

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Thursday, 30<sup>th</sup> June, 2016

The House met at 2.30 p.m.

*[The Speaker (Hon. Muturi) in the Chair]*

### PRAYERS

### PETITION

#### INJUSTICE METED OUT ON UNIVERSITY STUDENTS

**Hon. Speaker:** Hon. Timothy Wanyonyi Wetangula! Is the Member for Westlands in the Chamber?

Hon. Members, I will allow Hon. Wetangula some latitude. Most of us will appreciate. I will give him some extra 30 minutes whenever he comes to present his Petition because it is on insecurity and injustices meted out on university students. From time to time, we must make certain concessions.

Next Order!

### PAPERS LAID

**Hon. A.B. Duale:** Hon. Speaker, I beg to lay the following Papers on the Table:-  
Report of the Auditor-General on the Financial Statements in respect of the following institutions for the year ended 30<sup>th</sup> June, 2015 and the certificate therein:-

- (i) Kisii University;
- (ii) Bukura Agricultural College; and,
- (iii) The Sports Kenya.

Annual Report and Financial Statements of the Anti-Counterfeit Agency for the 2014/2015 Financial Year.

**Hon. Speaker:** Let us have the Chairperson, Departmental Committee on Environment and Natural Resources.

**Hon. (Ms.) Abdalla:** Hon. Speaker, I beg to lay the Reports of the Departmental Committee on Environment and Natural Resources on the following:-

The Twelfth Session of the United Nations Convention to Combat Desertification Conference of Parties (COP12) held in Ankara, Turkey from 12<sup>th</sup> to 23<sup>rd</sup> October, 2015.

The study visit to China regarding the bamboo sector undertaken from 5<sup>th</sup> to 12<sup>th</sup> September, 2015.

**Hon. Speaker:** The Chair or the Vice-Chair of the Departmental Committee on Labour and Social Welfare, you were not able to table your Report yesterday.

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**Hon. (Ms.) Tuya:** Hon. Speaker, I beg to lay the following Report on the Table:-  
The Report of the Departmental Committee on Labour and Social Welfare on the Petition by Hon. Zuleikha Juma Hassan, MP, on the deplorable working conditions of the workers at Kwale International Sugar Company Limited.

### NOTICES OF MOTIONS

#### ADOPTION OF REPORT ON STUDY VISIT TO CHINA REGARDING BAMBOO SECTOR

**Hon. (Ms.) Abdalla:** Hon. Speaker, I beg to give notice of the following Motion:-

THAT, this House adopts the Report of the Departmental Committee on Environment and Natural Resources on the study visit to China regarding the bamboo sector undertaken from 5<sup>th</sup> to 12<sup>th</sup> December, 2015, laid on the Table of the House today Thursday, 30<sup>th</sup> June, 2016.

**Hon. Speaker:** The Leader of the Majority Party, you have the Floor.

#### ESTABLISHMENT OF JOINT PARLIAMENTARY SELECT COMMITTEE ON MATTERS OF IEBC

**Hon. A.B. Duale:** Hon. Speaker, I beg to give notice of the following Motion:-

THAT, acknowledging that the sovereign power of the people of Kenya may be exercised directly or indirectly through their democratically elected representatives, and that the people's sovereign power shall be exercised only in accordance with the Constitution; recognizing that through pronouncements, sections of the Kenyan society have raised issues on the credibility, impartiality, integrity and independence of the Independent Electoral and Boundaries Commission (IEBC), the electoral processes and the electoral law; appreciating the need to have the August, 2017 general elections conducted by a body enjoying broad confidence of most Kenyans now, therefore, in accordance with the provisions of Article 1(1) and (2) of the Constitution of Kenya and Rule 9 of the Houses of Parliament (Joint-Sittings Rules) the National Assembly resolves that: -

1. The two Houses of Parliament establish a joint select committee consisting of 14 members, seven each from the two coalitions in Parliament.

2. The mandate of the said joint select committee shall be—

(a) To inquire into the allegations against the IEBC commissioners and the secretariat.

(b) On the findings of (a) above may recommend legal mechanisms for the vacation from office of the current commissioners of the IEBC and secretariat in accordance with the Constitution.

(c) Recommend legal, policy and institutional reforms to strengthen the IEBC and improve the electoral system and

processes so as to ensure the August, 2017 elections are free and fair and are administered in an impartial, efficient, simple, accurate, verifiable, secure, accountable and transparent manner.

(d) On the basis of the findings and recommendations in (a), (b) and (c) prepare a report and a Draft Bill or Draft Bills.

The National Assembly further resolves that—

1. The joint select committee shall report to Parliament within 30 days.

2. The leadership of the two coalitions agree to issue statements separately to support the final report and draft Bill or draft Bills.

3. The Majority and Minority leaders in Parliament will signify the approval of the final report and draft Bill or draft Bills by affixing their signatures thereon prior to presentation to Parliament.

4. The joint select committee shall have two co-chairs each appointed by the respective coalition.

5. The coalitions shall provide joint rapporteurs to the joint select committee, but the official record will be the parliamentary HANSARD.

6. The joint select committee and each coalition may engage experts, professionals and such other technical resource persons as they may deem necessary.

7. The parliamentary Clerk's Office shall provide secretarial services in accordance with the Standing Orders.

8. The Committee shall receive views from experts, members of the public, the business community, civil society, religious groups, political parties, county governments and any other persons on matters relating to the IEBC and the electoral process.

9. Each member of the joint select committee shall have one vote, and decisions in the select committee shall be made by two-thirds majority, which is nine votes.

10. The Committee shall formulate its own rules of procedure.

11. The joint select committee shall comprise the following Members drawn from the two coalitions in Parliament:-

- (i) Hon. (Dr.) Naomi Shaban, MP;
- (ii) Hon. (Eng.) Mahamud Mohamed Maalim, MP;
- (iii) Hon. Jimmy Angwenyi, MP;
- (iv) Hon. Moses Kuria, MP;
- (v) Hon. David Eseli Simiyu, MP;
- (vi) Hon. Junet Mohammed, MP;
- (vii) Hon. Mishi Mboko, MP;
- (viii) Hon. Sen. Kiraitu Murungi, MP— Co-chair;
- (ix) Hon. Sen. James Orengo, MP — Co-chair;
- (x) Hon. Sen. Kipchumba Murkomen, MP;
- (xi) Hon. Sen. Beatrice Elachi, MP;
- (xii) Hon. Sen. Johnson Muthama, MP;
- (xiii) Hon. Sen. Mutula Kilonzo Jnr, MP; and,

(xiv) Hon. Sen. (Dr.) Boni Khalwale, MP.

**Hon. Speaker:** Hon. Members, before we proceed, allow me to recognize the presence of students and pupils seated in the Speaker's Gallery as follows:- Kahuho Secondary School from Gilgil Constituency, Nakuru County; Kiptebengewet Secondary School from Konoin Constituency, Bomet County; and Woodley Nazarene Primary School from Kibra Constituency, Nairobi County.

You are all welcome to observe the proceedings of the National Assembly this afternoon.

Hon. Members, as you recall, I had skipped business appearing as Order No.4 due to the absence of the Member presenting the Petition. I can now confirm that he is present. I can see him. Hon. Timothy Wanyonyi Wetangula, kindly present your Petition.

## PETITION

### INJUSTICE METED OUT ON UNIVERSITY STUDENTS

**Hon. Wetangula:** Thank you, Hon. Speaker. My apology for coming late. This is a public Petition by students of the University of Nairobi and members of the public on insecurity and injustices meted upon students by police officers, victimisation and infringement of the right to education.

I, the undersigned, on behalf of students of the University of Nairobi and concerned members of the public, draw the attention of the House to the following:-

THAT, the Constitution of Kenya guarantees the freedom of assembly within the orderly confines of the law.

THAT, the country has had several protected demonstrations by different groups agitating for their rights with the police maintaining law and order without any destruction of property.

THAT, early this year the University of Nairobi students held Student Council elections whose outcome and alleged meddling by the university administration led to the dissatisfaction and agitation by dissatisfied students.

THAT, the students held demonstrations in the streets of Nairobi City and during demonstrations, police officers exerted a lot of brutality on the students, especially those who were residing in Library, Halls of Residence or Lecture Halls who were not participating in the demonstrations.

THAT, the Independent Policing Oversight Authority (IPOA) disclosed that police officers used excessive force to students.

THAT, a number of students were suspended, most of whom were in their final academic year.

THAT, the matter in respect of which this Petition is made is not pending before any court of law.

THAT, efforts to resolve this matter with the relevant Government agencies have been futile.

Therefore, your humble Petitioners pray that the National Assembly, through the Departmental Committee on Education, Research and Technology and the Departmental Committee on Administration and National Security:-

- i) Recommends that the IPOA investigates the acts and omissions of the police and recommends necessary remedial action to forestall a recurrence and the necessary disciplinary action taken.
- ii) Recommends the relevant Government agency investigates the culpability of the university administration in the fracas that ensued following the disputed Student Council elections and recommend disciplinary action to culpable public officers.
- iii) Recommends that the Ministry of Education, Science and Technology formulates regulations to streamline student leadership within all institutions of higher learning in Kenya.
- iv) Recommends that the Ministry of Education, Science and Technology investigates the suspension of the various students to ascertain the legality and fairness of the penalties handed down and recommends remedial action.
- v) Make any other order or direction that it deems fit in the circumstances of the case.

And your Petitioners will ever pray.

This Petition is signed by 34 students who were suspended.

**Hon. Speaker:** The Member for Chuka/Igambang'ombe, you have the Floor.

**Hon. Njuki:** Thank you, Hon. Speaker. I wish to support this Petition because the riots in the University of Nairobi normally affect even those who are far away from the university.

I take this opportunity to comment on what is known to almost everybody in this Chamber. There are halls of residence which are next to the School of Built Environment that normally harbours residents who have taken the halls to be permanent residence. Since they cleared their university studies five or seven years ago, they still reside in those halls. We do not know what they do around Nairobi. Even in broad daylight, they normally harass both male and female students who are going about their duties around the university.

This has been known to the authority. Even the police know. These are goons who are normally used during the elections by those students who want to use force. I do not want them to intimidate innocent students who cannot participate in chaotic elections. When you talk about the police combating students, part of the crowd demonstrating on the streets are those goons.

Therefore, it makes it very difficult for the police to distinguish between genuine students and the goons who normally live in those halls. It is upon the university with the collaboration of the police to clean up those halls so that our sons and daughters can have a safe environment and one that is devoid of fear of intimidation or harassment during the day when they are going about their duties.

I always wonder why the university suspends evening classes for masters and doctorate students when students who are under regular programmes riot. It is not only Nairobi. All campuses around Kenya are closed. You will find that a campus in Kisumu, Embu or Nyeri is being closed because of a riot that took place in Nairobi. What is the relationship between the riots at Nairobi City and Karatina or Nyeri campus? This normally delays the system because people who genuinely want to study in the shortest

time possible get their programme delayed because of minor things that would have been sorted out.

I strongly support this Petition and hope that we can find a permanent solution to the problem so that we can restore sanity especially in and around the city. This is one university that is located at the heart of the city which is supposed to be a good example to the rest of the world.

With those few remarks, I support.

**Hon. Speaker:** Hon. Members, just to draw your attention comments, clarifications and observations are all confined to a period of only 30 minutes. If you rise to make your comments, observations or seek clarifications, remember that there is nothing to support as yet. The Petition is referred to the two committees as Hon. Wanyonyi indicated. It is those committees which will give a report. If the report is one that requires debate in the House, then you can speak in opposition or in support. As of now, you can only comment, observe or seek a clarification and sit. Be content with observing and commenting and then sit. Just sit pretty and wait for the committees to bring their report.

Hon. Midiwo, I can see you also want to make some comments.

**Hon. Midiwo:** Thank you, Hon. Speaker, for allowing me to comment on this issue. I want to thank Hon. Tim Wetangula for bringing this Petition. This whole issue has to be looked into. I saw a video of the police caning university students. They were beating them up. Which law was the police using? I was perplexed. I want to plead with the committees that are going to look into this thing to go further and make general recommendations as to how the police attitude towards the public during these demonstrations is supposed to be and how it is supposed to conform to the law. Yesterday, I saw in the news lawyers expressing their disgust by marching following the unfortunate abduction of a lawyer. The police did not beat them up.

One other issue I want to comment about is the behaviour of university students. This House must make recommendations. The Cabinet Secretary for Education has shown such a cowardly act by saying that teachers and boards should negotiate with arsonists. University students are adults. When I saw them burning Government property, their own property, that was a criminal act.

One of the contenders for the Students Organization of Nairobi University (SONU) office is a young man from my village called "Jacobs". The other one also comes from my constituency. I did not like what I saw. As a leader in this country, I must recommend what needs to happen.

**Hon. Member:** They are indisciplined!

**Hon. Midiwo:** It is true but they are trained in Nairobi and you know who lives in Nairobi. The one from Gem is like me. I was born, raised and bred in Gem. You can see the quality. I want to plead with the Committee. Anytime there is an accident here on Waiyaki Way - not a criminal act which is proven - the university kids begin stoning innocent Kenyans. These are adults. People must take responsibility for their criminal actions. You cannot stone people's vehicles. They stone people who go watching football games. This House has a responsibility to sort it out. It must be sorted out.

*(Hon. (Ms.) Abdalla consulted loudly)*

**Hon. Midiwo:** Hon. Amina is being a bit noisy. I must tell her. I do not know if her faith is the same as mine. In ours, we are always saying that to be saved, you must first of all put your sins on the table otherwise, you are a hypocrite. Let us put these sins on the table so that we can sort them out.

You have seen what has been happening in Kisii for the last one week. Those students are the next Speakers, Members of Parliament, policemen and leaders. Something must be done. This trend that we must keep negotiating with criminals, even if they are Muthaiga 6 or Pangani 10--- Criminals are criminals. I want to apologise to my friend Ngunjiri, I know Bonny saved his life but that is who we are in the CORD; we are sympathetic to human life. I want to urge that this matter be looked at properly. I think the House has a responsibility to do that.

I thank you.

**Hon. Speaker:** Hon. David Kangongo, take the Floor.

**Hon. Bowen:** Thank you, Hon. Speaker, for giving me this opportunity to add my voice to the Petition by Hon. Tim Wanyonyi. I heard the Member saying that the students are claiming freedom of expression to demonstrate but under Article 24 of the same Constitution, there is a limitation of those rights and freedoms. If your right infringes on other people's right, that is not freedom.

