

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Wednesday, 29<sup>th</sup> March, 2017

The House met at 9.30 a.m.

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

### PRAYERS

### QUORUM

**The Temporary Deputy Speaker** (Hon. Cheboi): Order, Hon. Members! We do not have the required quorum. Therefore, I order the Quorum Bell to be rung.

*(The Quorum Bell was rung)*

Hon. Members, we now have the required quorum and therefore, business will start. Let us have Papers laid under Order No.5. We have the Chairperson of the Committee on Delegated Legislation, Hon. Cheptumo.

### PAPERS LAID

**Hon. Cheptumo:** Hon. Temporary Deputy Speaker, I beg to lay the following Papers on the Table of the House:

The Reports of the Select Committee on Delegated Legislation on the following:

- i. The Draft Elections (Technology) Regulations, 2017.
- ii. The Draft Elections (Registration of Voters) (Amendment) Regulations, 2017.
- iii. The Draft Elections (Voter Education) Regulations, 2017.
- iv. The Draft Elections (General Regulations) (Amendment) Regulations, 2017.
- v. The Draft Elections (Party Primaries and Party Lists) Regulations 2017.

Thank you, Hon. Temporary Deputy Speaker.

### NOTICE OF MOTION

#### ADOPTION OF REPORTS ON ELECTION-RELATED REGULATIONS

**The Temporary Deputy Speaker** (Hon. Cheboi): We will still have the Chairperson of Departmental Committee on Delegated Legislation, Hon. Cheptumo.

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

THAT, this House adopts the Reports of the Committee on Delegated Legislation on five sets of election-related regulations, laid on the Table of the House today Wednesday, 28<sup>th</sup> March, 2017, pursuant to the provisions of Section 44(6) and Section 109(3) of the Elections Act, 2011 and approves the following election-related regulations:

- i. The Draft (Technology) Regulations, 2017;
- ii. The Draft Elections (Registration of Voters) (Amendment) Regulations, 2017;
- iii. The Draft Elections (Voter Education) Regulations, 2017;
- iv. The Draft Elections (General Regulations) (Amendment) Regulations, 2017;
- v. The Draft Elections (Party Primaries and Party Lists) Regulations, 2017.

Thank you, Hon. Temporary Deputy Speaker. Allow me to make a very important point on this. I would like to urge my colleagues to take their time and go through these draft regulations. The law is very clear that these should be approved by this House before they are published by the Independent Electoral and Boundaries Commission (IEBC) and implemented thereafter.

Shortly, in the next few weeks, we will be going for party primaries and the Draft Elections (Party Primaries and Party Lists) Regulations shall apply. It is important for Members to have time to familiarise themselves with these regulations. They are very important for purposes of the forthcoming nominations. Therefore, I urge my colleagues to have time to go through them before we debate them on Thursday or next week, so that we can make inputs and ensure that whatever we pass here will facilitate party nominations in the country.

**Hon. A.B. Duale:** On a point of order, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Cheboi): What is it, Leader of the Majority Party?

## POINT OF ORDER

### THE CENTRAL BANK OF KENYA GUIDELINES ON LARGE CASH TRANSACTIONS

**Hon. A.B. Duale:** Hon. Temporary Deputy Speaker, I agree with the Chair that the draft regulations he has just tabled concern the people of Kenya and more so, the Members of Parliament as practitioners. I, therefore, urge that we look at them word for word, comma for comma and then next week, before we go for nominations, we approve them.

I want you to ask the Chair of the Committee on Delegated Legislation to deal with this matter of the Central Bank of Kenya. This matter where small-scale traders are suffering, that every time you want to deposit or withdraw Kshs1 million, you must fill a form, is inconveniencing them. This requirement has been done through a memo by the Governor of the Central Bank and it is illegal.

*(Applause)*

He is supposed to do it through regulations. The Statutory Instruments Act provides for that. I want the Chair to call the Board and the Governor of CBK and to ask him where he draws

his powers from to subject Kenyans through this. If today I want to go to a church function, for example, and I want to withdraw money, I must fill a form.

This country has very robust legislation and a Financial Reporting Centre. We have what the banks call “know your customer”. We have the Anti-Money Laundering Act and the Terrorism Financing Act. We are one of the countries that have all these laws. The CBK, through a memo, cannot harass Kenyans. Right now, people in Gikomba and everywhere are keeping their money in their homes. They cannot bank it. We asked the Speaker the other time, but this matter squarely lies with the Chair of the Committee on Delegated Legislation as the custodian of approval of regulations. We want him to call the Governor of the CBK and I will also be there.

This is a Governor that does not have even a saving or a current account because of his faith. He does not bank. His salary goes to the church. He does not have an account. This country cannot have a CBK Governor who does not know how a current or a savings account operates.

*(Applause)*

That is why he is telling everybody to fill a form in order to withdraw money. He does not have money in any account.

**Hon. Mwachugu:** *(Inaudible)*

*(Loud consultations)*

**The Temporary Deputy Speaker** (Hon. Cheboi): You are arousing a lot of excitement. I can guarantee you I am equally excited with what you are saying.

**Hon. A.B. Duale:** I am on a point of order. If you read your Standing Orders--- Let me just finish.

**The Temporary Deputy Speaker** (Hon. Cheboi): Wind up, the Leader of the Majority Party. I will give opportunity to one more Member from this side.

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

**Hon. A.B. Duale:** No, I have not finished. This is the fourth year. If one is on a point of order, you cannot stand on a point of order. Shame on you! What is wrong with you people?

Let us not trivialise the issue. Let us not put Catholics---

*(Hon. Mwachugu stood up in his place)*

Do not go on your feet. I am only saying that if you look at the market, deposits have reduced significantly in this country. Why? It is because people are not depositing. I am sure, if you call the CS for the National Treasury, Henry Rotich, he will agree with me. All that we are saying is that you cannot work with impunity. If you want to tell me that if I want to withdraw Kshs10 from my account I must fill a form, you should do it within the framework of the law and that should be done through regulations. It is true he has no savings. He has no account. He does not know what money is all about.

**The Temporary Deputy Speaker** (Hon. Cheboi): The Leader of the Majority Party, even before I give opportunity to another Member to speak to this, I am quite sure that when the job was advertised, there was no specific interest in whoever has an account or not. By the way, I

do not think being an account holder in any bank makes anybody a better manager. I do not think that works.

Give me just a minute. Let us hear from the Minority Party Whip.

**Hon. Mwachugu:** Asante Mhe. Naibu Spika wa Muda kwa kunipa nafasi hii ili nitoe sauti yangu kwa haya machache ambayo yamejiri hapa katika ukumbi huu. Nakubaliana na wenzangu kuwa ni muhimu Wabunge wasome na waelewe hizi sheria ambazo tunataka kuzipitisha kwa sababu nyingi zao, wasipozisoma, zitawaadhiri hao waliopo hapa na wengine wanaokuja. Mara nyingi, huwa tunakutwa na hizi sheria tukiwa tumetoka Bungeni na sisi wenyewe hatujazisoma.

Hata hivyo, si jambo la kuchukulia kiholela kuwa tunaleta sheria Bungeni za kuangalia uchaguzi utakuwa wa aina gani halafu Wabunge wenyewe wawe hawajazisoma, hawajazielewa wala hawazitambui. Wanaenda kuleta zogo huko mtaani baada ya kutoka hapa. Vile nilivyosema narudia leo kuwa asilimia themanini ya Wabunge hawatarudi kulingana na tarakimu zilizopo. Kwa hivyo, wengine ambao mko hapa na hamtaki kusoma sheria, hamtarudi hapa Bungeni.

La mwisho, sikubaliani na mwenzangu Mhe. Duale akisema kuwa Gavana wa CBK, kwa sababu ni Mkatoliki, haweki hela kwa benki na hana akaunti. Ile ni imani yake ya kutoa kile chote amepewa kuwapatia wale ambao hawana. Hata wewe unaweza amua kuishi maisha hayo. Hiyo haimanishi kuwa huwezi kuendesha kazi ya kuwa gavana wa benki. Hayo hayakuweko wakati aliomba kazi. Aliomba kazi, mkamwajiri mkijua ni Mkatoliki na mkijua anashikilia imani yake. Haamini kuweka fedha na kujitajirisha.

Kwa hivyo, naomba Mhe. Duale ayaondoe haya matamshi kuwa huyu bwana hawezi kazi kwa sababu hana akaunti kwa benki. Sikubaliani naye kabisa. Sitakubaliana naye sasa. Hata nikiwa Gavana wa Taita Taveta, sitakubaliana na msimamo kama huo.

Mungu awabariki.

**The Temporary Deputy Speaker** (Hon. Cheboi): Just to bring down the temperatures, first let me recognise, in the Public Gallery, village elders from Kaptumo Location of Aldai Constituency, of course, ably represented here by Hon. Cornelly Serem. It is a bit interesting because not many Members have brought village elders. These are extremely important pillars of the society.

*(Hon. Members waved)*

Order, Members! Members should not play to the gallery. I can see Members waving. I can see from the screen also the elders waving back. I order them that if they continue to do that, I will take very punitive steps against them.

I think the temperatures are fairly down. Let us have Hon. Cornelly Serem. I think I saw a few Members who wanted to comment. Let us have Hon. Serem first. I think he deserves that.

**Hon. Serem:** Hon. Temporary Deputy Speaker, I want to recognise village elders from my location, in my constituency, who work hard every single day without pay.

**The Temporary Deputy Speaker** (Hon. Cheboi): Hon. Serem, as I give you an opportunity to speak, it has nothing to do with the presence of the elders. Please, stick to contributing to the particular issue before the House. Please, proceed.

**Hon. Serem:** Hon. Temporary Deputy Speaker, I felt that I should recognise the efforts they make on a daily basis.

I support 100 per cent the issue of legislation on elections, as mentioned by Hon. Cheptumo. We do not have to threaten Members of Parliament by going through their documents. We know how important it is for all of us to understand why these regulations exist.

The other issue I want to talk about is the restriction imposed by the CBK on the amount of money one can withdraw from his bank account. It is primitive that a Member of Parliament cannot walk into a bank and withdraw Kshs1 million from his savings account. You have to declare the source of the money or explain how you got it yet it is your salary and your savings that you have worked hard for. We are headed in a direction where Members of this society will feel comfortable keeping money under their beds. That primitive requirement should be done away with. The rate of robbery in this country has increased. Unless this requirement is done away with, I concur that these regulations are not part of Parliament and, therefore, should be stripped. We invite the CS for the National Treasury to come and explain to us where the CBK got this information and how they ended up implementing the same. Assume that someone violates these regulations, would you take them to court?

**The Temporary Deputy Speaker** (Hon. Cheboi): I will give the Floor to Hon. Ochieng. Thereafter, I will give a chance to Hon. Chepkong'a, who wants to rise under a point of order. Hon. Ochieng, what is it that you want to say?

**Hon. Ochieng:** Thank you so much, Hon. Temporary Deputy Speaker. The matter we are dealing with is very serious. It is not a matter that touches on Catholics or Muslims or Anglicans only. It touches on the way we run our finances in this country. It does not matter whether you have Kshs1 or Kshs2 in your account. Hon. Duale knows that the CBK Governor, Mr. Njoroge, has not stolen anything. Hon. Duale has been mentioned in so many things that involve Government money and corruption and he cannot come here today---

**The Temporary Deputy Speaker** (Hon. Cheboi): Hon. Ochieng!

**Hon. Ochieng:** No! No!

**The Temporary Deputy Speaker** (Hon. Cheboi): I think you are treading on very dangerous grounds. You cannot make sweeping statements or make serious allegations against your colleagues. It is against the Standing Orders. I have given you an opportunity to speak to this particular view. In fact, I can deny you the opportunity to proceed. You are out of order! You have to sit down, otherwise, I will also express myself in very serious terms.

Hon. Chepkong'a, please, proceed.

**Hon. Chepkong'a:** Thank you, Hon. Temporary Deputy Speaker. I rise pursuant to Standing Order No.83 in support of the Leader of the Majority Party. You know, when he speaks, he gives the Government's position. It is unfortunate that there is somebody in the Government who can oppose the Leader of the Majority Party of the National Assembly. The issues that the Leader of the Majority Party has raised, and he needs to listen to me---

*(Loud consultations)*

Do not bother about that party leader who has no presidential candidate. I do not know why you are concerned about somebody who has no presidential candidate.

**Hon. Ochieng:** Hon. Temporary Deputy Speaker---

**The Temporary Deputy Speaker** (Hon. Cheboi): Hon. Ochieng, since the time I started sitting on this seat, I have not had an opportunity to expel somebody from the House. Let me not try it with you. Please, keep your peace.

