



NAIROBI CITY COUNTY ASSEMBLY

OFFICIAL REPORT

Second County Assembly – Third Session

Wednesday 20th February, 2019

The House met at 2.30 p.m.

(Hon. Deputy Speaker (Mr. John Kamangu) in the Chair)

PRAYERS

QUORUM

Hon. Deputy Speaker: I think we don't have a quorum. Serjeant-at-Arms, ring the bell for 10 minutes.

(Quorum bell was rung for 10 minutes)

We still do not have a quorum. We have two members remaining, ring the bell for two more minutes. Serjeant-at-Arms, can you get all the members inside?

(Quorum bell was rung for 5 more minutes)

Please proceed, we have a quorum now.

STATEMENTS

Hon. Deputy Speaker: Chairperson, sectoral committee on Children and Early Education. Hon Millicent? Vice Chair? Any member of the education committee? Clerk, proceed.

MOTION

ADOPTION OF THE ASSEMBLY CALENDAR

Hon. Deputy Speaker: Majority Leader.

Hon. Hon. Elias Okumu: Whenever the Majority Leader is absent, the Minority Leader is supposed to take over the business of the House. Hon. Speaker, I would like to move Motion number 8; Adoption of the Assembly Calendar.

THAT, pursuant to the provision of Standing Order 29(1), this Assembly approves the Calendar of the Assembly (Regular Sessions) for the Third Session of the Assembly, as contained in the Schedule attached to the Order Paper. I call upon the Chief Whip to second the Motion.

Hon. Deputy Speaker: Hon. Waithera.

Hon. Waithera Chege: Thank you Mr. Speaker. I second.

(Question proposed)

Hon. Deputy Speaker: Hon. Anthony Karanja.

Hon. Anthony Karanja: Thank you Hon. Speaker. I would like to say that the calendar looks good. However, I would have been happier if we would reduce the long recess period. I would be happier because this is a very serious Assembly that has a lot of work to do. Recess from 3rd of May to the 3rd of June is a bit long and I would prefer that we reduce it to two weeks. However, I know the procedure for changing the calendar is not what I am doing now. I am bound to support this one. I believe Members who have loans need the sittings to pay the loans. We also need the time to make sure that we deliver what we are supposed to deliver for Nairobians. However, I support it and hope next time I will have time to read it and change it. Thank you.

Hon. Deputy Speaker: Thank you. Hon. Ondeje.

Hon. Emily Oduor: Thank you Hon. Speaker. First, I would like to take this opportunity to thank all Members. I am so grateful today to see our Clerk, Mr. Ngwele. Welcome back. We missed you.

(Applauses)

We hope things are going to change. I would like to support this and as my fellow Member says, if we can reduce the recess period and also take into consideration that we can put some of the recess days at a time when the students are on holiday so that Members of the Assembly spend more time with their children instead of leaving them to be educated by the social media and TVs. I support the Motion. Thank you.

Hon. Deputy Speaker: Anybody else who wants to add to what has been said? Hon. Jeremiah.

Hon. Jeremiah Themendu: Thank you Hon. Speaker. I rise to support the Motion because the owners of the Motion had good faith with us and they know that we need to rest. Sometimes we do a lot of work when we are here. We also need time to go and do assignments with our electorates. Let me also welcome our Clerk here in the Assembly because I believe he has the capacity to do what is good for us. Thank you.

(Applauses)

Hon. Deputy Speaker: Any other Member? Hon. Kabiro.

Hon. Mbugua Kabiro: Thank you very much Mr. Speaker. I would like to support the Motion. I see the recess is too short. I think they should be elongated a little bit. Having said that, this Motion should just pass as it is so that we don't waste a lot of time. I appreciate that you want few other members to speak. Let me just speak for them all. We support. Thank you.

Hon. Deputy Speaker: Hon. Muriithi.

Hon. Peter Warutere: Thank you Hon. Speaker. Allow me to—

Hon. Deputy Speaker: Interjection, please. Serjeant-at-Arms, please don't allow anyone to go out of the House. We have a very special session and we need everybody inside. No one should go out, please. Hon. Members take your seats. Thank you.

Hon. Peter Warutere: Allow me to support the Motion that is before us and to call the mover to reply because looking at the mood of the House, everybody is in support of this calendar.

Hon. Deputy Speaker: Hon. Maina, it has been long since you spoke. Welcome.

Hon. Julius Njoka: Mr. Speaker, I rise to support the Motion because when we have such a calendar in time, it gives us time to also plan our calendars. Secondly, I want to welcome our able Clerk. *Karibu nyumbani.*

(Question put and agreed to)

ADOPTION OF THE REPORT OF THE SELECT COMMITTEE ON POWERS AND PRIVILEGES ON THE
INQUIRY INTO THE UNETHICAL CONDUCT OF HONOURABLE MEMBERS AND ALLEGATIONS OF BRIBERY
OF MEMBERS

Hon. Deputy Speaker: Powers and Privileges. Hon. Mathenge.

Hon. Naftali Mathenge: Hon. Speaker, I beg to move the following Motion; That this Assembly adopts the Report of the Select Committee on Powers and Privileges on the inquiry into the unethical conduct of Honourable Members and allegations of bribery of members of the Sectoral Committee on Labour and Social Welfare and Sectoral Committee on Justice and Legal Affairs, laid on the Table of the Assembly on Tuesday, 19th February 2019.

Hon. Members, I would like to commend Members of the Assembly for their patience as the Select Committee on Powers and Privileges undertook 5 months to conduct investigations into the trying times that this Assembly faced in the previous Session. I would like to report to the Assembly that the Committee has successfully completed the report into the inquiry.

Hon. Members, Pursuant to Standing Order 183 the Committee held sittings from 19th September 2018 to 18th February 2019 to deliberate on; investigations into the conduct of Hon. Members on 10th September 2018, the conduct of Hon. Mary Ariviza on the floor of the Assembly on 25th September 2018, the allegations of bribery of members of the Sectoral Committee on Labour and Social Welfare and the allegation of bribery of members of the Sectoral Committee on Justice and Legal Affairs.

