in the committee of NG-CDF. It portrays the people of Mbeere North, especially the MP for Mbeere North, in a bad light. It is good to inform the Hon. Chairman that Mbeere North Constituency Development Committee has been performing very well. There is always quorum and every business has been conducted extremely well and professionally. We have not had any issues as far as the performance of its duties under the NG-CDF Act is concerned. It is good to include that in the records of this House.

Different constituencies are affected in a different manner. Mbeere North Constituency has experienced more than five consecutive crop failures and payment of school fees is one of the greatest problems we are having in the constituency. If the Hon. Chairman can expedite the process of ensuring all constituencies in the Republic of Kenya get their allocations in a timely manner, it will lessen the pains that households in our constituencies have to endure. School fees is a major issue. Timely payment of school fees will guarantee improvement in academic performance in schools in the constituencies. I request the Chairman to put more effort in ensuring that we have enough resources and money. Equally, when we request to alter bursary allocations, for example, from 35 per cent to a higher percentage, we have well-founded reasons to do that.

I know our requests are getting derailed by the bureaucracies within the NG-CDF Board. We might revisit the NG-CDF Board where necessary as we have done with the SRC. Before we take that action, Hon. Chairman, please, ensure that the Board does not behave as if it knows more than us about the problems in constituencies. We are elected by the people.

They should hear and respect opinions coming out of serious public participation which we conducted in our constituencies during campaigns and during ordinary meetings with the people. So, our request to the board should at least be honored in a timely manner.

Thank you, Hon. Temporary Speaker.

Temporary Speaker (Hon. Omboko Milemba): Very well. Next is Hon. Stephen Mogaka, Member for West Mugirango. Proceed.

Hon. Stephen Mogaka (West Mugirango, JP): Thank you very much, Hon. Temporary Speaker for this opportunity.

(Several Hon. Members rose on point of order)

The Temporary Speaker (Hon. Omboko Milemba): Order! Order! For neatness I insist that if you want to speak on this matter, just put an intervention.

Hon. Stephen Mogaka (Mugirango West, JP): Thank you very much, Hon. Temporary Speaker for this opportunity to add my voice in congratulating the Chairperson of NG-CDF Committee for steering the Fund well at a time when the country is experiencing extreme challenges in its cash flow.

I also want to take this opportunity to thank my NG-CDF Committee for West Mugirango Constituency for being very fair in the distribution of the bursaries. We have already sorted out the secondary school goers. Today we released cheques for the university students and we are waiting for the balance from the NG-CDF for us to finish with the tertiary institutions.

As an educationist, you know that education is an equalizer. This country must be deliberate in ensuring that every child who needs intervention in their education, attains their dream in learning and is given that support. The NG-CDF is the fund that will do that. It is the people's fund. It helps children from poor families actualise their dreams. I am proud that my constituency is at the front line of ensuring that every child is supported in education. While at it, I also need to sympathise with the NG-CDF because they have not got timely disbursements from the Exchequer. They have been able to avail money soonest and that has helped our children in terms of school fees.

I cannot fail to recognise and appreciate heads and principals of schools who have exercised patience by not sending home children who depend on bursary support for their education. I particularly celebrate the principals from West Mugirango Constituency who after consultation accepted to retain students as we waited for the constituency bursary disbursement. If we cooperate with stakeholders we will ensure that every child who deserves support in education gets it.

I must appeal to all those who have been lucky to be appointed to the Constituency Committees of NG-CDF throughout the country; they have a responsibility to the children of Kenya of ensuring that every child, no matter their background and no matter how their parents voted, gets access to education.

I want on the same note to request that the Higher Education Loans Board (HELB) should be pro-active and make available the loan support to our students who will be joining colleges and universities. Our support through bursary should not be in vain. We have cases where students have applied for HELB, but the money has not been given to the schools or colleges. Such students get desperate and worried that they might be denied exams.

I appeal to Vice-Chancellors to tell their Deans of Faculties to ensure that no child misses examination in our universities because the HELB portion of their funding has not come. I want to celebrate the 13th Parliament for standing firm on education.

I beg to support.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Rashid Bedzimba of Kisauni.

Hon. Rashid Bedzimba (Kisauni, ODM): Asante sana Mhe. Spika wa Muda kwa kunipa fursa ili nipenyeze sauti yangu. Ningependa kuchukua nafasi kumpongeza Mwenyekiti

wa Hazina ya Maeneo Bunge kwa kuleta majina ya Maeneo Bunge matatu ili yaweze kupitishwa.