**Hon. Chepkong'a:** Hon. Temporary Deputy Speaker, he has just left. The Leader of the Majority Party has raised the issues on behalf of the Jubilee Government. As you know, the Governor of the CBK is an appointee of the Jubilee Government. He must always act in consultation with the Leader of the Majority Party, if he intends to purport to exercise any legislative power or authority that has not been conferred on him by the Constitution or any other law. The law is very clear. Article 2 of the Constitution states that no person may claim or exercise State authority except as authorised under the Constitution. It goes further to say that it binds all State organs and State officers, so that one cannot derogate from what is expressly stated in the Constitution. Let me just refer you to the legislation-making power. I get surprised when I see a State officer who is totally ignorant of what the law states. He can participate in law making when we publish any legislation or Bill. Article 118 of the Constitution states clearly that Parliament shall facilitate public participation and involvement in the legislative process, through its committees. If the Governor of the CBK wants to participate in legislation, he needs to send a memorandum to us so that we can help him to make laws, if we all agree here. This is an Assembly of representatives of all Kenyans congregated in this House. There is no Member of Parliament who does not represent anyone across the country. Except 12 Members who are nominated to represent special interests in the House, all the 290 constituency Members and the 47 women representatives represent constituencies. We speak here, on behalf of our people. Therefore, when we complain, we look like we are complaining about our legislative power.

**The Temporary Deputy Speaker** (Hon. Cheboi): Hon. Chepkong'a, just to correct you, even the 12 nominated Members speak for special people.

Proceed.

**Hon. Chepkong'a:** We also represent those special people. What we want to tell the CBK Governor in clear terms is that we are not complaining about the fact that he has reduced the amounts of cash we can remove from financial institutions or deposit on a daily basis. That is beside the point. As the representatives of the people of Kenya, we can pass it. However, if the representatives of the people are uncomfortable with the regulation, we cannot pass it. We know the genesis of this rule. This is a rule which is being imposed on us from outside the country. The Constitution is very clear. There is nobody who should be controlled by outside powers in this country. It looks like some people here are being controlled by the World Bank and the International Monetary Fund (IMF). Those institutions do not fall within the jurisdiction that is covered by our Constitution. Although we are members of the IMF and World Bank, we are borrowers like anybody else. Part of the terms of our membership is not for them to control how much money Kenyans deposit into their bank accounts or how much money they withdraw. You cannot go and negotiate our rights away.

**The Temporary Deputy Speaker** (Hon. Cheboi): Hon. Chepkong'a, you now have to wind up. You rose on the pretext that you had a point of order, but you have proceeded to contribute to the debate. You know our rules, being a Chair of a very serious Committee of this House. I decided to give you some leeway, but you now have to wind up.

**Hon. Chepkong'a:** Hon. Temporary Deputy Speaker, is it, therefore, in order for the CBK Governor to purport to exercise legislative authority, which is only conferred to this House? He is pretending that he can come up with a memo that has the force of the law. We want your ruling on this matter.

**The Temporary Deputy Speaker** (Hon. Cheboi): Let us hear Hon. Muluvi and then I will give a chance to a few more Members, after which, I will allow the Chair of the Departmental Committee to say something.

**Hon. Muluvi:** Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity. I rise to oppose what the Leader of the Majority Party has said. We cannot use our privileged position in this House to attack voiceless people out there. It is unfortunate that one can attack somebody because of his faith. In my view, there could be a bigger scheme to---

**The Temporary Deputy Speaker (Hon. Cheboi):** Confine yourself to this issue. Please, go to the substantive issue. What you are raising are side issues. Hon. Members, so that we refresh our memories, we are dealing with regulations on elections. So, I do not want you to go that direction. That one has been flopped already. So, just go straight to what is relevant.

**Hon. Muluvi:** I support the Chairman 100 per cent. What I was objecting to is the idea of the Leader of the Majority Party attacking somebody because of his faith.

**The Temporary Deputy Speaker (Hon. Cheboi):** Let me hear the Member for Homa Bay Town.

**Hon. Kaluma:** Thank you, Hon. Temporary Deputy Speaker. The regulations the Chairman of the Committee on Delegated Legislation has drawn the attention of the Members to are very important. We are not only dealing with the processes of elections, but also qualifications. I want to draw the attention of Members to ensure the regulations capture a matter that is very pertinent and live currently. The matter of degree qualifications for people seeking gubernatorial, President and Deputy President positions. The Constitution requires one to have a degree from a university recognised in Kenya to run for those positions. However, the Constitution does not go further to tell you the content and status of this degree. The Constitution does not go ahead to demand requirements like what you need to have to get a degree. We are in a situation where if we are not careful--- Even in this House, many of our colleagues are running for gubernatorial positions. I am addressing the Chairman of the Committee on Delegated Legislation. If the Constitution says that one has to have a degree, what is this degree? You remember we raised this important issue when we were appointing the current Independent Electoral and Boundaries Commission (IEBC) commissioners where people told us they have Master's degrees, but they do not have an undergraduate degree or they have a degree, but they did not pass down there.

I wanted the Chairman, even as we prepare to read through the regulations, to ensure that it is clear, so that a person does not come telling us he has a degree and then there is contestation in court. We do not want to leave it to courts to define a degree. We want to define it in regulations and I hope it will be clearly captured so that either way, we know how to proceed.

Something has been said here which is very worrying, that beyond the regulations, we must agree, as a nation, that if we have a situation where the person who is in charge of all our money as a nation has no penny, as the Hon. Leader of the Majority Leader is saying, then there is cause for alarm.

Hon. Temporary Deputy Speaker, in as much as you want to constrain leaders from debating this thing, you should allow Members to question whether the Governor of the CBK has money or not. If you are the custodian of the monetary granary of Kenya and you do not have a coin of your own, I would like substantiation or further interrogation of that matter. The issue of degrees, we said yesterday---

**The Temporary Deputy Speaker (Hon. Cheboi):** Let us leave that one. Hon. Kaluma, your contribution has been one of the best this morning, but you are also going back to the issue of money in the pocket or not.

**Hon. Kaluma:** I have stopped at that. Let me wind up my contribution on the regulations.

**The Temporary Deputy Speaker** (Hon. Cheboi): I liked the bit where you were talking about degrees, that it should not be about degree centigrade or temperatures of your body and temper. It has to be something to do with what you have studied. That was coming out very well.

**Hon. Kaluma:** Lastly, I wanted to mention something about party-hopping, which is disturbing people here. You remember we passed some laws dealing with this party-hopping issue in haste. As loyalists, we said you cannot run with me in ODM and then hop to another party. A High Court somewhere in Nairobi has now stayed those rules. People are running against me in the ODM and they are also telling me that, "We know, Hon. Kaluma, you will defeat us, but you will meet us again." Could the regulations stipulate with clarity that if you have a situation where party-hopping is prohibited and the time before presentation of nominations allows you to hop, what happens in such a situation? We need to go into these processes with a clear mind. I would be worried if I took a lot of my time running in ODM and the person who has wasted my time in the nomination fight I am going to have by 19<sup>th</sup>, hops to disturb me again.

Thank you so much.

**The Temporary Deputy Speaker** (Hon. Cheboi): Let us have the Member for Chuka/Igambang'ombe.

**Hon. Njuki:** Thank you, Hon. Temporary Deputy Speaker for giving me an opportunity to add my voice to the issue on the regulations. I also echo the sentiments of the Chairman of the Committee on Delegated Legislation that we need regulations that will ensure that we go through very peaceful nominations and elections as well.

However, I would like to mention something briefly concerning what Hon. Duale has said. I agree that at this time of campaigns, a lot of money is exchanging hands. It is, therefore, not unusual for a customer, who may be an aspirant, to walk into a bank and withdraw Kshs3 million. There is heavy usage of money at the moment. However, for the Governor of the CBK to have made his own laws in his house to stop people from withdrawing money, then, we could be legislating here in futility. There is need for us to summon him and tell him to stop that act because it does not add any value to Kenyans. The pertinent issue that the Governor should be dealing with at the moment is what is affecting traders.

**The Temporary Deputy Speaker** (Hon. Cheboi): I am not going to allow that anymore.

**Hon. Njuki:** It is a pertinent issue just like the one Hon. Ochieng raised.

**The Temporary Deputy Speaker** (Hon. Cheboi): The issue is the election regulations that we have here. Any Member that---

**Hon. Njuki:** This affects Kenyans because we capped the interest rates charged by banks in this country which has not translated to lending to businessmen. Banks are using this to arm-twist customers by not approving loan applications. Their aim is to make the situation look as if the law is so tough that they cannot lend. This House needs to be aware of that. We also need an explanation from the Governor, CBK, why the lending rate is down and yet approvals for loans are still very low. I think it amounts to arm-twisting.

**The Temporary Deputy Speaker** (Hon. Cheboi): All right. Let us proceed to the next Order. Let us have the Chairman briefly because we are getting into irrelevancies.

**Hon. Cheptumo:** I will be very brief. I want to tell the House and the nation at large that any regulation which has the force of law must be passed by this House. Any other regulation which is not passed and approved by this House has no force of law. Article 95(2) of the Constitution states thus:

"The National Assembly deliberates on and resolves issues of concern to the people."



From the point raised by the Leader of the Majority Party, there is an issue of concern in terms of restriction and withdrawal of amounts not less than Kshs1 million. My Committee has been given mandate by our Standing Orders and the Constitution. Any regulation which is not consistent with the Constitution or any other relevant law is null and void. I want to assure the House that we will exercise our discretion as a Committee and invite the Governor, CBK, to come forward and table before us the regulations which he is relying on in executing this restriction.

This issue came into force recently, about six months or one year ago. We never saw it in the newspapers or in the *Kenya Gazette*.

I think it is prudent to put this issue to rest by asking the Governor if, indeed, he is using the regulations approved by the House. I want to assure you that we will take action as a Committee and report back to the House.

**The Temporary Deputy Speaker** (Hon. Cheboi): Okay. Thank you, very much. Let us proceed to the next Order.

## BILLS

### *Second Reading*

#### THE NATIONAL AUTHORITY FOR THE CAMPAIGN AGAINST ALCOHOL AND DRUG ABUSE (AMENDMENT) BILL

**The Temporary Deputy Speaker** (Hon. Cheboi): I cannot see Hon. Waititu Baba Yao and I can confirm that it is his legal name. He is not in the House. Therefore, we will step it down and bring it on Wednesday next week.

**Hon. A.B. Duale**: On a point of order, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Cheboi): Yes. What is it, Leader of the Majority Party?

**Hon. A.B. Duale**: On a point of order, Hon. Temporary Deputy Speaker. Hon. Waititu has been on my neck telling me every Tuesday to convince the House Business Committee (HBC) to slot this Bill. He cannot play games with this House. I think you have the powers to deal with this Member according to the Standing Orders. The nominations are around the corner and we see even Chairpersons of Committees are not ready every afternoon to move their reports. Even those of us who are sitting here will be subjected to nominations and we have voters not unless we are talking about Hon. Ore, who has decided to retire.

**The Temporary Deputy Speaker** (Hon. Cheboi): The Leader of the Majority Party, you should not make such a statement. We should hear it from Hon. Ore himself. I will not repeat it because I do not want to give it some force. The only thing I disagree with you is when you say that you are going to participate in nominations. It is in public domain that you are not going to participate in any primaries. Noting the circumstances of Members and especially a Member like Waititu, I am going to allow him to prosecute this Bill next week. The only thing which is remaining is for him to reply. I will not be asking too much of the House to give him an opportunity next week. If he will not be here, we will, therefore, take some steps against him.

*(Bill deferred)*

Let us proceed to the next Order.

**Hon. A.B. Duale:** On a point of order.

**The Temporary Deputy Speaker** (Hon. Cheboi): What is your point of order Hon. Duale?

**Hon. A.B. Duale:** On a point of order, Hon. Temporary Deputy Speaker. I thought we consulted the sponsor of this Bill about a very comprehensive Bill passed by this House called the Health Bill and agreed that it be stepped down for next week.

**The Temporary Deputy Speaker** (Hon. Cheboi): That is very correct. I can also confirm we had consultations with Hon. Sang, Member for Bureti - I cannot refer to him as "panadol" because he has not sworn an affidavit to make it part of his names - the Leader of the Majority Party and the Vice-Chair of the Committee and agreed that this Bill should come next week. So, let us leave it there. Hon. Waititu is already "Baba Yao" legally.

**Hon. Mulu:** On a point of order.

**The Temporary Deputy Speaker** (Hon. Cheboi): What is it Member for Kitui Central?

**Hon. Mulu:** On a point of order, Hon. Temporary Deputy Speaker. I agree with the Leader of the Majority Party that we step down Order No.9, but I think we should put this on record. I remember Hon. Mule also had another Bill which was related to health matters and this is the second one we are stepping down because of the Health Bill. I think it is unfair for Members to keep deferring their Motions or Bills because there is a mother Bill which we are not aware where it is, as a House, and we have not been given progress. I think it is important for the Leader of the Majority Party to tell us what is happening to the Health Bill.

**The Temporary Deputy Speaker** (Hon. Cheboi): That is fine, but since we had agreed with the Member, I think it would make sense for us to accept. Let us have the Leader of the Majority Party to say something about it.