Hon. Speaker, in this light, the committee summoned thirty (30) Honourable Members, 2 staff of the County Assembly, the Police Commander Nairobi Area and 5 members of the public to assist with the investigations by adducing appropriate evidence and giving evidence in chief. The Committee also listened to audio-recordings, read from Newspapers and publications from the different incidences.

Hon. Deputy Speaker: Interjection please. Hon. Kados, you are not properly dressed. Please walk out and dress properly. Proceed, Hon Mathenge.

Hon. Naftali Mathenge: Hon. Members, on 6th September 2018, during a special sitting of the Assembly, the County Assembly resolved through a Motion of a vote of no confidence in the Hon. Beatrice K. Elachi as the Speaker of the Assembly, to relieve her of her duties as Speaker of the Assembly. Hon.

Beatrice Elachi came to her office on 10th September 2018 following her presence in the Speaker's office, which had been assumed vacant, some Members sought to have an audience with Hon. Elachi. A commotion ensued shortly afterwards. The commotion and the events leading to the commotion were then tabled to the Committee for investigations.

Hon. Members, also we may all remember the events of 25th September 2018 on the floor of the Assembly when the Assembly resolved to elect an Acting Speaker, the Hon. Mary Ariviza's name was proposed for the position in her absence. She came to the House in protest of her name being mentioned on the floor in her absence. As mandated the Committee deemed it fit to inquire and investigate into the conduct of the Honorable Member on 25th September 2018 on the floor of the Assembly.

Hon. Members, the sectoral Committee on Labour and Social Welfare and the Sectoral Committee on Justice and Legal Affairs was also under investigation on bribery allegations. It was alleged that while at a retreat in Mombasa with Members of the Executive of Nairobi County Government, Members of the Sectoral Committee on Labour and Social Welfare received bribe for the award of a Health Insurance Contract to AAR. It was also alleged that while on a site visit at Concord Hotel, Parklands, Members of the Sectoral Committee on Justice and Legal Affairs solicited for a bribe.

Hon. Speaker, in the investigations the Committee observed that there was evidence of misconduct by some members of the County Assembly on the 10th day of September 2018. Further, that Hon. Mary Ariviza's name was called on the floor against her will but the manner in which she conducted herself was not as it is contemplated for Hon. Members to decline a position proposed by the House. It was observed that on 25th September 2018, Hon. Mary Njambi whose name was also proposed for the position of Acting Speaker declined the position with dignity of an Honourable Member of this August House.

Mr. Speaker sir and Hon. Members, on the investigation of bribery of the Sectoral Committee of Justice and Legal Affairs, evidence was adduced by the owner of Concord hotel, one MR. Rahim Chatur, that he neither knew Hon. Malde Jayendra in person nor did he issue any money to Hon. Malde Jayendra to be issued to members of the Sectoral Committee on Justice and legal Affairs. The Committee therefore found that the Allegations of bribery of the Committee could not be verified.

Hon. Speaker, on the investigation of bribery of the Sectoral Committee on Labour and Social Welfare the committee was informed by various witnesses that the recorded voice belonged to someone else, allegedly George Ochola, and not Wilson Ochola. However, the Committee could not authoritatively make a finding as the true owner of the voice in the recording. Hon. Wilson Ochola confirmed to the Committee that it was not him who was recorded confessing to the allegations of bribery.

Hon. Speaker, upon conclusion of the investigation and with the observations, the Committee, made the following findings.

On Conduct of Members within Precincts, specifically the Office of the Speaker on 10th September, 2018

1. That indeed there was a *Kamukunji* on the morning of 10th September, 2018, but it was difficult to ascertain the agenda of the said *Kamukunji* given the contradictory statements issued by witnesses.

2. That it is difficult to establish whether there was a conspiracy to evict the Speaker by the Members who went to the Speaker's office.
3. That the Hon. Beatrice Elachi on the morning of 10th September, 2018 had presented herself at her office and had called for a press conference and it was during the said press briefing that Members walked into her office.
4. That several Members gathered at the Speaker's office and were denied access by security officers manning her door, and shortly thereafter they had somehow accessed the office.
5. That the Hon. Mwangi Njihia, MCA had been first to access the Speaker's Office, when other Members joined him, and a fracas ensued shortly thereafter.
6. That sergeants at arm were called to quell down the situation, who were later joined by uniformed police officers.
7. That the Hon. Beatrice K. Elachi sprayed pepper spray in the office.
8. That whereas there were several Members at the Speaker's Office, most were standing by and spectating peaceably.
9. That the Hon. Mary Njambi, MCA; Hon. Laura Mwendu, MCA; Hon. Nancy Muthami, MCA conducted themselves in a disorderly manner contrary to the provisions of the Standing Orders and Powers and privileges Act, 2017.
10. That the Leaders of the Majority and Minority Parties had addressed a Press Conference in the Speaker's Office in which they tried to urge Members to leave the Office and let the Hon. Elachi vacate the office peacefully. 57 The Report of the Select Committee on Powers and Privileges, February 2019.
11. That other Members present as captured on video footage, whereas not shouting, had aided the fracas by crowding the Office of the Speaker.
12. By shouting, hurling insults and generally being disorderly, Members had conducted themselves in ways worth inquiry and recommendation of appropriate sanction.

On the Conduct of the Honorable Mary Ariviza, MCA during the sitting of 25th September, 2018

1. That the Hon. Peter Imwatok, MCA had not consulted the Hon. Mary Ariviza, MCA before nominating her for the position of Ag. Speaker.
2. That the Hon. Imwatok did not need to consult the Hon. Ariviza as other members had equally nominated candidates, who had respectfully declined the nominations, for instance the Hon. Mary Njambi, MCA.
3. That whereas the Hon. Ariviza had every right to protest her nomination as she claimed, she should have done so with decorum and in line with House rules.
4. That the Hon. Mary Ariviza, MCA conducted herself in a manner contrary to the Standing Orders and the enabling provisions on the conduct of state officers of her calibre.
5. That the presiding chair had repeatedly ordered the Hon. Member out of the chamber, which Orders the Member continuously disobeyed.