I want to support what Hon. Jakoyo Midiwo has said. It is unfortunate that whenever there is a small issue along Uhuru Highway or even in Kenyatta University because our universities are located along major highways, you will see some innocent people being stoned. This is to the extent that a small accident affects many public and individual vehicles. At the same time, the actions taken by the police need to be looked into. The police need to deal with these issues professionally. It is not right for a police officer to "hammer" a student, like what we saw in the social media. We need to make sure that the police exercise their duties lawfully. Our students also need to behave well so that we have an orderly society. During the riot at the University of Nairobi, all the businesses around that area were closed. I hope the Committee will deal with the Petition properly.

Thank you, Hon. Speaker.

**Hon. Speaker:** Yes, Hon. Rasso.

**Hon. Dido:** Thank you very much, Hon. Speaker. I rise to support this Petition. Demonstrations are enshrined in our Constitution. Clearly, anybody demonstrating is not breaking the law, but there is a limit as to how far you can stretch that freedom. What we have seen in Kenya in the last few months is that, as soon as there is a demonstration in town, the town becomes a no-go zone. We basically close down the City of Nairobi. That must come to an end.

What I really wish to ask of the Committee that will be listening to this Petition is to clearly draw a parallel between demonstration and how far the law is being stretched so that if your car is burnt down along Uhuru Highway, somebody must take responsibility.

Secondly, when there are issues at the University of Nairobi, they should not be turned into a fracas in the city. They must be confined to the University of Nairobi.

Hon. Speaker, I beg to support.

**Hon. Speaker:** The Member for Rarieda, you have the Floor.

**Hon. (Eng.) Gumbo:** Thank you, Hon. Speaker. As an alumnus of the University of Nairobi, I have had occasion to be at the University at a time when a strike was going on. I can say with authority that an overwhelming number of students do not participate in those strikes. However, what I witnessed when I was in second year was bad.

A classmate of mine who was found washing was beaten thoroughly by police officers and he had to be in police cells for a very long time. It is true, yes, that who engage in criminal acts need to be punished, but there is nothing as painful as when you feel you are innocent and you are being punished. I think in the video that we watched, we saw even female students being beaten. I can say this because I do not think that it has changed. In most strikes that go on at the University of Nairobi, very rarely do female students participate in them. So, when we have a system where the innocent and the guilty are put together, and the guilty happen to be the minority, then we are breeding bitterness among those who are innocent and we are just making the situation worse.

I think we must find a way to make our police officers understand the meaning of Article 37 of the Constitution. Many times, people who are just demonstrating unarmed are beaten up and injured. What is the consequence of all this? I want to thank my good friend, Hon. Tim Wanyonyi for bringing this Petition. I think there is still a lot of learning to be done by our police officers in dealing with cases of rowdiness and unruliness, especially among the young people. Young people almost everywhere are usually very excitable, but to try to make it look like all the students of the University of Nairobi, for example, participate in destruction of property and illegal strikes would be passing a universal verdict, which is not fair.

I know it is not time for debate, but if you look at our Standing Orders, you will find that most of the petitions generally end at just being tabled in this House. I request that a petition such as this one, once it has been looked at by the joint committee, should be debated so that we have resolutions. This is the sort of Petition that can inform policy on how we deal with this problem. This problem is here today, it will be there tomorrow and I do not see it ending the day after. So, this is a good Petition and I thank Hon. Tim Wanyonyi for bringing it. I think it is a Petition that is going to help us find a way forward on how we deal with this problem that for sure is going to be with us for a long time to come.

I thank you.

**Hon. Speaker:** Of course, you know the way petitions are treated. You are at liberty to move amendments to the Standing Orders. Some of the petitions which are presented only require that the committees make a finding and the Clerk writes to the Petitioners to let them know what the Committee has found out. So, it is up to us to see, given this new governance structure, how to provide in our Standing Orders so as to allow situations such as the ones you are raising where policy issues are involved, that the House be given an opportunity to come and express itself by way of a resolution. This is if need be.

Yes, Hon. Ichung'wah.

**Hon. Ichung'wah:** Thank you, Hon. Speaker. I rise to also support the Petition by Hon. Wanyonyi.

**Hon. Speaker:** You do not have to support. Make comments and observations.



**Hon. Ichung'wah:** My comment is to support the Petition by Hon. Tim Wanyonyi, my very good friend. In light of what many Members have said and in view of what I said in this House yesterday, it is important to note that many of the militia gangs that I was speaking about are domiciled in our universities. It is not just in Nairobi, but in all university campuses across the country. I expressed concern yesterday that one of the gangs called "Gaza" is a militia group recruiting students from as low as Class Six to high school.

It is not a coincidence that you have seen the kind of things happening in our schools in Kisii and elsewhere in this country. Therefore, it is important that even as the two Committees look into these issues, they also look into the issue of the proliferation of militia gangs in our universities.

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

**Hon. Speaker:** What is your point of order?

**Hon. A.B. Duale:** Hon. Speaker, Hon. Ichung'wah has made a very serious statement. You should ask him to substantiate. He said that a militia group called "Gaza" is recruiting pupils as young as from classes five and six. We have pupils and students here. We have a serious problem. He should substitute and table evidence that Gaza is recruiting students from Class Five.

**Hon. Speaker:** What is Gaza?

**Hon. A.B. Duale:** He said a militia known as "Gaza" which is known to him. If he cannot substantiate, I think he should withdraw.

**Hon. Ichung'wah:** Thank you, Hon. Speaker. If I had evidence in the recruitment of militia, I would comfortably and ably table that, but I am saying this based on information that I have gathered from members of the public and students who say that there is a militia group calling itself "Gaza" whose godfathers are former *Mungiki* leaders and members. It is a fact.

According to many students, especially in my constituency and constituencies neighbouring mine, militia groups are recruiting students as young as those in classes five, six, seven and eight. They are encouraging the students to engage in a lot of immoral activities.

If the Leader of the Majority Party was keen when I was speaking in the House yesterday, I mentioned that the group had sent my farmhand and I a threatening letter last week on Wednesday. They signed themselves as *Wanagaza*. It is saddening. It is good that I report to this House. Immediately after I spoke in this House yesterday afternoon, the farmhand who had been threatened only a week ago last Wednesday was abducted yesterday and they attempted to throw him into a car but he managed to wrestle himself and take off but with very serious injuries. He is now nursing injuries at a hospital in Kikuyu.

The police and the Criminal Investigation Department (CID) have taken up that matter. It also speaks volumes of the concerns that I expressed in this House over my own life, my family and those closely associated with me.

As we speak about these petitions going to the committees, the two committees need to seriously look into the proliferation of these gangs even within our learning institutions. As Hon. Midiwo said, these militia gangs, including the *Al-Shabaab* which is very active in Garissa Township and Garissa County, target very young people right from

high school. They target young people who have completed their high school education and who are basically without hope in this world. These people are ready and willing to do anything because they have absolutely nothing to lose. Because of the concerns I expressed yesterday, I say this as a closing remark knowing very well that it is out of the topic.

As my farmhand, Mr. Karanja, was abducted, he had an opportunity as he was on phone, to tell the person he was speaking to on the other side: "Let me call you back. My life is in danger." That particular statement is what saved his life. When the other gang members came, one of them informed them that he had informed somebody on phone that his life was in danger. They said: "*Tutapatikana hapa. Wacha tutembe.*" They took off. This gang had the audacity. That is why in the statements that I have recorded with the police, I have said let them take nothing for granted.

There are gangs that are also sponsored by very well to do people in this country. The gang had the audacity to propose to my farmhand, Mr. Karanja, that if he is willing to help them to get to me, they are willing to pay him Kshs2 million. When he declined this, they stabbed him on the leg before they took off.

I say that in view of what we said yesterday when I was expressing my concerns. I hope that the two Committees will sincerely look into the issues even as the Departmental Committee on Administration and National Security looks into the other issues.

**Hon. Speaker:** Unfortunately, the comments are limited to a maximum period of 30 minutes. We have hit the 30 minutes. The Petition is referred to the two Committees; that is the Departmental Committee on Administration and National Security and the Departmental Committee on Education, Science and Technology. The purpose of allowing comments and observations when petitions are presented is also to enable the committees to which the petitions are referred get to the HANSARD and see other additional comments and observations members have made in the consideration of the Petition.

Allow me also to recognise pupils who are seated in the Public Gallery. They are from EAPC Nairobi Academy Primary School, Nairiri Academy Primary School from Tigania West Constituency in Meru County, Kalalu Primary School from Laikipia North Constituency in Laikipia County and Mbagathi Road Primary School from Nairobi County. They are welcome to observe proceedings in the House.

Next Order!

## STATEMENT

BUSINESS FOR THE WEEK COMMENCING TUESDAY 5<sup>TH</sup> TO 7<sup>TH</sup> JULY, 2016

**Hon. Speaker:** Let us have the Leader of the Majority Party.

**Hon. A.B. Duale:** Hon. Speaker, pursuant to the provisions of Standing Order No.44(2)(a), on behalf of the House Business Committee (HBC), I rise to give a Statement regarding the business appearing before the House the week beginning Tuesday, 5<sup>th</sup> July, 2016.

The HBC met on Tuesday this week at the rise of the House to give priority of business. On Tuesday, next week, we will deal with the Bills on the Order Paper, if they are not concluded today.

However, of great importance will be the Motion on the establishment of the Joint Parliamentary Select Committee on matters relating to the IEBC and the secretariat.

Secondly, we shall look at the Statute Law (Miscellaneous Amendments) (No.2) Bill 2015, the Warehouse Receipts System Bill, the Public Finance Management (Amendment) Bill 2015, the County Assemblies Powers and Privileges Bill 2014, the Public Appointments (County Assemblies Approval) Bill 2014, the Public Finance (Fundraising) Appeal Bill, the Kenya Regiment (Territorial Force) (Repeal) Bill 2015 and finally, the Civil Aviation Amendment Bill 2016.

Through you, Hon. Speaker, may I urge the Committees to expedite the tabling of reports concerning Bills in the House to enable members acquaint themselves with the contents of the reports and the recommendations of the Committees.

As I have said, also to be given priority next week is the Motion on the Select Committee.

On the questions before committees, the following Cabinet Secretaries (CS) have confirmed to appear before the following committees on Tuesday, 5<sup>th</sup> July, 2016:-

The CS for Labour and East African Affairs will appear before the Departmental Committee on Labour and Social Welfare at 10.00 a.m. to answer questions from Hon. Isaac Mwaura, MP; Hon. Francis Mwangangi, MP; Hon. James Murgor, MP; Hon. Wanjiku Muhia, MP; Hon. Francis Munyua Waititu, MP; Hon. Nicholas Gumbo, MP and Hon. Robert Mbui, MP.

The Second CS is that of Agriculture, Livestock and Fisheries who will appear before the Departmental Committee on Agriculture, Livestock and Cooperatives at 10.00 a.m. to answer questions from Hon. Abdullahi Diriye, MP; Hon. Manson Nyamweya, MP and Hon. Francis Mwangangi, MP.

The last is the CS for Environment and Natural Resources who will appear before the Departmental Committee on Environment and Natural Resources at 11.30 a.m. to answer questions from Hon. Shakila Abdalla, MP; Hon. David Gikaria, MP and Hon. James Mwangi Gakuya, MP.

Finally, the HBC will reconvene on Tuesday, 5<sup>th</sup> July, 2016, at the rise of the House to consider the Business of the coming week.

I now wish to lay the Statement on the Table of the House.

*(Hon. A.B. Duale laid the document on the Table)*

**Hon. Speaker:** The Leader of the Majority Party, you will convey to some of the CSs, especially those who are listed to appear next Tuesday that some members have raised questions here to be responded to. This is particularly by the CS for Interior and Coordination of National Government.

He has not appeared for two consecutive weeks and the number of questions continues to pile. If he is coming next Tuesday, he must be ready to stay here for several hours. I will permit members to grill him sufficiently because he must respond to their questions.

We do not want a system where CSs write letters on Tuesday, the day they are supposed to appear. I think it is in bad faith. We take great exception to the extent that we give them a notice of about seven days. If for whatever reason, they are unable to attend, they should also notify the leadership by Thursday so that when we are making the Statement we can exempt them.

Hon. Gumbo, you want to say something.

**Hon. (Eng.) Gumbo:** Thank you, Hon. Speaker. I want to thank the Leader of the Majority Party for outlining the programme on the CSs to appear before the House next week. Last week, I rose after he read the Statement on the Business appearing before the House this week. I want to express my concern with regard to a report of the Special Audit on the IEBC which was laid here more than four months ago.

The Public Accounts Committee (PAC) and, indeed, the House should be concerned because when debate on reports of special audits is delayed then they cease to be special. I would have been happy considering the Motion the Leader of the Majority Party has read on the Committee to review the issues of the IEBC. My view and that of PAC is that debating and adopting that Report before this new Committee tables its Report may enrich their work. In any case it has been laid before the House now for almost four months.

That notwithstanding, last week I also laid before the House the Report of the national Government Accounts for the 2013/2014 Financial Year. As customary with this House, that should be priority. I do not want to run ahead of ourselves but I know we will be going for a small recess soon. It will be my desire and my Committee's that we debate those Reports.

Lastly, I may be wrong but I thought I heard the Leader of the Majority Party saying that I should appear before the CS for Labour while the question that I asked was to the CS for Public Service, Youth and Gender Affairs. The question was based on Article 232(h) of the Constitution on Values and Principles of Public Service. Unless I heard him wrongly, I am at a loss because why should I be appearing before the CS for Labour because this is a matter that concerns the Values and Principles of Public Service?

Thank you, Hon. Speaker.

**Hon. Speaker:** Well, I think the Leader of the Majority Party may comment on the reports because it is through him that the CSs appear.

**Hon. A.B. Duale:** On the issue of the reports, I will take the message to the HBC. I am sure the Clerk's Office will also give us a list of all the pending reports in all committees so that we look at the committees to give priority.

Secondly, I hope the Chair of PAC will also be very diligent when this Report is tabled. Last year, he kept calling us from abroad saying some things should be removed. Once, we table it, whether you are in the country or not, your Vice-Chair can take over. You must live by that. I am sure the HBC will deal with this.

On the matter of the question, I am sure with the new reorganization of Government we will look at this question and advise him before the end of the day. I have already talked to all these CSs and they have confirmed attendance. But when we raised the matter with the CS for Interior and Coordination of National Government, he said he was here for two hours waiting for the members of the Committee and the Chair. I

think it is important as we become firm with the CSs to appear before the House that our chairs are also diligent in terms of time and venue.