**Hon. A.B. Duale:** I totally agree with Hon. Makali Mulu. The Health Bill was dealt with by this House about eight or nine months ago. It went to our colleagues in the Senate and they made amendments. It was supposed to go through a mediation committee. We formed the mediation team lead by the Chair, Hon. Rachel Nyamai, Hon. (Dr.) Pukose and Hon. (Dr.) Nyikal.

You know how the Senate is and every time a mediation meeting is called, Senators never come. I hope Dr. Machage is watching me wherever he is. I will raise this issue with the Speaker, the Clerk and the leadership of the Senate, so that the mediation team can sit and agree. We do not want to continue holding Bills of other Members. I totally agree it is very unfair and that is why I have asked for a week, so that the Mediation Committee can meet. Hon. Pukose can agree with me that they met several times and our Senate colleagues were nowhere to be found. They are also victims of the nominations.

**The Temporary Deputy Speaker** (Hon. Cheboi): Okay. We might have to send you to the HBC to make some decisions so that when slotting business for Members, you should consult them first. As you can realise, we might lack something to do this morning. Let us give it a try and see.

*(Committee of the whole House – The Clinical Officers  
(Training, Registration and Licensing) Bill - deferred)*

Proceed. Next Order!

**MOTIONS****PROVISION OF STANDARDISED STAFFROOMS/SAFE CUSTODY OF  
LEARNING RESOURCES AND INTERNET CONNECTIVITY**

THAT, aware that education is an important tool for empowering Kenyan youth to actively participate in national development towards realisation of Kenya's Vision 2030 and the Sustainable Development Goals; noting that conducive and enabling working environment for teachers is fundamental in enhancing efficiency and safety of learning materials; cognizant of the fact that teachers in a number of public schools and early childhood development (ECD) centres work from poor staffrooms or makeshift facilities at both levels of government, including ECD Centres, some of which have no staffroom facilities, or storage facilities for equipment or books; further concerned that teachers and students in most leaning institutions have no internet infrastructure for accessing online learning resources; concerned that such poor working conditions constrain optimal service delivery by teachers and expose learning materials, including books purchased under the Free Primary Education and subsidized secondary school capitation funds, to destruction and theft; this House urges the National Government and the county governments to initiate a comprehensive programme to ensure that all public primary and secondary schools and ECD centres have standardised staffrooms for teachers and safe custody of learning resources and internet connectivity for accessing online learning resources.

**The Temporary Deputy Speaker** (Hon. Cheboi): Hon. Mbalu is also absent. So, we will step it down.

*(Motion deferred)*

Let us proceed to the next Order!

**ROAD DESIGNS AND CONSTRUCTIONS TO  
INCORPORATE RUN-OFF WATER HARVESTING  
AND MANAGEMENT MECHANISMS**

THAT, aware that Article 43 of the Constitution provides that every person has the right to clean and safe water in adequate quantities; further aware that water harvesting is an important practice for water management; cognizant of the fact that earth-dams and water-pans would play a key role in water harvesting especially in arid and semi-arid areas; noting that a large quantity of run-off water goes to waste in most parts of the country; further noting that this run-off water if properly harvested and managed would be useful for domestic, livestock and irrigation purposes; appreciating that increased infrastructural development especially in roads has led to the mobilization of machineries and human resources in most areas; further appreciating that these civil engineering machineries and personnel can be useful in the construction of earth-dams and

water-pans; this House resolves that the Government through the Ministry of Transport, Infrastructure, Housing and Urban Development ensures that all road designs and constructions incorporate run-off water harvesting and management mechanisms.

**The Temporary Deputy Speaker** (Hon. Cheboi): Hon. M'eruaki is also absent. Let us step it down.

*(Motion deferred)*

## **BILL**

### *Second Reading*

#### THE BASIC EDUCATION (AMENDMENT) BILL

*(Hon. (Ms.) Kiptui on 1.3.2017)*

*(Resumption of Debate interrupted on 1.3.2017)*

**The Temporary Deputy Speaker** (Hon. Cheboi): Hon. Jessica Mbalu has just walked in. We will resume debate on that one. I do not know if there was a Member who had a balance of time. Hon. Ichung'wah had eight minutes remaining. We will move to the next available Member and I can see the Member for Makueni.

**Hon. Maanzo:** Thank you, Hon. Temporary Deputy Speaker for giving me an opportunity to contribute on the Basic Education (Amendment) Bill. Basic education deals with pre-primary schools which is currently devolved and is being handled by the county governments. In fact, from previous practice, it was in the main Ministry of Education, Science and Technology and currently it is structured in such a way that pre-primary school has P1, P2, and P3 and then after three years, children proceed to Standard One.

One of the biggest challenges of this law has been infrastructure.

Children are introduced to education at that age. If they are not introduced properly to education, they may not get it right. Education is what constitutes the future of many children in this country. A good education is what determines the future of the particular child. Education creates equalisation. It equalises people in a country. The opposite is corruption, which causes inequality in society. Therefore, getting it right at the basic education level is very important. Being aware that the Ministry of Education, Science and Education is working on a new curriculum means that at some point, these laws must be synchronized, so that if we will have a new education system, then, these particular amendments on basic education must tally with the laws that will be made to that effect.

These amendments are meant to make basic education better and make sure that our young children get education right. They are meant to ensure that there are proper structures, infrastructure and curriculum and that children are introduced to basic information technology (IT) education. The Government has made an attempt to bring computers to schools, so that young children can learn using modern technology. Many of them know how to use modern technology such as telephones to access information even when they are very young.

I support the law. It must coincide with the Constitution. This is part of what was being amended. Article 43(1) of the Constitution provides for the right of every person to the highest attainable standard of health, including reproductive health care. There are also the rights to basic education and health in the country. That is what the law is trying to ensure. I want to congratulate Hon. Grace Chemutai Kiptui for having come up with the amendments to make basic education better. This will provide free and compulsory basic education to every child.

What has been happening in private institutions is that in normal nursery schools or basic education, fees are levied yet when you move to primary school, there are none. As a country, we need to avoid a situation where any child, whether they are going through basic education or primary education, is not sent away for any levies of whatever nature. In fact, while discussing that particular matter recently with the Cabinet Secretary for Education, Science and Technology, Mr. Matiang'i, he said that there are no fees which should be levied at all and that no single child should be sent away from school. He also said that if there is a receipt of such a nature, it should be brought to his knowledge and he will take the necessary action against that particular head of an institution or such an institution.

When there is compulsory basic education in the country, children do not pay school fees for basic education. We should have a structure and a system where even children going to nursery, no matter how cheap it is, have the right facilities, good healthcare, do not study in unhealthy places and do not get charged any fees. A child in basic education or nursery school should not be sent away for fees yet it is happening almost everywhere in the country. We should synchronise this, so that private and Government institutions do not charge levies on this.

As I conclude, even when this Basic Education (Amendment) Bill is implemented by the counties, especially infrastructure-wise, the National Government Constituencies Development Fund (NG-CDF) chips in, in cases where a certain institution did not budget for that during that year. This will ensure that those children do not study in buildings likely to collapse and that the buildings are good, well-coloured and have images and the children can enjoy studying from a very basic age. Otherwise, what has been the practice in the country is seeing very young children being sent away for school fees while in the country it is a general policy that primary education is free, compulsory and there should be no levies whatsoever. In fact, most schools access money from the NG-CDF for infrastructure. They get money from the Government for watchmen and other basic costs. Therefore, no parents should pay any coin, especially in the rural areas or everywhere in the country for primary education. This law is seeking the same for basic education. Therefore, it should be included in the annual estimates, every time we make the Budget, once this law comes into force, that all basic education institutions or nurseries are funded by the Government.

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

*[The Temporary Deputy Speaker  
(Hon. (Ms.) Mbalu) took the Chair]*

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): The next person on the request list is the Member for Turkana Central. We are on Order No.12 on the Basic Education (Amendment) Bill (National Assembly Bill No.39 of 2016). We are aware of the Motion in

Order No.10 by the Member for Kibwezi East who sits on the Speaker's Panel and as a Member for the constituency. Let us have the Member for Turkana Central.

**Hon. Nakara:** Thank you, Hon. Temporary Deputy Speaker, for giving me the opportunity to contribute to this Bill.

First of all, I want to thank Hon. Grace Kiptui for tabling this Bill. It has been an issue that pastoralists have struggled with, to make sure our children access basic education. We want to have a law to make basic education compulsory. It will become an offence for any parent who refuses to take his or her child to school for basic education. When we make it compulsory and an offence for the parents who deny their children an opportunity to go to school, everybody will make sure that he or she has taken their child to school.

Some countries have made basic education compulsory for their citizens and that is why communication in those countries is good. When you travel to those countries, you can communicate in international languages such as English and French even with casual labourers or small businessmen.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Order Member! Please, allow me to recognise students from St. Joseph's Girls High School Maungu, Voi Constituency from Taita Taveta County, who are in the Speaker's Gallery before they leave. We want to thank you for being with us and observing the National Assembly as we debate and conduct business. You are welcome.

**Hon. Nakara:** Thank you, Hon. Temporary Deputy Speaker, for making such comments to our students. I know they will be encouraged leaving this place knowing that you have recognised them.

We need to make basic education compulsory for all people. For the parents who do not take their children to school, it must be an offence that can be dealt with so that every person in this country makes sure that his children have basic education. In addition to that, if we provide basic education to our children at an early age, communication in this country will be good because wherever you go, even if you do not know the vernacular of that particular tribe, you can communicate using the official languages of English and Kiswahili.

By doing so, we can eradicate tribalism in this country. One of the things that encourage tribalism is language. When you go to an office, you may find people speaking in vernacular. You may find the same in an institution that serves all people. So, when we have compulsory basic education for all our children, we will make sure that each one of them has the skill to communicate using the official languages, namely, English and Kiswahili.

Hon. Temporary Deputy Speaker, we also want to make basic education accessible to all citizens in this country. We need to task both the national and the county governments to make basic education accessible in all corners of this country, whether there are roads or not, or whether they can pay the small amount of money they are supposed to pay or not. We want to make sure that basic education is accessed by every child including those who have no money. The children of the poor, the pastoralists and labourers should access basic education where they live. For those of us who are pastoralists, we can have mobile schools, which can be moved to wherever the people go. By doing so, we will provide basic education to all citizens in this country. Some countries have started mobile schools for their people and they move with the pastoralists. Teachers move with the people for three or four years. When they reach Standard Four, they settle in a particular place and continue with their education.

Basic education is a foundational right that each one of us needs to have. When you lay a good foundation for a child, the child grows in an environment that enables him or her to

continue advancing in education. That is why we must provide all learning materials, so that children can get basic education wherever they are. The reason some students fail in their final examination is because they do not get the right foundation, which starts from the Early Childhood Development Education (ECDEs). We need to build good academic foundation for our children at an early age, so that when they grow up and reach the level of doing their final examinations, they can do it with confidence because their foundation is good. Some people forge certificates because they missed a good foundation.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Order, Member! You are making a very good contribution generally on education.

Hon. Members, allow me to guide the House on the relevance of the Bill. It is all about the girl-child as stipulated in the Memorandum of Objects and Reasons. It is also about sanitary towels. You are guided and any other Members who is going to make a contribution. It is always good for us to be relevant to the Bill or Motion as a rule and procedure in the House.

Proceed, Hon. Member.

**Hon. Nakara:** Thank you, Hon. Temporary Deputy Speaker. I was coming to that point, but I wanted to first give the importance of basic education in this country.

On the girl-child, especially the pastoralists, this is the class of people that we need to motivate to get education because some families have girls only. Such a law will protect them to be good citizens and leaders in this country.

Kenya is one of the countries where the gender issue is lacking. If you go to some countries, women are the top cream. Why? Because the countries have spent a lot of time to give education and sponsorship to the girl-child. We also need to make some guidelines that can favour the girl-child. Although we allow competition between boys and girls, somehow, the girl-child is weak. That is why in the political arena, you will discover that ladies are not as strong as men. This is not because of masculinity, but because of financial status or movement.

As we think about the girl-child, we should also think about what comes next after education. We need to motivate them. We need to give them basic education. We also need to give them positions in society so that they can become relevant.

With those few remarks, I support the Bill. Basic education should be compulsory for the girl-child.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Member for Igembe Central, Hon. Cyprian Iringo.

**Hon. Kubai Iringo:** Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to contribute to this Bill. Let me congratulate my colleague, Hon. Grace Kiptui, for bringing this Bill which touches on the essence of life and the foundation of the human race. We, in a developing country, need to lay strong foundations for our children so that we can, at least, assure ourselves that we will have good future leaders, parents and people who will see this country move forward. Basic education should be made compulsory and patronised by everybody. Those who refuse to take their children to school or deny a child education should be punished according to the law.