6. That failure to disobey the Speaker's Orders had necessitated the presiding Chair to resort to force, inviting the Sergeants-at Arms to throw the Hon. Member out of Plenary.

On the allegations of bribery against the Sectoral Committee on Justice and Legal affairs

1. Every witness who appeared before the Committee on this matter denied ever having received any sums of money from the owner of Concord Hotel, Mr. Chatur.
2. No evidence was produced showing Hon. Jayendra Malde receiving the bribe of Kenya Shillings five million, seven hundred thousand (Kshs. 5,700,000) as alleged.
3. That Mr. Rahim Chatur never issued any amount of money to Hon. Malde Jayendra neither did he know whose money it was that was shown on Social media and to members of the fourth estate.
4. In the absence of expert voice analysis to ascertain the veracity of the recordings, it is not possible for the Committee to determine that indeed it was Hon. Malde soliciting for bribes in the audio recordings presented before the Committee.
5. It is difficult to ascertain the extent of involvement of members of the Sectoral Committee on Justice and legal Affairs in the bribery claims, as no evidence was tabled showing either their direct or indirect involvement save for media reports linking the 58 The Report of the Select Committee on Powers and Privileges, February 2019. Larger committee Membership to the bribery claims, a fact reiterated by Mr. Chatur who denied ever giving any monies to Committee members.

On the allegations of bribery against the Sectoral Committee on Labour and Social Welfare

1. Every witness who appeared before the Committee on this matter denied ever having received any sums of money from AAR Insurance to facilitate the award of a tender.
2. No evidence was produced showing that Committee Members received bribes as alleged in sections of the media and the audio recording tabled before the Committee.
3. In the absence of expert voice analysis to ascertain the veracity of the recordings, it is not possible for the committee to determine that indeed it was Hon. Wilson Ochola speaking in the audio recordings presented before the Committee.
4. It was equally difficult to ascertain that the voice in the audio recording belonged to Hon. George Ocholla, former MCA for Hospital Hill Ward as described by some witnesses who appeared before the Committee, or Hon. Wilson Ochola, MCA, the current MCA for Utalii Ward and Member of the affected committee.
5. The Committee could not ascertain the extent of involvement of Members of the Sectoral Committee on Labour and Social Welfare in the bribery claims, as no evidence was tabled showing either their direct or indirect involvement save for media reports linking the larger committee Membership to the bribery claims.

Hon. Speaker, therefore as I Conclude, the Committee made the following recommendations.

1. On the inquiry into the conduct of various Honorable members on 10th September, 2018 within the precincts of the Assembly, specifically the office of the Speaker: THAT

- a) the Assembly pursuant to Section 17 (3) (a) of the County Assemblies Powers and Privileges Act, 2017, issue a formal warning to the Hon. Abdi I. Hassan, MCA; the Hon. Elias Okumu Otieno, MCA; Hon. Waithera Chege, MCA; the Hon. Peter Imwatok, MCA; the Hon. Mwangi Njihia, MCA; the Hon. Osman Khalif, MCA; the Hon. Redson Otieno, MCA; the Hon. Anthony Kiragu, MCA and the Hon. Peter Wahinya Kimuhu, MCA for conducting themselves in a manner likely to reflect adversely on the dignity or integrity of the Assembly contrary to section 16(e) of the County Assemblies Powers and Privileges Act, 2017;
- b) pursuant to Standing Order 114 (2) (a) and Section 17 (3) (g) of the County Assemblies Powers and Privileges Act, 2017, the Hon. Mary Njuguna Njambi, MCA; the Hon. Laura Mwendu, MCA and the Hon. Nancy Muthami, MCA, be suspended from the Assembly for ten (10) calendar days upon adoption of this report for conducting themselves in a manner intended, and is likely to reflect adversely on the dignity or integrity of the County Assembly, or of the Members or to be contrary to the best interests of a county assembly or its Members contrary to section 16(e) of the County Assemblies Powers and Privileges Act, 2017 and Standing Order 114 (2) (a); and
- c) the Assembly pursuant to Section 17 (3) (b) of the County Assemblies Powers and Privileges Act, 2017 orders the Hon. Mary Njambi, MCA; the Hon. Laura Mwendu, MCA and the Hon. Nancy Muthami, MCA, to apologize to the Assembly and the Members for conducting themselves in a manner that reflected adversely on the dignity and integrity of the County Assembly and its Members contrary to section 16(e) of the County Assemblies Powers and Privileges Act, 2017. 60
The Report of the Select Committee on Powers and Privileges, February 2019.

II. On the inquiry into the conduct of the Hon. Mary Ariviza, MCA on 25th September 2018 on the floor of the Assembly: THAT; -

- a) pursuant to Standing Order 114 (2) (a) and Section 17 (3) (g) of the County Assemblies Powers and Privileges Act, 2017, the Hon. Mary Ariviza, MCA, be suspended from the Assembly for twenty one (21) calendar days upon adoption of this report for conducting herself in a manner likely to reflect adversely on the dignity and integrity of the County Assembly and its Members contrary to section 16(e) of the County Assemblies Powers and Privileges Act, 2017 and the provision of Standing Order 114(2)(a).
- b) the Assembly pursuant to Section 17 (3) (b) of the County Assemblies Powers and Privileges Act, 2017 orders the Hon. Mary Ariviza, MCA, to apologize to the Assembly and the Members for conducting herself in a manner that reflected adversely on the dignity and integrity of the County Assembly and its Members contrary to section 16(e) of the County Assemblies Powers and Privileges Act, 2017.

Hon. Speaker, in this spirit, I urge this August House to adopt this Report on inquiry into unethical conduct of Honorable members and allegations of bribery of members of the Sectoral Committee on Justice and Legal Affairs and the Sectoral Committee on Labour and Social Welfare.