**Hon. Speaker:** You may be right, Hon. Duale, because the report that was there was that the CS did not appear this Tuesday, but there was further information that he was having tea with some members in the lobby. I failed to understand how he could not appear before the Committee which was sitting in this Chamber but happily have tea with some members of the same Committee.

Members, either you want to ask questions or you want to sort them while having tea or whatever other substances you may be taking. If you ask questions and instead of coming to pursue them here you want to go and deal with them while partaking of other things, it becomes difficult. Here in the Chamber, we only provide water. Members should make up their mind whether they want to ask questions and interrogate the CSs here or they want to do it at the Members' Lobby. It is not fair.

I have a point to make before we allow Hon. Kamama to clarify that issue of tea and other things. Hon. Gumbo and Hon. Keynan, you will recall that on the commencement of the 11<sup>th</sup> Parliament, we had to amend our Standing Orders to make them specific that PAC and the Public Investments Committee (PIC), shall be chaired by members of the minority party. I find it incongruous that the vice-chairs of those two Committees are from the majority party. It has never been because in the event the Chair is not present, the person who should Chair should still come from the minority party.

I am saying this because I have seen it from your records that the vice-chairs you have in those two Committees come from the majority party. Why did we have to amend the Standing Orders? You should move with speed to correct that anomaly. It is logically expected that the Chairperson, for one reason or another may be absent. The person who should take the Chair must at all times be from the minority party. You must carry on that principal. When you are not there and the person who is chairing is from the majority party, then it obviously defeats logic of having to provide that.

Remember it is to be chaired by the minority party notwithstanding that the majority party has a majority membership. So, it does not matter. Unfortunately, why I am raising this is because in the Departmental Committees I have not seen any Member from the minority party being a Vice-Chair. All of them are chaired and deputised by members of the majority party. So, for only these two, the majority party should allow that whether the chair is present or not, the person chairing must at all times be from the minority party. That is the way it should be. Even under the former governance structure, that is the way it always operated.

Hon. Midiwo, you will remember that Hon. Jimmy Angwenyi was a Member of one of those committees and he will appreciate. Before we get to that allow me go get the Member for Vihiga to make a Personal Statement and thereafter Hon. Kamama will respond to the issues raised.

Hon. Yusuf Chanzu, you have the Floor.

## PERSONAL STATEMENT

### CLARIFICATION ON MONEY OWED TO EQUITY BANK LIMITED

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**Hon. Chanzu:** Thank you, Hon. Speaker. I rise under Standing Order No.84 to make a Personal Statement. There is a matter which appeared in the Press yesterday and caused a lot of anxiety and mixed reactions. I want to put the record straight. In the year 2007, I signed a guarantee of Kshs19million for a construction company by the name “Capital Construction Company”.

**Hon. Speaker:** Hon. Chanzu, I thought you were making the Personal Statement to be heard. Please speak up.

**Hon. Chanzu:** Sorry. I am making a Personal Statement in accordance with Standing Order No. 84. It is a matter that appeared in the print media yesterday. It caused a lot of anxiety and mixed reactions. So, I want to put the record straight.

In 2007, I signed a guarantee for a construction company called “Capital Construction Company” with Equity Bank Limited. One-and-a-half years later, the bank demanded from me payment of Kshs604.8 million. I had to go to court to protect myself against the alarming escalation of the guarantee from Kshs19 million to Kshs604.8 million in a period of one-and-a-half years.

I came to learn later on that the contractor had defaulted and absconded. When we went to court, the bank demanded from me Kshs45 million without explaining how the figure was arrived at. That has been the point of contention. Therefore, all this time we have been battling in court to have fairness. I am at the moment in the process of negotiating with the bank on how the matter can be resolved amicably. This is because it has caused a lot of anxiety even to my colleagues here. When they met me yesterday, all of them were asking me what was happening. So, I thought it is better, instead of explaining on individual basis, I make this clear to all. It has become political to my opponents. This is a personal matter if you compare it with the amount of money that some are squandering in county governments.

I thought it is better to clarify.

*(Laughter)*

This is a matter that I will sort out. We are also trying to see whether we can get the fellow whom I guaranteed who was a friend at that time but disappeared. So, that is what I wish to clarify and I hope my supporters and my colleagues have understood it. If I get any further information much later I will let you know but I am working on it.

Thank you.

**Hon. Speaker:** Very well. There is no debate. Look at Standing Order No.84. Hon. Kamama, you wanted to make some clarifications.

**Hon. Abongotum:** Thank you, Hon. Speaker. I wanted to clarify on what transpired when Hon. Duale asked the CS for Interior and Coordination of National Government to come and answer questions here. At that time I was in Kerio Valley trying to preach peace to the warring communities of the North Rift. So, I asked my friend, Hon. Lekuton who is a ranking Member of this House to chair the meeting. I want to confirm that the meeting went on very well and very many security issues were clarified by the CS. After that we gave him water. However, because we are Africans--- Remember the second President of this Republic, President Moi. If you ever went to his place, you would eat and leave with some token. So, my members decided that they can

treat the CS with lunch. I do not think it is a problem. The CS is a former colleague. So, they had lunch and that business went on very well and there were no issues.

Thank you.

**Hon. Speaker:** Very well. Yes, Hon. Midiwo.

**Hon. Midiwo:** Thank you, Hon. Speaker. Hon. Speaker, I know you may have forgotten but before we went on recess, I sent you a letter seeking clarification - not really questioning - about Standing Order No.111 which was used.

**Hon. Speaker:** Since the matter is now *sub judice* it is inappropriate for us to discuss it here. It is waiting for a ruling next week on Monday.

**Hon. Midiwo:** Yes, but if you look at my letter, I was not dealing with the cases in court. I am just asking you to please revisit it. It is important for the future of our Standing Orders.

**Hon. Speaker:** I think even the proposals to amend the Standing Orders which we discussed extensively have addressed that issue but I was waiting for us to end the *sub judice* aspect then we can discuss it even as the HBC. There is a way it should be addressed.

Let us move on to the next Order.

## MOTION

### DECLARATION OF KAMUKUNJI GROUNDS A PROTECTED NATIONAL MONUMENT

THAT, aware that the Kamukunji grounds is undoubtedly one of the most important public spaces in Kenya's political history; further aware that it was here that our national leaders held groundbreaking political rallies that mobilized the masses in the struggle for freedom and independence from colonial rule; cognizant of the fact that for the last 40 years, the Kamukunji grounds have continued to play a significant role in the Kenyan people's struggle for human rights and democracy, specifically the Saba Saba Rally that brought an end to the one-party rule ushering in a new era of multiparty democracy; concerned that the historic ground has been forgotten and neglected yet the great men and women of this great nation suffered so that we could be free; this House resolves that the Government declares the Kamukunji grounds a protected national monument and a historic place of great importance and transforms it into a safe and livable public space for present and future generations.

*(Hon. Abdi on 22.6.2016)*

*(Resumption of Debate interrupted on 29.6.2016 – Morning Sitting)*

**Hon. Speaker:** Business on this Motion was concluded yesterday and what remained was for the Question to be put which I will do now.

*(Question put and agreed to)*

## BILLS

### *First Readings*

THE COUNTY ASSEMBLY SERVICES BILL

THE UNIVERSITIES (AMENDMENT) BILL

THE COUNTY HALL OF FAME BILL

THE COUNTY GOVERNMENTS DISASTER MANAGEMENT BILL

*(Orders for First Readings read - Read the First Time and ordered to be referred to the relevant Departmental Committees)*

### *Second Reading*

THE KENYA ROADS BILL

*(Hon. A. B. Duale on 14.6.2016)*

*(Resumption of Debate interrupted on 23.6.2016)*

**Hon. Speaker:** Hon. Members, debate on this Bill is continuing but it is fair to note that a total of 53 Members have so far contributed. So that I avoid the risk of Members contributing twice, I will read out the names of Members who have so far contributed. They are Hon. A.B. Duale, Hon. (Eng.) Mahamud, Hon. Waiganjo, Hon. Wakhungu, Hon. Ichung'wah, Hon. (Eng.) Gumbo who is on top of the request list now, Hon. Chanzu who is appearing twice on the list, Hon. Manje, Hon. Mwadeghu, Hon. Limo, Hon. F.K. Wanyonyi, Hon. Momanyi, Hon. (Ms.) Tobiko, Hon. Moi, Hon. Mbiuki, Hon. (Ms.) Chidzuga, Hon. (Dr.) H. K. Njuguna, Hon. Mbui, Hon. Kubai Iringo, Hon. Makenga, Hon. Kipyegon, Hon. (Ms.) Mbalu, Hon. Moroto, Hon. Mohamed Diriyee, Hon. Tonui, Hon. Chea, Hon. Ganya, Hon. (Ms.) Sunjeev, Hon. Anami, Hon. J.K. Ng'ang'a, Hon. Ochieng, Hon. Nderitu, Hon. (Ms.) Ombaka, Hon. Kamanda, Hon. Ogari, Hon. Melly, Hon. (Dr.) Nyikal, Hon. (Ms.) (Dr.) Shaban, Hon. Kiaraho, Hon. Munuve, Hon. Barua, Hon. Mohamed Abass, Hon. (Ms.) Ngetich, Hon. Kombe, Hon. Gikaria, Hon. (Ms.) Changorok, Hon. Bunyasi, Hon. Shidiye, Hon. Murgor, Hon. Ababu, Hon. Angwenyi, Hon. (Ms.) Gathecha and Hon. Ndiritu.

Hon. Members, it is fair that those who want to remove their cards do so.

Yes, Hon. Makali Mulu.

**Hon. Mulu:** Thank you, Hon. Speaker for giving me the chance to add my voice to the Kenya Roads Bill, 2015. We are all aware that roads are important to this country because they provide necessary infrastructure for Kenyans to move from point "A" to



point “B”. To some extent, they also improve commerce and open new opportunities for Kenyan business people. Quite a number of Members have contributed to this Bill, but there are important clauses that we must take note of.

Under the transitional provisions, Clause 96(2) of the Bill talks about protecting staff working in these authorities. Currently, we have three authorities namely; the Kenya Rural Roads Authority (KeRRA), the Kenya Urban Roads Authority (KURA) and the Kenya National Highways Authority (KeNHA). There are also officers at the county level who will be in charge of road construction.

This Bill ensures that staff who work in the authorities that will be dissolved, for purposes of merging, do not lose their jobs. The Bill says that the staff will be assumed to be employees of the two newly created authorities. This is important because most of these employees are our voters and relatives. They are already expressing concerns in terms of their job security. The Bill assures them that once this Bill becomes an Act of Parliament, their jobs are secure.

Clause 94(4) of the Bill talks about harmonisation of policies. We are aware that county governments have been given more responsibilities to construct roads, and so is the national Government. The Bill emphasises on the need to harmonise policies. It makes sure that national policies are more superior to county policies. The Bill says that the policies implemented by counties should be aligned to national policies. It is important because in some counties, governors do not consult when it comes to development of roads. They do their own things. Harmonisation is required to ensure that things are done in the right way. This is overlooked by counties and it causes delay in implementation. For instance, the national Government might advertise for road construction and by the time they send a contractor to sign, they find that either the contract has already been awarded or the county government has taken care of that road. That wastes implementation time. The Bill emphasises on the need for consultation as we implement this important sector. In my view, that is quite critical.

Clause 66 of the Bill talks about co-funding. It talks of a situation where the authority concerned can agree with the county government to co-fund a road. This is important because in case you want to open a new road before it is classified, the national Government and the county government can agree to co-fund it. After co-funding, the necessary classification of that road is done. The fact that the Bill provides for that small component of co-funding will make sure that we open areas which have no roads currently.

Land is a thorny issue and there are cases where the Government or the county government takes land to develop roads. Clause 54(7) of the Bill states that before the Government takes possession of individual land, the owner must be given a 30 days' notice to enable him clear the land. The law also makes sure that there is proper compensation before individual land is taken for purposes of public good.

Hon. Speaker, this Bill will help Kenyans because there are situations where people have developed their plots, and very early in the morning, big tractors go there and demolish the structures without any warning or compensation. People lose their lifelong investment. There is need to make sure that the individuals are given adequate notice before their land is taken for purposes of constructing a road. We should also ensure that the individuals are compensated where need arises.

The other important thing of this Bill is to ensure that we have a uniform and standardised way of constructing roads. We know the expected standards, but you will find people either constructing a narrow road or they compromise the quality of the road. So, this Bill puts a lot of emphasis on the need to make sure that the allowed standards and quality of roads are adhered to. The Director-General should be very qualified on matters of civil engineering to make sure that the necessary standards are adhered to. This Bill will make sure that the county governments and the national Government construct roads which meet the expected standards.

I want to give an example. In early 1980s, a road from Kitui Town to Machakos Town was constructed by the Israelites. That is the road I use every time I go home. For the last 35 years, only minor repairs have been undertaken on that road and yet it is still intact. You can drive at a speed of 100 kilometres per hour without any worry.

In this country, roads are constructed today and in three years' time, they are in deplorable state. The potholes on our roads are the type you can fit in while standing. This Bill is very important. I urge my colleagues to support and pass it, so that the provisions of this law will be used to ensure that Kenyans get value for their money, especially when we construct roads.

As I conclude, I want to say that roads are important in this country. I want the two levels of government - the county governments and the national Government - to make sure that there are consultations as we develop roads, so that at the end of the day we do not get some areas having very good roads and others with no roads. I want to remind you of the Kibwezi-Kitui Road, which I have spoken about for the last 30 years. It has never been constructed. If this Bill becomes an Act of Parliament, it will pave way for constructing roads equitably.

**Hon. Speaker:** Hon. Chepkong'a, you have the Floor.

**Hon. Chepkong'a:** Thank you, Hon. Speaker. You have warned us to be digital in the manner in which we intervene. I have intervened for the last 10 minutes. I was trying to use the system since my very good friend, Hon. Makali Mulu, started to contribute. I have a lot of respect for my good friend but I rise on a point of order under Standing Order No.95. Will I be in order to ask you to call upon the Mover to reply? I am saying this because Hon. Makali is the 56<sup>th</sup> Member to contribute to this Bill and each Member has spent 10 minutes speaking. A total of 560 minutes have been spent on this Bill.

As you know, this Bill has a constitutional deadline of 27<sup>th</sup> August, 2016, and it has to go to the Senate. We do not have a guarantee that we will agree with those good people. At times we do not operate at a consensus. Knowing that we may go to mediation, the Bill may spill over to beyond 27<sup>th</sup> August, 2016, and it will end up being unconstitutional.

Would I be in order, looking at the timelines and deadlines which we require to meet as a House, to request you to ask the Mover to reply? The Mover is here. In fact, he was listening to me. He had taken a convenience break.