Ni vizuri sana yapitishwe kwa sababu kuna shida kubwa sana mashinani. Watoto wengi hawaendi shule kwa sababu hawana karo. Shida zimekuwa nyingi. Kwa hivyo haya Maeneo Bunge matatu ambayo majina yao hayajakuja yako katika shida kubwa sana. Naomba sisi sote tushirikiane kuhakikisha kwamba haya majina yamekuwa *gazetted* mapema sana kwa sababu hali ni nzito.

Pia, ningependa nichukue fursa hii kumweleza Mwenyekiti wa hazina hiyo kwamba ni muhimu aje hapa kutupatia taarifa kuhusu vipi fedha zitagawanywa, kwa sababu tangu kutolewe fedha ni muda mrefu na mpaka sasa fedha hizo zingine hazijatoka. Imekuwa sasa mtu anatoa *bursary* ya *Form One*, anangoja tena ndipo atoe ya *Form Two* na kadhalika hadi *university*. Shida ni kubwa ndugu yangu Mwenyekiti. Naomba uwasukume kwa sababu katika ahadi walizotoa tukiwa *Pride Inn* ni kwamba kila wiki mbili watotoa shilingi bilioni nne. Baada ya hapo hakuna kitu tumeona, hata ndururu!

Hali ni ngumu sana. Watoto wa *university* hawaendi shule kwa sababu ya hali ngumu ya kimaisha. Pia nikutahabarishe Mwenyekiti kwamba *Board* ya NG-CDF ndiyo inaotoa maamuzi ni kitu gani kitafanywa katika maeneo Bunge. Wananchi wamekuwa wakikusanyika wakitoa maamuzi. Kama eneo langu kuna uzoroto wa usalama. Sasa watu wanataka *security lights*. Tumekubali tuweke *security lights*. Ikifikia hapo kwa bodi, wanasema haiwezekani ilhali watu wanaumia. Sio wao wako kule uwanjani. Hizi ni fedha ambazo wananchi wanajiamulia wanataka kufanyia nini. Wasikae hapa Nairobi kuamua. Kwa hivyo naomba uingilie kati hili suala, uwaambie kwamba wafuate taratibu zile wananchi wanataka.

Kwa haya mengi nakushukuru Spika wa Muda. Ningependa nitoe nafasi kwa mwingine naye pia achange.

Asante.

The Temporary Speaker (Hon. Omboko Milemba): I think, the last one to contribute on this is Hon. Dekow Mohamed, Member for Garissa Township.

Hon. Dekow Mohamed (Garissa Township, UDA): Thank you very much and I want to thank the Chairman of NG-CDF for bringing this list to the Floor of the House. I am the Member of Parliament for Garissa and I am an interested party here.

As you are aware, I am a new Member of Parliament and my Committee has just been formed. We have serious problems on the ground considering the drought situation in the area. Our children are not able to attend schools. I have been able to negotiate with the principals of secondary schools at this stage to see whether they can give us more time as the NG-CDF team is being formed and being passed. Unfortunately, some of them cannot take the pressure and some of these school-going children have been out of school for the last two weeks or so.

I am unable to go to my constituency as a result of that because there are a lot of questions being asked. The constituency I am representing does not understand the processes that we have to go through for us to disburse the funds. For that reason, I ask the Chairman of the Board or rather of the Committee to expedite or see to it that this process is expedited and the Committee is gazetted as soon as possible so that I can perform my functions. Children need to go back to school and the schools must run smoothly.

Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Julius Mawathe, Member for Embakasi South.

Hon. Julius Mawathe (Embakasi South, WDM): Nashukuru sana Naibu Spika wa Spika kwa kunipa fursa hii nichangie kidogo kwenye huu mjadala. Nataka kumshukuru Mwenyekiti wa Bodi ya NG-CDF.

Bwana Mwenyekiti, tungelitaka kama inawezekana tusukume *National Treasury*. Sharti tuhakikishe kwamba hizi senti za *bursary* zimepatikana. Kuna haja kwa sababu wazazi

katika maeneo kama ya Mukuru kwa Njenga, Mukuru kwa Reuben na Riara ni watu wa mapato ya chini. Hawana pesa za kuwapeleka watoto shuleni. Kwa hivyo, naomba kama inawezekana mzungumze na *National Treasury* tuwekewe pesa zote za NG-CDF na hasa pesa za *bursary* ndiposa tuweze kusomesha watoto wetu. Ni watoto wengi ambao hawakuweza kujiunga na kidato cha kwanza na mliwaona kwenye runinga. Wazazi wameshindwa kuwapeleka watoto shuleni. Kwa hivyo, tunaomba wewe, Kamati yako na Bodi nzima mtilie uzito kidogo ndiposa watoto wetu waweze kupata *bursary* ndio waende shuleni.

Kwa hayo mengi, nakupongeza kwa kazi uliyofanya na yenye unaendelea kufanya ili tuweze kupata hizi senti za NG-CDF. Asante.