Hon. Speaker, I call upon Hon. Evans Otiso to second the Motion.

Hon. Deputy Speaker: Hon. Otiso.

Hon. Evans Otiso: Hon. Speaker, I beg to second the Motion. The Committee on Powers and Privileges was established pursuant to Section 15 of the County Assemblies Powers and Privileges Act, 2017. It is important to add that in the interest of fairness, during our investigations, Hon. Members accused of breach of conduct and breach of privilege were given adequate opportunity to be heard in person. They were given the opportunity to attend the meetings.

I therefore urge the House to adopt this report so as to avoid such insults and abuses. This is very common in this Assembly. As you can see the cases that have emanated, most of the Hon. Members have fears to attend the Assembly because they are being beaten up by their counterparts. Now you have seen a senior Member from Mihango Ward coming to the Assembly without proper dress code. It is an offence according to Powers and Privileges Act.

We urge all Members to adopt this report because it is our weapon, tomorrow you may be assaulted. Where are you going to get help from? You are not supposed to abuse the privilege you have been given. I beg to second the Motion.

(Question proposed)

Hon. Deputy Speaker: Hon. Oyugi.

Hon. Kenneth Oyugi: Thank you, Mr. Speaker. Let me begin by saying I don't support the report. The punishment being given to Hon. Njambi and the rest--- we were all here and we all saw what happened. I would have only supported the report if the leaders would have been punished. If my Minority Leader and Majority Leader are suspended for ten days, I would have supported the report. Let us not use Hon. Njambi and the rest as the weaker link in the House. We all know that they did not read the truth, actually they were being shown what to be done. Mr. Chairman, I wish you invited me as a witness.

There were also some serious allegations of intoxication, why are we burying our heads in the sand---

Hon. Deputy Speaker: Could you please address the Speaker and not the Chairman.

Hon. Kenneth Oyugi: Thank you for the guidance. What happened was not right but we should agree that Hon. Njambi and the rest were not the culprits. For that reason, I want to vehemently oppose the report and I want to ask the Chairman and his team that we should learn to live in coexistence. A mistake occurred because it was orchestrated by members who I am accusing. For that reason, I want to plead with the House to pardon with our fellow members. If they will repeat the same mistake, then we shall recommend for further punishment.

In regards to Hon. Ariviza, we also saw what happened. If Hon. Jateso was here--- I don't know whether the Chairman of Powers and privileges Committee did find it necessary to summon Jateso and ask the reason why he proposed the name of Hon. Ariviza yet he knew very well how passionate she was about Speaker Elachi. Actually that was provocation of the highest order. You provoked Hon. Ariviza for you to punish her the following day. We are not fair to ourselves---

(Point of Order)

Hon. Deputy Speaker: Hon. Otiso.

Hon. Evans Otiso: I think Hon. Oyugi is out of order. Hon. Jateso never stopped the proceedings of the House. You say you were here, Hon. Mary Ariviza interrupted the proceedings. You are aware of the Powers and Privileges Act. I don't know whether you are arguing out of politics or what. Powers and Privileges Committee did fair deliberations. Accusing the Leader of Majority or Minority--- if you make a mistake you don't expect the leaders to be punished on your behalf. You will only carry your cross.

I again plead to the House that they adopt the report. The behaviors of hon. Members----

Hon. Deputy Speaker: Hon. Otiso, you are now debating, you are out of order. Hon. Kiragu.

Hon. Antony Karanja: Thank you, Hon. Speaker---

(Hon. Oyugi spoke off the record)

Hon. Deputy Speaker: I thought you were through.

Hon. Kenneth Oyugi: No, I was not through. Mr. Speaker, I am not accusing Minority Leader or Majority Leader, I am only being factual. I am not accusing anyone here. Hon. Otiso, we all saw what happened, unless you want to burry your head in the sand. It was not the wish of Hon. Njambi to go and beat Hon. Elachi in the office. Why do you want to pretend? Whom do you want to please?

Hon. Deputy Speaker: Hon. Oyugi, please I want you to address the issues to me. If you have any issue with anyone, direct it through me.

Hon. Kenneth Oyugi: Thank you once more for the guidance. I am left with about five minutes, am I allowed to donate the remaining---

Hon. Deputy Speaker: I think we have heard you clearly. Let us give somebody else a chance.

Hon. Kenneth Oyugi: Okay. I beg to oppose.

Hon. Deputy Speaker: Hon. Benson.

Hon. Benson Macharia: Thank you, Mr. Speaker. I had pressed interjection button for a Point of Order. My good friend, Hon. Oyugi---

Hon. Deputy Speaker: Are you on a Point of Order?

Hon. Benson Macharia: I had requested for Point of Order---

Hon. Deputy Speaker: You want to contribute or---

Hon. Benson Macharia: I want to contribute and also to---

Hon. Deputy Speaker: Just proceed, forget about Hon. Oyugi.

(Laughter)

Hon. Benson Macharia: He is so lucky. Mr. Speaker, I would like to support this Motion for two reasons: One, because we have faith in the leadership of this Assembly; and two, because we have faith in the leadership of the Committee. It took them five months to come up with this report.

To add on few points, the difference between a wise man and man full of knowledge is the way they react when calamity arises. The main reason why we have this report is because the person who was full of knowledge did not want to leave the office in the right manner, but the person who was wise of knowledge decided to go to court and now he is back. So, Mr. Ngw'ele, welcome back.

(Applause)

Mr. Speaker, I call upon each and every member of this House--- yesterday it was Hon. Njambi and the group, today it could be me and tomorrow it could be you. You don't want to go through what these members have gone through.

I want to tell Hon. Warutere that I apologize for what happened. On behalf of people of Mowlem, myself and the family, I am sorry. *(Applause)* Thank you so much, Mr. Speaker.