In as much as we have the laws, they are haphazardly implemented and sometimes they are not taken seriously. That is why, at the end of the day, we get so many school dropouts especially at the lower levels because of some basic needs which children may require. The girl-child should have sanitary pads, equal opportunities, prevention of communicable diseases and immunisation. Many children are denied these things because some parents are ignorant and others take it lightly. The Government systems and officers, who need to implement them, do not

take them seriously until you get to the extent where you get some religious cultures or beliefs that do not take children to hospital and decide to pray for them. All these things destroy children's foundation.

We also have another problem here in Kenya where education has been segmented and the nursery level is left to the counties in terms of infrastructure and employment of teachers. Then we have primary, secondary, tertiary and universities under the Ministry of Education, Science and Technology. I have a personal experience. If you go to some schools, you find that the nursery school teacher is the head of the classroom or the two nursery school classes and the head teacher of the primary is for Standard One to Standard Eight. These conflicting or clashing interests of operations make learning of a child difficult.

County governments have been charged with putting up classrooms for nursery schools while the NG-CDF does the other things. You find that county governments have done very little in putting up classrooms and the most vulnerable nursery school children are in the worst classes in schools. The upper classes pupils are in the best classes. It should be the opposite.

The small child is left vulnerable to pneumonia and other dirt-related diseases. Learning becomes very difficult because of the poor infrastructure and the general poor learning conditions. There is also the issue of the teachers who teach these children. The ECD colleges are spread all over the country and most of them are private. Some of them are run by quacks and others are located behind slums or dingy areas. You will find very big graduation ceremonies being conducted in the village and when the graduands finally come out, you realise that they had D + (Plus) and D - (Minus). Even with such poor grades, someone can still say, "I am a graduate of ECD." They are then deployed to teach our children. The ECD teachers are supposed to be properly qualified. We need people with proper training on how to handle small children because we expect them to lay a good foundation for our children.

In as much as we are trying to promote education and other things in this country, if we do not lay proper educational foundation for our children, we shall be bringing up half-baked leaders like the ones we are reading about in newspapers. It will be very tricky to let this country be run by such kind of people.

I support my colleague. Indeed, these institutions should be properly monitored. We should focus on the little ones, so that we can give them a good foundation.

With those few remarks, I support the amendment Bill.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Member for Wajir West.

**Hon. A.O. Ahmed:** Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity. I support this Bill by Hon. Grace Kiptui, which proposes support for the girl-child education. This Bill proposes measures and means to ensure that girls do not drop out of school. It also provides for sanitary towels for girls in school. Most of the time, the performance of girls is affected by their being absent from school as a result of menses. They are unable to attend school regularly. They become shy during this time of the month because they cannot afford sanitary towels. This is a noble initiative. I request the Ministry of Education, Science and Technology to make sure that this is implemented. It should not just be legislation on paper.

It is important to note that it is not only sanitary towels that need to be provided in schools. We need to make sure that we also have sanitary facilities that are compliant and girl-child friendly. In most schools, sanitary facilities, especially toilets, are not adequate. In fact, it is the boys who use them. So, the girls, at the end of the day, cannot go for short and long calls. They are forced to stay in class the whole day and so, their concentration is always at an all-time low. You all know that when somebody is under pressure to respond to a call of nature, they



cannot be attentive in class. Alongside providing sanitary towels, we should make sure that there are adequate sanitary facilities for girls in schools. We need to make sure that physical facilities in schools in terms of classes are available and they comply with the demands of basic education as a right. For us to do that, the Ministry of Education, Science and Technology needs to provide funds to schools.

We need to amend the CDF Act, so that a certain percentage of the NG-CDF directly goes to cater for basic education. Most of the other functions have now been devolved. It is for us to focus more on education. As we pass this Bill, we need to move forward and make sure that we put a lot of attention on basic education and provision of sanitary facilities. We must fight for more funds to trickle down to our schools at the primary level.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Very well spoken. Member for Mwingi North, Hon. Munuve, before I come to the Member who does not have a card.

**Hon. Mati:** Thank you, Hon. Temporary Deputy Speaker. Let me take this opportunity to congratulate my sister, Hon. Kiptui, for this very timeous Bill. I would also like, from the outset, to make reference to the Motion that your good self has brought to this House, which is very closely related and linked to Hon. Kiptui's Bill on the issue of developing facilities especially staffrooms, in schools.

I also want to congratulate, on a light touch, the people of Kibwezi for having a Member who can multitask, namely, she is involved in legislation as well as guiding the House. You could not move the Motion today because of your other responsibility as a Member of the Speaker's Panel.

On the issue of the girl-child, this country needs to look very carefully at the limitations and obstacles the girl-child is faced with. Poverty inhibits the longevity of a girl-child's time in school. That is why if you look at the statistics of the Ministry of Education, Science and Technology, with regard to the lower classes, the ratio of the girl-child to the boy-child is almost equal. However, as you consider the ratio in secondary school, things start changing. The reasons are many. One of them is obviously the inhibition caused by the inconvenience of natural phenomena. For example, the girl-child does not have access to sanitary towels.

The other one is cultural and socio-economic. Poverty is prevalent and most parents make a very discriminatory choice. The girl-child drops out of school, so that the boy-child can continue because of cultural inhibitions. As a legislative body, that is what we need to look at. How can the Government make it possible for the girl-child to remain in school for the same period as the boy-child?

Some Members have talked about school facilities, but I would like to speak specifically to the issue which I know you will be bringing to this House next week. Most schools are constructed through the NG-CDF and by the county governments. However, both county governments and ourselves have neglected a very important facility, namely, staff room. This is where the teaching staff is supposed to sit comfortably on good furniture and make use of good computers. These facilities, if constructed, would help a great deal. They could also be used as storage facilities for sanitary towels.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): It is important for me to guide you also. I know there is a Motion on this that the Member for Kibwezi East will bring to the House next week. It is important to remain relevant.

**Hon. Mati:** I stand guided, Hon. Temporary Deputy Speaker. These good offices would help very much. They would serve as storage facilities for the sanitary towels if they are available.

Hon. Temporary Deputy Speaker, I am saying this because staffrooms are the greenest trees in the compounds of some schools in our constituencies. Even if we provide sanitary towels, there will be challenges of storage. I wish to very strongly support Hon. Kiptui's Bill because it will help in a small way, as we look for ways of making it possible for girls to stay in school. This is one of them. The others are what I talked about, namely, socio-economic, cultural inhibitions and limitations imposed on us by poverty, harsh environment and natural calamities.

I want to compliment and congratulate the Government of His Excellency President Uhuru Muigai Kenyatta for making unparalleled investment in the education sector. If you look at any of the budgets of his Government, you will appreciate that this country has continued to make heavy investment in education, which is very important and commendable because education is the only foundation that we can bank on, with the current environmental hardships in which we find ourselves. Most of us come from constituencies that not only rely on drought relief in terms of food, but also water relief. This makes it extremely difficult for smooth learning in most educational institutions.

With those remarks, I beg to support and once again congratulate my sister, Hon. Kiptui, for her timely and important Bill for the development of the girl-child education in the country.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): The education sector is happy because most of the debate in this House is about that sector. That shows how important the sector is in this country.

Hon. Moitalel ole Kenta, the log-in system shows that you are the Member for Narok South. I am surprised because I have always known you to be the Member for Narok North. Can we go on the HANSARD record that Hon. Moitalel ole Kenta is the representative of the people of Narok North Constituency, and that is the one on the Floor of the House right now?

**Hon. ole Kenta:** Hon. Temporary Deputy Speaker, we had rectified that problem. I do not know why it keeps on recurring.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): I have just pronounced myself that you are the Member for Narok North. Therefore, the people of Narok North are very well represented in this House.

**Hon. ole Kenta:** Hon. Temporary Deputy Speaker, I appreciate. I would like to add my voice to the debate on the Bill before the House. This closes a lacuna in our education laws. Education is important. It is more important as far as the girl-child is concerned, especially in Kenya and Africa in general.

As we all know, the girl-child is the backbone of any community. As they say, if you educate a man, you educate an individual, but if you educate a girl, you educate a community and a country. The issue of sanitary towels is very crucial, especially in the rural areas where they are not accessible. We need to ensure that girls do not miss classes. The more a child miss classes, the more she lags behind and with time, she falls prey to predators. I believe we should give girls education, and empower them by ensuring that nothing stops them from attending school. We have enough money to take care of our children. We lose a lot of money through corruption and other ways. That money should assist the girl-child.

No country can progress without professionals and experts in the various fields of the economy. The girl-child has lagged behind in education. That is why she has lagged behind in politics and other fields. However, I believe in the 21<sup>st</sup> Century, we are doing something about it. That is why we must safeguard our education sector. A lot of things are going on. A lot of people are getting fake degrees. We must ensure that our country complies with the required standards.

The starting point is ensuring that all children get equal opportunity. I do not need to belabour the point because the issue is about sanitary towels. We must provide sanitary towels to our girls.

Somebody said that there are facilities to handle those things. We must have a place to dispose of the sanitary towels once they are used. We must have clearly defined areas for girls' sanitary needs. This is something that must be done with speed and without any further delay.

With those remarks, I support the Bill.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Member for Matuga.

**Hon. Mwanyoha:** Ahsante sana, Mhe. Naibu Spika wa Muda. Nimesimama kuunga mkono Mswada huu muhimu sana ambao unazungumzia masuala ya elimu ya msingi. Elimu ni muhimu sana, haswa elimu ya msingi. Watoto wanapokwenda kwenye shule za msingi, ofisi za elimu na viongozi wanatakiwa wawe wamekata shauri kulizingatia jambo hili kwa makini sana, ili wahakikishe kwamba watoto wamefanya vyema katika shughuli zao za baadaye.

Elimu ni muhimu. Pendekezo langu ni kwamba mzazi yeyote atakayepatikana akidharau kuwapeleka watoto shuleni aadhibiwe vikali. Ninaliunga mkono pendekezo hilo kwa asilimia 100. Nataka Serikali ihakikishe kwamba inaangalia jambo hili kwa makini sana.

Masuala ya visodo ni muhimu. Naona ni kama elimu ya msingi imeachiwa serikali za kaunti, lakini wameshindwa kuishughulikia. Kwa hivyo, tunataka Wizara ya Elimu, Sayansi na Teknolojia ihakikishe kwamba inatia mkono wake kikamilifu katika shughuli hizi ili watoto wapate elimu ya msingi itakayowafaa siku za baadaye. Hili ni jambo ambalo limeshughulikiwa na Hazina ya Kitaifa ya Maendeleo ya Maeneo Bunge (NG-CDF). Sipigii debe NG-CDF kwa sababu mimi ni mhusika, lakini ukiangalia shughuli ambazo NG-CDF imefanya, ziko juu zaidi kuliko zile zilizofanywa na serikali za kaunti. Kwa hivyo, masuala ya NG-CDF yaingizwe ndani, ili waweze kuhakikisha wanashirikiana ili elimu ya msingi iboreshwe zaidi.

Naunga mkono Mswada huu ili hatua ya Serikali iwe kamili na ihakikishe kwamba imesimama kindete kwenye vita dhidi ya ufisadi, kwa sababu kuna pesa nyingi sana ambazo zinatumika ovyo ovyo. Kama Serikali ingekuwa inawajibika kikamilifu katika mapambano dhidi ya ufisadi, pesa ambazo zinatumika ovyo ovyo zingetumiwa kuboresha elimu ya msingi. Watoto wanashida, wazazi ni maskini, na pesa hakuna. Serikali ina pesa lakini imelegeza mkono. Watu wanaiba vile wanavyotaka, lakini hawachukuliwi hatua yoyote.

Kwa hayo machache, naunga mkono.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Ahsante kwa kuchangia Mswada huu. Member for Wajir County.

**Hon. (Ms.) F.I. Ali:** Thank you, Hon. Temporary Deputy Speaker, for allowing me to contribute to the Basic Education (Amendment) Bill of 2016 by Hon. Grace Kiptui. I support this amendment. It is very timely and greatly contributes to the goal of education in terms of increased enrolment, retention and completion of children in primary and secondary schools, particularly girls. This amendment will create a more reliable supply of sanitary towels to all girls in public schools. Girls in puberty have been experiencing challenges and there are enough records in different researches which have been carried out. Girls miss almost a third of the lessons and classes in a term. If you translate that into quality time for the girls to concentrate on their studies, it is a loss of their time in school.

Girls who are mostly affected in terms of accessing sanitary towels are those in the rural and remote areas, which most of us represent in this House. This amendment will mitigate some of the challenges the girls experience in the rural and remote areas and in informal settlements. The rate of poverty is very high in those areas. The Government has been providing sanitary pads to schools in a less organised and uncoordinated manner. Sometimes you see the Ministry

of Education, Science and Technology distributing sanitary towels. You sometimes witness county governments distributing the same. Of late, County Women Representatives distribute sanitary towels. The effort is there, but it is not coordinated and sometimes there might be oversupply or undersupply because there is no central agency that is coordinating a quality distribution system of sanitary towels to girls in primary and secondary schools.