With those remarks, I would like to request you to call upon the Mover to reply. I have been told by the Mover that we have been debating the Bill for the last five days. This is a very important Bill because we need our roads to be constructed. Hon. Rasso is purporting to rise on point of order when he knows that I am on a point of order.

Thank you, Hon. Deputy Speaker.

**Hon. Speaker:** Hon. Members, another Member cannot rise on a point of order when you are on a point of order. However, the point being made by Hon. Chepkong'a is, indeed, important. This is a Bill which has a Report of the Committee. What is surprising is that not a single Member seems to be referring to the Report of the Committee. We are only looking at the Bill as printed. We should be looking at it as printed alongside the Report of the Committee, because it has made certain recommendations with regard to the proposals in the Bill. We could be criticising for that 560 minutes, and yet the Committee has made certain recommendations regarding what is in the Bill.

Hon. Members, for the reasons stated, I should put the Question.

*(Question, that the Mover be called upon to reply,  
put and agreed to)*

**Hon. A.B. Duale:** Thank you, Hon. Speaker. First, I want to thank all the Members who contributed to this very important Kenya Roads Bill 2015. The Bill deals with the Fourth Schedule of the Constitution in relation to the roads subsector. It will assign the respective functions to the two levels of government.

Paragraphs (b) and (c) of Part One of the Fourth Schedule provide that the national Government shall be responsible for the construction and operations of national trunk roads, and the standards for the construction and maintenance of other roads by the county governments. This is a very important Bill. I am sure that the Departmental Committee on Transport, Public Works and Housing did some due diligence. They talked to the stakeholders and amendments will come after our short recess. It is a very important Bill. It will go to the Senate as it touches on county governments. I am sure that the views expressed by the Members who contributed to this Bill will enrich it during the Committee of the whole House stage. This is through the various amendments and ideas that the Committee and Members have picked.

This Bill is also of great importance to Kenya in terms of development of road infrastructure in our country. It provides for the classification, management, construction and maintenance of public roads, and the establishment of the KeNHA and the Kenya Secondary Roads Authority (KeSRA) as well as their functions, powers and all connected purposes.

With those many remarks, I beg to reply.

**Hon. Speaker:** The Question will not be put now. For the convenience of the House, the putting of the Question on this Bill is deferred to Tuesday, 5<sup>th</sup> July, 2016, during the Afternoon Sitting.

Let us move on to the next Order.

THE ELECTION LAWS (AMENDMENTS) (NO.3) BILL

*(Hon. Chepkong'a on 4.5.2016)*

*(Resumption of Debate interrupted on 7.6.2016)*

**Hon. Speaker:** Hon. Members, this is resumption of debate on the Elections Laws (Amendment) (No.3) Bill.

A total of five Members had contributed. They are Hon. Chepkong'a. Hon. Boniface Otsiula, Hon. (Ms.) Christine Ombaka, Hon. Richard Tong'i and Hon. George Ogalo who was on the Floor.

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

Sorry, Hon. Members. Hon. George Ogalo had completed his contribution. Then there was Hon. Katoole Metito, Hon. (Ms.) Florence Mutua, Hon. Samuel Gichigi, Hon. Mwanoyha Hassan, Hon. Mary Seneta, Hon. Rose Nyumunga, Hon. Alfred Keter and Hon. John Uriri concluded. That makes a total of 12 Members.

Hon. Ababu Namwamba was on the Floor. He has a balance of five minutes. If he is present and desiring to contribute to this Bill, he may take up his five minutes. If he is not, then I will give the opportunity to Hon. Patrick ole Ntutu.

**Hon. ole Ntutu:** Thank you very much, Hon. Speaker, for giving me this opportunity to contribute to this Bill. This is a very important Bill. It deals with our elections. The principal objective of the Bill is to amend the Elections Act, 2011. A lot has been said about this Bill. I would wish to comment on a few clauses, one of them being the registration and inspection of the registers.

For a long time, there have been a lot of complaints on the time given to the public to inspect voter's registers. I support Clause 4 that seeks to amend Section 6 of the Elections Act, 2011, by increasing the period within which the Commission must open the register for inspection. The 60 to 90 days are appropriate. As we all know, a number of people, sometimes, complain that they have not heard that the voter's registers have been opened. By giving 90 days, that is ample time for the public to inspect the register.

Clause 5 is another important one. It seeks to amend Section 13 of the Elections Act, 2011, by making it a requirement for political parties to nominate their candidates for the General Elections, at least, 90 days before the elections. We all know what we go through, particularly, when the time for nomination comes where candidates do not have time. Giving people, at least, 90 days before the elections are held is ample time so that the problems people have can be sorted out.

The other very important clause is Clause 7 on the minimum requirement on those who are going to be Members of Parliament and those who are going to be in the county assemblies. The clause seeks to amend Section 22 of the Elections Act, 2011 that requires a person seeking nomination for an election to possess, at least, a minimum qualification of a degree for a Member of Parliament. I totally agree because this House is very important. We need people who really understand what is happening in the House. It will help us to transact the business of the House in a manner that is required.

The other important one is the issue of county assemblies. We have noticed with a lot of concern that the problems we encounter in the county governments are because the members of the county assemblies cannot oversee the governors. Most of them do not understand the budget or the funds they receive. A story has been going round that a certain governor in the northern eastern region tells his county assembly that this is unconstitutional, when he does not want a particular item in a budget. He tells them that

because most of them do not understand and have not gone to school. That has happened in many counties. In many counties, governors misappropriate funds simply because no one can question their budget. Putting a requirement for a member of the county assembly to have, at least, a diploma is something, as a country, that we should support. Some people would want to oppose this particular clause by saying that some regions are not educated, but I want to tell them that in this country today, most people who go for the county assembly seats are learned. We must pass this to help our counties and for the general management of our resources.

The other one is nomination of persons by political parties. The last time we held the first elections in our new Constitution, it brought a lot of problems. The people did not know the time the political parties were going to nominate and give their lists. Clause 9 brings clarity on when nominations will be taken to the Commission. This will go a long way to manage our nominations.

Clause 10 allows for registered referendum committees to appoint one agent to each polling station. This is a good amendment. We did not have that before. It will go a long way to help manage a referendum, in case, we have one. Our Constitution now allows for a referendum.

Clause 13 intends to insert a new section 38 to require that a number of voters per polling station in a general election shall not exceed 700. We have noticed, particularly in our constituencies that, sometimes, there are so many registered voters in a polling station such that it is not easy to give them ample time to vote. Sometimes, there are long queues from 6.00 a.m. to 6.00 p.m. Reducing the number of voters in a polling station would go a long way in managing and making sure that rigging does not happen. This clause will take care of that.

Also, Clause 15 seeks to amend Section 46 of the Election Act, 2011 to require that a petition for recall should be accompanied by, among other particulars, thumbprints, which will go a long way in making that clause clear. I urge Hon. Members to support the issue of a Member of Parliament, at least, having a degree. Members of County Assemblies (MCAs) should, at least, have a diploma. It will go a long way in helping our counties to manage their resources.

With those few remarks, I support the Bill.

**Hon. Speaker:** Let us have Hon. Kaluma, Member for Homa Bay Town.

**Hon. Kaluma:** Thank you, Hon. Speaker. It is important that we look at the laws governing our elections. The country has not forgotten that a short while back, there were demonstrations on how we can improve the electoral system.

*[The Speaker (Hon. Muturi) left the Chair]*

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

I consulted the Independent Electoral and Boundaries Commission (IEBC) on the matter of our current electoral system and processes. Members need to know that currently, there are 22.8 million Kenyans with identification cards (IDs). Out of that number, the confirmation from IEBC is that only 14.8 million Kenyans are registered to

vote. According to the Constitution, every adult citizen of the country has the right to vote. We have a situation where 8 million Kenyans with IDs are not registered to vote. As we look at the Election Laws (Amendment) Bill, we need to see how we can bridge this gap so that those 8 million people can participate in the choice of leadership in this country.

There is something else that is even more worrying. When you register to vote, all your biodata is captured. I am happy that the Chair of the Departmental Committee on Justice and Legal Affairs, from which I stand de-whipped, is in the House. I hope I will come back to the Committee soon. When you register to vote, all your biodata is captured. Why do we have a provision in our laws that states that without a national ID, you cannot vote? All your biodata is available but, without an ID, you cannot vote. When you go to register as a voter, they require an ID or a passport and yet, the only thing you need to confirm is that you are an adult citizen of the country. Through this law - and I will be proposing some amendments - we need to expand the array of documentation required to register as a voter, provided that they originate from Government agencies.

There are two observations that I would like to make. As a Member of the Departmental Committee on Justice and Legal Affairs then, we observed the last elections in South Africa. There is something we observed which I need to share with my colleagues in Parliament. When we went to the national tallying centre for the elections in Pretoria, South Africa, it was not the situation you see at the Kenyatta International Convention Centre (KICC) or Bomas of Kenya when we do the national tallying. It is a very open place with no police officers. There are only lawyers building up cases to take to court. There are also people seeking documentation on the electoral process. When there was a dispute concerning the number of votes cast in one province, the matter was not left to the commissioners like in our case. The provincial returning officer of Western Cape Province was called to clarify. Commissioners only deal with policy matters and strategic directions. In Kenya, your results are announced after the results of the presidential race. For a whole week, you wait for Commissioners who are seated at Bomas recounting the votes cast, something which has already been done at the polling centres.

I was in Turkey, in the same year, on behalf of the Coalition for Reforms and Democracy (CORD) for the campaigns that led to the election of President Erdogan who was here recently. The polling closes at 5.30 p.m. By 6.30 p.m., the president is declared and known. The system of voting is electronic and tamper-proof. In Kenya, as late as the time the Malindi by-elections were held, the Electronic Voter Identification Devices (EVIDs) were still failing at the polling stations. When you ask the IEBC people what is happening, they tell you that there is a problem of humidity. I request that we use this law, having come before the agitations for electoral reforms, not only to deal with the matters it was limited to, but we see how to expand it even as we deal with those other issues. How do we deal with the matter of registration for IDs? How do we deal with the matter of registration of persons? How do we deal with the matter of registration of voters? How do we deal with the issue of polling? That is the reason I support the idea to reduce the number of registered voters at a polling station to 700 and below. If Members look at that provision, there is a proviso at the end which we will need to delete. I thank the Departmental Committee on Justice and Legal Affairs for recommending so. The

proviso says that a polling station shall not have more than 700 registered voters, unless the Commission determines otherwise. It is not a matter over which we need discretion.

We want a process where if you contest for the presidency, it should not take you more than three hours to know the president of this country. The anxiety you build when you are still counting those results at Bomas of Kenya when the results are already known is what engenders the thoughts of what could be cooking in what corner of the country. We are in the digital world. Why do we need more than three hours to have a president declared? The matter of elections is very important. I request Members that as we support this Bill, they should not look at elections in terms of making a winner happy. A good election is one where the loser is happy. The loser can look at the people of Kenya and agree that the elected Member of Parliament for Homa Bay Town Constituency is Hon. Kaluma and the President of the country is so and so. It should not be something that leaves doubts.

I pray that as we support this Bill, we should expand the purview of the matters that we are dealing with, and deal with all the other matters we have been thinking about. Good faith should prevail upon this. If it were possible that all these amendments that we believe are necessary for our electoral system to work for all of us could be carried aboard without worrying about which political divide a person hails from, it would be a very good thing. Time has come for us to look at these laws through the whole realm of it. There are only 22.8 million Kenyans with IDs. What of the other Kenyans? Motions have been tabled in this Parliament asking why we cannot devolve the processing of IDs. Even as I support this Bill, I will propose an amendment requiring that the national ID be the only document necessary to register as a voter. People may think it is difficult. It is as simple as requiring a person to indicate the ward he comes from and the polling station he wants to vote from in an ID registration form. It is a feature that is included in the ID documentation. This will help us to bridge the gap of 8 million Kenyans with IDs, but without voting cards in a country where you need 6 million votes to be declared the president.

I will propose amendments. I support this Bill. I will save time for my other colleagues to contribute.

**The Temporary Deputy Speaker** (Hon. Cheboi): Let us have the Member for Laikipia West.

**Hon. Karani:** Thank you, Hon. Temporary Deputy Speaker, for giving me an opportunity to also contribute to this Bill. First of all, I want to comment about Clause 2(b) on registration of voters. The definition has been made very simple and easy for everybody to comprehend. It reads:-

“Registration of voters includes the registration of new voters, transfer of registered voters, correction of particulars of voters and deletion of names of deceased voters from the register by the Independent Electoral and Boundaries Commission”.

There has been some confusion where registers contain names of voters who have passed on. This has given a loophole to whoever is conducting election to rig. It used to give room for rigging. The definition is now very clear on removal of names of those who are deceased from the register.

The other point is on Clause 5(c) where the period for resolving disputes arising from political parties has been moved from 45 to 55 days. That is an increment of 10 days. If there is a time that aspirants have a very difficult time and are stressed, it is after the nominations. That is because bodies or political parties that conduct nominations do not have experience and there are many disputes. Now that nominations are being conducted for Members of County Assemblies (MCAs), Senators, Members of Parliament, Women Representatives and Governors, there is a lot of confusion in the political parties at the headquarters. By increasing the period, that is a very good move.

The other one is on the recommendation for Members of Parliament to have a degree as the minimum academic requirement. This House has been disbursing the National Government Constituencies Development Fund (NGCDF). We have been issuing bursaries to students as we encourage them to continue doing better in their education. There is nothing as good as rewarding the same. After spending so much money on the 290 constituencies which receive money for NGCDF, and most of them channel quite a big percentage of that money to bursaries for supporting our students, it is very important to reward those academicians once they are through. Like many days, today in the Public Gallery and the Speaker's Gallery, you can see students coming to watch these discussions. We allow them so that they can be encouraged to become Members of Parliament. Therefore, I must support this Bill so much because of covering that bit.

The other provision requires an MCA to have a diploma. That is also very good. We have been blaming the governors for misuse of public funds a lot. Mainly, it has been complicated by the fact that the MCAs we have in most counties do not match the role of oversight compared to the governors. That is why you find so many cases being taken to the Senate and others to the courts. This is a very good approach.

The final one is the one requiring MCAs to have degrees after the 2017 elections. That is also very important. We have so many students in university. It is also very good. I do not want to agree with the Member who has said that we do not have people who can vie for those seats in some counties or regions. As we continue supporting education, we have so many graduates across the country.

Thank you, Hon. Temporary Deputy Speaker. I support.