Hon. Deputy Speaker: Hon. Michael Ogada

Hon. Michael Ogada: Thank you, Bwana Speaker. I oppose this document. One, there could have been a lot of fairness in terms of going through the process. The other one is we need to appreciate we are colleagues. When we are passing judgments, a lot of care needs to be taken. We also need to appreciate we are a House that needs to be united. I have been on record of opposing the wars that have been taking place in this House from the word go. I have expressed the same to the leadership of this House that I am totally opposed to any intrigues, any conflicts, and any arguments that are in this House.

Suspending a member for 21 days and above with this kind of scarcity and calamity in this County, definitely you are telling us you don't want that person to even pay rent. We really need to look these things on a human eye and not doing things with excitements and emotions. The other thing that we need to appreciate is that when all these things took place, there was a lot of politics and incitements around and people never did these things out of good faith.

Some members were misused, other members just did these things as a result of some token promises they were told they were going to be given after certain actions. I think as a speaker with a lot of wisdom that I know you have, we need to look at this report and give a strong warning to all the members who participated in all these activities that it is not right for us to have a dishonorable House, we need to have a House where we respect the Speaker, support staff and all the members within this House.

Therefore, we need to conduct ourselves with a lot of decorum and respect. As a member of Embakasi I feel that it is not right to misbehave in the House but I also feel that we first need to give our members very strong warnings such that when they repeat the same things then serious action like the ones that have been recommended should be taken against them. However, starting from the word go and trying to show fellow members some might, I think that are not right, s I am opposed to this Motion.

The other thing Mr. Speaker, the other time we had an Honorable Member here who was assaulted by an officer in this County, this police officer, the proud one. This man was around here making many complaints to everybody and this action we are taking against members was not taken against that officer which means that this House is not ready to protect their own but instead there are very many who is very willing to protect people who attack some of us. I think Mr. Speaker, with all due respect this is not right.

There is need to protect ourselves first as a House, we protect our members and you treat everybody with decorum and respect that all of us deserve and mores o, this House needs to have enough protection from the Executive. However, what is now common in this House is that anybody from the Executive can do anything to any member here and nothing happens. That is not right.

I am therefore of the opinion that we give warning to the members who misbehaved or did anything wrong. I was around here, we saw everything happen. So these are mistakes and learning is a continuous process. They have learned from their mistakes so let us just try to caution all of us such that we do not repeat the same mistakes.

Mr. Speaker, I am requesting that Hon. Members, let us not move with excitement, excitement is a very short-lived thing, we might do it because we have seen a colleague in a problem while we are celebrating but time goes round and one day you will be in it and it will be a surprise and a shock to you,

yours might even be worse. So when you are taking every step please take due cognizance that we can only protect one of our own.

We can only protect ourselves. Let us not allow ourselves to be misused or be used by whoever, we should not allow that, such that we can have a House of integrity and a House that protects itself and a House that we are happy as sisters and brothers as we work together. Mr. Speaker that is my humble prayer, that if members can just agree with me that we allow the people who made the mistakes... We come from different backgrounds, you do not expect that the way you behave is the way that I should behave and our backgrounds are different. So as I continue to be together with you I will learn how people are meant to behave so let us allow colleagues to learn from some of us or from you if you think you are a bit better such that we don't repeat these mistakes. Mr. Speaker that is my humble prayer..

Hon. Deputy Speaker: Hon. Kiragu.

Hon. Antony Kiragu: Thank you so much Hon. Speaker. Mr. Speaker, I rise to support this report. As I support this report I also want to express my shock and my surprise that I am actually in that list of people who will be warned or taken action against. Hon. Speaker, I am a signatory to the State Officers Code of Conduct and I adhere to chapter 75 of the Constitution on the conduct of state officers. Hon. Speaker, I have personally conducted myself with decorum and follow the law to the letter.

Hon. Speaker, I find myself before the committee because I responded to a commotion that was precipitated by a stranger who was in the Speakers office. Hon. Speaker, it is not in doubt that if I lose my seat today as the MCA of Waitihaka, I have no business at all being in this Assembly and it would only have been prudent that anybody who loses their seat, the most honourable thing to do for their own safety and the safety of the rest of the people who are in the precincts of this Assembly to stay away.

True to that Hon. Speaker, members of this House were attacked in that office with pepper spray that is gazzeted as prohibited and a weapon that requires a licence to not only use but even to have. Hon. Speaker, Article 75 is very clear as I submit to the report that subject to the applicable disciplinary procedure for the relevant office which is our office, among the procedures referred to in the paragraph in the Constitution include dismissal or removal from office. I believe we have seen this House degenerate from jokes to insults and just like my colleague has apologized to a colleague to getting physical in the House. Hon. Speaker, I would not wish anybody loses their seat, I would not even wish that anybody loses anything in this including time but if this is not checked it might even end up in murder in the same precincts or even something worse.

Hon. Speaker, I would again want to say that I was also requested to visit the offices of the Ethics and Anti-Corruption Commission which I did yesterday on the same accounts and I would want this Assembly to work with speed so that we can use our own internal mechanism to solve disputes and not subject ourselves to external and predictable ongoing process. Like I have said Mr. Speaker, I would not wish that anybody go through that because I can tell you for free that amongst the cases that we had within this Assembly that were actually referred to the Ethics and Anti-Corruption Commission that until today the members who are no longer members of this Assembly still visit and are still struggling to clear their names on their conduct in the precincts of the Assembly.

I would also want to ask members that the sentences may look heavy now but it is much better than the unknown. I spent the whole day yesterday, I understand that some of my colleagues have spent the whole day today, others are going tomorrow and I can tell you that this will go on for a very long time as the investigators try to piece the happenings of the events of that day. I would also wish to state that we are all here by right and I believe that nobody has a right to speak on behalf of another member. I have heard my colleague Hon. Oyugi purport to speak on behalf of Hon. NJambi. If there is anybody I respect in this House for knowing and defending her rights to the hilt, it is Hon. Njambi.