This amendment will help in addressing some of the concerns on lack of access to sanitary towels by girls. It will help some of the girls who are not accessing them. It is not just sanitary towels that are useful, but it requires a whole pack of sanitary package. That includes sanitary towels, sanitary pants and disposable bags and equipment.

In our primary and secondary schools, you might witness a lot of litter mainly composed of disposed sanitary towels everywhere. That brings a bad image to schools. The girls might feel embarrassed in terms of disposing them. It is useful to combine the sanitary towels, which are very crucial, and some pants. Some girls do not even have pants for them to benefit from the provision of sanitary towels. So, if they are given a whole pack of the pants and towels, that will help them to utilise the free sanitary towels efficiently.

Sometimes the girls want to dispose the towels, but they do not know how to do it. We should accompany this provision with a strategic location for disposable equipment in schools, so that it is easily disposed of and it is not littered everywhere.

The other issue is that we should have a one stop agency to coordinate the supply of sanitary towels, pants, disposable bags and maintain a clean environment, so that our girls enjoy using the sanitary towels. I can assure you that it will reach more needy girls if it is well coordinated and there is an agency that is accountable for such things. If the Ministry of Education, Science and Technology, county governments and the women representatives are supplying sanitary towels and there is no coordination, then the quality of the provision might be compromised. It becomes kind of untargeted and sometimes the beneficiaries might not benefit from it.

I support this amendment because definitely, it will improve girls retention in schools. It will also increase enrolment and completion of education among girls in secondary schools.

Yesterday when the Chair of the Budget and Appropriations Committee was reading the Budget Estimates, there was a conditional allocation of Kshs400 million to the Affirmative Action Fund, which will be utilised for that purpose. I urge Members of Parliament to support that Fund. The patrons should give a more comprehensive package of sanitary towels, pants and disposable packages. They should also provide disposable equipment that can be quick to fix and does not bring environmental hazards caused by disposable towels, so that we can have a more organised and neat environment. This way, we will improve the health of our girls in schools by having a less polluted environment. The girls and schools should not be seen to be polluting the environment. The environment should be neater and cleaner. The girls, school, environment and community should be taken care of.

I support this Motion.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): The last request is from the Member for Embu County, Hon. Rose Mitaru, and then I will call the Mover to reply.

**Hon. (Ms.) Mitaru:** Thank you very much, Hon. Temporary Deputy Speaker, for giving me this chance to support the amendment Bill. I appreciate very much my sister, Hon. Grace, for bringing it here. I am a Member of the Departmental Committee on Education, Research and Technology and I am also a parent. Any nation that takes care of its ECD takes care of its

citizens. Quality ECD develops not just the child or the family, but the nation and the world at large.

I support the Bill because I have been to very dry areas in our nation where sometimes even food security becomes a very big problem. Many mothers leave their homes to look for food for the children. That time, the girl-child is unable to go to school because culturally and traditionally, when a mother is not near, the girl-child is left to take care of the rest of the children. I hope we will all support this amendment Bill. All the Members of Parliament and leaders of our nation, especially the Head of State, are working very hard to provide resources for the early childhood education system. We will go to our schools, villages and homes and make sure our children go to school and are taught by qualified teachers.

Big nations of this world employ the best teachers to teach early childhood education. When the foundation of these children is strong, the nation will benefit.

I want to talk about the girl-child. When you educate a woman, you have educated the entire nation. I wish the boy-child is well taken care of. However, most of the girls do not attend classes for a week in a month because they do not have sanitary towels. As a House, we pass the Budget and allocate over Kshs300 million for sanitary towels. Unfortunately, some schools have never received them. This is very important. As we educate our children and as we remember the poor, we should look at the girl-child because if we do not do that and follow traditions that stop girls from going to school because they lack sanitary towels--- Sometimes this happens during exam times and some girls end up dropping out of school. If these children are not taken care of there will be many school dropouts.

In some cultures, these young girls who are not educated get married at a tender age. I hope that as we look at the amendment Bill, we should follow up to ensure that these children pass exams, are healthy, receive support from their parents, the Government and communities and especially girls for the sake of our nation.

Thank you, Hon. Temporary Speaker for giving me this chance. I would also like to thank my sister, Hon. Grace for bringing this Bill. This Bill will ensure that Kenya will have people who are very learned in a few years, and the demand for them to work beyond our border will increase.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Well-spoken with a motherly touch and passion. Allow me to call upon the Mover to reply.

Hon. Grace Kiptui, the Member for Baringo, you have the Floor.

**Hon. (Ms.) Kiptui:** Hon. Temporary Deputy Speaker, I beg to reply.

I would like to say that in our country, it is clear that most of our girls in schools do not attend classes because of lack of sanitary towels. The reason I brought up this amendment is to close the gap created by the girl-child so that these children can transit smoothly from primary to secondary schools and even to universities. We are aware that the Ministry of Education, Science and Technology had set aside some money for sanitary pads but the impact was low. As a result, I decided to bring amendment Bill so that it can reach the girl-child.

In our Constitution, we are guaranteed highest level of health. When these girls do not have sanitary towels, diseases can affect them particularly in areas where there is insufficient water to bathe. There is also the issue of basic education being a right to our children. It is like giving them one right on one hand and taking it away from the other hand. When we do not provide sanitary towels and these girls miss school, their performance is poor. As a result, they will not move to the levels that they are required.

There is also the issue of nutrition being provided to children in school. All these rights are guaranteed in our Constitution. It is for this reason that I brought this amendment on the Basic Education Act No.39 of 2016.

I, therefore, beg to reply.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Thank you for replying. We do not have the requisite number to put the Question. I, therefore, order that the Question be put at the most appropriate time as will be scheduled by House Business Committee (HBC).

*(Putting of the Question deferred)*

Next Order!

#### THE KENYA NATIONAL EXAMINATIONS COUNCIL (AMENDMENT) BILL

**Hon. Masadia:** Hon. Temporary Deputy Speaker, I beg to move that The Kenya National Examinations Council (Amendment) Bill be now read a Second Time.

This Bill concerns an amendment to Section 45 of the Kenya National Examinations Council Act (2012) with regard to nullifications of examinations and investigations. The education sector, in the past, has faced a lot of challenges because of examination irregularities and cheating. We had an opportunity to look at this Bill and identify where the problem is. The reason this happened is because I had a case in my constituency.

In 2014, 317 students of Chavakali High School sat the Kenya Certificate of Secondary Education (KCSE) exams. Out of the 317 students, 314 had their exams cancelled. The reason that was given for their results to be cancelled was collusion. We did our investigations and went to the school to find out what this collusion meant. We found out that the 317 students sat in 13 different classrooms with invigilators, supervisors and policemen. They did the exams and there was nothing on irregularity reported. When the results came out, we were told they colluded. We then asked ourselves how 317 students can collude while sitting in 13 different classrooms with invigilators and supervisors.

I had to look at this Act and I discovered that there are a lot of problems with it. Students do not have a right to appeal. When there was a case of students going back to school, we did a lot of work to have some of them repeat Form Four. However, a few students and their parents chose to go to court which was the only avenue they had as a remedy.

As we speak, the case has not been determined for those that opted to go to court. They have kind of lost their chance to have qualifications. I decided to look at this Act and find out where the problem is. So, the first thing I looked at was the need to remove the powers of the Kenya National Examinations Council (KNEC) and distribute them to other bodies. The KNEC seems to have been given many powers. It has had these powers mutilated in a way that has taken away the powers of the Constitution so that students do not have rights.

Article 35 of our Constitution says:

- “ (1) Every citizen has the right of access to-
- (a) information held by the State; and
  - (b) information held by another person and required for the exercise or protection of any right or fundamental freedom.
- (2) Every person has a right to the correction or deletion of untrue or misleading information that affects the person.”

If you go to the KNEC Act, you will find that they have kind of limited those rights that are given by the Constitution. Section 42 of the Act says:

- (1) The right to access to information guaranteed under Article 35 of the Constitution is hereby limited under Article 24 of the Constitution to the nature and extent as contemplated under subsection (2).
- (2) The Council, being a public entity, shall be under no obligation contemplated under Article 35 of the Constitution to give such information as would, in the opinion of the council-
  - (a) Compromise the integrity of any examination administered by the council;
  - (b) Compromise the examination process; or
  - (c) Compromise the right to privacy of an individual.

I did not see anything that the students could have done to compromise these three aspects that are being contemplated here.

If you go to Article 47 of the Constitution, which deals with fair administrative action, it says:

“(1) Every person has the right to administrative action that is expeditious, efficient, lawful, reasonable and procedurally fair.”

Parliament has enacted that Act which also gives people the right to fair hearing and fair administration. So, I decided to have this Act amended so that it is in line with the Constitution and it gives students the right to appeal. The areas I address in this Bill are to provide a disciplinary procedure before nullification of examinations, enhancement of the quality and control of examinations and to protect the basic rights of candidates, as well as provide professionalism in the investigation of examination irregularities. I also wanted the Bill to provide for an appeal mechanism on decisions relating to examinations irregularities. Hence we establish an appeals tribunal.

This section has been expanded to provide for KNEC to continue with its work, but before the results are announced for any failure or any irregularity, they are supposed to inform the students in writing. They should be told that according to the Constitution, they have a right to be informed in writing that this and that has occurred and they are given the reasons why it has occurred and the students should have the right to appeal. That is the major provision of this amendment.

I have also looked at it and said that the tribunal should be able to pick representatives from the Kenya Curriculum Development Council (KCDC), the Teachers Service Commission (TSC) and an officer of quality assurance from one of the public universities. This was done because we did not want people in the Board of KNEC to be also in the tribunal. We wanted independent people who deal with matters of education. The KCDC deals with curriculum, TSC provides the teachers to mark and universities are where students are heading to when they completed Form Four. We thought those are the people who can help the tribunal in addition to the other people who will be appointed by the CS.

We also noted that this tribunal should be *ad hoc*. It should only be established when there is an irregularity. As such, we gave the CS powers to form that tribunal only when there is an irregularity. Last year, we did not have irregularity and as a result, we did not need a tribunal. Therefore, we did not want this to be a source of employment.

I am aware of an amendment by Hon. Obure in the Senate, who has formed the tribunal to be in this Act, but I was thinking that the best thing is not to create employment opportunities out of the calamities of the students. We should have a tribunal only when it is necessary. If we put it in law that we have a tribunal, you will pay salaries and allowances to staff. You are kind

of forming another body which is going to cost taxpayers some money. I think we limit it to the position where if there is an irregularity then the tribunal can be formed by the CS.

We have issues in Kenya now. The CS for Education has struggled to save the education sector by eliminating examination irregularities, but in the process he has killed careers and lives of over 800 students because everybody seems to think there is a problem with the last examination results. The teachers have complained there is a problem. Parents have also complained there is a problem. I have even heard vice-chancellors complaining that there is a problem. The students themselves complain there is a problem. But the Jubilee Government says that is one of their achievements. I think there is something wrong; to save 5,000 students from irregularities but kill the careers of a whole 800,000 students.

Therefore, we need to look at this afresh. We need to find out what happened. Were the exams too difficult or were the examiners the problems? Or, were the students the problem? We have to find out what exactly happened. If this happens again, we are going to face a major crisis in future. We are better off with more students passing, going to university and having no jobs than trying to get a number of students to fit the public spaces in universities. Even as we talk now, private universities may not have students to enrol.

We have foreign universities which have stationed themselves here that admit students but now they have no students to admit because the pass mark has been compromised badly. Therefore, they cannot go ahead and admit students. So, it is a major problem.

By trying to cure the issue of examination cheating, we have created a bigger problem in the examination centres and examination management. People are also asking for an inquiry to find out what happened. As I subscribe to that, we also need to get a team of people to get exactly what happened. Who was the problem? Were the students too stupid? Were the people who set the exams too clever for the students? Did the teachers not teach what was given to them? Did the markers not follow the procedures the way they have been following in the past? There are questions that we need to answer. If we do not answer these questions, we will still have this situation. Even if we make good laws, they will not help our students.

Therefore, this is a very important amendment because it will save students. This is because they will have an opportunity to appeal. The Bill says that after exam results are out, you must be given in writing as an individual and not as a group--- Do not write to the school and say there was collusion between so and so. No! Each student must be given an opportunity in writing to know what happened and the mistake they made leading to cancellation of results. After that students will have an opportunity to appeal to the tribunal. The appeals tribunal will have an opportunity to finish that work within a certain period such that before they start registration for the next exam, it would have finished that work. This will ensure that if a student wishes to re-sit the exam he or she will have an opportunity to register for it.

The next aspect of this Bill is offences.

We have heard from the CS that there has been monkey business going on at the KNEC. Whatever that means, I do not know because it might fairly mean there was no fair play in that area. I looked at the Act and realised that KNEC has structured itself in such a way that when their officers mess you cannot take them anywhere.