**The Temporary Deputy Speaker** (Hon. Cheboi): Let us hear the Member for Suba, Hon. (Ms.) Odhiambo-Mabona. I am sure your card is faulty.

**Hon. (Ms.) Odhiambo-Mabona:** Thank you, Hon. Temporary Deputy Speaker.

**An Hon. Member:** (*Off record*).

**The Temporary Deputy Speaker** (Hon. Cheboi): Did you say you are not the Member for Suba?

**Hon. (Ms.) Odhiambo-Mabona:** I am a Member for Suba North. My constituency is the only unique one with two names in Kenya. It is both Mbita and Suba North. My constituency has those two names – Mbita and Suba North.

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

**The Temporary Deputy Speaker** (Hon. Cheboi): There will be no point of order that will be allowed now.

(*Laughter*)



Proceed, Member for Mbita. Hon. Jakoyo Midiwo will be next.

**Hon. (Ms.) Odhiambo-Mabona:** Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity. I wish to support this Bill, but with amendments. I do not want to be repetitive. Members have spoken to a lot of issues that are addressed here. I want to say that this is a very important Bill, especially as we are getting into the elections and for women. Part of the reasons why I say I am going to propose amendments - and I hope the Departmental Committee on Justice and Legal Affairs will be able to adopt some amendments--- I know part of the issues we have spoken to is educational standards, I would be very happy to support a situation where everybody has a degree. Unfortunately, the reality is that many women, because of years of marginalisation, have no degrees and diplomas. Given that this House has failed to pass the two-thirds gender rule, providing for degrees will marginalise women further. We have many women, even in this House, who have proven that what one needs to lead is not degrees. It is the ability to very ably represent your people and articulate issues on the ground for your people.

Hon. Temporary Deputy Speaker, because of those years of marginalisation, many women will not come here if we say “degrees”. You know how hostile the political field is for women. It is difficult for most people but, especially, to women. Those of us who are women and who have chosen to get into that field are considered as deviants, weird, abnormal and all the negative names you can imagine. For the ones who are not married, they are considered unmarriageable. No unmarried woman wants to get into politics because of the way it has been configured, especially against women. If we want to draw from the spectrum of women who have degrees, I assure you we will have very few. I know this House has quite a number of women with degrees but, we also have an equally high number of women who do not have them.

As I speak, Hon. Naomi Shaban and I have just come from a meeting with several women members of the county assemblies. I am glad I came in time and got this debate. They told us we must voice their concerns when this Bill comes. Their concern is that many of them do not have the requirements. There are women who spoke there powerfully. We went to mentor them but many of them ended up mentoring us. It is because they have so much wealth of wisdom that some of us who have been in this field for long do not have. They live in the grassroots. They know things and feel the pulse on the ground which we do not feel. Therefore, if we want to equate degrees to that, we will fail. If we were a generous country, many of those women would have honorary degrees.

I would support it only if we, perhaps say, you have a degree or an honorary degree. An honorary degree would be for a woman who went up to Class One, but has a wealth of experience which is much more than Hon. Jakoyo Midiwo’s degrees, masters and Doctorates of Philosophy (PhDs). We have women who have such wealth of knowledge and experience.

So, I do not support degrees, especially for women.

The other thing I would like to say is on the provisions on nominations. I know that the issue of nominations is a big problem for women as we are going to elections. Even as we go to elections, we failed to pass the one-third gender rule as a House. That

means even as we are talking about “progressive”, it is a continuous word. It is like a movement. You cannot have “progressive” that is neither in the negative or stagnated.

Part of the reason I am saying that we need to ensure we propose amendments both to this Bill and the Political Parties Bill is to make sure that we have a formula that will ensure that more women are able to compete equally with men. Our political party processes for nomination should endear themselves to women. The entire process of nomination should be such that we do not have issues of violence or issues that intimidate women so that most of them do not get into elective positions.

The other thing I want to say is that I hope we will bring some sanity on the issue of the nomination process, especially for the Members of County Assemblies (MCAs). One of the challenges we faced the last time and which people have complained about is that there was a lot of nepotism on nominations, especially of MCAs. I want to encourage that going forward, we should make sure that the nomination process is transparent and involves women who have gone through an elective process or have been very actively involved in the party. Personally, I prefer women who have vied and failed or who have tried because those are the people who have interest. However, we nominate people who until when they were nominated, were totally disinterested in politics. We are told women are under-performing, but it is because you brought people who were not interested. It is very sad that this has been suggested elsewhere; that there are people who rent-see from some nominated members. It is actually a fact, which Hon. Jakoyo was saying. I have even been told of a case of a Senator, which is shameful. I heard that he was put in the Senate, but somebody else earns his salary. That is because we have put a system that is not transparent and ethical. So, we must make sure that we put a process that ensures that a person who is nominated for whatever position is interested in that position.

The other issue of concern to me is the provision on the public service and the requirement that public servants must leave their seats one year before the elections. For me, it may not be a bad thing, but I think it is discriminatory. If public servants leave at nine months, let everybody else who wants to vie resign from their jobs and leave at those nine months to show the level of seriousness. We are saying that those in the public service may have undue advantage. But people get undue advantage over any other job you may have, so long as you are still in service for whatever reason. You will unduly influence the public.

I am happy with the reduction of numbers in the polling stations. From my experience as a woman who went through elections, one of the things I have observed is that when people want you to fail, they will ensure that most polling stations where there are many women, especially in the urban centres, will have extremely long queues. Women have multiple roles of nurturing and caring. They get tired. They have to get back home. So, you lose a lot of voters. Some of us, our primary vote base is the women. So, by reducing that base, you are supporting the women to support us.

So, I support the Bill, but with amendments.

**The Temporary Deputy Speaker** (Hon. Cheboi): Now, I will give the Floor to Hon. Midiwo because he was top on the list. You will do it from where you are. I can locate you. Thereafter, I will give a chance to three members from my right in a row because that will be the better way of balancing. Let me start with Hon. Midiwo.

**Hon. Midiwo:** Thank you, Hon. Temporary Deputy Speaker. You are a fair Temporary Deputy Speaker. You give us a chance and then you give three members on the other side. You know your job and that is nice.

I rise to support this Bill. This Bill is shallow. The electoral process requires a much bigger overhaul than what we have. Nonetheless, it is an expression of the will and the wish to make our elections run smoothly.

One of the issues which arise in this Bill – and which has been ably articulated by my sister, Hon. Milly and a few other members – is academic qualifications. I appeal to my colleague, Hon. Milly, to understand. Hon. Temporary Deputy Speaker, if you remember, although that time you were taking a sabbatical, it was Hon. Wetangula and I who opposed the degree requirement. We said that the people needed time. There were many councilors who wanted to be MCAs, but did not have the papers. So, we needed to give them time. I am now of a different opinion. Seeing the kind of monies that go to the counties, there needs to be higher understanding of academic nature in the budget-making process.

A balance must be found. Some of the nominations we have, particularly in the county assemblies, are of illiterate people. We cannot gloss over this issue. We must face it head-on. We cannot have an illiterate person debating and looking at the budget of a county. I want to go on record. I have said that I was the one who helped kick out that requirement. I understand. However, there are Members, even in this House, who do not have degrees, but they are very good legislators. The Constitution prescribes what minimum education is. At least, let us put in law the requirement of that minimum education. There is nothing wrong. Our education system is so rigorous. There are many people who go to school up to Form Four who are probably better schooled than somebody who has passed an exam and went into a university class.

So, a balance can be found. But let us not leave this thing free for all again. We cannot. It is not good for our country. It is not good to please people. If somebody is a good politician and he is illiterate, we can nominate their children for the sake of interrogation of the budget. That is what our legislatures are meant to do in the thinking of our Constitution.

We now have assemblies where governors have become the procurement officers. The government abrogates and violates every law in the book because of lack of capacity to read and keep up with their intentions. I am willing to be in the team of my colleague, Hon. Millie, and my friend, Hon. (Dr.) Naomi, to find a balance. Something must happen. We will have done our country a great deal. Those people are too many and something has to happen. We have given them time. If you go back to the HANSARD, you will see the contributions of my party leader, Hon. Wetangula. He said that we should give them time. Let us keep to that promise. I know many MCAs and Members here have gone to school. Let us strike a balance and we move forward.

Some of the amendments we are going to bring here are the ones that brought issues in the recent past. The Independent Electoral and Boundaries Commission (IEBC) has constantly used the law the way it suits them by recommending a way forward on how we can do a referendum.

We must have a law that commits the Independent Electoral and Boundaries Commission (IEBC) to do a referendum. It is interesting how we have ended up with the

Motion that we tabled this afternoon. The Constitution says that for an intention to do a referendum, we need one million signatures. The requirement for signatures has turned out to be the substance of the referendum. For instance, in the case of *Okoa Kenya*, because it is the only one where signatures have been collected, that requirement stopped people from getting the substance and that was not its intention. The intention of the signatures was merely to initiate the process we needed to deal with. We must control and close the windows that have been misused and led to confrontation and unnecessary deaths of Kenyans.

It has exposed us to another opportunity that we must take to comb the electoral process. What we must do with this opportunity is to work with the Committee and deal with the same issues. Every electioneering year, Kenyans die. We must even stop the thought or the possibility of death because of an election. You saw “British Exit” – BREXIT – where the British voted and did not like the outcome. But they are now dealing with it and nobody is killing each other. That is where we want to go. Nobody is even talking about the electoral commission in a controversial manner.

We have an opportunity to deal with that particular process. We must deal with the architecture of our electioneering. I hope both sides will realize, recognize and accept that there has been a problem. This Bill talks about nine months for public officers to quit their jobs in preparation to run for elections. I want to plead with my colleagues that there are two sides to every argument. I want to request we strike a balance. There are many people who want to run for public offices, but cannot be elected. But that desire must be quenched.

There are people who are lowly paid in the public service, but are loved by their people. They want to try, but the fear of leaving their jobs and never have another opportunity if you lose is real. What is wrong with giving a public officer an unpaid leave and if they lose, they can come back to work? We will end up getting better leaders in this country. The fear that somebody in my village is a board member, Principal Secretary (PS) or CS and has to resign, we are keeping good leaders from ascending to leadership simply and merely because of fear.

*(Hon. Midiwo's time was up)*

You know my slot is for the boss here and so, you must instruct them accordingly.

**The Temporary Deputy Speaker** (Hon. Cheboi): What boss?

**Hon. Midiwo:** I am the Deputy Leader of the Minority Party.

**The Temporary Deputy Speaker** (Hon. Cheboi): Hon. Jakoyo Midiwo, if you looked at your Standing Orders, it is the Leader of the Majority Party and Minority Party, and not their deputies or anybody acting in that position. So, you want to act as the Leader of the Minority Party, which you are not. The Standing Orders do not recognize you.

**Hon. Midiwo:** Who is the leader in the absence of the other? Hon. Temporary Deputy Speaker, you are a lawyer - not unless you want to revise the rules of this House--

**The Temporary Deputy Speaker** (Hon. Cheboi): It does not work like that. I can see Hon. (Dr.) Shaban is looking at me in a suggestive manner. I will not modify the Standing Orders to accommodate you. I will give you one minute because you are a seasoned speaker.

**Hon. Midiwo:** I would rather not take that one minute because I think you are trying to do something which has been dealt with before.

**The Temporary Deputy Speaker** (Hon. Cheboi): Tell me when it was dealt with.

**Hon. Midiwo:** In the absence of the Leader of the Minority Party, even the Whip here becomes the leader. That has been dealt with from the Chair. You will not deny me. This is an important Bill and it needs the voice of the Opposition leader.

**The Temporary Deputy Speaker** (Hon. Cheboi): Hon. Midiwo, if we take that route, you surely are going to lose it on the basis of the Standing Orders. I can tell you that without any fear of contradiction. Standing Orders do not provide for that. Look at them. I know you are one person who really reads some of these things. Standing Orders do not at all indicate that in the absence of the Leader of the Majority Party, the Deputy Leader of Majority Party will take that particular position.

**Hon. Midiwo:** If I may inform you, the substantive Speaker has just dealt with an issue of the Chairs of the Committees of PIC and PAC. He has just pronounced himself a few minutes ago.

**The Temporary Deputy Speaker** (Hon. Cheboi): What was the issue?

**Hon. Midiwo:** The issue is when the Chair of PAC is stated in the Standing Orders to come for the Opposition and his Vice-Chair is coming from the Government. That is contradictory. What it means in the interpretation of Standing Orders is that the Chair is an office. It is like the Presidency---

**The Temporary Deputy Speaker** (Hon. Cheboi): Now that you are raising very pertinent issues, Hon. Midiwo, I would like you and probably, of course, the leadership of the majority to raise that specifically when the substantive Speaker is here. He will give a well thought-out ruling as far as I am concerned. As at now, I am the one who is seated here. The Standing Orders do not, at all, envisage a situation whereby one will act for the other.

Let us assume, for example, one of the leaders is indisposed. That would make sense. It has happened before when I was seated here. I am not so sure whether it was you or the Deputy Leader of the Majority Party who had been given an opportunity on that basis. Then the Leader of the Majority Party walked in and, of course, he wanted to take over as per the Standing Orders. On this particular one, I think we do not need to really belabour on it.

**Hon. Midiwo:** With all due respect, I want to tell you here and now that the feeling I get is that you people are trying to kill parliamentary debate. What is happening is not good for this country. This is not even an issue that needs to be brought up because---

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

**The Temporary Deputy Speaker** (Hon. Cheboi): What is your point of order, Hon. Lentoimaga? Hold on! There is a point of order and then we will come back to you, Hon. Midiwo.

**Hon. Lentoimaga:** On a point of order, Hon. Temporary Deputy Speaker. The hon. Member is taking such a long time and yet, at the back of the Order Paper, there is a notice showing how many minutes the Leader of the Minority Party or Majority Party can speak. It does not mention the deputies. For the sake of this debate, why can you not give him another three minutes and then we can also get a chance? We want to speak.

**The Temporary Deputy Speaker** (Hon. Cheboi): This is the ruling that I will give. It might not be pleasing to everybody else but, in future, if the Deputy Leader of the Minority Party or Majority Party would want to be given an opportunity to speak as if they are the Leader of the Minority Party or Majority Party, they will have to put it in writing and notify that they will be acting as the leader. That is the position. Hon. Midiwo, it will be wrong for you to indicate that we have intent of killing the debate in the House.

Hon. Midiwo, I was very kind to you to give you even an extra minute because I thought you were making a good contribution. But if you want it to be ruled officially, that will be done. There will be no point of order on that one. I have made a decision on that. The substantive Speaker will rule on that specific issue and the rest of us will go by it.