I would like to inform my friend that she does not and she has no deficiency that would call any other member to speak on her behalf. If she has an issue with a sentence she would stand on this floor and oppose it and that applies to every member in this Assembly. So I hope that members will listen and adopt this report as it is and maybe urge the Committee to act with speed next time to make sure that we avoid external dispute resolution mechanisms or external bodies coming into this Assembly and taking over and investigating matter that we can. So, I support this Motion and thank you very much.

Hon. Deputy Speaker: Hon. Elias Otieno.

Hon. Elias Otieno: Thank you Mr. Speaker, I would like to comment on this Motion. Mr. Speaker, first of all I want to say that there is no leadership that has forced anybody to do anything against what they don't want to do. That one I think it is very hard for a member who is always hiding all the time when you call him, he says he is at home. Right now he said he was here and saw everything that went on and that is very wrong. Secondly, I don't think that Hon. Oyugi can say that the Majority leader and I should be punished. I think everybody who was here did not tell anybody to go and storm the Speaker's office. I am 100 percent sure that I did not go there as a person who is going to storm the speaker's office. I think it is there on Nation TV, you can just go and see. Secondly, I do not know which Speaker we are talking about, is it the former or the current one because on the 6th of September there was an impeachment Motion in this Assembly on 10th September...

Maybe I do not know what we are talking about because the person who was in that office was a stranger and I will stand by it and I do not want somebody to just follow me blindly like the other people who are purporting to say here, nobody, even those outside, did I promise anybody that if you do this I am going to give you this? I did not. I did not mention anything that I am going to give you because in the long run...what am I going to give you if you support the impeachment of the former speaker? Nothing! Those are the people we have always said are cowards because...I can remember what happened that day. We had our *kamukunji* as usual which is normal in this House, and then some people said there was danger in a certain office here. Should I be punished because of that?

If somebody is saying that I should be punished then other people like Njambi you want to tell me that the person to be punished. I am ready to do it. You remember a certain baby called Baby Pendo? You want to tell me that a person who was to be punished was it the Inspector General? He did not tell the police officer to go and kill baby Pendo, you should not lie here, we have several people, there is no way the Inspector General said just go to Kisumu and kill baby Pendo, you should carry your own cross, I think I am going to appear before the EAAC on Friday and I am going to carry my own cross on that day. So if that is the punishment you want me to face, I am going to tell them the truth and that is that there was a stranger in the House. They should also call the stranger to record a statement. Why do they call me every time about the stranger? This is the same stranger who stole money to go and get a fake degree. I am fed up. I think this is very lenient and I hope they will understand that we are just trying to act towards those who misbehaved. Even if you want to punish me I will go ahead and serve the punishment. What is ten days? Will I die because of not coming here for ten days? Someone said that if we punish someone by serving them with ten days then they will not be able to pay rent. Surely, sometimes we need to speak the truth. I think that if you love someone then at times it is good to tell them the truth. This is lenient, so let us just accept it and move on. It is not 3 months or 30 days which I believe is lenient.

The Chairman of the Powers and privileges committee I don't know whether you detected the error in the names given. There is nobody in this Assembly by the name George Ocholla from Hospital Ward. That Ward is represented by someone called Patrick Musili. George Ocholla is no longer in this House and so I don't understand why you want to use his name. That is very wrong. Thank you Mr. Speaker.

Hon. Deputy Speaker: Hon. Waithera Chege

Hon. Waithera Chege: Thank you Mr. Speaker for this chance. I rise to support this report. Allow me to first thank and congratulate the Committee for a work well done. It is the first time I have seen an in depth report in the Assembly since last year. However Mr. Speaker, I want to take you to the head title of the recommendations which reads inquiry into the conduct of various Honorable Members on the 10th September 2018 within the precincts of the Assembly and specifically the office of the Speaker. By the powers given to you, I would wish to move an amendment because on the said date, I was not anywhere in Nairobi and so I wish to invoke Standing Order 56 (a) ---

Hon. Deputy Speaker: Hon. Obuya, kindly consult in low tones

Hon. Waithera Chege: Allow me to move an amendment without notice under Standing Order 56 (a) and Standing Order 58(3) to remove my name (Hon. Waithera Chege) from the recommendations because what the Chair has submitted to this Assembly is that they were able to sermon witnesses and they have evidence with them. So I wish to request that my name be expunged from the report and I call upon Hon. Ngengi to second. Thank you Hon. Speaker.

Hon. Deputy Speaker: Hon. Ngengi.

Hon. Daniel Ngengi: Thank you Hon. Speaker. I second.

Hon. Kennedy Oyugi: Point of order Mr. Speaker.

Hon. Deputy Speaker: Hon. Oyugi you have not requested.

Hon. Kennedy Oyugi: Alright. Mr. Speaker, if I clearly got Hon. Chege Waithera and the concerns from the Minority Leader, the credibility of the report is in question. If you can implicate the name of Hon. Waithera Chege yet she was nowhere in the Assembly---

Hon. Anthony Kiragu: Can the Member tell us which Standing Order he is on

Hon. Deputy Speaker: Which Standing Order?

Hon. Anthony Kiragu: Yes.

Hon. Deputy Speaker: Hon. Kiragu, proceed.

Hon. Anthony Kiragu: I am asking which Standing Order my colleague is standing on.

Hon. Kennedy Oyugi: You can check it.

Hon. Deputy Speaker: Which one is it?

Hon. Kennedy Oyugi: 56 (a).

Hon. Deputy Speaker: 56 (a)?

Hon. Kennedy Oyugi: Yes.

Hon. Deputy Speaker: Give me a second.

Hon. Kennedy Oyugi: My issue is that the Minority Leader is questioning the credibility of the report because the name of a former member of this House has appeared in the report and Hon. Chege who was nowhere near Nairobi---

Hon. Deputy Speaker: Hon. Oyugi, you are quoting the wrong Standing Order and you know it. Can I read it for you so that you can understand? Hon Chege has moved an amendment, why don't we go through it then you debate.

Hon. Kennedy Oyugi: Instead of amending the report, let the Chair get back his report and bring back a credible one.