Section 19 of their Act says that no member, officer, agent or staff of the Council shall be personally liable for any act or omission done or committed in good faith in carrying out any of the functions of the Council under the Act.

Hon. Temporary Deputy Speaker, this thing called "good faith" is very subjective. We cannot know if they have been doing these things in good faith or not. Although it has since been



established that these people have been doing business with students and schools, nobody has been arrested to date.

Section 45(f) says that a member, officer, agent or staff of the Council whose omission and/or commission leads to examination irregularity commits an offence and is liable upon conviction to imprisonment of five years' term or fine not exceeding Kshs5 million. We want to open up the Act so that officers who will be pinpointed during investigations of examination irregularities can be vulnerable. We do not want them to hide under Section 19 of the Act and say that they cannot be prosecuted. We want them to be liable for prosecution. So far, nothing has happened to those who have been taken to court because they are hidden under the Act. Therefore, I have opened up the Act so that anybody who commits an offence can be prosecuted.

With those remarks, I beg to move and call upon the Member for Kaloleni, Hon. Gunga, whose is the leader of KADU-ASILI, to second.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Hon. Gunga, please, proceed and second.

**Hon. Chea:** Thank you, Hon. Temporary Deputy Speaker.

Hon. Agoi had requested me to second this very important amendment Bill. However, before I proceed to second it, it is important for public knowledge to make it quite clear that I am no longer a Member of KADU-ASILI. I am now a Member of the Devolution Party of Kenya, which I lead. This is very important so that it does not bring confusion to my membership.

As I second the Bill, I must point out that today, as we sit in this Chamber, there are very many students who do not have their results because some of them have been concealed by KNEC.

*(Loud consultations)*

**Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Order, Hon. Members! Please, lower your levels of consultations. The Member who is on the Floor has to be heard.

**Hon. Chea:** Thank you, Hon. Temporary Deputy Speaker. We are also saying that other than students who have not received their results, we also have schools and other learning institutions which have lost their reputations as a result of having been associated with examination irregularities. Therefore, the amendment Bill comes at a very important time in the history of this country.

We are all aware that in this country examinations are regarded with high esteem. This is a country where people are very much interested in the grade you scored when you went to school. If that is the seriousness with which people attach examinations in this country, then it is important that the amendments that have been proposed by Hon. Agoi sail through.

If you look at Section 45 of the principal Act, you will see that KNEC can just act on its whims and nullify results of some students, or the results of an entire institution. Doing so is not in order. Nullifying of examination results is a drastic order. Before such thing happens, it is important that there be some form of investigation. All other mechanisms of addressing the situation should be exhausted before a student loses his or her results. That is why I find the amendment Bill to be very progressive. The introduction of Section 45(b) in the principal Act brings in inquiries. This is in conformity with the cardinal principal of law that one is entitled to a fair hearing, and which says that you cannot be condemned unheard.

Equally important, the amendment Bill seeks to align the Act with the Constitution. Therefore, it has to be supported. When the Council decides to carry out investigation, the

suspect must be accorded an opportunity to be heard. He has to be notified of the allegations and given an opportunity to present evidence in defence. Before any nullification of examination results is effected, the due process has to be followed. That is very important.

Hon. Temporary Deputy Speaker, the introduction of an examinations appeals tribunal is a very important aspect of the amendment Bill. It is very sad when the doors are locked. You may feel aggrieved by a certain decision, but you find that there is nowhere you can go. The situation being created by the amendment Bill is such that when the Council decides to nullify examination results of any candidate or institution it will have carried out investigations and the aggrieved party will have remedy. The aggrieved party can go to the examination appeals tribunal and launch a claim, and then he will be heard. There are officers who will be sitting at the proposed tribunal. My main concern is that the proposed membership of the appeals tribunal has too many Government representatives.

There is the aspect of an assessor that has been introduced into this law. The assessor will be an advocate of not less than five years standing. I am not very comfortable with the chair of the proposed examinations appeals tribunal being appointed by the CS. We have seen ministries and government agencies working together before. Of course, we will propose necessary amendments during the Committee of the whole House stage.

What we are saying is that, there is need for the proposed examinations appeals tribunal to be independent. It should not be seen to be taking orders or directions from other quarters. Also, it should not be expensive to administer. Students do not have any source of income. Therefore, there should not be any need for them to pay fee in order for their claims to be heard. In any event, the State has to provide the Council with the necessary resources, so that aggrieved students can be heard by the tribunal.

I also want to agree with Hon. Agoi that there is absolutely no need to burden the taxpayer. That is why the examinations appeals tribunal should operate on an *ad hoc* basis – a very attractive proposal. We just need the tribunal to sit for 30 or 40 days, conclude its investigations and make verdict. We do not want to create employment out of calamities of students. This is very important. I urge that once this Bill passes, and members of the tribunal are appointed, it is important that they observe the doctrine of natural justice. It is important that we restore the glory of examinations in this country. I am in agreement with the clause on offences.

With those remarks, I beg to second and request my colleagues to support the Bill.

**The Temporary Deputy Speaker** (Hon. Mbalu): Very well done.

*(Question proposed)*

Hon. Shakeel Shabbir, you have the Floor.

**Hon. S.S. Ahmed:** Thank you, Hon. Temporary Deputy Speaker. I support this Bill and commend the Member of Parliament who brought it to our attention. In his foreword remarks he addressed certain issues. I am not a lawyer, but any issue touching on discipline requires, as a matter of natural justice, procedures to be laid down even if it is in, say, a Bill. This is to cater for decisions which could be made even in an *ad hoc* manner.

There are circumstances where a number of results were cancelled. This is a matter of concern. However, the KNEC has been very inadequate to the extent that there have been massive allegations of corruption and misrepresentation. The image of that institution and the examinations they administer has suffered greatly. When I did my Form Four and Form Six

examinations, they were recognized worldwide. The standards then were recognized worldwide. The level of discipline and the way the exams were administered was recognized.

I commend the CS for Education, Science and Technology for the good job he has done. When you do something like this, the majority stand to benefit, but the minority will get hurt. However, even that minority must be given an opportunity to appeal. This proposed law gives one an opportunity to appeal before the nullification of exams. You know nullification of exams for a child who is under 18 years is horrendous. His whole life is a pattern and by nullifying that child's exam you are telling him that he stole the exams. You essentially break his spirit. These are things that must not be done *ad hoc*. Any disciplinary action meted against a person, must be accompanied with an opportunity for that person to challenge that accusation.

*[The Temporary Deputy Speaker  
(Hon. (Ms.) Mbalu) left the Chair]*

*[The Temporary Deputy Speaker  
(Hon. Omulele) resumed the Chair]*

On the issue of the appeals tribunal, I feel that we have too many tribunals and councils. An appeal tribunal can be set up *ad hoc* and on a part-time basis. However, if you start setting up an appeals tribunal the next thing people will be asking for is payment. We are not able to do that currently. This is not a money Bill, but it appears it could be if the tribunal is set up in such a way that at a later stage payment is demanded.

Our education system was great but has been failing because of impunity. Despite what we say, nothing happens on the ground. The latest CS has gone to the ground and people are now paying for their misdeeds.

As I speak now, a number of children from Nyatege Primary School in my constituency have been sent home for lack of examination fees. So, teachers become like kings and demi-gods and these are the sort of things that we need to look at. I was hoping that in this Bill, we would provide for disciplinary action against the teachers and officials who mislead our children. All our children need is education.

With those few remarks, I support.

**The Temporary Deputy Speaker** (Hon. Omulele): Very well. Let us have the Member for Bomet Central, Hon. Ronald Tonui.

**Hon. Tonui:** Thank you, Hon. Temporary Deputy Speaker for this opportunity. May I make my own contributions to this Bill. I commend Hon. Agoi for coming up with this Bill and I support it. I believe it is in good faith and will enhance the administration of examinations in this country. It will also restore the respect we had for academic certificates in this country. It has several sections that I agree with. For instance, the idea of a tribunal is welcome. This will ensure that it is not up to one individual to make certain key decisions, which will in turn permanently affect the life of an individual.

I believe this will enhance the rights of our children and teachers involved in exams. They will be able to appeal on behalf of their students in case of cancelation of results. I would have wished, in the Third Reading, to have the composition of this tribunal enhanced. It consists only of persons from the Government. This means that there may not be any dissenting views. It should include a few representatives from the teachers' unions so that we have a more balanced

tribunal. That way, we will ensure that the interests of other stakeholders in the examinations are taken care of.

The idea of providing reasons for exam cancellation is welcome. We have cases where you simply see a “Y” or an “X” in your certificate and yet no reason is given. That is unfair. So, we need KNEC to be giving reasons for cancelling particular results. I wish you could also capture the issue of compensating teachers and security personnel who are involved in the exams.

Last year, there was a lot of work in the administration of exams. Teachers and security officers were forced to wake up at around 4.00 a.m. to go and collect exam papers. They were expected to deliver those exam papers to schools by between 6.00 a.m. and 7.00 a.m.

These people were forced to use their own means and subsidised the Government of Kenya in administering examinations. The principals were forced to use their own cars and motorcycles to get to the collection points on time and they have not been compensated. In future, I think we need to factor in such costs.

This Bill is enhancing the powers of the Kenya National Examinations Council (KNEC) in a way because integrity of examinations is being strengthened. We need to emphasize that the integrity of our certificates should never be put into question. It pains me sometimes when I see the Governor of Mombasa County explaining that his D- (minus) is wonderful because it took him to a public university, while we know very well that for one to join a public university you require a minimum grade of C+ (plus). We are making our kids believe that failure should be celebrated and manipulating systems when you are not qualified is a good thing. We should not encourage and implant it in our kids that they need to relax in school because after all they will go through the back door and get university degrees. The governor has failed to explain that after getting his D- he undertook a certificate and diploma course.

**The Temporary Deputy Speaker** (Hon. Omulele): Hon. Tonui, I would like to guide you. There are matters which are going on out there but if we have to discuss them here, we might need a substantive Motion.

**Hon. Tonui:** Governor Joho happens not to be a Member of Parliament and I believe we can speak about him. We need to bring a substantive Motion if it concerns an MP but not when it concerns somebody else outside there who has been talking to the media and giving an impression of doing wonderful after getting a D- and being admitted to a public university. This does not happen to everyone; it only happens to a selected few.

**The Temporary Deputy Speaker** (Hon. Omulele): Hon. Tonui, I would like to guide you that in this country there are very few students who get admitted to universities after acquiring the cut-off points. If we continue this way we shall be saying that those who get Es might just die. I think this is a conversation which the nation needs to have. We have always told our children that despite what they get in school they should go on with their lives and we should not demonise them.

**Hon. Tonui:** Thank you, Hon. Temporary Deputy Speaker. I was only explaining that it is unusual to get a D- and get admitted to a university. I want to commend the CS for Education, Science and Technology for the way he managed last year’s examinations. That was wonderful and those results are being celebrated in the villages. It changed the notion of all the students in national schools getting clean A grade and day school ones getting something between E and D+ (Plus). The examinations were managed in a better way and students were not able to use *mwakenya*.

I believe the big schools used to approach the KNEC examination officers to assist them in getting better grades. If that was the practice they should have been able to get their usual over 200 As. But in a situation where a school dropped from 202 As to 2 As, I believe that shows there have been lots of irregularities in those schools. These schools have been making the day schools to look like they are underperformers. From last year's results, day schools seem to have done very well and students got the minimum grades required to join public universities. The CS needs to be encouraged to continue with the same spirit and possibly he will instill in Kenyans the spirit of appreciating integrity in all they do.

In this Bill it is stated that appeals must be determined within 30 days. I believe that is next to impossible, if there are no many tribunals. There can be more than 2000 people making appeals and can this be determined in 30 days? I welcome the idea of penalising KNEC officers heavily if they are involved in examination irregularities by giving them a five year jail term or a fine of Kshs5 million.

**The Temporary Deputy Speaker** (Hon. Omulele): Hon. Tonui, I interrupted you a little and will give you two minutes so that you can wind up.

**Hon. Tonui:** Thank you, Hon. Temporary Deputy Speaker. As I wind up, the organisations involved in preparing examinations especially KNEC should be beyond reproach. They should be people of high integrity and should not be looking for ways of enriching themselves by selling and leaking examination papers and being involved in any activity which can compromise examinations. I support the idea of jailing them for a minimum of five years or a fine of Kshs5 million so that we can strengthen the examination system in this country.

**The Temporary Deputy Speaker** (Hon. Omulele): Very well. Let us have Hon. Mbui, the Member for Kathiani.

**Hon. Mbui:** Thank you, Hon. Temporary Deputy Speaker for giving me an opportunity to also make my contribution on this very important Bill by Hon. Agoi. I had tried to raise a point of order when my colleague was speaking because he raised a very interesting aspect about university admission being anything above C+ (Plus).

I have been in the education sector in this country and over the years, we know that students are not condemned because of failing because there are many options. One is to repeat that class and improve the grades or go through certain bridging courses so as to proceed to a certificate or diploma level and then go all the way to attain a degree, master's and PhD. If one gets a D- (Minus), this does not condemn them and it does not mean that person cannot continue pursuing their academics.