The Temporary Speaker (Hon. Omboko Milemba): Very well, there being no other interest to speak on this matter, I want to call upon the Mover to reply.

Hon. Musa Sirma (Eldama Ravine, UDA): Hon. Temporary Speaker, I beg to reply on this but before I do so, I would like to thank Hon. Members who have contributed to this Motion and to let them know that I am on top of things in terms of securing funding for them.

We have been in consultation with Treasury from time to time and they will be able to send money to the NG-CDF Board for onward transmission to various constituencies. So far, every constituency has Ksh45 million, and given that the last one was just before the Supplementary Budget, we are waiting for the balance of that money. At least, we should be over 50 per cent by the end of this month so that Members can do their work.

The Member for Mbeere North, I did not intend to put your constituency in bad light. The Member, of course, was just amending two names, which is normal, because the Committee is working. Therefore, we want to thank him for making the committee prepare for disbursements, especially the bursaries.

On the issue of reallocation of funds, we know that various boards will always give proposals for reallocation of funds. I want to assure Members that it is time NG-CDF Board listened to the boards in various constituencies without question. They have no business directing the boards within the constituencies because they are the people who know the interests of the people. You should also take note that very soon we shall be asking them to give us a new board and this is through the consultations which are going on now. We have a board which is not fully constituted. Therefore, I will be asking the Cabinet Secretary to add the names. We are lacking four members in the board and very soon we should be able to get the same.

Members also have been complaining about Fund Managers. Some of the Fund Managers have overstayed in their various constituencies and they are doing great damage to the use of NG-CDF in the constituencies. We have recommended, as the Committee of Parliament, that no Fund Manager will be in one constituency for more than five years and for anybody who has gone beyond five years, we are going to transfer them and rotate them to various constituencies within this country as they swore to serve in any constituency once they are employed. All that has brought a lot of confusion. Those who have overstayed in various constituencies have made life difficult to any sitting Member of Parliament while some of them have ensured that those Members lose. There is a constituency where one Fund Manager has presided over the change of four Members of Parliament, and that is unacceptable. We have made our recommendations and we are sure that within the next few days, that Fund Manager will leave that constituency.

I would also like to ask Members, as they utilise these good funds which are meant to assist the children of Kenya in form of bursaries and the various infrastructural development within the constituencies, to put a keen eye on every usage of the funds because at times, some head teachers misappropriate that money. We have audit committees within the counties which are asleep or do not even want to monitor what the people who are utilising the money are using the funds for. We are going to put structures that will enable us to get first-hand

information as a Committee so that we direct various audit committees to go and see the usage of that money in various constituencies.

Hon. Temporary Speaker, there is also a balance of Ksh2.9 billion. I would like to tell Members that the money has been appropriated in the Supplementary Budget. This translates to Ksh212 million per constituency. The first Ksh2 billion had been disbursed and the balance of the Ksh2.9 billion will be disbursed as soon as the National Treasury releases that money.

I beg to reply. Thank you.

The Temporary Speaker (Hon. Omboko Milemba): Very well, Hon. Members, we shall defer putting of the Question until next session.

(Putting of the Question deferred)

Next Order.

NOTING OF REPORT OF 61ST SESSION OF OACPS PARLIAMENTARY ASSEMBLY
AND 42ND SESSION OF ACP-EU JOINT PARLIAMENTARY ASSEMBLY

THAT, this House notes the Report of the 61st Session of the Organisation of Africa, Caribbean and Pacific (OACPS) Parliamentary Assembly and the 42nd Session of the ACP-EU Joint Parliamentary Assembly, laid on the Table of the House on Wednesday, 30th November 2022.

(Moved by Hon. Ali Raso on 9.3.2023)

(Resumption of debate interrupted on 9.3.2023)

Hon. Julius Mawathe (Embakasi South, WDM): On a point of order, Hon. Temporary Speaker.

What is your point of order, Hon. Julius Mawathe?

QUORUM

Hon. Julius Mawathe (Embakasi South, WDM): Hon. Temporary Speaker, pursuant to Standing Order 35, I wish to bring it to your attention that the House has no quorum.

The Temporary Speaker (Hon. Omboko Milemba): Serjeant-at-Arms, may you ring the bell for 10 minutes.

(The Quorum Bell was rung)

The Temporary Speaker (Hon. Omboko Milemba): Hon. Members, I can ascertain that even after ringing the bell, we still do not have quorum.

ADJOURNMENT

The Temporary Speaker (Hon. Omboko Milemba): Hon. Members, the time being 6.08 p.m., this House stands adjourned until Tuesday, 21st March 2023, at 2.30 p.m.

The House rose at 6.08 p.m.

Published by
Clerk of the National Assembly
Parliament Buildings
Nairobi