Hon. Deputy Speaker: My good friend Hon. Oyugi, you are out of order and you know it.

(Question proposed)

Hon. Deputy Speaker: Hon. Kennedy Obuya

Hon. Kennedy Obuya: Thank you for noticing Obuya Obuya. Hon. Speaker, I have been listening keenly to my colleague's contributions and I wish to say that it is true that as a House we need to move forward and forgive each other. I believe that this year each and every one of us began on very high spirits and---

Hon. Deputy Speaker: Hon. Obuya, I wish to bring to your attention that we are now in a different Motion.

Hon. Kennedy Obuya: Hon. Speaker---

Hon. Deputy Speaker: We are now amending---

Hon. Kennedy Obuya: Pardon me Hon. Speaker. I was giving a punch line that I have been listening to conversations which is okay. I rise to support Hon. Chege who is my good friend and as we do amendments, let us remember that as an institution, we must be members that respect the rule of law. I was happy when I heard the Minority Leader giving an example of the Inspector General and the baby Pendo incident. That should be a reminder to every member that we should not follow anything blindly, that we must follow the rule of law and respect the principles that guide this House. I concur with Hon. Chege and support with amendments

Hon. Deputy Speaker: The mover

Hon. Chege Waithe: *(inaudible)*

(Question put and agreed to)

Hon. Deputy Speaker: Let us proceed. Hon. Anyula

Hon. Peter Imwatok: Hon. Speaker, my name ends with the letter E, Anyule. All said and done Hon. Speaker and the entire House, let me take a running call from one elder Obuya Obuya who has said that 2019 must, should and will be a new beginning. I want to dissuade ourselves from discussing one item in this report. The report encompasses about three or four items. Item one is on the conduct of members on the 10th, item two is on the conduct of our very own Malde and item three is on the conduct of Wilson Ocholla so Mr. Speaker, it will be so petty of us as a House to turn this report by the Powers and Privileges Committee into a one item discussion. That is why I rally behind our Minority leader who said that we cannot afford to trivialize ourselves into saying that this report is about Arivitza, Peter Imwatok or the former Speaker of Nairobi County. This report speaks about us Mr. Speaker. I was in a meeting where *Mheshimiwa* Malde was cross-examined. He was arrested in his House while asleep and taken to a room where money had been put. He was then photographed with money and it was circulated all over the country that an MCA from Nairobi County has been arrested for taking money from the Anti-corruption. If we leave this not discussed in the House then all this is a nullity why we finance the Powers and Privileges Committee to go into details on what transpired.

This House will stand by one Mr. Malde because he was not arrested while being corrupt. He is the Chair of Justice, thank you for the correction. So through cross examinations and witnesses like the aspirant for Embakasi South Hon. Sumra admitted that *Mheshimiwa* Malde---

Hon. Deputy Speaker: Hon. Kiragu, what is the problem?

Hon. Anthony Kiragu: Hon. Speaker, I think it is unfair that our Minority Whip wants to speak on behalf of Hon. Malde. Like I said, we have people who do not have deficiency in defending themselves. When we bring allegations or social media issues which cannot be substantiated then I believe that it is off to discuss such matters. Let us not speak for Hon. Malde. He is here and has not complained and I am not sure why the Minority Whip is complaining on his behalf

Hon. Member: He is his lawyer.

Hon. Anthony Kiragu: Let him declare.

Hon. Peter Imwatok: Allow me to respect the Chair of Planning for his mastery of the Standing Orders which is always wrong. Hon. Speaker, Standing Order number 63 is not challenging the credibility of what I am speaking and so I will proceed. I meant to say that this report that has been tabled before the Assembly is speaking about different incidences and I see us pushing ourselves to one particular incidence.

Hon. Osman Adow: Point of Order

Hon. Peter Imwatok: Order number?

Hon. Osman Adow: He hasn't stated whether he is supporting the Motion or opposing.

Hon. Peter Imwatok: Let me state categorically that I support the Motion

Hon. Deputy Speaker: Proceed

Hon. Peter Imwatok: Hon. Speaker, I support the Motion. Mr. Speaker what I am saying before this House is that let us look at the magnanimity of the issue at hand. Let's not be swayed from pettiness and mediocrity that will end up making this report as report of the former Speaker.

This report is about the integrity of this Assembly and this integrity was protected through the Powers and Privileges Act. An example is when the Senate was investigating the Chair of PAC. I have never heard up to this date which Senators have been called to Integrity house to record a statement. I read in a newspaper, before even the Powers and Privileges committees tables their finding, already EACC was on the door. We must protect the integrity of this House.

This integrity cannot be protected when members are trivial, find falsehood in leadership. I feel for my friends. When my friend misses ten days as Ogada says indeed I feel for them. We cannot reduce this report to settling some issues which are untenable. I beg to ask the entire House that kindly let us support this report for the interest of our own members. Not for those you want to punish. Even for those who will be punished I also regret. If it was me I would oblige, because at the end of the day this House belongs to all of us.

I don't see a reason why I should be happy when *Mheshimiwa* Oyugi is punished, because he has obligations to make in life. The rule of law must also be applied. We must accept to respect the rule of law, within and out of the Assembly. I beg to support this Motion.

Hon. Deputy Speaker: Hon. Mwende.

Hon. Laura Mwende: *Asante sana bwana Spika. Ningependa kuunga mkono mswada huu kwa sababu mimi ni mmoja wa wale ambao nimetoka tu sasa hivi kwa EACC. Kwa hivyo mimi naunga mkono*

hizo siku kumi. Mimi niko tayari kuadhibiwa ndio iwe funzo kwangu na wengine kwa sababu leo ni mimi kesho ni wewe.

Hon. Deputy Speaker: Hon. Mary Ariviza.