As a country we need to be very clear about this so that we do not demonise and scare away our children who are not doing well for various reasons. The students who I represent, sometimes I go to their schools to see where they were studying. Before getting a bit of support from the National Government Constituencies Development Fund (NG-CDF), they were studying under trees or in institutions with scarce teachers and facilities. So, if students go to such schools and do not do well, their lives are over and they will become manual labourers.

Those are the ones who should end up in Parliament as senators, governors and even the President of this Republic. As an educationist, anyone has an opportunity going into the future.

There is also this business of saying that we are very happy as a nation because in last year's examinations we reduced the number of As. We keep implying that this is a country made up of thieves in the academic sector. We need to be careful what we say to people. We need to say that last year's exams were hard and that is why the number of As reduced. If you say that the previous results were stolen--- I passed my A-Level examinations and went to the university.

Will we go all the way back and start looking at what was happening at that time? Will we condemn every Kenyan who went to the university and assume that the A grade they got before Matiang'i is questionable? As a nation, we need to be very careful.

Otherwise, I want to thank Hon. Agoi for this Bill. This is a very critical Bill. We all know that education and health are the most important social functions of any state. Therefore, we have to take those things with the seriousness that they deserve.

Evaluation of learners is what helps us to know the performance of that child or person when they were in an institution of learning. It is a very important part of their academic life. That is why we have the KNEC that deals with the evaluation of our learners at primary school in KCPE and at secondary school in KCSE. What my colleague has proposed here is of extreme importance. He is saying that when we are evaluated, there has to be fairness in the way the evaluation is done.

We have seen situations where students' exams are cancelled. I will give an example of last year's KCPE. It was very shocking that so many pupils were unable to get their results the first time they were released. There was a technical error or hurry by the administration of exams through the Jubilee CS, Matiang'i and so many of our learners got Grade X. When a child sees that grade, they know that there is something wrong. Unfortunately, we came to realise that it was a computer error but you can imagine what that child felt. If some of those children were older like us, they would probably have gotten heart attacks. It would have been too late when you start telling them that there was a computer error. Some of their parents would get annoyed and even condemn them and say words that they would have to retract later when they see those grades. We need to be careful.

We need to introduce this tribunal. I support this fully. This tribunal will bring about fairness and justice in the evaluation so that the people handling the evaluation of our children are careful when cancelling and releasing results because they know if there is any mistake, there is also another body that will look into it. In the past it has been quite difficult for our learners but this will bring a lot of fairness in the sector and in evaluation.

Hon. Temporary Deputy Speaker, you are aware that in the past, some of the KNEC officers would call principals of schools and ask them to give a small *Harambee* so that the results of their school could go up. We have seen this in the media. I believe that it has been happening. Therefore, it also means that they could also call and threaten to reduce the results of a school. We need a body that can rein in those officers and ensure that what they do is the right thing. This tribunal is of utmost importance. The KNEC itself has made mistakes. Therefore, as we talk about the second part of the amendment which deals with the punishment, we must ask ourselves whether this Council made mistakes. Yes it has. We know this because there are so many results which have been remarked and the results of the remarking were different from the initial results. That means mistakes can happen anywhere. We need to create a situation where if someone carrying out their responsibilities makes a mistake that affects an ordinary Kenyan, this person has to face the full force of the law. Nobody is above the law in this country. It is unfortunate that our previous law allowed our officers to get away with murder. We need to rein them in and punish them when they make mistakes when it comes to officiating of examinations.

I want to give an example of things I have seen in the examinations that shock us. About four or five years ago, the top three performers in primary school were from the same school. If you talk to any actuary or if you deal with probabilities, it is almost impossible that the top three students or pupils of Kenya can be from the same school. It is possible in secondary school because the best students are taken into certain schools. We are talking about primary school

where people from all over take their children to the nearest school. How is it possible that the best three came from one school? It just means there have been serious irregularities in the past which, therefore, means that we need to have laws to punish those officers that are found culpable in making that happen.

Finally, I would like to finish by talking about the KNEC fee. I know it is slightly off topic but because we are dealing with the KNEC, when we amended this Bill in the past, we said that there should be no charge for KCPE and KCSE. I want to bring the attention of this House to the fact that in KCPE, much as we are not paying that money that was paid before, parents are still being charged very high and exorbitant rates for the online registration of exams. Some parts of this country do not have network connectivity. Therefore, the head-teachers would hide behind the guise of travelling long distances to look for registration centres. It is important that we come up with a system which will make it easy for our students and pupils in primary to sit for this exam for free without parents paying. Parents say that it is like they jumped from the frying pan into the fire. They jumped from paying the KNEC to paying the head-teachers. It is important that we look at this as we move forward.

Finally, I wish Matiang'i very well in this year's exams and hope that we will get as many As as this country deserves.

**The Temporary Deputy Speaker** (Hon. Omulele): Let us have Hon. Kajuju, the Member for Meru.

**Hon. (Ms.) Kajuju:** Thank you, Hon. Temporary Deputy Speaker, for this opportunity. I will begin by thanking our friend, Hon. Agoi, for this informative leadership and deeming it important to amend the KNEC Act.

This is a process that is very important towards harmonisation of the laws that existed before the current Constitution and ensure that whatever processes, especially in terms of a fundamental human rights and freedoms are also established in the laws that existed before. I also applaud the Ministry of Education, Science and Technology for the transformation in that ministry. We believe that there will be much more that will be done to ensure that education comes back to our days when we used to have a clean grade that will then be recognised in any other places that we were in.

The process being set up by this Amendment Bill is very important for purposes of posterity for our children and for each and every person who participates in this process. It is very clear in our Constitution, especially in Article 47, that no one should be condemned unheard. That is why whenever administration action is taken against an individual, the process must be fair. In fact, it demands that if any action is taken against me, then I must be given an opportunity to respond. The reasons for the action against me must be given if demanded. In academic processes, especially in examinations, we know that whatever decision is taken by this Council affects an individual's life forever.

The problem is that whatever decision will be taken normally affects children because we have children in class eight who may be 14 years, 19 years or 20 years. If you affect such a person's life, it will be something that will haunt them for life. So, because we are tending to very sensitive lives, we have to be careful. Of course, the law demands that your allegers must prove the allegations. If the Council alleges that someone has been involved in an examination irregularity, then the burden is on them to prove that for sure that irregularity has been committed. But, it will be very wrong if the person who is being condemned is not given an opportunity to establish the truth or otherwise of such an issue that has been raised.

Hon. Temporary Deputy Speaker, it is therefore important that we have a fair process that is carried out before any person is victimised by the Council.

I also appreciate the fact that there is an appellate process. This is not a first. We know that normally in most boards and councils there is always a disciplinary process and if one is not satisfied by the decision of the council in the first instance, then there must be another opportunity for one to appeal against that decision because we are human. A mistake can be committed at any one point or at any stage of that proceeding. I

Hon. Agoi has also proposed that we have lawyers in this body or an assessor who is a qualified lawyer of not less than five years experience. It will be important because the description in the Bill states that the lawyer or the assessor may not be present. I would have proposed, as an amendment, that the presence of the assessor, who is a lawyer, is mandatory and therefore instead of using the word “may” it should be “shall” so that a lawyer who is qualified in legal proceedings and in legal provisions is able to guide the appeals tribunal so that they make decision that is within the law.

This is a very good amendment Bill that is going to support our education processes so that we do not have children being paraded in court corridors as we have seen normally. We understand that court processes take a lot of time. Decisions, judgements or rulings may not be made expeditiously as expected. This is a situation that demands that whatever action is being taken, and whatever appellate processes that follow, must be efficient, fair, just and done in a way that does not necessarily affect the candidate. Having this disciplinary process in the Council and the appellate tribunal gives the candidate an opportunity to be heard and state the exact situation as it were and then a proper decision can be made.

I, therefore, wholeheartedly support this amendment Bill.

**The Temporary Deputy Speaker** (Hon. Omulele): Very well spoken. Your contribution is on point. I appreciate that. We should now have Hon. Susan Musyoka, Member for Machakos.

**Hon. (Ms.) Musyoka:** Thank you very much, Hon. Temporary Deputy Speaker. I thank and congratulate Hon. Agoi for coming up with this very important amendment Bill. It is important and timely. It is a good amendment Bill that we should adopt. This is an era where we cannot continue to tolerate malpractices and not to have a good way of handling the malpractices.

When examinations are cancelled and one has to go for an appeal, it has been a very frustrating process and very difficult for the children who have sat for examinations that have been cancelled having to go to the High Court which takes for ever. When we have a tribunal which will handle this, it will be very appropriate and it will save time for the young people and will be good for them to move on with their lives having known their fate.

We cannot tolerate malpractices. Just as in the same manner, we, in National Super Alliance (NASA), will not tolerate irregularities in the forthcoming elections. We wish the likes of Matiang’i would be in the IEBC to ensure that we have credible elections. That is a by the way.

In this amendment Bill, I welcome the fact that disciplinary procedures will be done by the KNEC and they will be done in real time. This will also save time for people who have any complaints before nullification is done. This will enhance the quality and control of examinations and it also gives KNEC more power and more authority to handle activities that are before them. The powers of KNEC will be enhanced and they will be in a position to determine cases in good time and where there are examination malpractices, there will be no delays and the lives of Kenyans will be better managed.



Examinations mean a lot to the youth or our children. They mean a lot to parents and the entire community. So, it is important that a proper process and procedure is put in place so that we do not have the tussles we have been having over the years.

I welcome and support this amendment Bill. The tribunal will be constituted in such a manner that it will handle most of the issues that arise during commission of malpractices.

Thank you, Hon. Temporary Deputy Speaker. I congratulate Hon. Agoi.

**The Temporary Deputy Speaker** (Hon. Omulele): We shall have Hon. Joseph M'eruaki, the Member for Igembe North.

**Hon. M'uthari:** Thank you, Hon. Temporary Deputy Speaker. I rise to support this very important amendment to the KNEC Act. Amendments proposed here are important because they clarify the process for nullification of examinations. We are aware that examinations are very important because they assess the suitability and capability of students. Credibility of examinations is as important as having a clear process. This amendment Bill provides more clarity and gives opportunity for a credible examination that is professionally conducted and at the same time it protects the rights of individuals who are involved. At times, there could be a process like what happened last year. We know what happened in last year's KCSE and the Kenya Certificate of Primary Examination (KCPE). Something like that can happen where very many pupils and students are condemned and their lives are shattered. When this happens, it is to the disadvantage of their lives. We need a process that is clear.

It appears that in this Republic we have a serious challenge because majority of people want to follow shortcuts; they are not willing to work as would be expected of them. These malpractices happen and when they do, they dent the credibility of our education system. We have also realised that there are people in this country who glorify material things. We have seen what has been happening of late. Individuals of high standing in the society have forged documents. Sometimes they chest-thump even when they are in the wrong. We cannot justify failure because people have resources and they can buy their way out. This should be discouraged at all costs. At the end of it all, integrity, honesty and hard work should be appreciated. We should not praise the principle that the end justifies the means. It states that it does not matter the route that one takes as long as one gets money; they can even buy academic papers. This is wrong.

We need to have in place a strict mechanism that will enable us to follow up on people's academic credentials. We have laws, but I am afraid that the laws have been unable to bring up upright people. You see, we cannot legislate on matters trust. All in all, it is only through clear and transparent processes that it will be possible to build trust in our systems. I believe within our Constitution, we have very clear values stated under Article 10 and Chapter 6 on Leadership and Integrity. However, we are still treated to dishonesty during examination conducted by the KNEC. People do not seem to care about the underpinning values and principles. We have to ask ourselves what the problem is. What is it that we are inculcating into our children? What do they make of values? What is of essence to their lives? If we answer these questions correctly, then we will be in a position to develop the culture of doing the right things at the right time.

I am happy that this particular amendment brings out the concept of appeal. Somebody who feels aggrieved and the Council renders a decision or verdict against them can appeal to the proposed tribunal for justice. That is an important thing. I support this Bill, but I must note that we have a long way to go as Kenyans. We have to learn and train our children to have values and virtues.

**The Temporary Deputy Speaker** (Hon. Omulele): Hon. Ababu Namwamba, the Member for Budalang'i, you have the Floor.

**Hon. Ababu:** Thank you, Hon. Temporary Deputy Speaker. I support this Kenya National Examinations Council (Amendment) Bill (National Assembly Bill No. 42 of 2016) sponsored by my honourable brother, Hon. Agoi.

The integrity of national exams is a matter of national security because it affects so many other facets of our national life. It is, indeed, a national shame. It is an ignominy of monumental proportions for this country to have experienced the very serious assault on the integrity of our exams in recent times. At the height of the debate on what happened to the KCSE results of 2015, I came across serious concerns in international circles. At one time, South Africa made a public declaration that they were not too sure how to treat Kenyan students applying for university admission in South African Universities because of the doubts cast on the integrity of the results during the exams of that year.