So, Hon. Midiwo, unfortunately we will have to move on. We are arguing on an issue which is not what--- You were contributing very ably and the Hon. Leader of the Minority Party was here a few minutes ago. The Hon. Leader of the Majority Party was also here a few minutes ago. I am sure the Hon. Deputy Leader of the Majority Party will say: "I want to be given preference." The Standing Orders do not say that. Let us read the Standing Orders. We do not need to interpret it.

*(Loud consultations)*

I have said the Hon. Speaker will rule on this one.

**Hon. (Ms.) Odhiambo –Mabona** *(Inaudible)*

**The Temporary Deputy Speaker** (Hon. Cheboi): Hon. Millie Odhiambo, if it is a serious issue, I have accepted that it is an extremely serious issue and I would want that one to be dispensed with. That will be ruled specifically by the substantive Speaker. Hon. Midiwo, I am giving you a minute to wind up. That is fair but that will be ruled on. A reasoned ruling will be given. Let me give you one minute. I am sure you can work on that one. Do not listen to other voices. So, just wind up.

**Hon. Midiwo:** Hon. Temporary Deputy Speaker, just a minute. You sit in the Speaker's Panel. When you sit on that Chair, you have every power of the Hon. Speaker. So, why would you not want to hear the Hon. Leader of the Minority Party's view on this Bill? We cannot lead our---

**The Hon. Temporary Deputy Speaker** (Hon. Cheboi): Hon. Midiwo, just take your seat. There is an extremely big difference when a Speaker sits here in the speakership and when there is Hon. Deputy Leader of the Minority Party in the House, where the Hon. Leader of the Minority Party was there a few minutes ago and he wants to take--- So, the unfortunate bit is that, that will not be done. I will give an opportunity to the next Member and that is going to be Hon. Winnie Karimi.

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

*(Loud consultations)*

**The Temporary Deputy Speaker** (Hon. Cheboi): Proceed, Hon. Karimi. Hon. Midiwo, I have stated that there will be a substantive ruling on this particular one. I do not know what difficulty is there for you to wait for an extra day. Hon. Karimi, proceed.

**Hon. (Ms.) W.K. Njuguna:** Thank you, Hon. Temporary Deputy Speaker. We are wasting time for everybody else. We also want to contribute.

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

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

**Hon. Angwenyi:** So that we have a harmonious House, why do you not give him two minutes to wind up and then ask her to complete?

**The Temporary Deputy Speaker** (Hon. Cheboi): You are out of order. Proceed Hon. Karimi.

*(Some Hon. Members withdrew from the Chamber)*

**(Ms.) W. K. Njuguna:** Thank you, Hon. Temporary Deputy Speaker. I want to contribute to this Bill. The Elections Laws (Amendment) Bill is very important for all of us. The election laws give a level playing ground for everybody. This is what we all want, so that we can get fairness in elections. Elections start when people are being registered to get identification cards. They also start with the registration of voters. All that should be well organized so that everybody gets a fair ground.

We need to ensure that registration is always done fairly and everybody gets a chance. In most cases, very many people do not register on time; either to get IDs or as a voter, which becomes a big problem. We need to start early registration and everybody should be given enough time. Two months to register voters is not enough.

We have a Constitution which we are supposed to implement and we have the Chapter Six on integrity which should be taken seriously. This is because you find people with issues of bad character, corruption and murder on the forefront trying to vie for seats. So, we should take serious measures on Chapter Six on the integrity of the leaders.

The other thing that I want to support is education. This is key for everybody. That is why we went to school and that is why we are educating our children. We go to school to acquire knowledge, skills and understanding.

There is a saying: "What a man can do, a woman can do better."

I support that anybody vying for an electoral seat must have a degree. We must have people who are educated and have skills. You need skills even in politics. Therefore, I am supporting that this should be considered when we are vying especially for National Assembly seats. We have seen that whenever we are vetting leaders--- I wonder how many people are listening because even the Hon. Leader of the Majority Party is not listening. I am supporting the acquisition of a degree for both women and men in this Assembly. Education is key and we need people who can understand. Politics requires such people. In my county there is a Standard Three dropout who is vying for a seat.

Education should be considered for all the elective positions. It should not be an exception in Parliament.

During the election day, women do not usually participate because some of them are busy picking tea, coffee, and going to the market. The election day should be made a public holiday.

We should also decongest our polling stations. They should be accessible to all people because many people do not vote because of not accessing them. The long queues also demoralise people.

The Bible says: "Time and chance belong to us all." All of us have equal time and chance. We should have a level playing ground for everybody. The university degree requirement should be applied to both women and men.

Thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Cheboi): Hon. Members, never mind the fact that I had ruled that I will allow three Members from this side to speak. I will allow Hon. (Eng.) Gumbo to speak because he was still on top of the list for quite some time. I will then get back to give an opportunity to Members on my right hand side.

**Hon. (Eng.) Gumbo:** Thank you, Hon. Temporary Deputy Speaker for giving me the opportunity to contribute to the Election Laws (Amendment) Bill. To a large extent, this Bill contains very useful provisions which will make our elections better. I have said it before that having good laws and living by them is a different thing. The problem we have had in our county for a long time has never been the absence of laws but the flagrant disregard of the many laws we have passed. As a lawyer, I am sure you are aware that sometimes the more laws a society has, the more perverse and nobile its inhabitants become. We should be good people for us to move forward. Elections remain a matter of life and death in this country. Those who seek elective positions are just a miniscule percentage of the population of this country. Therefore, it is a pity to see disruption that our actions as the political class cause in our society from time to time.

I was one of the proponents of the degree requirement in the last Parliament. I still stand by that rule. This is not an easy job. Those who take their time to look at Bills will agree with me that it requires a minimum level of education. Let us not make it look like if you do not get an elective post, you are not useful in society. The transition in our county should be having a society where even those who make major contributions to our society do not necessarily have to be the political class. I was in South Africa in 2004 during their elections, and I was so impressed that the major newspapers were not talking about the person who was winning the election. The newspapers talked about the performance of the rand and the economy, and what an African National Congress (ANC) or a coalition of the opposition parties win would mean to the economy. You would not even know that there was an election. In Kenya, election period is a total fever. Everything else comes to a standstill. It has been said before that the difference between good and bad leaders is that bad leaders think about the next elections the moment an election is conducted. Good leaders think about the next generation. We should transform ourselves to that class of leaders who think about our next generations. Being a Member of Parliament (MP), a Member of the County Assembly (MCA), a governor or even a President is nothing but a temporary job. We cannot always throw our country to the edge everytime we have elections.



Therefore, those who get the privilege to be elected should have the capacity to discharge their duties properly. I have heard many Members saying that Winston Churchill and Abraham Lincoln did not have university degrees but were great leaders. That was then. In my view, to compare that with now is like comparing apples with rotten oranges. I remain a strong proponent of the university degree. Looking at the responsibilities that the Constitution has given the county assemblies, I believe that the grace period we are giving MCAs to 2022 to acquire university degrees, requires an amendment.

Hon. Temporary Deputy Speaker, I have seen some MCAs who have literally suffered a little car shock. It is like some of them have been pinching themselves from when they were elected still wondering if they are not just living a very long dream. Looking at the wastages in the counties, the demarcation between oversight, supervision and outright micromanagement is a problem in the counties. The other day I was talking to some MCAs from my county and I asked them to give me an appreciation of Kshs1 million. They were surprised when I told them that it will take them 20 days to count one to Kshs1 million. I want to challenge Members of this House to go and try asking their MCAs that. If you are not doing anything, it will take you 60 years to count one to Kshs1 billion. They do not have basic appreciation yet they are people who are supposed to superintend over budgets running into tens of billions. They cannot even appreciate what numbers mean. Budgets from our counties are nothing more than horrendous cases of copy and paste ventures. In fact, I saw a budget in my county with references to a sub-county in another county because those charged with the responsibility to scrutinise that budget do not have the capacity to look at it.

Other than the university degree requirement, the provision under Clause 5, which seeks to amend Section 13 of the Election Act by making it a requirement for political parties to nominate their candidates for general elections at least 90 days before the election, is good.

Hon. Temporary Deputy Speaker, we cannot be complaining about the fidelity of the general elections, when the fidelity of elections in our own political parties is in question. If our own elections at political party level are nothing but a mayhem and clear rule of the jungle, then what right do we have to complain about the fidelity of elections at the national level? This has happened because even the period for dispute resolution has hardly been there. You go through party elections and within a week you are required to have gone through dispute resolution. Some of these grievances are genuine. How many times do we hear of party nominations? People go to the polling stations and the election materials are not there. They resort to tearing pages of exercise books and using plastic containers as ballot boxes. It is a cacophony of modifications that clearly laughs in the face of a process that is supposed to churn out the leaders of this country. We need to clean these political parties nomination process so that it does not become a life and death affair. We know our country is still very polarised, and sometimes getting a political party nomination is as good as coming to Parliament.

As I conclude, I beg you to give me one extra minute. At the moment, our country faces very many problems like youth unemployment, insecurity, endemic corruption, primitive forms of negative ethnicity and extreme forms of tribalism, yearning inequality and income disparities. None of these problems threaten our nationhood like a bungled

election. We saw it in 2007. Therefore, as we make laws that relate to election management, let us be bipartisan. Let us accept that any election, no matter how it is done, there has to be a winner and a loser.

**The Temporary Deputy Speaker** (Hon. Cheboi): Your time is over.

**Hon. (Eng.) Gumbo:** Hon. Temporary Deputy Speaker, please give me one minute.

**The Temporary Deputy Speaker** (Hon. Cheboi): No. Hon. Korere.

**Hon. (Eng.) Gumbo:** Hon. Temporary Deputy Speaker, you are so mean today.

**The Temporary Deputy Speaker** (Hon. Cheboi): I am mean because I do not want to cascade the leadership of minority, all the way to the one who will be acting at this point in time. Your time is over.

Proceed, Hon. Korere.

**Hon. (Ms.) Korere:** Thank you, Hon. Temporary Deputy Speaker. I want to add my voice to the debate on the Election Laws (Amendment) Bill. I want to note what Hon. Millie has said about this Bill before she left. I agree education is very important. It is key to development in any nation. However, some of the people from the pastoralists communities were denied education by the colonialists because they noted that they were very intelligent. They wanted to be educated. However, giving education to pastoralists during the colonial era was a major threat to the colonialists, and to the subsequent governments.

If the level of education law is implemented, it will lock out some very important and intelligent leaders. For example, we have hon. Members in this House who are not educated, but have made very big contribution in the communities where they come from. For example, Hon. Maison Leshoomo is a woman whom the Samburu community will vote in for the next 30 years, if she wants to continue vying. So, we cannot peg this to education because it will be very discriminatory, especially to women and marginalised communities.

The education requirement should be introduced progressively. The major scandals which have affected this country, like the National Youth Service (NYS) scandal, were planned and executed by educated people. We cannot peg some of these things to education.

I note in some section here where the party list can have the names of the presidential and the deputy presidential candidates. The same party list should also have the names of the parliamentary candidates or Members of the County Assemblies (MCAs). I am saying this because I remember after the last election, the CORD leaders, Hon. Raila Odinga and Hon. Kalonzo Musyoka, had a very difficult time trying to get into Parliament through the window, backdoor and all sorts of ways. If their names were in their party lists, for example, Hon. Kalonzo Musyoka would not have gone to court to throw out a Member who was nominated on the platform of persons with disability. I was wondering if he was to be given that chance, then Hon. Kalonzo would have to break his leg so that he comes in on the platform of persons with disability. I am saying this because we will have Members who run for election and might be defeated. They will be a big asset to their political parties. We also have the names in the party list of people who are running for parliamentary and MCAs seats.

I note that election is not an event, but a process. When the election process is not fair, there is no way the end result will be fair. There is also the issue of registration of voters and the polling centres. There are some polling centres which are called mobile centres, but cannot be mobile. The returning officer can decide to take a mobile centre from a county to another one because during registration, the person who had interest to run was registering from a neighbouring county. Mobile centres should be mobile because there are no structures there. There should be a designated point where that specific mobile centre will be situated.

Education in this country is very pathetic and sad. It has been adulterated by corruption. There are so many people who have bought degrees. During election time, there is normally a contingent of politicians who run to the neighbouring land of His Excellency John Pombe Magufuli to buy charms and paraphernalia which witchdoctors offer them to be elected. There are others who run to River Road in search of degrees. They buy them. We know this. Some of them are in this House. Unfortunately, we come from some close-knit societies. You know people from the time you were playing together during childhood, where they went to school and when they stopped learning. All of a sudden, you find that such people have degrees despite the fact that they never attended any secondary school. If being elected is pegged on one having degrees, they must be vetted. We must know where they come from.

A lot of women from where we come have given us this message to deliver on the Floor of this House: There are very many women outside there who will be vying for various positions, but the only predicament that might limit them is education. Some girls from the Maasai community were denied education because their fathers thought they were part of the family property, and they would “sell” two girls to educate one boy.

Hon. Temporary Deputy Speaker, denying such a girl a chance to vie because she does not have a degree, and that girl could be me, is discriminatory and unfair. It will not go down well with people who want to vote for that particular woman.

I support this Bill, but with amendments. We want to have an election process where everybody is given a platform to exercise their democratic right. It is also important to note that during party nominations, some people hold political parties to ransom. It is an open secret. For some political parties to appoint you as their flag bearer, you must be connected to some people. I say that with a lot of confidence because I was once a member of a political party which happens to be the second largest in the country, namely, the ODM. I left the party when I realised that it was run like a cult. For people to go through such nominations, we have to streamline the process of party nomination and the compilation of party lists, so that by the time we go to the ballot, we know we have the people who deserve to be voted for and not those who have been put there by the demigods in the name of party leaders.

I beg to support.

**The Temporary Deputy Speaker** (Hon. Cheboi): Hon. Shaban.

**Hon. (Dr.) Shaban:** Thank you, Hon. Temporary Deputy Speaker. From the outset, I support this Bill, but with amendments. I have quite a number of concerns and one of them is the issue of Members of Parliament having a degree as the minimum level of education and members of the county assemblies having a diploma to qualify to vie following these amendments. Justice Mumbi Ngugi pronounced herself in 2012. She was

very clear that the requirement for degrees for Members of Parliament and county assembly members is unconstitutional. Nobody appealed against that decision. As much as we sit here and make laws, it is important for us to know and appreciate that this is a House of representatives. As we represent people, we need to know that degrees alone cannot be a measure for representing people. If having degrees would mean that work would be done better in this country, then all our governors would have been perfect, yet even with the executives who are supposed to have degrees as the minimum level of education leave a lot to be desired. They do not seem to be doing what they ought to. If there is an example of a place where many people who hold degrees sit together to make decisions, it is at the county government level. We do not seem to see anything wrong that those fellows who happen to be degree holders are doing and the mess they make.