Hon. Mary Mwami: Thank you Mr. Speaker sir. I am one of the adversary. I think my name was mentioned the most. I stand to honour this House. There was no intention of dishonoring this House and nobody should feel so. However I feel my punishment has been very harsh than any other people and therefore as much as we want to deter - I know it is good to have deterrent measures so that people don't go doing the same- but at same the time it is good for us to be just.

I am a person of the book, I belong to the Bible. I have been a christian since age of 12. I stand for justice and righteousness. Psalms 89: 13-14 says justice and righteousness are the foundation of God's throne. If we are therefore going to be just in this House we must be just to one another. I know you may like me or not but Ariviza will just remain Ariviza. Even Bishop Oginde when he saw on TV *alijua mmenichokoza na mkichokoza Ariviza atatokezea.*

I don't hate anyone. I stand here also to tell you as a House which I haven't that I met the Governor and I told him unconditionally that I had forgiven him. The only thing is I want to stand here and ask the Powers and Privileges Committee that you have never investigated how I got into crutches here. I was going to the Governor's office when I was assaulted. It is good for you to be just. Justice and righteousness are the foundation of God's throne.

Hon. Deputy Speaker: Are you supporting the motion or not?

Hon. Elias Otieno: I support what Hon. Ariviza has said but forgiveness doesn't have conditions. You have already forgiven the Governor so don't ask the Powers and Privileges Committee again because they are not the one who sent the goons.

Hon. Mary Mwami: Thank you sir. I am going to tell you how I support but I agree with Minority Leader that when you forgive it is not with conditions but what I say is that we need to be just in this House. If we are not just...

Hon. Deputy Speaker: Hon. Ariviza you said you know the rules of this house. First and foremost you must say whether you support or not.

Hon. Mary Mwami: I support with amendments. What I am saying is that let us be just and righteous because when people who are in authority take power and are unjust what follows is rebellion and we don't want to have a rebellion in this house. We must transact things for the Nairobian, we must do the right things but we must remain just. Thank you so much.

Hon. Deputy Speaker: The mover.

Hon. Naftaly Mathenge: Thank you Hon. Speaker. I rise to thank members of this House for the immense support of this Motion and support of the report findings. I believe this if this Motion is passed by this House this house will bring back confidence.

Mr. Speaker and Hon. Members I wish to acknowledge members of the Select Committee on Powers and Privilege for the dedication that they have portrayed in ensuring that the Committee implements its mandate and the County Assembly upholds its dignity and integrity by looking into the

alleged unethical conduct of members within the precincts and investigation in the allegation of bribery of the committees of the Assembly.

Hon. Speaker my sincere appreciation also goes to the office of the Clerk of the County Assembly and the secretariat of the Select Committee on Powers and Privileges for offering sound legal advice on the mentioned cases.

Hon. Speaker it is therefore my pleasant duty to ask, persuade and pray that this Hon. Assembly adopt the report of the Select Committee on Powers and Privileges tabled before this Assembly. I beg to reply, thank you.

(Question out and agreed)

COMMUNICATION FROM THE CHAIR

Hon. Deputy Speaker: Hon. Members I have a communication from the Chair on the issue of Powers and Privileges committee.

SUSPENSION OF MEMBERS

Hon. Members, the Assembly has just adopted the recommendations of the Select Committee on Powers and privileges on the inquiry into the conduct of various Honorable Members under different circumstances as enumerated in the Report of the Committee.

The Committee's inquiry and recommendations as adopted are such that the Chair must make further directions for purposes of enforcing the recommendations.

Honourable Members, when the House finds that a Member misconducted themselves, and recommends the suspension of such Member for whatever number of days, procedure and practice demands that such Member be declared a stranger forthwith and escorted out of the plenary and precincts to serve their suspension.

Honourable Members, Standing Order 116 (2) provides that *any Member who is ordered to withdraw under Standing Order 113 (Gross Disorder) and Standing Order 114 (Grave Disorder) or who is suspended from the service of the County Assembly under Standing Order 115 (Member may be suspended after being named) shall forthwith withdraw from the precincts of County Assembly and shall during the period of such withdrawal or suspension forfeit the right of access thereto and shall forfeit all allowances payable during the period of such suspension.*

Accordingly, the Assembly has found that pursuant to Standing Order 114 (2) (a) and Section 17 (3) (g) of the County Assemblies Powers and Privileges Act, 2017, the Hon. Mary Njuguna Njambi, MCA; the Hon. Laura Mwendu, MCA and the Hon. Nancy Muthami, MCA, be suspended from the Assembly for ten (10) calendar days for conducting themselves in a manner intended, and is likely to reflect adversely on the dignity or integrity of the County Assembly, or of the Members or to be contrary to the best interests of a County Assembly or its Members contrary to section 16(e) of the County Assemblies Powers and Privileges Act, 2017 and Standing Order 114 (2) (a).

Similarly, the Assembly has found that pursuant to Standing Order 114 (2) (a) and Section 17 (3) (g) of the County Assemblies Powers and Privileges Act, 2017, the Hon. Mary Ariviza, MCA, be suspended from the Assembly for twenty one (21) calendar days for conducting herself in a manner likely to reflect

adversely on the dignity and integrity of the County Assembly and its Members contrary to section 16(e) of the County Assemblies Powers and Privileges Act, 2017 and the provision of Standing Order 114(2)(a).

Now therefore, Sergeants-at-Arms please escort the said Members out of the precincts, the Hon. Mary Njuguna Njambi, MCA; the Hon. Laura Mwendu, MCA and the Hon. Nancy Muthami, MCA, the Hon. Mary Ariviza, MCA.

The Honourable Members so suspended will similarly be required to apologize to the Assembly as resolved today upon conclusion of their suspension for their re-admission to the House.

The said apology must be issued to the House from the Bar when that time comes. I now order all the named Members of the County Assembly to walk out of the House.

They have already gone, thank you. It is so directed. Thank you.

ADJOURNMENT

Hon. Deputy Speaker: Hon. Members there being no other business the House stand adjourned to tomorrow 2.30 p.m. Thank you and may God bless you all.

(The House rose at 4.25 p.m.)