It will be remiss of us, as representatives of the people, to hide our heads in sand, the style of the ostrich and pretend that all is well because all is certainly not well. We have had scenarios in the past, especially in the 2015 exams where in one school every student scored Grade A. It really stretches the imagination; it stretches the limits of the logical for that kind of thing to happen. Therefore, to find a way to deal with this challenge is a matter of critical national importance. What makes this amendment significant is that it introduces due process in the manner in which we deal with the challenges that have been experienced.

When this matter first exploded onto the national scene, you witnessed a very cavalier manner in which the authorities dealt with it. Of course, everybody admitted there was a problem. I believe there is still a problem. We dealt with that matter in a manner that definitely challenged the tenets and the foundations of due process. By making sure that we provide for a tribunal in law, you actually are putting in place a process and procedure through which you can process complaints. Those who are suspected of being culpable can then be processed in a manner that is in consonance with the spirit and letter of the law. Indeed, that is a good thing.

What I would insist on is enforcement because this country does not lack in the way of laws; it does not lack in the way of policy but we are so casual, almost lackadaisical in terms of enforcing the laws that we enact. One wants to see the law being enforced very strictly and it is in that respect that this House should register special appreciation for CS, my very good friend, Dr. Matiang'i. Those of us who have been in this House a little longer are familiar with Mr. Matiang'i because at one time he headed a very good programme by the State University of New York (SUNY) that ran a five-year partnership programme with this Parliament for capacity building.

Under that programme, you could see that Dr. Matiang'i places very high premium on integrity in public service. I want to applaud the work of Mr. Matiang'i. I want to applaud the work the Ministry has done to bring back sanity in the operations of the Ministry of Education, Science and Technology in fact, in the whole education sector. They have taken measures to ensure that we revert to a system where integrity of exams is not in question.

Hon. Temporary Deputy Speaker, we went to school at a time when sitting for an exam was divine. It was holy. The whole environment around exams was treated with such high standards of integrity. To sit in an examination class or space and imagine that you could fill it with falsehoods, or imagine that your teacher would aid and abet your attempt to cheat, was unimaginable. It would have been stupefying and absolutely dumbfounding to sit there and

imagine that your teacher, whose responsibility was to model you and was your primary role model, would be part of the process of cheating in exams.

I want to urge the teaching fraternity to live up to that very high standard and ethos that have always defined the teaching profession. You, as a teacher, are the number one role model for your pupils. So, for you to abet or aid in fiddling with exams or assaulting the integrity of exams is diabolical and unacceptable. It is such matter that we want the Kenya National Union of Teachers (KNUT) and the Kenya Union of Post-Primary Education Teachers (KUPPET) to address. They are so voluble or loud on matters of salary increment and the welfare of teachers. It is good for teachers to be well remunerated. I am a big proponent of rights of workers. As the leader of the Labour Party, my singular business is to push for the best possible conditions for any worker in this country, including teachers. However, let us balance between the welfare of teachers and the service they render to the nation. I want to hear KNUT and KUPPET come out strongly and urge their members to be agents of integrity in the administration of exams, and protecting the kind of ethics and ethos that our children leave school with.

I congratulate my brother, Hon. Alfred Agoi, for bringing this Bill. Mhe. Agoi, with this contribution to the life of the 11<sup>th</sup> Parliament, I hope and pray that you have earned the right for your voters to return you here, so that you can sit in the 12<sup>th</sup> Parliament and witness, and enjoy the benefits of this Bill that you have sponsored. I wish you well, my brother.

Hon. Temporary Deputy Speaker, I support the Bill.

**The Temporary Deputy Speaker** (Hon. Omulele): Hon. Ababu, that is interesting, but it is all in good spirit.

We shall now have the Member for Ikolomani.

**Hon. Shinali:** Thank you, Hon. Temporary Deputy Speaker, for giving me the opportunity to contribute.

At the outset, I congratulate Hon. Alfred Agoi, the Member for Sabatia, who is my neighbour, for coming up with this good Bill. Ikolomani is the immediate neighbour of Sabatia Constituency. Some students from Ikolomani go to learn in some schools in Sabatia. We have experienced problems of examinations being cancelled in both Ikolomani and Sabatia. At first hand, we experienced the acrimony that parents, students and teachers go through when an examination is cancelled. Sometimes an examination is not cancelled because there was a malpractice, but decisions were based on suspicion on good performance from hard work that has been put in. I have to testify that I have attended occasions where Hon. Agoi and I put a lot of emphasis and motivation to teachers and students to perform well. We do not support malpractices, but we want good and hard work to be recognised.

I also want to congratulate the Ministry of Education, Science and Technology for the tight rules they have come up with. However, we want our students to sit for their examinations in a humane manner. We do not want it to look like a cell where we have police officers with guns in classes. This is not a situation they are used to while they are learning. We want integrity, but we should devise better ways of handling examinations. So far, it is good but we want it to be humane. There is a lot of panic when everyone is chased out of school. The teachers, who have been with the students for four years, were replaced by armed police officers. I do not think that is the way we should go. We can do better than that. I will not finish before I congratulate Hon. Matiang'i because, for the first time, co-curricular activities are going on, and I have not been approached to fund them. I was told there is some money which has been sent to schools to cater for those activities

Thirdly, as I echo what my friend and big brother, Hon. Namwamba, has said, it is not easy when you leave Kenya and take your certificates to the neighbouring countries, because the media has publicised Kenya badly. It is time we restored our sanity because in recent years, we have had a lot of influx of students from Tanzania and the neighbouring East African countries coming to learn in Kenya. If there is a mistake, we can correct it so that we restore our dignity in education. Otherwise, I close once more by congratulating Hon. Agoi for bringing this very important Bill that sanitises the KNEC.

Thank you, Hon. Temporary Deputy Speaker, for giving me a chance to contribute.

**The Temporary Deputy Speaker** (Hon. Omulele): Is it the status out there that people like shortcuts in examination papers or we have done this to ourselves? This is a question that we should ask ourselves. We shall now have Hon. Millie, the Member for Mbita.

**Hon. (Ms.) Odhiambo-Mabona:** Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to contribute.

At the outset, I want to say that I support the Kenya National Examinations Council (Amendment) Bill, and congratulate Hon. Agoi for bringing it to the House. It is a very progressive Bill. Many students have been condemned unheard in the past. Indeed, I have a personal friend who went through Form One to Form Four and her results were cancelled. Because her parents could not afford school fees, she more or less wasted four years. She does not have a certificate to show she went through secondary education. More recently, one of the schools in my constituencies, Waondo Secondary School, was affected when the results were cancelled for no clear reason. Several parents asked me to help them pay school fees. Sometimes we do not realise it is parents we condemn when we cancel exam results. Sometimes it can be three or four students who have cheated, but the examination body cancels the results of an entire class. I do not think it is fair when one or two people are mischievous, and then you give corporate punishment to an entire class of candidates.

I thank Hon. Agoi because this Bill ensures that due process as provided under Article 47 of the Constitution on fair administrative action is followed and that whoever is aggrieved is heard and not condemned as indicated. It also ensures that Article 36 of the Constitution on access to information is also followed because even before I am condemned, I need to know why I am being condemned and why my results are being downgraded. For instance, when I was in Form Four, I knew I was the best English student. I got distinction two when I thought I should have got distinction one. Its equivalent this time is probably an A (minus) when I should have got a straight A. I would have wanted to challenge that so that if a time comes when the Jubilee wants to challenge my academic records, I can actually tell them that I got a straight A and not an A (minus).

I wish the Member would have gone ahead also and provided for record keeping. We did not foresee the fiasco that we are seeing right now on record keeping where we are saying one person is being presumed to have many certificates and then the onus of proofing that is being transferred to him when it should be the onus of the KNEC. Right now, what I have as Milly in terms of what I got in any exam is, if somebody else decides to manufacture a thousand things about me, it is none of my business.

In this era in Kenya where corruption has become our middle name as a country, people can come up with all manner of things. I have seen many times on *Facebook* many things are attributed to me that I have not said. They have my picture and everything that can convince people that it is me. But unless we also slay corruption, then even all these laws that we are passing will not be helpful. This is because even if we pass very good laws like what we are

doing right now and we put an appellate process, for which I actually congratulate him, but we have not provided a system of slaying corruption, then we will have a situation where people will go and approach the persons who are looking at this process and go up to appeal and bribe them. That has become the normal system in Kenya.

I saw a very interesting joke on *Facebook* this morning where somebody was saying that we should now name corruption “Joho” and then all the systems and agencies of the country will be put towards slaying corruption. I wish we would fight corruption with the same doggedness that we are fighting Hon. Joho. I congratulate the Member because he has set up an appellate system. For those of us who have worked in the human rights system, it is an adherence to a human rights approach. It is not just enough to be heard, but you also have a system where you go through an appellate process. I congratulate him on that. I would have wished that we have provided for standard setting so that we do not look at standard setting in a retroactive manner.

For instance, in the Law Society of Kenya (LSK), it is something that has dogged us for a long time. We have said that for you to become a lawyer, these are the standards we provide nationally. However, we did not provide for standards for people who do law out of the country. So, somebody goes and studies law in India or the United Kingdom (UK), he comes in and then the LSK refuses to admit him or her because they think parents go round picking money all over. I think we must be serious as a country. We should set standards and advertise them everywhere like the case we are talking about whether somebody should do a degree with a Grade D. I can tell you that I sat in the last Parliament. I vetted many people who had Ds who have PhDs and they have been given good positions in this country.

I know of Members of Parliament who have Ds who have gotten master’s degrees in the last Parliament and in this Parliament. So, if you want to nullify degrees, so many people are going to be affected but as a country, we cannot operate retroactively. We must set standards and everybody lives by standards. If you say that you must have a straight A for you to do a degree, it must be known and established.

When I went to school, it was clear. I did excellently in my O- Level and joined Limuru Girls, but I almost missed law. I just managed because I was playing. I managed to just get law because everybody knew the standards. In my days, you needed to have got a minimum of 14 points. I got 15 points to do law.

I remember, when I got those points I was holding on and wishing that I would manage. Even though I just managed 15 points, as a Luo I must say I was still the best student in Limuru Girls and the only one who did law.

Finally, the other issue that is of concern and maybe because of time we may not raise it in this Parliament is - I have been walking in my constituency and it comes up everywhere - the ratio of teacher to pupil. There is a policy that I did not see in this Parliament so I do not know where it was passed. If it was passed, perhaps I was in the Pan African Parliament. I am a fairly diligent Member of Parliament but I did not see it pass here. The policy ratio of teachers to pupils that the Ministry of Education, Science and Technology has passed is that you must be about 40 pupils before you are given a teacher.

Just last week I was in a school called Mawanga Primary School. It has 220 pupils and the Government has never given it any funds, so it is a community effort. For me to reach that school--- There is no road and there is no path that a motorbike can follow. If the pupils who are there were to go to another school, they would be walking for about an hour every day to the nearest school and an hour back home. That is the challenge that people that have come from

areas that have been marginalised over the years, and areas where we need equity and equality, face. That is the scenario.

I know most of the time we give examples of northern Kenya. I come from a place that is similar to northern Kenya except that northern Kenya is covered by sun and my area is covered by water. If you do not put up a school at Remba Island, it means that the pupils from Remba Island have to ride on a boat for one hour to the closest island, Mfangano Island. Only recently I set up the first ever school since man was made by God in Sukru Island. Before that, the pupils in Sukru Island would have to use a boat to the main land. Unfortunately, at one time the boat capsized and some people died.

If you insist that the student to teacher ratio must be 40 to 1, then it means that one teacher will be teaching from Class One to Class Eight. That is against their constitutional right of access to education, equity and equality. I will be challenging that policy, both in Parliament and court because it goes against marginalised communities.

With those few remarks, I want to thank the Hon. Member and say that I am happy with the court on the gender rule and Parliament must act.

Thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Omulele): Well spoken, Hon. Millie. It is interesting to hear that when you were at Limuru Girls, you almost missed to join the Law School at the University of Nairobi because of the reasons you have given.

Let us now have Hon. Wangamati.

**Hon. Wangamati:** Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity to add on to what other Members of Parliament have already said. I want to support the amendment Bill. It has come at the right time that we may set it in the best way so that when the 11<sup>th</sup> Parliament goes, we shall be proud of Hon. Agoi for bringing it. We shall be saying that this Bill was amended by the 11<sup>th</sup> Parliament. Life for our people starts---

**The Temporary Deputy Speaker** (Hon. Omulele): Hon. Wangamati, you will have nine minutes next time this Bill is listed on the Order Paper.

### ADJOURNMENT

**The Temporary Deputy Speaker** (Hon. Omulele): Hon. Members, the time being 1.00 p.m., this House stands adjourned until this afternoon at 2.30 p.m.

House rose at 1.00 p.m.