Why do we have nomination lists? We have them so that it is possible for us to mix people and to have people with all the kinds of education levels that we require. As we talk about party lists, this can be put into consideration. We cannot sit here to make laws to force people to elect only people with degrees. We have quite a number of Parliamentarians who have done a lot of very good work yet they did not go to formal schools. I refer to Hon. Ntimama who was elected to this House many times and he was one of the best lawmakers we ever had. That is a fact. He never went to any formal school yet the work he did and the English he spoke was better than that of most of the people who have gone school.

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

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

**Hon. Lati:** Is the Member in order to say that Hon. Ntimama did not have any formal education? Hon. Ntimama did not go to university, but he had formal education up to secondary level.

**Hon. (Dr.) Shaban:** For your information, Hon. Lati, this is a fact.

**The Temporary Deputy Speaker** (Hon. Cheboi): Do not have an exchange.

**Hon. (Dr.) Shaban:** This is a fact. He did not go to any formal classroom. He did his classes outside the normal classroom and did very well. He is one of the best lawmakers we have had. He did not have any formal education.

**The Temporary Deputy Speaker** (Hon. Cheboi): Both of you are in agreement. What Hon. Lati raised is that he went to school and you have proceeded to specify the kind of school. Let us proceed.

**Hon. (Dr.) Shaban:** I thought formal is where you sit in a classroom and sit for normal examinations as prescribed by our Government policy. I want to talk about the importance of us embracing Kenyans to make a decision on what kind of representation they would prefer. As we talk about party lists, I need to point out that we have to be very careful that we do not do unconstitutional things.

I want to raise such an issue in Clause 12 which says that a party list shall not contain a name of a candidate nominated for an election. When you look at Articles 97 and 98 of the Constitution on the membership of the National Assembly and the Senate, they are very clear. Article 97(2) states that nothing in this Article shall be construed as excluding any person contesting an election under Clause 1(a). In other words, a party list in the National Assembly does not exclude anybody who has vied. In the membership of

the Senate, Article 98(3) says that nothing in this Article shall be construed as excluding any person from contesting an election under Clause 1(a). In the Senate, we have a specific party list. If the same Senators are allowed to contest and appear in the list, we cannot make two sets of laws for Kenyans that Parliamentarians can go into an election and at the same time you can be on the party list. It is very clear in the Constitution. We cannot purport to be amending the Constitution through an Act of Parliament. These are the issues I am using. We shall raise the necessary amendments, so that it can conform to our Constitution.

The other issue I needed to raise is that of stopping public officers from vying in an election by changing the requirement of six months and increasing it to one year within which public officers should have resigned before. We cannot make laws which lock out Kenyans, yet they have experience of working in the Government, the Civil Service and parastatals. This is getting rid of people who are going to vie for the same seats with us and making it impossible for them to vie. This is also unconstitutional and wrong. I thought the six months was too much, but it had to go hand in hand with the time when nominations are done. So, the six months looked good enough and the amendment here increases it to one year. This is not acceptable.

All these should be amended. We will propose amendments so that we can maintain the six-month period to allow other Kenyans to exercise their democratic right in participating in elections and being elected like us who have been given an opportunity to serve our people. Most of the MCAs have gone back to school to obtain diplomas. I am aware that in my county, most of them are pursuing diploma courses. That is happening everywhere. Not everybody can sit in class especially people who are advanced in age. It might be difficult for them. Some of them are trying, but for others, it will be difficult.

As I conclude, is it possible for us to lock out former Members of Parliament and MCAs because they do not have these required degrees and diplomas? Is it possible for us to lock them out starting from 2017? Can you imagine that you were once a Member of Parliament and now, all of a sudden, you do not qualify to be a Member of Parliament? We have to be very careful so that as we do this, we do not abrogate our Constitution.

**The Temporary Deputy Speaker** (Hon. Cheboi): Let us have Hon. Eseli Simiyu.

**Hon. (Dr.) Simiyu:** Thank you, Hon. Temporary Deputy Speaker. I had left Parliament, but when I heard this debate on the radio, I quickly came back because it has been close to my heart. Hon. Naomi Shaban has mentioned a lot of things that I would have mentioned. One of them is the issue of education. If we go the direction this Bill suggests, we will be breaching the Constitution. It will be discriminatory because you cannot tell people that they cannot run for parliamentary seats because they do not have degrees.

Hon. Temporary Deputy Speaker, if you allow me, let me be a bit rude. A degree is not a vaccination against idiocy and stupidity. Many people who have degrees exhibit a very high level of stupidity and incomprehension of day to day life. Insisting that when you have a degree you qualify to be a leader is not right. It is not a question of gender and it is not right. We know very well that some very rich people in this world quit college. They did not finish their degrees and proceeded to be some of the richest people in the world. It is not a degree that makes somebody a leader. It is whether that person has the

drive to serve the people especially when we talk about the political arena. This is somebody who is out to serve the public. It is not a question of a degree. If it is a question of a degree, then this country would not be where it is. One of the greatest Ministers for Planning was Tom Mboya. He did not have a degree. When we keep saying that that was then and now there are many people with degrees, then we are losing the plot. That is not the way to go. This should be left open. The only test that should be done, which was removed but should be brought back, is that the electoral management body should only test those people to ensure that they can understand, read and speak English and/or Swahili. That should be it. We do not need more than that.

There is also the issue of people leaving their public jobs a year before the elections. I suffered it. I had to leave my job six months before the elections. I was a university lecturer in Nairobi, but I was contesting for a seat in western Kenya. The reason the requirement was put there was so that public officers do not misuse their positions and campaign, therefore, gaining an unfair advantage. It is not the public officer who is entirely at fault, it is our system. It is a highly corrupt system. Corruption is what makes public officers misuse their positions to campaign. We are trying to apply first aid to the problem. The problem is corruption. It is an integrity problem. This law alone will not stop it. In my view, it should not even be there. However, for the sake of making sure that the public officer transits early enough, let these people take unpaid leave or else, keep the period at six months and not one year.

There has also been the issue of mobile registration centres. That is a very dangerous thing. I saw it because I participated in a petition at the Supreme Court. These centres should be done away with. If the centres are in pastoral areas, then I agree with the gracious lady who spoke earlier and said that mobile centres should just be called mobile because it is not in a classroom or a school. It should be at a specific point which is known and gazetted, so that during elections or registration of voters, the centre is opened there. However, it should not be mobile such that it will be here today, tomorrow there and another place the day after. We are opening up an avenue for mischief and we will later on clash with the electoral management body.

As I conclude, because Dr. Shaban mentioned most of the things I wanted to mention, if we talk of degrees, we are fuelling a new industry of colleges churning out fake certificates and degrees. As a Member of the National Assembly, I am sure the MCAs go through the same. They hardly have time to enroll for proper school programmes or go to college and gain proper education. We are encouraging shoddy, questionable certificates and degrees, some manufactured at River Road and some issued by registered colleges. People will go to the extent of hiring people to do their exams just because we have put in place a law that states that you must have a degree. We are encouraging a failure in our education system because this law will drive that failure. You will have colleges mushrooming to award certificates to MCA and make money.

Let us not go in that direction. Let us leave education out of this. As they say, people get the leaders they deserve. If fishermen want a fisherman to be their Member of Parliament, so be it. If market women want their market woman to be their MCA, so be it. People get the leaders they deserve. Let us not put barriers on who can be elected in this country.

**The Temporary Deputy Speaker** (Hon. Cheboi): Let us have Hon. Cecilia Ng'etich.

**Hon. (Ms.) Ng'etich:** Thank you, Hon. Temporary Deputy Speaker for this opportunity to also comment on the Election Laws (Amendment) (No.3) Bill of 2015.

From the outset, I support this Bill with reservations in one or two clauses. I support Clause 4 that increases the number of days from 60 to 90 within which the Commission must open the register for inspection. This will increase transparency that is required for the electoral process. We have heard people complain that people who have passed on continue to remain in the register and, therefore, this is open for abuse. The inspection of the register should be at the polling centre where voters know each other. It should be inspected at the respective polling centres.

Secondly, Clause 5 talks about increasing the number of days for the determination of intra-party disputes arising from political party nominations from 45 to 90 days. This is good because it gives room for disputes that may arise to be sorted out before the register is closed.

We have seen this before especially cases where women have won nominations and are denied certificates. Even men win nominations, but because they are not the favourites of certain party officials, they are denied certificates. In fact, if we are serious about conducting free and fair nominations, it would be good if we allow the IEBC to be in charge of nominations. You will agree with me that in certain stronghold areas, nomination is the election. Once you win nominations, you are sure you are going to win in the general elections. I have also heard my constituents saying that the line-up is known. So, money that is given to political parties and which is paid by candidates for nominations should be used for doing professional exercise of printing nomination papers and ballot boxes as opposed to using exercise books and buckets as ballot boxes.

On the clause that requires public servants to resign one year before elections if they want to seek for an electoral office, I would propose an amendment. One year before the election is just like saying that you want to avoid competition. Let us maintain it at six months. That is fair. If it is about the fear of public officers using public resources, that provision alone may not stem it because there are other people who may have amassed wealth by the time they decide they are going for elections.

There is the debate about minimum educational qualification. Indeed, any professional job will always require a minimum qualification. So, that debate is neither here nor there. An amendment can be made to this provision. The biggest reservation that I have is on the issue of MCAs who are in charge of appropriating huge resources. Where you have an MCA who has not been to any classroom, honestly, that is disservice to the people he or she is representing. I have heard reports from certain county assemblies that because MCAs do not understand what was going on in the county assemblies when English and Kiswahili are used, they were proposing to bring a Bill to allow them to use local languages. For that reason, we must have a minimum qualification, otherwise, not only will those counties suffer, but the country will also suffer because poverty will continue due to poor planning and poor appropriation of resources because of lack of knowledge. This may look discriminative. I represent a marginalised group where women are the majority and efforts have been made to encourage the girl-child to go to school. We should have made some gains now. We should not always put ourselves down to say

that we are disadvantaged and, therefore, we need to be considered to vie even without degrees. We need to interrogate this issue further because we need county assemblies to appropriate funds properly, so that they are able to do meaningful developments in their counties.

Clause 13 proposes the number of voters per polling station to be 700 or as per what the Commission may determine. I support this. The centres are opened at 6.00 a.m., but the actual voting starts beyond 8.00 a.m. due to other technicalities. In the last general elections, at some stations the Electronic Voter Identification Devices (EVIDs) broke down. It took a while because a decision was not made earlier on plan "B" and this delayed the elections. When voting is delayed, women have to go back home and some of them do not return to vote. So, even having a smaller number, if there are challenges during voting, the voters are disadvantaged. They should have ample time to go and attend to house chores and come back to vote.

I want to use this opportunity to quickly say that we make very good laws, but it is one thing to make laws and another thing to implement them. It would be so good if parties and individuals would respect the laws that we make here and go by them and not keep shifting from here to there. As I end, I want to say that most of these election issues can be solved through civic education. People should understand their rights, so that they can take part in deciding who to represent them. The issue of ID cards should go on.

**The Temporary Deputy Speaker** (Hon. Cheboi): Your time is over. The Member for Samburu North, Hon. Lentoimaga.

**Hon. Lentoimaga:** Thank you so much, Hon. Temporary Deputy Speaker for giving me this opportunity. I want to support this Bill. I think it is important to support it because over the years, we have seen violence generated in this country because of elections. In 2007, there was serious violence which locked down our country. Tension was very high. In every election, tension is high and violence can erupt. Good electoral laws may stop this kind of violence. The laws can help people to know what methods they can use in voting. Bad electoral laws also shun people from voting. People lose faith in voting.

A number of times, Kenyans in some areas ask why they vote and yet they know people decide who they want elected in advance. We have no good electoral laws that can help us to have interest in voting. Those who want to vie for seats also stay away from vying because they know the laws are not being used transparently to ensure the favourites of the electorate are elected.

The Election Laws (Amendment) Bill is important in our forthcoming elections. We need to borrow from countries that have done very well in elections. We should find out the laws they use. We must consult and benchmark very highly, so that we do not again put this country in a quagmire. We should not have tension and violence during elections. It is worse during party nominations. All parties do not have capacity to conduct elections. So, in my view, we need to have a system in the coming years. A commission which is accepted by all the parties should conduct nominations. That is where the problem starts. People are denied certificates. In fact, the rich are the only ones who can carry out nominations. I remember in 2007, candidates were carrying ballot boxes during party nominations. Each candidate transported clerks, voter registers and ballot papers. Everybody wanted to get the best out of what was going on.



The other issue is about public servants who want to join politics. We have demonised civil servants who want to join politics. By demonising, I mean that those who vie for political seats and lose never get jobs. It is like they have leprosy. The moment you vie for a political seat, most employers shun you. They do not want to see you. We have again put a stumbling block that they should resign one year before the elections. This is discriminatory. We need to allow public servants to go for official leave and when they lose, they get their jobs back. If that is not the case, let them exit the service on the eve of the elections. In this country, people use a lot of resources during the electioneering period. You can sell all your assets. You exhaust all your bank accounts and even sell family assets. In that case, making civil servants exit the service one year before the elections is totally discriminatory and we need to look into that issue and find a way to correct it. When the Bill comes before the Committee of the whole House, we will propose suitable amendments, so that we do not discriminate against our people who can be good leaders and who have experience. They can also play a big role in taking this country to greater heights.

The other issue is party nominations to the National Assembly and county assemblies. That section should be looked into because in the previous elections, if you did not know the big person in the party or some decision makers in the party, you could not find your way to Parliament as a nominated Member. It is much worse. Nomination is meant for special interest groups, but we have abused that. It is no longer about special interest, it is about who you know. It was supposed to cater for special interest groups like those who have been marginalised, the disabled, the youth, women, business people and others who can contribute and work in Parliament and the county assemblies to assist those whose interests are not being taken care of by elected Members. We need to look into that and ensure that those who are nominated represent special interest groups. When they come to Parliament or county assemblies, their work will be assessed because they will make radical changes within the interests that they were nominated to represent.

The other issue is that of education. Some Members have said that we need to have degrees. My worry is whether Parliament and county assemblies are the only organisations that you can just join using your ID card. I have not seen any organisation in the world that allows people to join using their ID cards. Even the military, the police or security guards have minimum requirements. None of them tells you to join using an ID card as an entry document. In my view, we must strike a balance. From my experience, Form Four is the best education certificate anybody can have. That is why there was an outcry when we heard that there was cheating. Even if you have a PhD or a Masters degree, they want to see what grade you got in Form Four. They go and look at your Form Four certificate. The Form Four certificate is very critical.

These days students hire people to write thesis for them at the university, but a Form Four certificate is critical. We must get a middle ground. Why is it a must that the President and Deputy President and even governors and their deputies must have degrees? Why not Parliamentarians? If there was hue and cry about education by people who had performed very well previously and they have never gone to school, then we must strike a balance. Let us not just come here with our ID cards. In my view, it is a shame.

I support, but I will propose amendments when it is due.

**The Temporary Deputy Speaker** (Hon. Cheboi): Let us have the Member for Emurua Dikirr. Hon. Wangamati, you should be ready. You are next.

**Hon. Kipyegon:** Thank you, Hon. Temporary Deputy Speaker for according me this opportunity to make my contribution on this Bill, which touches on elections. Elections in this country seem to be a matter of life and death. I do not think there is any other activity in this country that makes everybody else concentrate. For some of us who have visited other countries and looked at how they do their elections, we have seen that it is only Kenya that hypes elections. Immediately after the elections, there are campaigns for the next elections. The reason is that we have had in place flawed rules and laws for elections. This document we are debating today is not comprehensive. It is not going to completely solve the loopholes that we have in elections, but at least, I believe it will bring sanity to the election process in this country. Like what my colleagues have said, we have had several issues in elections like people fighting and doing so many things like going to court, rigging, buying certificates and all sort of things to win elections.

I think this document will bring a little sanity to this country. I would just want to pass through some few issues which I thought are worth appreciating and making some suggestions about. The question of resignation from your job is very fundamental in the sense that most Government officials or public servants normally use resources such as Government vehicles to the disadvantage of those who are not employed. I do not also agree with the fact that when somebody resigns, that is the end of the story.

We need to bring an amendment to this particular section to allow public servants to be given leave, just like we normally give maternity or sick leave. These people are still resourceful to the society. When you make a decision to run for an election, you should not be condemned as if that is the end of your career. I believe if we bring an amendment, it will allow members of the public to be given, at least, six months leave. If one succeeds, well and good and they relinquish their jobs. If one does not succeed, they go back and continue with their work. We do not want people to be frustrated.

Another issue is the question of being a degree holder and most Members have discussed it. We need to raise the standard of this House and the county assemblies. Members have said how other Members used to be fluent and good, but things, dynamics and the Constitution have changed. As I speak, Members of Parliament and MCAs are vested with three major responsibilities, namely, oversight, legislation and representation. The two most important ones are legislation and oversight. As Members, we make the Budget for this country unlike previously when it was made by the Executive. You can imagine what kind of Budgets we pass in this House. Sometimes we also do interrogative oversight. You can imagine we are overseeing serious Ministries which deal with huge sums of money. We are sending billions of money to the counties and we need people who understand the question of oversight. How do you oversee if you do not understand those figures?

Secondly, we do vetting. How do you vet a professor, doctor or a degree holder when you do not have one? Definitely, you will not understand how this person was employed. This has been debated for the last five or 10 years and it should have accorded an opportunity to anybody who has serious interest in joining this House, the Upper House or county assemblies to go back to school. I know many Members in this House

who have gone back to school after joining Parliament and have graduated. Others have added degrees.

Sometimes I wonder what somebody means by saying this is discriminatory. The Constitution says that you should not discriminate against anybody on anything. When we quote educational qualifications, it then means we are discriminating against millions of Kenyans against running for gubernatorial positions, deputy governors, President and Deputy President in this country. We are not discriminating against others, but setting standards.

Also, there was a very big debate about remuneration and the salaries of Members who fall within a certain group being based on academic qualifications. We then need to agree in this House to have different remunerations, so that those who do not have degrees have their salaries different from those who have degrees. Remuneration demands that you must fall within a certain category if you are to earn this amount of money. As a matter of fact, we need to make the real sense of education in this country to matter. Every day, we talk about education being very important. We are teaching our children about the importance of education. Why is it that when it comes to the most lucrative and important part, we do not do the same? This House legislates and makes laws that are used by everybody whether educated or uneducated. You cannot imagine if we were to allow it to happen just like that. On matters of education, I support that we, at least, raise the bar.

We do not have referendum laws and that is why I support this Bill. It brings in all those issues. I agree with the inspection of registers because in most cases, we find hardships in the names that appear in the register. There is the question of party nominations. I agree with the setting in this Bill majorly because the Bill will allow party hopping which is primitive, but it is the only solution to the reckless parties in this country. We claim to be democratic and we want democracy in the major elections, but we are forgetting that real democracy starts with you and me during nominations. We do not care how people are nominated. During nominations, people buy certificates. They are issued to brothers, sisters, girlfriends and boyfriends. I am a victim of shrewd and reckless party nominations I would not have been anybody now were it not for party hopping. I am a Member of Parliament today because of this meandering around. I support this part where we allow party hopping until we create laws that will not allow anybody to mess with nominations.

The nomination list is very important. The Presidential Petition is important which we allowed for up to 30 days. There was a big debate and we said we need to allow the members of the public and petitioners enough time to petition and file all the documents.

With those few remarks, I support.

**The Temporary Deputy Speaker** (Hon. Cheboi): Hon. Wangamati.

**Hon. Wangamati:** Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity to also contribute to this Bill. Elections are very important and we should look at the general overview of people in this country. Everybody in this country wants good laws. I have seen elections happen now and then, but there are no cowards like politicians. They are so afraid that when they get to the position, they do not want others to be near them. This makes it difficult for us to get a level playing ground.

I have heard many of Members talk about this and have made many good proposals.

I want to ask Members why they want to be elected, but do not want to give others an equal chance to compete with them. We want to help people in this country to understand elections. Everyone regardless of their education level is contributing to the wellbeing of this country. We do not want to deny anyone a chance to compete because they do not have a university degree. A degree is a good requirement. We should allow the people who do not have degrees, but have talents to seek elective positions. Some of them reason better than those who have degrees. Recently, the United Kingdom (UK) made a resolution to leave the European Union (EU), but after two days, they were regretting. They will definitely go back to look at it.

We should give our people civic education about elections, election time and various elective positions. Elected people represent their constituents and they do not only use degrees to make decisions. We should leave this open for those who have degrees and those who do not have. Some people do not have degrees, but have the ability to represent and deliver services to their people. For example, county assemblies and various corporations are filled with educated people, but they have run them down. We should not have the mentality that MCAs have failed in their oversight role because they never went to school. I am a proponent of devolution. We wanted servicers to go closer to the people, but we brought in managers, professional and experts in grabbing. When services were devolved to the counties, they kept on looting funds.

How many people grab public property in the national Government yet we have the President and Cabinet Secretaries? They keep grabbing public properties in this country. Let us give people a chance, so that they can represent our people. We do not educate our children to become Members of Parliament, but rather to manage the affairs of this country in many areas. Educated people have more chances than those who never went to school. If people who never went to school have talents, they can represent their people in Parliament if they are given a chance to do so. They understand the people because they live with them. They can use their talents in Parliament and in county assemblies.

I wanted to bring to the attention of the Members the question of the NGCDF. When you compare it with county revenue, it is doing very well. One person started the NGCDF and it has reached where it is. County governments have governors, MCAs and County Executive Committees (CECs) who do not deliver. They do not give people fertilisers. Many people are suffering at the hands of our very educated officers. When they are given a job, they do not do it. I do not want to take a lot of time. My advice to Members is that we should give civic education to the people, so that they know how to elect effective representatives rather than thinking that an educated person automatically qualifies to be a Member of Parliament.

I do not want to speak much and I support.

**The Temporary Deputy Speaker** (Hon. Cheboi): Your time is up. Hon. Mbui!

**Hon. Mbui:** Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity to contribute. I want to mention that Kenya is one of the countries that are permanently on campaign mode. When we talk about electoral reforms, it is an important thing because this country needs it. Five years after elections, we are constantly wooing

voters with goodies for the next election. Sometimes our development agenda gets diverted because of interest in votes. I am aware there is a 14 Member Select Committee that we will discuss in this House that is supposed to deal with electoral reforms. I hope that by doing this, we will not be derailing what the other Committee is expected to do. We require reforms in this country.

In the last election, there were six ballots, namely, for the Member of Parliament, MCA, County Women Representative, Senator, Governor and President and almost two million people voted for the President. We should look into these issues keenly, so that our next general elections will be credible and everybody will be comfortable with the outcome.

On this Bill, the issue of academic qualifications has been talked about by very many Members.

I am an educationist and I want to encourage the youth to understand the value of education. In essence, it is impossible for me to support a situation which says people can vie for any office without any particular academic qualifications. It is important. If you look at Article 90 of the Constitution which talks about the responsibilities of a Member of Parliament, it indicates that our work is to represent, oversee and legislate. In legislation, we are also talking about things to do with the Budget. It is not possible for someone to come up with laws or interpret the Budget if they have not been to school properly.

One of the things that intimidate people a lot is academic qualifications. If Members who do not have degrees oversee a CS who has a Masters Degree or a Doctor of Philosophy (PhD), they will be intimidated. It is important for us to put a minimum standard of academic qualification. I propose a degree as this Election Laws (Amendment) Bill says here. However, it is not enough to just have the academic degree, but the IEBC can look at experiences of people. There are people who do not have degrees, but the work they have been doing over time qualifies them as degree holders.

Issues of party membership lists have been addressed in this Bill. We must ask the Commission to be thorough in confirming actual members of political parties in this country. Many parties are coming up for the 2017 General Election and one of them is in my Machakos County called Chap Chap. If you visit the governor, you are told to sign some document somewhere and you are not told you are joining a party. In essence, I believe a lot of the signatures that people are signing in meetings are a way of wooing people to become members of a party without being informed. It is important for the Commission to check how people are acquiring membership to these parties.

There is the issue of party nomination rules. I propose that nomination rules for all our political parties be harmonised. Every political party may have their own way of nominating which can, in a way disadvantage members. It is important we come up with a law that encompasses all the parties. The Commission should carry out the nomination process for political parties.

The issue of the nine months limit for public servants to resign from public offices before elections is laudable and a very good idea. The obvious reason is that people have been known to abuse their offices for the sake of elections. We do not want to have a situation where people use their offices to campaign. We have always had a problem with the Executive in this country and it has always been the President and his deputy. Last

time, there was the President, the Vice-President and the Prime Minister. Now we have 47 new executives in this country who are going to have State machinery. If we are not careful, you can imagine the kind of pressure that will be out there during the campaign period with every governor having an entourage that is spending public funds. This law needs to curtail the use of public funds when people are carrying out campaigns.

On the issue of redistribution of wards, boundaries are one of the things that have been mentioned in this Bill. I have a problem in my constituency with two of my wards, namely, Upper Kaewa/Iveti and Lower Kaewa/Kaani. Interestingly, instead of the upper being “Upper” and the lower being “Lower”, the headquarters of the “Lower” is up in the hills. It is at the highest point in the constituency. There is confusion in the way some of the wards are distributed. It is important that this is looked at by the Commission.

Finally, I support electoral reforms. Elections should be strengthened to ensure there will be no rigging. We do not want to have a situation where we complain about stolen votes for five years. This law should help to improve our electoral process in future.

**The Temporary Deputy Speaker** (Hon. Cheboi): Hon. Lelelit Lati.

**Hon. Lati:** Thank you, Hon. Temporary Deputy Speaker, for this opportunity. I rise to support the Bill at the risk of getting some backlash.

I want to support this Bill based on what I have seen in this House and the county assemblies in Kenya.

I do not support the view that you must have a degree. However, for you to perform your oversight role, legislate and represent, you must have, at least, a minimum qualification. If the minimum qualification requires that you be a Form Four leaver, so be it. If you are to legislate, oversee and represent, but you cannot even read the nomination certificate of the party that has nominated you, then there is something wrong. Everything in this House, starting with the Order Paper, is written in English. If we were to take away the requirement of education, we should have a qualification that states that a Member should be able to read two paragraphs of English. We are doing a great disservice to our people by assuming that since you can win an election because most of the people are illiterate, you can come to this House yet you cannot even read an Order Paper.

You can go to a county assembly and not be able to read the Order Paper. With the kind of money we send to county assemblies of about Kshs20 billion, we must have people who are able to oversee governors. Oversight begins with being able to read what is in reports.

There is a story going round about a certain county which I will not mention that one MCA, who has never been to school, sat in the county assembly for one year. Once in a while, the Speaker would pronounce that they did not have quorum and the House would be adjourned. At some point, having heard the Speaker say that severally, she asked one of her friends why the person called quorum does not come to the House. Why is that person disturbing the Speaker? If there are people who do not even know what the Speaker meant when he said there was no quorum after sitting in the county assembly for one year, then we have a problem.

We sit here as Members of Parliament not for free. We earn salaries. There must be a salary evaluation for every job in Kenya including for Members of Parliament. As

Hon. Lentoimaga said, if the only qualification to get to this House is having an ID card, we are being too selfish. I understand the issues of constitutionalism that people have mentioned. Truly, according to the Bill of Rights, we cannot discriminate on the basis of gender or education. However, during elections, we ask the President to provide a degree. We also ask the governor and his deputy to produce degrees, but when we get to the people who make laws like us, we become so selfish and decide that we should have no qualifications. The Constitution applies to every human being who lives in Kenya including governors and the President. What wisdom is there to require the President and governors to have degrees, but not all of us?

If the Bill of Rights states that you cannot be discriminated against on the basis of education, it also states that you cannot be discriminated on the basis of gender. However, in the same Constitution, 16 women must be nominated to the Senate. Is that not discrimination? There are things we must carry within the Constitution that sound unconstitutional, but since they have been applied elsewhere, we just have to agree. The Constitution is as good as the people. If you do not represent the people, then the Constitution has no meaning. Members who sit in our assemblies and oversee millions of Kenyan taxpayers' money that we send to the counties must have some qualifications to understand the reports that are taken to their assemblies from the Executive in their areas. That sounds more constitutional than having no qualification and asking at the end of the year who is this fellow called quorum.

On party nominations, the world over, nominations are specifically supposed to represent the wish of the people.

### ADJOURNMENT

**The Temporary Deputy Speaker** (Hon. Cheboi): Hon. Lelelit, you will have a balance of five minutes. If you are available on Tuesday, you will utilise them.

Order, Members! The time being 6.30 p.m., this House stands adjourned until Tuesday 5<sup>th</sup> July 2016, at 2.30 p.m.

The House rose at 6.30 p.m.